

1985 BILL 59

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Third Session, 20th Legislature, 34 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 59

POLICE ACT

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THE SOLICITOR GENERAL

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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# BILL 59

1985

## POLICE ACT

(Assented to \_\_\_\_\_, 1985)

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

**1** In this Act,

- (a) "auxiliary constable" means a person appointed as an auxiliary constable under section 37;
- (b) "Board" means the Law Enforcement Appeal Board;
- (c) "Chairman" means the Chairman of the Board;
- (d) "commission" means a police commission established under section 23 or 26 and includes a committee established under section 24(5);
- (e) "council" means
  - (i) the council of a city, town, village, summer village, county or municipal district;
  - (ii) the board of administrators of a new town;

- (iii) in the case of a hamlet, the council of the county or municipal district in which the hamlet is situated;
- (iv) where an Indian band establishes a police service under section 24(4), the band council;
- (v) the Minister of Municipal Affairs in the case of an improvement district or a special area;
- (f) “Director” means the Director of the Law Enforcement Division appointed under section 5;
- (g) “municipal police service” means a police service established under section 25;
- (h) “municipality” means a city, town, new town, village, summer village, municipal district and county and includes an Indian reserve where an Indian band police service is established under section 24(4);
- (i) “police officer” means an individual who is
  - (i) appointed under section 33 as a police officer, or
  - (ii) a member of the provincial police service;
- (j) “police service” means
  - (i) a regional police service established under section 22,
  - (ii) an Indian band police service established under section 24(4),
  - (iii) a municipal police service established under section 25, and
  - (iv) the provincial police service;
- (k) “provincial police service” means the Royal Canadian Mounted Police where an agreement is entered into under section 19(1);
- (l) “probationary constable” means a police officer who
  - (i) is a member of a police service other than the Royal Canadian Mounted Police, and
  - (ii) has been a police officer for a continuous period of less than 18 months;
- (m) “public complaint” means a complaint made under Part 5 respecting a police service, police officer, auxiliary constable or special constable that is made by a person other than a member of a police service or a commission, a special constable, the Director or the Solicitor General;
- (n) “special constable” means a person appointed as a special constable under section 38.

**PART 1**  
**ADMINISTRATION**

- |                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Responsibility of Government for policing    | <b>2</b> The Government of Alberta is responsible for ensuring that an adequate and effective level of policing is maintained throughout Alberta.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Responsibility of Solicitor General          | <b>3</b> The Solicitor General is charged with the administration of this Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Responsibility for providing police services | <b>4(1)</b> Every<br>(a) municipal district and county, and<br>(b) town, new town, village or summer village with a population not greater than 1500,<br><br>shall receive policing services provided by the provincial police service at no direct cost to the town, new town, village, summer village, municipal district or county.<br><br><b>(2)</b> Notwithstanding subsection (1), a town, new town, village, summer village, municipal district or county referred to in subsection (1) may<br><br>(a) use the provincial police service for the provision of policing services subject to the cost sharing provisions set out in the regulations,<br>(b) enter into an agreement for the provision of policing services under section 20,<br>(c) establish a regional police service under section 22, or<br>(d) establish a municipal police service under section 25.<br><br><b>(3)</b> Subsection (1) does not apply to a municipality while it is receiving policing services pursuant to subsection (2).<br><br><b>(4)</b> A municipality receiving policing services pursuant to subsection (2) shall not, without the prior consent of the Solicitor General, withdraw from or alter the type of policing service that it is receiving.<br><br><b>(5)</b> A town, new town, village or summer village with a population greater than 1500 but less than 5000 shall<br><br>(a) use the provincial police service for the provision of policing services subject to the cost sharing provisions set out in the regulations,<br>(b) enter into an agreement for the provision of policing services under section 20,<br>(c) establish a regional police service under section 22, or<br>(d) establish a municipal police service under section 25.<br><br><b>(6)</b> A city, town, new town, village or summer village with a population of 5000 or more shall<br><br>(a) enter into an agreement for the provision of policing services under section 20(2), |

- (b) establish a regional police service under section 22, or
- (c) establish a municipal police service under section 25.

(7) For the purposes of this Act the population of a city, town, new town, village or summer village shall be determined in accordance with section 27 of the *Property Tax Reduction Act*.

(8) This Act and the regulations apply to

- (a) a hamlet as if it were a city, town or village, and
- (b) an improvement district or special area as if it were a municipal district.

Director of the  
Law Enforcement  
Division

5(1) In accordance with the *Public Service Act* there shall be appointed a Director of the Law Enforcement Division.

(2) The duties of the Director include the following:

- (a) monitoring of police services to ensure that adequate and effective policing is maintained both municipally and provincially;
- (b) developing and promoting crime prevention programs;
- (c) serving as consultant to and, where directed to do so by the Solicitor General, representing the Solicitor General on matters related to crime prevention and law enforcement;
- (d) assisting in the co-ordination of policing services;
- (e) consulting with and advising councils, commissions, police advisory committees, chiefs of police and employers of special constables on matters relating to police and policing;
- (f) developing, maintaining and managing programs and statistical records and conducting research studies in respect of incidence, offences and enforcement practices;
- (g) performing duties and functions that are assigned to the Director by the Lieutenant Governor in Council or the Solicitor General.

## PART 2

### LAW ENFORCEMENT APPEAL BOARD

Law Enforcement  
Appeal Board

6(1) The Lieutenant Governor in Council shall establish a board to be known as the "Law Enforcement Appeal Board" composed of 3 members appointed by the Lieutenant Governor in Council.

