

**2021**

## **CHAPTER 22**

An Act to amend *The Police Act, 1990* and to make consequential amendments

(Assented to May 13, 2021)

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

### **PART 1 Preliminary Matters**

**Short title**

**1** This Act may be cited as *The Police (Serious Incident Response Team) Amendment Act, 2021*.

### **PART 2 Amendments to *The Police Act, 1990***

**SS 1990-91, c P-15.01 amended**

**2** *The Police Act, 1990* is amended in the manner set forth in this Part.

**Section 47 amended**

**3** **Section 47 is amended by striking out “minister” and substituting “Attorney General for Saskatchewan”.**

**Section 51 amended**

**4** **Section 51 is amended by striking out “minister” and substituting “Attorney General for Saskatchewan”.**

**Section 54.1 amended**

**5** **Clause 54.1(2)(a) is amended by striking out “minister” and substituting “Attorney General for Saskatchewan”.**

**Section 55.1 amended**

**6** **Clause 55.1(2)(a) is amended by striking out “minister” and substituting “Attorney General for Saskatchewan”.**

**New section 57**

**7** **Section 57 is repealed and the following substituted:**

**“Suspension of proceeding**

**57** Notwithstanding anything in this or any other Act, if a matter has been referred to the Attorney General for Saskatchewan or the Attorney General for Canada, the minister may order that any proceeding pursuant to this Act be suspended until the minister directs otherwise”.

**Section 74.3 amended**

**8(1) Subsection 74.3(11) is amended by striking out “minister” and substituting “Attorney General for Saskatchewan”.**

**(2) Subsection 74.3(12) is repealed and the following substituted:**

“(12) If a matter has been referred to the Attorney General for Saskatchewan or the Attorney General for Canada pursuant to subsection (11), the minister may order that any investigation pursuant to this section be suspended until the minister directs otherwise”.

**Section 80.001 amended**

**9(1) Subsection 80.001(13) is amended by striking out “minister” and substituting “Attorney General for Saskatchewan”.**

**(2) Subsection 80.001(14) is repealed and the following substituted:**

“(14) If a matter has been referred to the Attorney General for Saskatchewan or the Attorney General for Canada pursuant to subsection (13), the minister may order that any review pursuant to this section be suspended until the minister directs otherwise”.

**New sections 91.01 to 91.091**

**10 The following sections are added after section 91:**

**“Serious Incident Response Team**

**91.01(1) The Serious Incident Response Team is established.**

**(2) The Serious Incident Response Team consists of:**

- (a) a Civilian Executive Director appointed by the Lieutenant Governor in Council who shall perform the duties assigned pursuant to this Act;
- (b) any investigators appointed by the Civilian Executive Director pursuant to section 91.03;
- (c) any community liaison appointed by the Civilian Executive Director pursuant to section 91.12; and
- (d) any other employees, appointed by the Civilian Executive Director in accordance with *The Public Service Act, 1998*, who are necessary to carry out the responsibilities of the Civilian Executive Director and the Serious Incident Response Team pursuant to this Act.

**(3) A person appointed as the Civilian Executive Director pursuant to subsection (2):**

- (a) holds office for a term not exceeding 5 years;
- (b) continues in office until a successor is appointed;
- (c) may be reappointed; and
- (d) must meet the qualifications set out in subsection (4).

- (4) A person appointed as the Civilian Executive Director pursuant to subsection (2):
- (a) must be a lawyer; and
  - (b) shall not be:
    - (i) a current or former member of a police service or the Royal Canadian Mounted Police;
    - (ii) a current or former extra-jurisdictional police officer as defined in section 80.1; or
    - (iii) a current or former special constable as defined in subsection 91.08(1).
- (5) The Civilian Executive Director ceases to hold office on the earliest of the following:
- (a) the date on which the appointment of the Civilian Executive Director is cancelled;
  - (b) the date specified as the effective date in a written resignation submitted to the minister by the Civilian Executive Director;
  - (c) the date on which the appointment of the Civilian Executive Director is terminated for cause by the Lieutenant Governor in Council.
- (6) If the Civilian Executive Director becomes ill or dies, ceases to hold office pursuant to subsection (5) or is otherwise unable to act, the Lieutenant Governor in Council may appoint an interim Civilian Executive Director for a single term not exceeding one year.
- (7) An interim Civilian Executive Director appointed pursuant to subsection (6) shall not be:
- (a) a current or former member of a police service or the Royal Canadian Mounted Police;
  - (b) a current or former extra-jurisdictional police officer as defined in section 80.1; or
  - (c) a current or former special constable as defined in subsection 91.08(1).

