

*Bill 49*

## **BILL 49**

2005

### **POLICE AMENDMENT ACT, 2005 (NO. 2)**

*(Assented to , 2005)*

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

#### **Amends RSA 2000 cP-17**

**1 The *Police Act* is amended by this Act.**

**2 Section 3.1(a) is repealed and the following is substituted:**

- (a) establish standards for
  - (i) police services,
  - (ii) police commissions, and
  - (iii) policing committees,
- and

**3 Section 10 is amended**

**(a) by adding the following after subsection (1):**

**(1.1)** The Chair may designate a member of the Board to be acting Chair when the Chair is absent.

**(1.2)** An acting Chair has all the functions, powers and duties of the Chair, unless the designation provides otherwise.

- (b) **in subsection (2) by striking out** “In the case of illness, absence or other disability of the Chair,” **and substituting** “If the Chair is unable to act as Chair for any reason and is unable to designate a member as acting Chair under subsection (1.1).”.

**4 Section 19(4) is repealed.**

**5 The following is added after section 19:**

**Panels**

**19.1(1)** The Chair may designate any 2 or more members of the Board, which may include the Chair, to sit as a panel of the Board and may direct that panel to conduct any appeal, inquiry or review that the Board may conduct.

(2) A quorum of a panel is 2 members.

(3) Notwithstanding subsections (1) and (2), where the Chair considers it appropriate to do so, the Chair may designate one member of the Board, which may include the Chair, to sit as a panel of the Board to deal with preliminary or procedural matters incidental to an appeal, inquiry or review.

(4) A decision made or action taken by a panel is a decision or action of the Board.

(5) A panel of the Board may exercise and perform all the powers and duties of the Board under this Act or any other enactment with respect to the matter it is directed to deal with.

(6) For the purposes of subsection (5), any reference to the Board in this Act or any other enactment is a reference to a panel of the Board.

(7) If the Chair is not a member of a panel, the Chair must designate one of the members of the panel to preside over the panel.

(8) When an appeal, inquiry or review is conducted by a panel and one or more members of the panel for any reason do not attend on any day or part of a day, the remaining members

present may, if they constitute a quorum, exercise and perform all the powers and duties of the panel with respect to that appeal, inquiry or review.

(9) Two or more panels may sit simultaneously or at different times.

## **6 Section 20 is amended**

### **(a) in subsection (1)**

#### **(i) by repealing clause (f) and substituting the following:**

(f) the Board may accept any evidence that the Board considers to be relevant to the determination of the issues and is not bound by the rules of law respecting evidence applicable to judicial proceedings;

#### **(ii) by repealing clause (h);**

### **(b) in subsection (4)**

(i) **by striking out** “that a party” **and substituting** “that a party or counsel to a party”;

(ii) **by adding** “or where the Board considers an award of costs warranted in the circumstances,” **after** “vexatious manner,”;

(iii) **in clause (a) by striking out** “that party” **and substituting** “a party or counsel to a party”.

## **7 The following is added after section 20:**

### **Application**

**20.1** The amendments to sections 19 and 20 made by the *Police Amendment Act, 2005 (No. 2)* apply only to inquiries and appeals that commence after the coming into force of that Act.

## **8 Section 46.1 is amended by adding the following after subsection (10):**

(11) The costs and expenses that result from

- (a) a request or direction made by the Minister under subsection (2)(a) or (b) shall be borne by the police service that is the subject of the investigation, unless otherwise directed by the Minister, and
- (b) an appointment by the Minister under subsection (2)(c) shall be borne by the Government of Alberta.

**9 Section 47(1)(e) and (f) are repealed and the following is substituted:**

- (e) the person conducting the hearing may receive any evidence presented that the person considers relevant to the matter being heard and is not bound by the rules of law respecting evidence applicable to judicial proceedings;

**10 The following is added after section 47:**

**Application**

**47.1** The amendments to section 47 made by the *Police Amendment Act, 2005 (No. 2)* apply only to hearings that commence after the coming into force of that Act.