(2) At least 1 member of the Board shall be a judge of the Court of Appeal, the Court of Queen's Bench or the Provincial Court.

(3) A member of the Board shall be appointed for a term of not more than 3 years and is eligible for reappointment.

(4) Notwithstanding subsection (3), a member of the Board continues to hold office until he is reappointed or his successor is appointed.

- (5) The members of the Board shall be paid
  - (a) fees or remuneration as prescribed by the Lieutenant Governor in Council, and
  - (b) expenses as prescribed by the regulations for subsistence and travelling while absent from their ordinary places of residence in the course of their duties as members of the Board.

**Board Chairman** 7(1) The Lieutenant Governor in Council shall designate 1 of the members of the Board who is a member of the judiciary as Chairman of the Board.

(2) In the case of illness, absence or other disability of the Chairman, the member in attendance with the longest period of service on the Board shall act in the place of the Chairman.

(3) For the purposes of subsection (2), if 2 or more persons have an equal period of service on the Board, the member in attendance named earliest in the order appointing the members shall act in place of the Chairman.

**Vacancies on Board** 8(1) When any member of the Board

- (a) is absent from Alberta, or
- (b) in the opinion of the Lieutenant Governor in Council, is by reason of illness or any other cause incapable of performing his duties,

the Lieutenant Governor in Council may by order appoint a person to act in the place of the absent or incapacitated member for the period, on the terms and at the remuneration prescribed by the Lieutenant Governor in Council.

(2) The person appointed under subsection (1) may, during the period for which he is appointed, discharge the duties and has all the rights and powers of a member of the Board.

**Signing of documents** 9 An order or other document setting forth a decision, recommendation or direction of the Board may be signed by the Chairman or acting Chairman and shall be admitted in evidence as prima facie proof

- (a) that the decision, recommendation or direction is that of the Board, and
- (b) that the person signing the order or other document was authorized to do so at the time of the signing,

without proof of the appointment of the person signing as Chairman or acting Chairman or of his signature.

**Board investigators** 10(1) In accordance with the *Public Service Act* there may be appointed a Board investigator, who shall, as directed by the Chairman, inquire into any matter that is of concern to the Board.

(2) Notwithstanding subsection (1), the Board may, subject to the approval of the Solicitor General, from time to time appoint 1 or

more experts or persons who have special technical or other knowledge to act as Board investigators.

(3) A person appointed under subsection (2) shall be paid remuneration and expenses as prescribed by the Solicitor General.

Board secretary

**11(1)** The Solicitor General may appoint a secretary to the Board, who shall

- (a) keep a record of all proceedings conducted before the Board;
- (b) have the custody and care of the records and documents of the Board;
- (c) act as a registrar of all notices of appeal and complaints received by the Board;
- (d) prepare reports required by the Solicitor General or the Chairman of the Board.

(2) A member of the Board may act as secretary in the absence of the secretary.

(3) If the secretary is not an employee of the Government,

- (a) the Lieutenant Governor in Council shall prescribe the fees or remuneration to be paid to the secretary, and
- (b) the secretary shall be paid expenses as prescribed by regulation for subsistence and travelling while absent from his ordinary place of residence in the course of his duties as the secretary to the Board.

Annual report

**12** After the end of each calendar year the Board shall file with the Solicitor General a report showing the number and nature of the hearings, appeals, inquiries and investigations that it held, summaries of the findings made and any other matter that the Solicitor General directs.

Legal counsel

**13** On the request of the Board or the Chairman the Attorney General may appoint a lawyer to assist the Board in respect of a hearing, an appeal, an inquiry or an investigation.

Powers of the Board

**14** The Board and each member of the Board have

- (a) all the powers of a commissioner appointed under the *Public Inquiries Act*, and
- (b) the powers given to the Board under the regulations.

Delegation of authority

**15(1)** Notwithstanding section 17(4), the Board may, unless otherwise directed by the Solicitor General, authorize in writing the Chairman or any other member of the Board to do any act or thing required or permitted to be done by the Board under this Act.

(2) A written authorization made under subsection (1) may be

- (a) general or applicable to a particular case, and
- (b) conditional or unconditional.

(3) Notwithstanding that the Board has given an authorization under this section, it may do the act or thing in respect of which the authorization was given.

(4) Any decision or action taken by the Chairman or other member of the Board to whom an authorization is given under this section is a decision or action of the Board and binds all the members of the Board.

Jurisdiction of  
the Board

**16(1)** The Board shall

(a) conduct appeals by police officers from dismissal under section 34(1),

(b) conduct appeals or inquiries into matters referred to the Board under section 43, and

(c) at the request of the Solicitor General, conduct investigations or inquiries, as the case may be, in respect of any matter coming under the administration of this Act.

(2) If the Board is of the opinion that the actions of a police officer who is the subject of a hearing, appeal, inquiry or investigation may constitute an offence under an Act of the Parliament of Canada or the Legislature of Alberta, the Board shall refer the matter to the Attorney General.

(3) Notwithstanding that the actions of the police officer have been referred to the Attorney General under subsection (2), if the Board is of the opinion that those actions also constitute a contravention of the regulations governing the discipline or the performance of duty of police officers, the matter, as it relates to that contravention, may be proceeded with by the Board unless the Attorney General directs otherwise.