**“Duties of Civilian Executive Director**

**91.02** The Civilian Executive Director is responsible to the chairperson of the PCC for the following:

- (a) the management, administration and operation of the Serious Incident Response Team;
- (b) overseeing investigations conducted by the Serious Incident Response Team;
- (c) performing any other duties imposed by this Act or the regulations.

**“Investigators**

**91.03(1)** Subject to the approval of the chairperson of the PCC, the Civilian Executive Director may appoint investigators as necessary for the purposes of the Serious Incident Response Team.

(2) An investigator appointed pursuant to subsection (1) must meet any qualifications prescribed in the regulations.

**“Investigators to be released from other duties**

**91.04** The following must be released from all other duties before being appointed as an investigator pursuant to section 91.03:

- (a) a current member of a police service;
- (b) a current member of the Royal Canadian Mounted Police;
- (c) a current extra-jurisdictional police officer as defined in section 80.1;
- (d) a current special constable as defined in subsection 91.08(1).

**“Civilian Executive Director in charge of investigators**

**91.05** An investigator is under the sole direction of the Civilian Executive Director while serving with the Serious Incident Response Team.

**“Assistance from police service**

**91.06(1)** The Civilian Executive Director may direct the Royal Canadian Mounted Police or a chief of a police service to make available members and other resources from the Royal Canadian Mounted Police or police service to the Serious Incident Response Team for the purpose of assisting the Team, and the Royal Canadian Mounted Police or chief shall select members for that purpose.

(2) On consultation with the Royal Canadian Mounted Police or the chief of a police service, the Civilian Executive Director may assign members selected pursuant to subsection (1) to assist with an investigation.

(3) If a member is assigned by the Civilian Executive Director pursuant to this section, that member reports solely to, and is under the sole direction of, the Civilian Executive Director with respect to that investigation but remains the financial responsibility of the Royal Canadian Mounted Police or the police service from which the member was selected.

**“Agreements**

**91.07(1)** The Civilian Executive Director may enter into agreements with an agency, the Government of Canada or the government of, or the council of a municipality in, another province or territory of Canada as required to undertake the work of or related to the Serious Incident Response Team.

(2) On the recommendation of the Civilian Executive Director, the minister may enter into agreements with an agency, the Government of Canada or the government of, or the council of a municipality in, another province or territory of Canada to allow the Serious Incident Response Team to provide independent oversight assistance or to conduct an investigation.

**“Investigation of incident**

**91.08(1)** In this section and section 91.09:

**‘detachment’** means a detachment of the Royal Canadian Mounted Police providing policing services within a municipality;

**‘interpersonal violence’** means interpersonal violence as defined in *The Victims of Interpersonal Violence Act*;

**‘member’** includes, unless otherwise provided, a member of a police service or a member of a detachment;

**‘permanent head’** means, with respect to a special constable, the deputy minister or other official who is:

- (a) in charge of the ministry that employs the special constable; and
- (b) directly responsible to a member of the Executive Council;

**‘special constable’** means a special constable who is a member of a class of special constables prescribed in the regulations;

**‘spouse’** means, with respect to a member or special constable mentioned in subsection (2):

- (a) a person who has resided, or who is residing, with that member or special constable in a spousal relationship or intimate relationship; or
- (b) a person who, together with that member or special constable and regardless of their marital status or whether they have lived together at any time, is the parent of one or more children.

(2) Notwithstanding any other provision of this Act, a police service, detachment or permanent head shall immediately notify the Civilian Executive Director if:

- (a) a person may have suffered a sexual assault or a serious injury or may have died while in the custody of that police service or detachment, or of a special constable, as the case may be;
- (b) a person may have suffered a sexual assault or serious injury or may have died as a result of the actions or omissions of a member of that police service or detachment, or a special constable, as the case may be; or
- (c) that police service, detachment or permanent head has reason to believe that the actions or omissions of a member of the police service or detachment, or a special constable, as the case may be, occurring outside of the member’s or special constable’s scope of employment as a member or special constable, may have resulted in:
  - (i) a person suffering a sexual assault;
  - (ii) a person suffering a serious injury or death; or
  - (iii) a spouse of the member or special constable suffering interpersonal violence.