**11 Section 61(1) is amended**

**(a) by repealing clause (b) and substituting the following:**

- (b) governing fees and expenses for witnesses attending a proceeding under this Act, including specifying to whom and the circumstances in which such fees and expenses may be paid and prescribing rates of fees and expenses payable to witnesses who qualify under the regulations;

**(b) in clause (c) by adding “training of police commissions and municipal policing committees, and the” after “this Act, the”.**

**12 Section 62(1)(g) is amended by striking out “policing” and substituting “police services, police commissions and policing committees”.**

### **Explanatory Notes**

**1** Amends chapter P-17 of the Revised Statutes of Alberta 2000.

**2** Clarifying the areas in which Minister may establish standards. Section 3.1 presently reads:

*3.1 The Minister may, subject to the regulations,*

*(a) establish standards for policing, and*

*(b) ensure that standards are met.*

**3** Section 10 presently reads:

*10(1) The Lieutenant Governor in Council shall designate one of the members of the Board who is an active member of The Law Society of Alberta as Chair of the Board.*

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

*(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 the place of the Chair.*

**4** Section 19 presently reads:

*19(1) The Board shall hold meetings as it considers necessary.*

*(2) The Board may hold sittings and conduct appeals or inquiries at any place in Alberta.*

*(3) The Chair, or the secretary to the Board at the direction of the Chair, 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 an appeal or an inquiry under this Act, a quorum of the Board shall consist of 2 members of the Board.*

## **5** Panels.

**6** Relaxes the rules applicable to evidence in appeals or inquiries before the Board; broadens the jurisdiction and discretion of the Board to deal with matters and award costs. Section 20 presently reads in part:

*20(1) For the purpose of conducting an appeal or an inquiry before the Board, the following applies:*

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

*(h) the rules of evidence applicable to judicial proceedings apply;*

*(4) If the Board is of the opinion that a party to an appeal or an inquiry has acted in a frivolous or vexatious manner, the Board may*

- (a) *award costs against that party in an amount considered appropriate by the Board, and*
- (b) *direct that the costs referred to in clause (a) be paid*
  - (i) *to any other party to the appeal or inquiry,*
  - (ii) *to the Crown in right of Alberta, or*
  - (iii) *partly to any other party to the appeal or inquiry and partly to the Crown in right of Alberta.*

## **7** Application.

**8** Clarifies who is responsible for costs and expenses incurred under this section. Section 46.1 presently reads in part:

*46.1(1) The chief of police shall as soon as practicable notify the commission and the Minister where*

- (a) *an incident occurs involving serious injury to or the death of any person that may have resulted from the actions of a police officer, or*
- (b) *a complaint is made alleging that*
  - (i) *serious injury to or the death of any person may have resulted from the actions of a police officer, or*
  - (ii) *there is any matter of a serious or sensitive nature related to the actions of a police officer.*

*(2) The Minister, when notified under subsection (1) of an incident or complaint or on the Minister's own initiative where the Minister becomes aware of an*

*incident or complaint described in subsection (1), may do any one or more of the following:*

- (a) request or direct that another police service provide a police officer to assist and advise the police service investigating the incident or complaint;*
- (b) request or direct another police service to conduct an investigation into the incident or complaint, which may include taking over an ongoing investigation at any stage;*
- (c) appoint one or more members of the public as overseers to observe, monitor or review an investigation to ensure the integrity of the process of the investigation.*

*(5) The Minister may authorize and provide for the payment of remuneration and expenses to a person appointed under subsection (2)(c).*

**9** Section 47(1) presently reads in part:

*47(1) Where a hearing is proceeded with under section 45(3) or 46(4), the following applies:*

- (e) the person conducting the hearing shall receive any evidence presented that is relevant to the matter being heard;*
- (f) the rules of evidence applicable to judicial proceedings apply;*

**10** Application.

**11** Clarifies regulation-making powers with regard to the payment of fees and expenses to witnesses and training of police commissions and municipal policing committees. Section 61(1) presently reads in part:



*61(1) The Lieutenant Governor in Council may make regulations*

- (b) prescribing rates of fees and expenses payable to witnesses attending a proceeding under this Act;*
- (c) governing, subject to this Act, the responsibility and duties of police commissions and municipal policing committees;*

**12** Section 62(1) presently reads in part:

*62(1) The Minister may make regulations*

- (g) governing the establishment of standards for policing.*