Conduct of  
Board business

**17(1)** The Board shall hold meetings as it considers necessary.

(2) The Board may hold sittings and conduct hearings, appeals, inquiries and investigations, as the case may be, at any place in Alberta.

(3) The Chairman, or the secretary to the Board at the direction of the Chairman, may

(a) arrange for matters to be set down before the Board;

(b) adjourn matters set down before the Board;

(c) perform the administrative functions that are necessary to enable the Board to carry out its duties under this Act.

(4) For the purposes of conducting a hearing, an appeal or an inquiry under this Act a quorum of the Board shall consist of 2 members of the Board.

Matters  
governing  
hearings,  
inquiries and  
appeals

**18** For the purpose of conducting a hearing, appeal or inquiry before the Board the following applies:

(a) notice in writing of the time, place and purpose of the hearing, appeal or inquiry shall be served on the person who is the subject of the hearing, appeal or inquiry 10 days before the commencement of the hearing, appeal or inquiry;

(b) a notice in writing of the time, place and purpose of the hearing, appeal or inquiry shall be served 10 days before the commencement of the hearing, appeal or inquiry on any other person, in addition to the person referred to in clause (a), as the Board directs;

(c) the Board has, with respect to the holding of a hearing, appeal or inquiry, the same power as is vested in the Court of Queen's Bench for the trial of civil actions

(i) to summon and enforce the attendance of witnesses,

(ii) to compel witnesses to give evidence on oath or otherwise, and

(iii) to compel witnesses to produce documents, records and things;

(d) the Board may require

(i) the chief of police in respect of an investigation or a hearing conducted under section 40, or

(ii) the person charged with the conduct of an investigation or a hearing under section 40 or 41,

to produce to the Board, prior to a hearing, appeal or inquiry, copies of all investigation reports, statements, correspondence or other documents or things relating to the matter;

(e) if a person fails to attend, answer questions or produce an item as required under clause (c) or (d), the Board may

(i) with respect to that person exercise its power of contempt as provided under the *Public Inquiries Act*, or

(ii) where it is unable to exercise the power of contempt referred to in subclause (i), apply to the Court of Queen's Bench for an order committing that person for contempt in the same manner as if that person were in breach of an order or judgment of that Court;

(f) the Board shall receive any evidence presented to it that is relevant to the matter being heard;

(g) in a case where the Board is conducting an appeal, the Board may receive new evidence that was not available or was not presented when the matter was initially heard or considered;

(h) the laws of evidence applicable to judicial proceedings do not apply;

(i) all oral evidence received shall be taken down in writing or recorded by electronic means;

(j) all the evidence taken down in writing or recorded by electronic means and all documentary evidence and things received in evidence at a hearing, appeal or inquiry form the record of the proceeding;

(k) the Board may,

(i) from time to time adjourn matters that are before the Board, and

- (ii) in respect of an appeal, before or after the expiration of the time for service of a notice of appeal, extend the time for service for a further period not exceeding 30 days;
- (l) a hearing, appeal or inquiry, as the case may be, shall be held
  - (i) in public, if the proceeding is being held as a result of a public complaint, and
  - (ii) in private, if the proceeding is being held other than as a result of a public complaint,
 unless the Board in its absolute discretion otherwise directs;
- (m) a person who is likely to be affected by a hearing, appeal or inquiry is entitled to
  - (i) subject to clause (o), appear before the Board,
  - (ii) make representations to the Board, and
  - (iii) be represented by a lawyer or an agent;
- (n) a witness, other than one employed by a police service, attending a proceeding before the Board is entitled to the same fees and allowances as a witness summoned to attend at the Provincial Court unless otherwise provided for by a regulation made under this Act;
- (o) notwithstanding clause (l), in conducting an appeal or an inquiry the Board may decline to hold a hearing in respect of the appeal or inquiry and base its decision on the record;
- (p) in determining an appeal commenced under section 43(1) or (2), the Board may
  - (i) vary the decision;
  - (ii) affirm the decision;
  - (iii) affirm or vary the punishment imposed;
  - (iv) accept a plea to a charge under a different section of the regulations governing the discipline or the performance of duty of police officers;
  - (v) take any other action that the Board considers proper in the circumstances;
- (q) in determining an appeal commenced under section 43(3) or (4) the Board may
  - (i) affirm the decision;
  - (ii) direct the chief of police to lay a charge under the regulations governing the discipline or the performance of duty of police officers;
  - (iii) direct the chief of police to have the matter investigated again;
  - (iv) take any other action that the Board considers proper in the circumstances;

(r) the following shall be informed in writing of the findings of the Board:

(i) the appellant in the case of an appeal commenced under section 43(1);

(ii) the complainant and the police officer against whom the complaint is made in the case of an appeal commenced under section 43(2) or (3);

(iii) the commission;

(iv) the Solicitor General.

### PART 3

#### POLICE SERVICES AND COMMISSIONS

Provincial  
police service

**19(1)** The Lieutenant Governor in Council may, from time to time, authorize the Solicitor General on behalf of the Government of Alberta to enter into an agreement with the Government of Canada for the Royal Canadian Mounted Police to provide a provincial police service.

(2) When an agreement referred to in subsection (1) is in force, the Royal Canadian Mounted Police are responsible for the policing of all or any part of Alberta as provided in the agreement.

(3) The Royal Canadian Mounted Police with respect to their duties as the provincial police service shall, subject to the terms of the agreement referred to in subsection (1), be under the general direction of the Solicitor General of Alberta in matters respecting the operations, policies and functions of the provincial police service.