(3) With respect to an incident that does not meet the criteria set out in subsection (2) alleged to have resulted from the actions or omissions of a member of a police service or detachment or a special constable, the minister, the police service, detachment or permanent head may notify the Civilian Executive Director if the minister, police service, detachment or permanent head determines that it would be in the public interest for that incident to be dealt with in accordance with subsection (4).

(4) On notification of an incident pursuant to subsection (2) or (3), if the Civilian Executive Director otherwise becomes aware of an incident described in subsection (2), or if the Civilian Executive Director otherwise determines that it is in the public interest, the Civilian Executive Director may do all or any of the following:

- (a) arrange for one or more investigators appointed pursuant to section 91.03 to undertake an investigation of the incident, which may include taking over an ongoing investigation at any stage;
- (b) refer the matter to a police service or the Royal Canadian Mounted Police to conduct an investigation, which may include taking over an ongoing investigation at any stage;
- (c) on consultation with a chief or the Royal Canadian Mounted Police, assign one or more members selected pursuant to section 91.06 to assist or advise the investigators, the police service or the Royal Canadian Mounted Police conducting an investigation pursuant to clause (a) or (b);
- (d) enter into an agreement to have an independent team or agency from another province or territory of Canada conduct an investigation;
- (e) direct that one or more investigators appointed pursuant to section 91.03 oversee, observe, monitor or review an investigation by a police service or the Royal Canadian Mounted Police;
- (f) appoint a community liaison pursuant to section 91.12 to provide assistance to the Civilian Executive Director in completing an investigation conducted pursuant to this subsection;
- (g) refer the matter to the PCC for consideration pursuant to Part IV;
- (h) refer the matter pursuant to the complaints process in Part VII of the *Royal Canadian Mounted Police Act* (Canada);
- (i) determine that the matter is not within the mandate of the Serious Incident Response Team.

(5) If any person undertakes an investigation pursuant to clause (4)(a), (b) or (d), the members or special constables who are at the scene of an incident described in subsection (2) or (3) must take any lawful measures that appear to the members or special constables to be necessary or expedient for the purposes of obtaining and preserving evidence related to the matter.

- (6) Subject to the regulations, a member or special constable must cooperate fully with:
- (a) the Civilian Executive Director in the Civilian Executive Director's exercise of powers or performance of duties pursuant to this Act; and
  - (b) any person acting pursuant to clause (4)(a), (b), (c) or (d) in that person's exercise of powers or performance of duties pursuant to this Act.
- (7) Subject to subsection (8):
- (a) no oral or written statement or record received by, or on behalf of, the Civilian Executive Director, or by any other member of the Serious Incident Response Team, including a person acting pursuant to clause (4) (b), (c) or (d), shall be used or received as evidence in any civil proceeding or in any proceeding pursuant to any other Act; and
  - (b) the Civilian Executive Director, and any other member of the Serious Incident Response Team, including a person acting pursuant to clause (4)(b), (c) or (d), is not compellable to give testimony or to produce a statement obtained in exercising a power or performing a duty pursuant to this section.
- (8) Subsection (7) does not apply to a proceeding, including a disciplinary proceeding, authorized by this Act that is prescribed in the regulations.
- (9) On the conclusion of an investigation pursuant to this section or as otherwise requested by the Civilian Executive Director, a confidential report must be submitted to the Civilian Executive Director in the form determined by the Civilian Executive Director.
- (10) On receiving a report pursuant to subsection (9), the Civilian Executive Director:
- (a) shall refer the matter to the Attorney General for Saskatchewan or to the Attorney General for Canada, as the case may be, if the Civilian Executive Director is of the opinion that the actions or omissions of the member or special constable who is the subject of the report may constitute an offence pursuant to an Act or an Act of the Parliament of Canada;
  - (b) may refer the matter to the PCC for consideration pursuant to Part IV;
  - (c) in the case of an investigation:
    - (i) respecting a member of a police service, may refer the matter to the chief to proceed with internal discipline pursuant to section 54.1 and, if that referral is made, the Civilian Executive Director shall:
      - (A) include a recommendation that the member be charged with a major or minor disciplinary offence; and
      - (B) provide to the board a copy of the recommendation mentioned in paragraph (A); or

(ii) respecting a chief, may refer the matter to the board to proceed with internal discipline pursuant to section 55.1 and, if that referral is made, the Civilian Executive Director shall include a recommendation that the chief be charged with a major or minor disciplinary offence; and

(d) in the case of an investigation respecting a member of a detachment, may refer the matter to the Royal Canadian Mounted Police and include any recommendations the Civilian Executive Director considers appropriate.

(11) For the purpose of clause (10)(c), a reference to an investigation in section 54.1 or 55.1 is deemed to include an investigation conducted pursuant to this section.

(12) A report provided pursuant to subsection (9) and any recommendation made pursuant to clause (10)(c) or (d) are not subject to *The Freedom of Information and Protection of Privacy Act* or *The Local Authority Freedom of Information and Protection of Privacy Act*.

**“Investigation file available to police service**

**91.09(1)** On the conclusion of an investigation pursuant to section 91.08, the Civilian Executive Director shall make the investigation file of the Serious Incident Response Team available:

(a) if a member of a police service is the subject of the investigation, to the chief of the police service in which the member under investigation is employed and to the board;

(b) if a chief is the subject of the investigation, to the board of the police service of the chief;

(c) if a special constable is the subject of the investigation, to the permanent head; or

(d) if a member of a detachment of the Royal Canadian Mounted Police is the subject of the investigation, to the Royal Canadian Mounted Police.

(2) An investigation file mentioned in subsection (1) is not subject to *The Freedom of Information and Protection of Privacy Act* or *The Local Authority Freedom of Information and Protection of Privacy Act*.

**“Investigation summary**

**91.091** As soon as is reasonably practicable but not later than 3 months after receiving a report pursuant to subsection 91.08(9), the Civilian Executive Director shall make public a summary of the report, in accordance with any requirements prescribed in the regulations”.

**Section 91.1 repealed**

**11 Section 91.1 is repealed.**



## New sections 91.12 to 91.15

**12 The following sections are added before section 91.2:****“Community liaison**

**91.12(1)** In addition to appointing an investigator, in an investigation pursuant to section 91.08:

(a) if the person who suffered, or may have suffered, serious injury, death, sexual assault or interpersonal violence is of First Nations or Métis ancestry, the Civilian Executive Director shall appoint a community liaison who is of First Nations or Métis ancestry to provide assistance to the Civilian Executive Director to complete the investigation; and

(b) in all other cases, the Civilian Executive Director may appoint a community liaison to provide assistance to the Civilian Executive Director to complete the investigation.

(2) The Civilian Executive Director may appoint a community liaison pursuant to subsection (1) on any terms and conditions the Civilian Executive Director determines to be appropriate.

**“Annual report**

**91.13(1)** The Civilian Executive Director shall, in each fiscal year, in accordance with section 13 of *The Executive Government Administration Act*, prepare and submit to the minister a report that includes the following information:

(a) the number of investigations started and concluded in that fiscal year;

(b) the nature of each investigation;

(c) the result of each investigation.

(2) The minister shall, in accordance with section 13 of *The Executive Government Administration Act*, lay before the Legislative Assembly each report received pursuant to subsection (1).

**“Transitional**

**91.14** Notwithstanding any other provision of this Act, with respect to a matter that is proceeding in accordance with section 91.1 before its repeal, the Civilian Executive Director may direct that the matter continue to be dealt with:

(a) in accordance with section 91.1 as that section existed before it was repealed; or

(b) in accordance with section 91.08, with any necessary modification.

**“Immunity**

**91.15** No action lies or shall be instituted against any member of the Serious Incident Response Team, or any other person mentioned in clause 91.08(4)(b), (c) or (d), where that member or other person is acting pursuant to the authority of this Act or the regulations, for any loss or damage suffered by any person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them, pursuant to or in the exercise of or supposed exercise of any power conferred by this Act or the regulations or any duty imposed by this Act or the regulations”.

**Section 91.2 amended**

**13 Section 91.2 is amended by striking out “91.1” and substituting “91.12”.**

**Section 95 amended**

**14 The following clauses are added after clause 95(1)(e.4):**

“(e.41) respecting any matter required or authorized by this Act with respect to the Serious Incident Response Team;

“(e.42) for the purposes of subsection 91.08(6), respecting the duty to cooperate”.

## PART 3

**Amendments to *The Police Amendment Act, 2020*****SS 2020, c 33 amended**

**15(1) *The Police Amendment Act, 2020* is amended in the manner set forth in this section.**

**(2) Section 5 is repealed.**

**(3) Section 6 is repealed.**

**(4) The portion of clause 7(b) that enacts clauses 95(1)(e.5) and (e.6) is repealed.**

## PART 4

**Coming into Force****Coming into force**

**16 This Act comes into force by order of the Lieutenant Governor in Council.**