Municipal  
policing by  
another police  
service

**20(1)** Subject to section 4, the Government of Alberta may enter into an agreement with a council of a municipality for the provision of policing services to the municipality by the provincial police service.

(2) Subject to the prior approval of the Solicitor General, a council of a municipality may enter into an agreement with

(a) the Government of Canada for the employment of the Royal Canadian Mounted Police, or

(b) the council of another municipality,

to provide policing services to the municipality.

(3) If a municipality

(a) has a population greater than 1500, and

(b) has entered into a policing agreement under subsection (1) or (2),

it shall not withdraw from that agreement until it has established a municipal police service or entered into another agreement under subsection (1) or (2) or a regional policing agreement.

Municipal  
police advisory  
committees

**21** A council of a municipality that has entered into an agreement under section 20 may by by-law establish a municipal police advisory committee, which shall

- (a) oversee the agreement made under section 20, and
- (b) represent the interests of the community to the police officer in charge of the unit of the provincial police service or municipal police service that is providing the policing services.

Regional  
police service

**22(1)** Subject to the prior approval of the Solicitor General, the councils of 2 or more municipalities may enter into an agreement to be policed by 1 regional police service.

(2) The Government of Alberta may be a party to an agreement referred to in subsection (1) if the region to be policed under the agreement includes an area not contained within the limits of a municipality that is subject to the agreement.

(3) If a council of a municipality has entered into an agreement under this section it shall not withdraw from the agreement without the prior approval of the Solicitor General.

Regional police  
commissions

**23(1)** The parties to an agreement entered into under section 22 shall, in accordance with the agreement and subject to the regulations, establish a regional police commission.

(2) The appointment of a member to a regional police commission may be revoked only for cause and in accordance with the agreement entered into under section 22.

(3) All persons appointed to a regional police commission shall take the oath set out in Form 1.

Policing services  
on Indian  
reserves

**24(1)** The Lieutenant Governor in Council may authorize the Solicitor General on behalf of the Government of Alberta to enter into an agreement with the Government of Canada

(a) for the employment of the provincial police service to provide policing services on an Indian reserve, or

(b) authorizing an Indian band council to establish a police service under subsection (4).

(2) An agreement referred to in subsection (1)(a) shall

(a) include the terms governing the cost sharing arrangement, or

(b) provide that the cost sharing arrangement established by the regulations made under this Act apply to the provision of policing services on an Indian reserve.

(3) If an agreement referred to in subsection (1)(a) is entered into, the Indian band council may establish a police advisory committee to represent the interests of the Indian band to the police officer in charge of the unit of the provincial police service that is providing the policing services on the Indian reserve.

(4) If an agreement referred to in subsection (1)(b) has been entered into, an Indian band council may establish and maintain an Indian band police service pursuant to this Act and the regulations.

(5) Where an Indian band police service is established under subsection (4), the Indian band council shall

(a) establish a commission under section 26, or

(b) subject to the regulations and with the consent of the Solicitor General, establish a committee of the band council to perform the functions of a commission.

(6) The following provisions do not apply to Indian bands:

section 4;  
section 20;  
section 21;  
section 22;  
section 23;  
section 25.

Municipal  
police services

**25(1)** A municipality that has assumed the responsibility for establishing a municipal police service under section 4(2)(d), (5)(d) or (6)(c) shall establish and maintain an adequate and effective police service under the direction and control of a municipal police commission.

(2) A municipality maintaining a municipal police service shall not withdraw from providing that service except with the prior approval of the Solicitor General.

Municipal police  
commissions

**26(1)** A municipality, other than one that is a party to an agreement entered into under section 20(2) or 22, that

- (a) has a police service, or
- (b) has the approval of the Solicitor General to establish a police service,

shall establish a municipal police commission.

(2) The council shall, subject to the regulations,

- (a) prescribe the rules governing the operations of the municipal police commission, and
- (b) appoint members of the municipal police commission.

(3) The appointment of a member to a municipal police commission may be revoked only for cause by the council.

(4) All persons appointed to a municipal police commission shall take the oath set out in Form 1.

Police service  
budgets and  
work plans

**27(1)** Every commission shall cause to be prepared, in consultation with the chief of police,

- (a) estimates of all money required for the fiscal year to
  - (i) pay the remuneration of the police officers who make up the police service, and
  - (ii) provide and pay for the maintenance of accommodation, equipment and operating costs of the police service,

and

- (b) a yearly work plan specifying the level of police service and programs to be provided to the community,

and shall submit those estimates and plans to the council.

(2) In developing a budget, the council may obtain any information, other than information concerning individual criminal investigations, from any source, including the commission, that it considers necessary to enable it to assess the efficiency and the financing requirements of the police service.

(3) The council is responsible for establishing the total budget for the purposes of the police service and the commission is responsible for allocating the funds provided for under the budget.

Solicitor General  
intervention

**28(1)** When, in the opinion of the Solicitor General, a municipality that is responsible for providing and maintaining a police service is not

(a) providing or maintaining an adequate and effective police service, or

(b) complying with this Act or the regulations,

the Solicitor General may notify the council of that fact and request the council to take the action he considers necessary to correct the situation.

(2) If the council does not comply with a request made under subsection (1), the Solicitor General may

(a) appoint police officers for that municipality and prescribe their remuneration,

(b) request the provincial police service to provide policing services to the municipality on an interim basis, or

(c) do any other thing necessary to create an adequate and effective police service within the municipality.

(3) The remuneration of police officers appointed by the Solicitor General and any other costs incurred under subsection (2) shall be paid by the municipality, and in default of payment the amount shall be paid by the Government and may be recovered by the Government by deducting the amount from any grant payable to the municipality or by an action in debt.

(4) Subsections (2)(a) and (c) and (3) do not apply in respect of an Indian reserve unless the Government of Canada enters into an agreement with the Government of Alberta providing otherwise.

Commission  
authority over  
police officers

**29(1)** Where a commission has been established, the commission shall

(a) oversee the operations and functions of the police service,

(b) make rules, not inconsistent with this Act and the regulations, governing the operation of the police service,

(c) establish policies for the efficient and effective provision of policing services, and

(d) as necessary, issue instructions to the chief of police.

(2) Every police officer

(a) is, after the establishment of a commission, subject to the jurisdiction of the commission, and

(b) shall obey the directions of the commission.

(3) Notwithstanding subsections (1) and (2), a commission shall not issue an instruction with respect to the duties of a police officer directly to a police officer other than to the chief of police.

Police officers  
serving outside  
their  
municipality

**30(1)** The Solicitor General may at any time with the consent of the chairman of a commission of a police service established under section 22 or 25 direct a police officer of that police service to serve in any part of Alberta that is outside the boundaries of the area for which the commission is responsible.

(2) The commission shall be reimbursed by the Solicitor General for the salary and expenses of any police officer providing services pursuant to a direction made under subsection (1).

Attorney  
General's  
directions

**31** Notwithstanding anything in this Act, all police services shall act under the direction of the Attorney General in respect of matters concerning the administration of justice and the enforcement of those laws that the Government is required to enforce.

#### PART 4

#### POLICE OFFICERS, AUXILIARY CONSTABLES AND SPECIAL CONSTABLES

Qualifications

**32(1)** To be eligible to be appointed as a police officer, auxiliary constable or special constable a person shall

(a) be a Canadian citizen or lawfully admitted to Canada for permanent residence, and

(b) meet the other qualifications specified by the rules of the commission or the regulations.

(2) The chief of police of a police service established under section 22, 24 or 25 shall be a Canadian citizen.

Appointment of  
chiefs of police  
and police  
officers

**33(1)** The commission shall appoint a chief of police and other police officers for a police service.

(2) Notwithstanding subsection (1), the commission may delegate the power to appoint police officers other than a chief of police to the chief of police.

(3) Each police officer appointed under this section shall, before entering on his duties, take the oath set out in Form 2.

Dismissals and  
lay-offs

**34(1)** Subject to the regulations, police officers may be dismissed by the chief of police in accordance with this Act.

(2) The commission may

(a) lay off police officers, and

(b) recommend the lay-off, suspension or dismissal of other police service employees,

for financial or administrative reasons, subject to the provisions of any collective agreement in force in respect of those persons.

Authority, duties and jurisdiction of police officers

**35(1)** Every police officer has the authority and the responsibility to

(a) perform all duties that are necessary

(i) to preserve and maintain the public peace, and

(ii) to prevent crime,

and

(b) execute all warrants and perform all related duties and services.

(2) A police officer appointed under section 33 has jurisdiction throughout Alberta unless otherwise ordered by the Solicitor General.

Duties of chiefs of police

**36(1)** The chief of police of a police service established under section 22, 24(4) or 25 is responsible for

(a) the maintenance of discipline and the performance of duty within the police service, subject to the regulations governing the discipline and the performance of duty of police officers;

(b) the day to day administration of the police service;

(c) the application of professional police procedures;

(d) the preservation and maintenance of the public peace and the prevention of crime within the municipality.

(2) For the purposes of subsection (1), the chief of police shall issue orders and make directives as he considers necessary.

(3) The chief of police is accountable to the commission for the following:

(a) the operation of the police service;

(b) the enforcement of rules made by the commission with respect to the police service;

(c) the administration of the finances and operations of the police service in keeping with the yearly work plan or any amendments to it that the commission may make;

(d) reporting to the commission any information concerning the activities of the police service that the commission may request, other than information concerning individual criminal investigations;

(e) reporting to the commission any complaint made against the police service or its members and the manner in which the complaint is resolved.

(4) A commission shall not issue an instruction under section 29(1)(d) that is inconsistent with the duties and responsibilities conferred on the chief of police under this section.

Auxiliary  
constables

**37(1)** A commission may

(a) appoint a person as an auxiliary constable of the police service, and

(b) suspend or cancel the appointment of a person as an auxiliary constable.

(2) The power of the commission under subsection (1) may be delegated by the commission to the chief of police.

(3) Auxiliary constables shall, at all times, be under the supervision of a police officer.

(4) Notwithstanding subsection (3), when an emergency exists the chief of police may, with the approval of the commission, authorize auxiliary constables to perform police duties without being under the supervision of a police officer.

(5) Notwithstanding subsection (4), where it is not practicable to obtain the approval of the commission under subsection (4),

(a) the chief of police may authorize an auxiliary constable to perform police duties without being under the supervision of a police officer during an emergency, and

(b) the authorization referred to in clause (a) is valid for 24 hours from the time it was given unless the commission ratifies the giving of that authorization before the expiry of the authorization.

(6) While performing duties under subsection (4) or (5) an auxiliary constable has the same powers as a police officer.

(7) Subject to subsections (5) and (6), the commission may prescribe the powers of an auxiliary constable.

(8) A person, while carrying out his duties as an auxiliary constable, is a person employed for the preservation and maintenance of the public peace.

(9) Each auxiliary constable, before entering on his duties, shall take the oath set out in Form 2.

Special  
constables

**38(1)** The Solicitor General may

(a) appoint a person as a special constable, and

(b) subject to the regulations, suspend or cancel the appointment of a special constable.

(2) The appointment of a special constable shall

(a) be in writing, and

(b) specify the territorial jurisdiction and duties of the special constable.

- (3) Subject to the regulations, applications for the appointment of persons as special constables shall be made to the Solicitor General.
- (4) The Solicitor General is responsible for
  - (a) the discipline of special constables, and
  - (b) ensuring that special constables carry out their duties in a proper manner.
- (5) The Solicitor General may delegate his responsibility under subsection (4) to the employer of the special constable.
- (6) The employer of a special constable is liable for the actions of the special constable while the special constable is on duty or otherwise exercising his powers.
- (7) A person, while carrying out his duties as a special constable, is a person employed for the preservation and maintenance of the public peace.
- (8) A special constable, before entering on his duties, shall take the oath set out in Form 2.

**PART 5**

**COMPLAINTS AND DISCIPLINE**

Complaints to be in writing

**39** A public complaint with respect to a police service or a police officer shall be in writing and signed by the complainant where practical.

Complaints respecting a police service or police officers

**40(1)** All complaints with respect to a police service or a police officer other than the chief of police shall be sent to the chief of police.

(2) On receipt of a complaint pursuant to subsection (1), the chief of police shall cause the complaint to be investigated.

(3) If, after causing the complaint to be investigated, the chief of police is of the opinion that the actions of a police officer constitute

(a) an offence under an Act of the Parliament of Canada or the Legislature of Alberta, he shall refer the matter to the Attorney General, or

(b) a contravention of the regulations governing the discipline or the performance of duty of police officers, he shall cause the matter to be proceeded with under subsection (4).

(4) Where the chief of police is of the opinion that the actions of a police officer constitute a contravention of the regulations governing the discipline or the performance of duty of police officers he, or a police officer designated by him, shall conduct a hearing into the matter as it relates to that contravention.

(5) If

(a) a police officer is the subject of an investigation or hearing, and

(b) in the opinion of the chief of police, there is no police officer of the police service who has sufficient rank and experience to

(i) conduct an investigation,

- (ii) present the case, or
- (iii) preside at the hearing,

as the case may be, the chief of police may request the commission to make arrangements for another police service to provide police officers to conduct the investigation, present the case and preside at the hearing.

(6) A police officer acting under subsection (5) has, for the purposes of this section, the same powers as a chief of police conducting a hearing under subsection (4).

Complaints  
respecting chiefs  
of police

**41(1)** All complaints with respect to the chief of police shall be sent to the chairman of the commission.

(2) If, after reviewing the complaint, the chairman of the commission is of the opinion that the actions of the chief of police may constitute

- (a) an offence under an Act of the Parliament of Canada or the Legislature of Alberta, or
- (b) a contravention of the regulations governing the discipline or the performance of duty of police officers,

the chairman shall request the Solicitor General to direct another police service to investigate the complaint.

(3) If the chief of police or the officer in charge of the police service directed under subsection (2) to carry out the investigation is of the opinion that the actions of the chief of police that are the subject of the investigation constitute

- (a) an offence under an Act of the Parliament of Canada or the Legislature of Alberta, he shall
  - (i) refer the matter to the Attorney General, and
  - (ii) advise the commission of his findings unless the Attorney General otherwise directs,

or

- (b) a contravention of the regulations governing the discipline or the performance of duty of police officers, he shall refer the matter to the commission.

(4) Where a matter is referred to the commission under subsection (3)(b), the commission shall conduct a hearing into the matter as it relates to the contravention of the regulations governing the discipline or performance of duty of police officers.

(5) The commission may appoint a lawyer to present to the commission the matter that is the subject of the complaint.

Conduct of  
hearing

**42(1)** Where a hearing is proceeded with under section 40(4) or 41(4), section 18(a) to (c), (e)(ii), (f), (h) to (j), (k)(i), (m) and (n) apply to the hearing in the same manner as to a hearing conducted by the Board and

(a) in the case of a hearing under section 40, the chief of police or a police officer designated by him, or

(b) in the case of a hearing under section 41, the commission,

has the same powers that the Board has in respect of those provisions.

(2) Notwithstanding that the actions of a police officer have been referred to the Attorney General under section 40(3)(a) or 41(3)(a), if the person who referred the matter to the Attorney General is of the opinion that those actions also constitute a contravention of the regulations governing the discipline or the performance of duty of police officers, the matter as it relates to that contravention shall be proceeded with under section 40(4) or 41(4), as the case may be, unless the Attorney General otherwise directs.

(3) Notwithstanding section 40(4) or 41(4), where a matter that is referred to the Attorney General under section 40(3)(a) or 41(3)(a) is also to be proceeded with under section 40(4) or 41(4), the hearing of the matter under section 40(4) or 41(4) may be deferred until the proceedings respecting the offence are concluded.

(4) On hearing a matter,

(a) the chief of police or his designate, in the case of a hearing under section 40(4), or

(b) the commission, in the case of a hearing under section 41(4),

may dismiss the matter or, subject to the regulations, take any action against the person who is the subject of the complaint that

(c) the chief of police or his designate, in the case of a complaint under section 40, or

(d) the commission, in the case of a complaint under section 41,

considers proper in the circumstances.

(5) On making a decision after hearing a matter,

(a) the chief of police, in the case of a complaint under section 40, or

(b) the commission, in the case of a complaint under section 41,

shall in writing advise the person against whom the complaint is made and the complainant,

(c) where a hearing is held, of the findings of the hearing and any action taken under subsection (4), and

(d) where a hearing is not held, of the disposition of the complaint and the grounds on which the disposition was made.

Appeals to  
the Board

**43(1)** A chief of police or another police officer who feels himself aggrieved by the findings of a hearing or any action taken against him under section 42(4) may, within 30 days from the day he was advised under section 42(5) of the findings of the hearing and any action taken, file with the secretary to the Board a written notice of appeal setting forth the grounds on which the appeal is based.

(2) If a public complaint has resulted in a hearing, the complainant may, within 30 days from the day he was advised under section 42(5) of the findings of the hearing and any action taken, file with the secretary to the Board a written notice of appeal setting forth the grounds on which the appeal is based.

(3) If a public complaint has

- (a) been considered to be unfounded, or
- (b) not resulted in a hearing,

the complainant may, within 30 days from the day he was advised under section 42(5) of the disposition of his complaint, file with the secretary to the Board a written notice of appeal setting forth the grounds on which the appeal is based.

(4) The commission may, if not satisfied with the outcome of an investigation or hearing, make a request to the Board that the Board investigate the whole or any portion of the investigation or the action out of which the investigation arose.

Complaints  
respecting RCMP

**44** Notwithstanding section 40 or 41, complaints in Alberta with respect to members of the Royal Canadian Mounted Police shall

- (a) be sent to the Commanding Officer responsible for the Royal Canadian Mounted Police in Alberta, and
- (b) subject to any agreement entered into between the Government of Canada and the Government of Alberta or a municipality, as the case may be, be resolved in accordance with the laws governing discipline within the Royal Canadian Mounted Police.

Complaints  
respecting  
auxiliary  
constables

**45(1)** All complaints with respect to auxiliary constables shall be sent to the chief of police.

(2) Sections 40, 42 and 43 apply to a complaint referred to in subsection (1).

Complaints  
respecting special  
constables

**46(1)** All complaints with respect to a special constable shall be sent

- (a) to the employer of the special constable if a delegation has been made to the employer under section 38(5), or
- (b) to the Director if a delegation has not been made under section 38(5).

(2) Notwithstanding subsection (1)(b), if

- (a) a delegation has not been made under section 38(5) to an employer of a special constable, and
- (b) a complaint with respect to a special constable is made to the employer,

the employer shall forthwith forward that complaint to the Director.

Report of  
complaints to  
the Director

**47** If a public complaint is made,

- (a) the commission, in the case of a complaint made under section 40, 41 or 45,

(b) the Commanding Officer, in the case of a complaint made under section 44, and

(c) the employer, in the case of a complaint made under section 46(1)(a),

shall, at the end of the month in which the complaint is made or within a longer period of time as prescribed by the Director, advise the Director of the complaint and after the resolution of the complaint advise the Director as to how the complaint was resolved.

## PART 6 GENERAL

Lock-ups

**48(1)** A municipality that

(a) has established a police service under section 24(4) or 25, or

(b) receives policing services under an agreement made pursuant to section 20,

shall make provision for an adequate lock-up facility.

(2) If a municipality maintains a lock-up facility under subsection (1), that lock-up shall be under the direction and control of the police service.

(3) If

(a) a special constable, or

(b) a person employed by a municipality to enforce by-laws,

requires the use of a lock-up facility, he shall use the lock-up facility operated by a police service.

(4) Where a regional police service is established, the agreement entered into under section 22 shall include provision for a lock-up facility to meet the needs of each of the participating municipalities.

Use of the term "police"

**49** No person shall, unless he is appointed as a police officer under this Act or pursuant to an Act of the Parliament of Canada,

(a) hold himself out as a police officer, or

(b) display the word "police" either alone, as a part of a word or in conjunction with any other words, on a uniform, an insignia, a vehicle marking or other sign or symbol.

Uniforms and insignia

**50** If the Solicitor General or his designate is of the opinion that the uniform, insignia, vehicle markings or other signs or symbols employed by a person or organization are so similar to those used by a police service that the public may be misled, the Solicitor General or his designate may, by order in writing served on that person or organization, require the person or organization to desist from the use of that uniform or insignia or those markings, signs or symbols.

Application to court

**51(1)** Whether or not a person is prosecuted under this Act, if the Director is of the opinion that a person is or was contravening section 49 or an order made under section 50, the Director may apply

to the Court of Queen's Bench for an order directing that person to cease or desist from contravening section 49 or the order made under section 50, as the case may be.

(2) An application under this section shall be by way of an originating notice.

(3) On an originating notice being filed with the clerk of the Court, the Court may, if it considers it necessary in the circumstances, make an interim order granting the relief that the Court considers appropriate pending the determination of the application.

(4) An interim order under subsection (3) may be made ex parte if the Court considers it appropriate in the circumstances.

(5) On hearing an application the Court may, if it is of the opinion that the person is or was contravening section 49 or an order made under section 50, grant an order, subject to any terms and conditions the Court considers appropriate in the circumstances, doing 1 or more of the following:

(a) directing the person to cease or desist from contravening section 49 or the order made under section 50, as the case may be;

(b) giving directions that the Court considers necessary in order to ensure that section 49 or an order made under section 50, as the case may be, will be complied with;

(c) awarding costs in respect of the matter.

General penalty **52** Any person who contravenes section 49 or fails to comply with an order made under section 50 is guilty of an offence and liable to a fine not greater than \$10 000 or to a term of imprisonment not exceeding 6 months or to both a fine and imprisonment.

Service of notices and documents **53** In addition to any method of service permitted by law, any notice or document respecting matters coming under this Act may be served

(a) by personal service, or

(b) by registered mail sent

(i) to the Chairman or secretary of the Board, in the case of a notice or document sent to the Board, or

(ii) to the latest address of the person on whom the notice or document is to be served as shown on the records of the person issuing the notice or document, in a case other than that referred to in subclause (i).

By-laws and resolutions **54(1)** For the purposes of this Act

(a) a council, other than the Minister of Municipal Affairs or an Indian band council, may exercise and perform its powers and duties under this Act by by-law, and

(b) an Indian band council may exercise and perform its powers and duties under this Act by a band council resolution.

(2) Notwithstanding subsection (1), a council referred to in subsection (1)(a) may exercise its powers under section 26(2)(b) by resolution.

Lieutenant  
Governor in  
Council  
regulations

**55(1)** The Lieutenant Governor in Council may make regulations

(a) prescribing rates of fees, remuneration and subsistence and travel allowances payable under this Act or the regulations;

(b) prescribing rates of fees and expenses payable to witnesses attending a proceeding under this Act;

(c) governing the sharing of costs of provincial policing services under sections 4(2)(a) and (5)(a), 20(1) and 24(2);

(d) governing, subject to this Act, the responsibility and duties of police commissions and municipal police advisory committees;

(e) governing, subject to this Act, the establishment and operation of police services;

(f) governing, subject to this Act, the appointment, qualifications, training, duties, discipline and performance of duty of police officers, probationary constables, auxiliary constables and special constables;

(g) governing investigations of police officers, auxiliary constables and special constables;

(h) governing, subject to this Act, action that may be taken against police officers, auxiliary constables and special constables;

(i) governing appeals of special constables from action taken against them under section 38;

(j) governing, subject to this Act, regional policing services and policing services provided under section 20(2)(b);

(k) governing a committee referred to in section 24(5).

(2) A regulation made under subsection (1) may be general or specific in its application.

(3) Subsection (1)(f) and (g) do not apply to the Royal Canadian Mounted Police.

Solicitor General  
regulations

**56(1)** The Solicitor General may make regulations

(a) prescribing colour and style of uniforms, accoutrements and insignia for police officers, auxiliary constables and special constables;

(b) governing clothing and equipment furnished to or used by police officers, auxiliary constables and special constables;

(c) governing firearms with respect to police officers, auxiliary constables and special constables;

(d) governing police lock-up facilities and providing for their inspection;

(e) governing applications for appointments of special constables;

(f) prescribing the information and statistical data to be kept and reported to the Solicitor General by police services and employers of special constables.

(2) A regulation made under subsection (1) may be general or specific in its application.

**Transitional** **57(1)** *In this section "former Act" means the Police Act, chapter P-12 of the Revised Statutes of Alberta 1980.*

*(2) Those persons who, immediately before the coming into force of this Act, were members of the Law Enforcement Appeal Board under the former Act continue for their term of office as members of the Law Enforcement Appeal Board under this Act.*

*(3) The person who, immediately before the coming into force of this Act, was the chairman of the Law Enforcement Appeal Board under the former Act continues for his term of office as Chairman of the Law Enforcement Appeal Board under this Act.*

*(4) Any action respecting a complaint against or the discipline of a police officer or a chief of police that was commenced under the former Act but not completed before the commencement of this Act shall be dealt with and determined under the former Act as if that Act had not been repealed.*

*(5) Any person who, immediately before the coming into force of this Act, was a special constable under the former Act continues as a special constable under this Act and his appointment as a special constable terminates 1 year from the date of the coming into force of this Act unless sooner terminated under section 38(1)(b).*

**Repeal** **58** *The Police Act, chapter P-12 of the Revised Statutes of Alberta 1980, is repealed.*

**Commencement** **59** *This Act comes into force on Proclamation.*

**FORM 1**

**OATH OF OFFICE  
(MEMBERS OF MUNICIPAL POLICE COMMISSIONS)**

I, \_\_\_\_\_, swear that I will diligently, faithfully and to the best of my ability execute according to law the office of police commissioner and will not, except in the discharge of my duties, disclose to any person any matter or evidence brought before me as a member of the \_\_\_\_\_, so help me God.

Sworn before me in the

\_\_\_\_\_

of \_\_\_\_\_

in the Province of \_\_\_\_\_

\_\_\_\_\_  
Signature

this \_\_\_\_\_

day of \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**FORM 2**

**OATH OF ALLEGIANCE AND OFFICE  
(PEACE OFFICERS)**

I, \_\_\_\_\_, swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors, according to law, in the office of \_\_\_\_\_ for the \_\_\_\_\_ of \_\_\_\_\_ and that I will diligently, faithfully and to the best of my ability execute according to law the office of \_\_\_\_\_, and will not, except in the discharge of my duties, disclose to any person any matter or evidence which may come to my notice through my tenure in this office, so help me God.

Sworn before me in the

\_\_\_\_\_

of \_\_\_\_\_

\_\_\_\_\_

in the Province of

\_\_\_\_\_

this \_\_\_\_\_

day of \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature