

2005

CHAPTER 25

An Act to amend *The Police Act, 1990* and to make a consequential amendment to *The Freedom of Information and Protection of Privacy Act*

(Assented to May 27, 2005)

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

Short title

1 This Act may be cited as *The Police Amendment Act, 2005*.

S.S. 1990-91, c.P-15.01 amended

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

Section 2 amended

3(1) Clause 2(i) is repealed.

(2) The following clause is added after clause 2(o):

“(o.1) ‘PCC’ means the public complaints commission established pursuant to section 16”.

Section 10 amended

4 Subsection 10(1) is amended by striking out “investigator” wherever it appears and in each case substituting “PCC”.

New heading preceding section 16

5 The heading before section 16 is struck out and the following substituted:

“PUBLIC COMPLAINTS COMMISSION”.

New sections 16 to 16.3

6 Section 16 is repealed and the following substituted:

“Public complaints commission

16(1) The public complaints commission is established.

(2) The PCC is to consist of five persons, including a chairperson and vice-chairperson, appointed by the Lieutenant Governor in Council on the recommendation of the minister.

(3) Of the members of the PCC:

(a) at least one member must be a person of First Nations ancestry;

(b) at least one member must be a person of Métis ancestry; and

(c) at least one member must be a lawyer.

- (4) Before making a recommendation pursuant to subsection (2), the minister shall consult with:
- (a) the Saskatchewan Association of Chiefs of Police;
 - (b) the Saskatchewan Federation of Police Officers;
 - (c) The Federation of Saskatchewan Indian Nations;
 - (d) the boards; and
 - (e) any other persons or boards that are prescribed in the regulations.
- (5) Each member of the PCC holds office for a term not to exceed three years and until a successor is appointed.
- (6) A member of the PCC may be reappointed for a second term, but no member may be appointed to more than two successive terms.
- (7) If a member of the PCC dies or resigns, the person ceases to be a member of the PCC on the date of death or on the date that a written resignation is received by the PCC, as the case may be.
- (8) If the office of a member of the PCC becomes vacant, the Lieutenant Governor in Council may:
- (a) appoint another person for the remainder of the term of the person who vacated the office; or
 - (b) appoint another person for the term mentioned in subsection (5).
- (9) A vacancy in the office of a member of the PCC does not impair the power of the remaining members of the PCC to act.
- (10) A majority of the members of the PCC constitutes a quorum.
- (11) Notwithstanding any other provision of this section, on the recommendation of the minister that it is, in the minister's opinion, necessary to facilitate the ongoing work of the PCC, the Lieutenant Governor in Council may appoint a person to serve as an interim member of the PCC until a member is appointed in accordance with subsections (2) and (3).
- (12) An interim member of the PCC appointed pursuant to subsection (11) has the same status, may exercise the same powers and shall fulfil the same duties as any other member of the PCC.

“Committees of PCC

- 16.1(1)** The PCC may designate any three or more of its members to sit as a committee of the PCC and may direct that committee to exercise any powers or carry out any duties that the PCC itself could exercise or perform.
- (2) A committee may not sit concurrently with the PCC, but any number of committees may sit concurrently.
- (3) Two members of a committee constitute a quorum at any sitting of a committee.
- (4) A decision or action of a committee in relation to the exercise of any power or the carrying out of any duty delegated to the committee is the decision or action of the PCC.

“Chairperson and vice-chairperson of PCC

16.2(1) The Lieutenant Governor in Council shall designate one member of the PCC as chairperson of the PCC and another member of the PCC as vice-chairperson.

(2) The chairperson shall perform the duties imposed on, and may exercise the powers given to, the chairperson by this Act or the regulations.

(3) If the chairperson is absent or unable to act for any reason or if the position of chairperson is vacant, the vice-chairperson shall act as chairperson and, while so acting, shall perform all the duties imposed on, and may exercise all the powers given to, the chairperson.

(4) The PCC may delegate to the chairperson the authority to exercise any powers conferred and to perform any duties imposed on the PCC pursuant to this Act.

“Powers and duties of the public complaints commission

16.3(1) The PCC shall perform any duties that are:

- (a) imposed by this Act or the regulations or any other Act on the PCC;
or
- (b) specified by the Lieutenant Governor in Council.

(2) Sections 5, 7, 13, 14 and 15 of this Act apply, with any necessary modification, to the PCC”.

Section 37 amended

7 Clause 37(e) is amended by adding “and includes a matter declared to be a public complaint pursuant to section 54 or 55” **after** “pursuant to subsection 38(1)”.

Section 37.1 amended

8 Subsection 37.1(1) is amended by striking out “investigator” **wherever it appears and in each case substituting** “PCC”.

Section 38 amended

9(1) Subsection 38(1) is amended by striking out “investigator” **and substituting** “PCC”.

(2) Subsection 38(2) is repealed and the following substituted:

“(2) A member of the public may make a public complaint:

- (a) to the office of the PCC;
- (b) to a police service;
- (c) to the Special Investigations Unit of The Federation of Saskatchewan Indian Nations;
- (d) to the board office of the affected police service;
- (e) to the department; or
- (f) to a detachment of the Royal Canadian Mounted Police”.

(3) Subsection 38(3) is amended by striking out “investigator” and substituting “PCC”.

(4) Subsections 38(5) to (7) are repealed and the following substituted:

“(5) If the public complaint is with respect to a police service or a member, the person receiving the complaint shall, as soon as is practicable:

(a) transmit the complaint to the PCC and provide a copy of the transmittal to the complainant; and

(b) provide copies of the complaint to the board, the department, the member who is the subject of the complaint and the chief.

“(6) If the public complaint is with respect to a chief, the person receiving the complaint shall, as soon as is practicable:

(a) transmit the complaint to the PCC and provide a copy of the transmittal to the complainant; and

(b) provide copies of the complaint to the department, the chief and the board.

“(7) No public complaint shall be received or made pursuant to this section after the expiry of 12 months from the day on which the complainant should have been aware of the incident complained of unless, on application by the PCC to the chairperson of the commission, the chairperson of the commission is satisfied that it is in the public interest to extend the time”.

Section 39 amended

10(1) Subsection 39(1) is amended by striking out “investigator” wherever it appears and in each case substituting “PCC”.

(2) Subsection 39(2) is amended by striking out “investigator” wherever it appears and in each case substituting “PCC”.

(3) Subsection 39(3) is amended by striking out “investigator” and substituting “PCC”.

(4) Subsection 39(4) is repealed and the following substituted:

“(4) If a board, chief or member refuses to comply with a request made pursuant to clause (2)(c), the PCC may apply to the Court of Queen’s Bench for an order compelling the board, chief or member to comply with the request”.

(5) Subsection 39(5) is amended by striking out “investigator” and substituting “PCC”.

(6) Subsection 39(6) is amended by striking out “investigator” and substituting “PCC”.

(7) Subsection 39(7) is repealed and the following substituted:

“(7) Subject to subsection (8):

(a) no oral or written statement or record received by, or on behalf of, the PCC, or by any member or police service acting on behalf of the PCC, shall be used or received as evidence in any civil proceeding or in any proceeding pursuant to any other Act; and

(b) the PCC, and any member, police service or investigator or observer acting on behalf of the PCC and any agent or employee of the PCC, 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 39(9) is amended by striking out “investigator” wherever it appears and in each case substituting “PCC”.

(9) Subsection 39(10) is amended by striking out “investigator” and substituting “PCC”.

(10) Subsection 39(11) is amended:

(a) by striking out “investigator” and substituting “PCC”; and

(b) by striking out “investigator’s” and substituting “PCC’s”.

(11) The following subsection is added after subsection 39(11):

“(12) The PCC may make any general recommendations to the commission or to a board respecting the policies of and services provided by a police service that the PCC considers appropriate”.

Section 40 amended

11 Clause 40(2)(a) is repealed and the following substituted:

“(a) this Act, any provision of this Act or any direction given pursuant to this Act does not apply”.

Section 42 amended

12 Section 42 is amended by adding “or, if the investigation is being conducted by the PCC, the PCC” after “conducting the investigation”.

Section 43 amended

13 Subsections 43(1) and (2) are repealed and the following substituted:

“(1) If proceedings pursuant to this Part are based on a public complaint with respect to a member, the PCC, in consultation with the chief, shall determine whether the complaint or a portion of the complaint is a complaint as to:

- (a) the policies of or the services provided by the police service; or
- (b) the actions of the member.

“(2) If proceedings pursuant to this Part are based on a public complaint with respect to a chief, the PCC, in consultation with the board, shall determine whether the complaint or a portion of the complaint is a complaint as to:

- (a) the policies of or the services provided by the police service; or
- (b) the actions of the chief”.

Section 43.1 amended**14 Subsection 43.1(1) is repealed and the following substituted:**

“(1) Notwithstanding any other provision in this Part or the regulations, the PCC may, at any point before the completion of a hearing, refer the matter that is the subject of the hearing to mediation if:

- (a) the PCC has the consent of the complainant and the member or chief who is the subject of the hearing; and
- (b) the PCC and the chief or board, as the case may be, are of the opinion that it is in the public interest to do so”.

New sections 45 and 45.1**15 Section 45 is repealed and the following substituted:****“Investigations re member**

45(1) If a public complaint is a complaint concerning the actions of a member, the PCC, in consultation with the chief, shall cause an investigation into the complaint to be conducted in accordance with this section as soon as is practicable following the receipt of the complaint.

(2) This section applies to all public complaints concerning the actions of a member, including complaints alleging actions by a member that may constitute an offence pursuant to an Act or an Act of the Parliament of Canada.

(3) The PCC shall direct that an investigation into the complaint be conducted:

- (a) by the PCC;
- (b) by the police service whose member is the subject of the complaint;
- (c) by the police service whose member is the subject of the complaint with the assistance of an observer appointed by the PCC to monitor the investigation and report to the PCC; or
- (d) by a police service other than the police service whose member is the subject of the complaint.

(4) If an investigation has been directed pursuant to subsection (3) with respect to a complaint alleging actions by a member that may constitute an offence pursuant to an Act or an Act of the Parliament of Canada, that investigation may continue to its completion regardless of whether the member who is the subject of the investigation remains a member.

(5) Notwithstanding subsection (1) or any other provision of this Part, if the PCC, or the chairperson of the PCC, and the chief are of the opinion that a public complaint is trivial, frivolous, vexatious, unfounded or made in bad faith, the PCC may direct that:

- (a) no investigation be undertaken; or
- (b) an investigation of that complaint be terminated.

(6) If, in the opinion of the PCC, it is advisable to do so, the PCC may, at any point in an investigation that is being conducted by a police service pursuant to clause (3)(b), (c) or (d), assume responsibility for and control of the investigation, and, if the PCC assumes responsibility and control, the police service that was conducting the investigation:

- (a) ceases to have responsibility for and control of the investigation; and
- (b) shall provide any assistance to the PCC that the PCC may request respecting the investigation.

(7) If an investigation is conducted by a police service pursuant to clause (3)(b), (c) or (d):

- (a) the police service shall provide the PCC with a written report of the investigation; and
- (b) the PCC shall provide the chief with a written report respecting the investigation.

(8) If a public complaint is dealt with pursuant to subsection (5), the PCC shall advise the complainant and the member within 15 days after the PCC's decision.

“Review of direction not to investigate

45.1(1) Subject to subsection (4), if the chairperson of the PCC, after consultation with the chief, made a direction pursuant to subsection 45(5) not to undertake an investigation or to terminate an investigation, a complainant may request a review by the PCC of the direction.

(2) In conducting a review pursuant to this section, the PCC may, in consultation with the chief:

- (a) confirm the direction not to undertake an investigation or to terminate an investigation;
- (b) direct a further investigation pursuant to subsection 45(3); or
- (c) if the PCC considers it to be appropriate, undertake any actions and exercise any powers of the chief pursuant to subsection 48(1) and, for that purpose, the PCC may do any of the things that the chief may do, and may exercise any of the powers of the chief that are given to the chief, pursuant to section 48.

(3) The PCC shall cause a written copy of its decision made pursuant to subsection (2) to be provided to the complainant.

(4) This section does not apply if:

- (a) the direction pursuant to subsection 45(5) not to undertake an investigation or to terminate an investigation was made by the PCC in consultation with the chief; and
- (b) a written copy of the direction mentioned in clause (a) was provided to the complainant”.

Section 46 amended

16(1) Clause 46(3)(c) is amended by striking out “investigator” wherever it appears and in each case substituting “PCC”.

(2) Subsection 46(5) is amended by striking out “investigator” wherever it appears and in each case substituting “PCC”.

Section 47 amended

17 Section 47 is amended by striking out “investigator” wherever it appears and in each case substituting “PCC”.

Section 48 amended

18(1) Clause 48(1)(a) is amended by striking out “investigator” and substituting “PCC”.

(2) Subsection 48(2) is amended by striking out “investigator” and substituting “PCC”.

New sections 49 and 49.1

19 Section 49 is repealed and the following substituted:

“Investigations re chief

49(1) If a public complaint is a complaint concerning the actions of a chief, the PCC, in consultation with the board, shall cause an investigation into the complaint to be conducted in accordance with this section as soon as is practicable following the receipt of the complaint.

(2) This section applies to all public complaints concerning the actions of a chief, including complaints alleging actions by a chief that may constitute an offence pursuant to an Act or an Act of the Parliament of Canada.

(3) The PCC shall direct that an investigation into the complaint be conducted:

- (a) by the PCC;
- (b) by the police service whose chief is the subject of the complaint with the assistance of an observer appointed by the PCC to monitor the investigation and report to the PCC; or
- (c) by a police service other than the police service whose chief is the subject of the complaint.

(4) If an investigation has been directed pursuant to subsection (3) with respect to a complaint alleging actions by a chief that may constitute an offence pursuant to an Act or an Act of the Parliament of Canada, that investigation may continue to its completion regardless of whether the chief who is the subject of the investigation remains a chief.

(5) Notwithstanding subsection (1) or any other provision of this Part, if the PCC, or the chairperson of the PCC, and the board are of the opinion that a public complaint is trivial, frivolous, vexatious, unfounded or made in bad faith, the PCC may direct that:

- (a) no investigation be undertaken; or
- (b) an investigation of that complaint be terminated.

- (6) If, in the opinion of the PCC, it is advisable to do so, the PCC may, at any point in an investigation that is being conducted by a police service pursuant to clause (3)(b) or (c), assume responsibility for and control of the investigation, and, if the PCC assumes responsibility and control, the police service that was conducting the investigation:
- (a) ceases to have responsibility for and control of the investigation; and
 - (b) shall provide any assistance to the PCC that the PCC may request respecting the investigation.
- (7) If an investigation is conducted by a police service pursuant to clause (3)(b) or (c):
- (a) the police service shall provide the PCC with a written report of the investigation; and
 - (b) the PCC shall provide the board with a written report respecting the investigation.
- (8) If a public complaint is dealt with pursuant to subsection (5), the PCC shall advise the complainant and the chief within 15 days after the PCC's decision.

“Review of direction not to investigate

- 49.1(1)** Subject to subsection (4), if the chairperson of the PCC, after consulting with the board, made a direction pursuant to subsection 49(5) not to undertake an investigation or to terminate an investigation, a complainant may request a review by the PCC of the direction.
- (2) In conducting a review pursuant to this section, the PCC may, in consultation with the board:
- (a) confirm the direction not to undertake an investigation or to terminate an investigation;
 - (b) direct a further investigation pursuant to subsection 49(3); or
 - (c) if the PCC considers it to be appropriate, proceed in the place of the board pursuant to section 52 and, for that purpose, the PCC may do any of the things that the board may do, and exercise any of the powers of the board that are given to the board, pursuant to section 52.
- (3) The PCC shall cause a written copy of its decision made pursuant to subsection (2) to be provided to the complainant.
- (4) This section does not apply if:
- (a) the direction pursuant to subsection 49(5) not to undertake an investigation or to terminate an investigation was made by the PCC in consultation with the board; and
 - (b) a written copy of the direction mentioned in clause (a) was provided to the complainant”.

Section 50 amended

20(1) Clause 50(1)(a) is amended by striking out “subsection 49(2)” and substituting “subsection 49(1)”.

(2) Subsection 50(2) is amended by striking out “subsection 49(2)” and substituting “subsection 49(1)”.

(3) Clause 50(3)(c) is amended by striking out “investigator” wherever it appears and in each case substituting “PCC”.

(4) Subsection 50(4) is amended by striking out “subsection 49(2)” and substituting “subsection 49(1)”.

(5) Subsection 50(5) is amended:

(a) by striking out “subsection 49(2)” and substituting “subsection 49(1)”; and

(b) by striking out “investigator” wherever it appears and in each case substituting “PCC”.

Section 51 amended

21 Section 51 is amended by striking out “investigator” wherever it appears and in each case substituting “PCC”.

Section 52 amended

22 Subsection 52(1) is amended:

(a) in the portion preceding clause (a) by striking out “subsection 49(2)” and substituting “subsection 49(1)”; and

(b) in clause (a) by striking out “investigator” and substituting “PCC”.

New heading preceding section 53

23 The heading before section 53 is struck out and the following substituted:

“RELIEF FROM DUTY”.

Section 53 amended

24 Clause 53(12)(a) is repealed and the following substituted:

“(a) is not disciplined pursuant to clause 48(1)(a) or 52(1)(a) or subclause 54.1(2)(b)(i) or 55.1(2)(b)(i)”.

New heading preceding section 54

25 The heading before section 54 is struck out and the following substituted:

“INVESTIGATIONS WITHOUT PUBLIC COMPLAINT”.

New sections 54 to 55.1

26 Sections 54 and 55 are repealed and the following substituted:

“Investigation without complaint regarding member

54(1) A chief shall cause an investigation to be conducted into any allegation of misconduct by a member, including an allegation that the actions of the member may constitute an offence pursuant to an Act or an Act of the Parliament of Canada.

(2) If the matter to be investigated pursuant to subsection (1) directly relates to a member of the public, the chief shall, as soon as is practicable, advise the PCC, in writing, of the substance of the matter.

(3) If the PCC is of the opinion that it is advisable to do so, the PCC may declare the matter to be a public complaint to be dealt with pursuant to sections 45 to 48.

(4) If the PCC declares a matter to be a public complaint pursuant to subsection (3):

(a) the member of the public to whom the matter directly relates is deemed to be the complainant; and

(b) the PCC may waive the requirements for notifying the complainant pursuant to this Part if it is of the opinion that it is advisable to do so.

“Internal discipline re member

54.1(1) If, after an investigation conducted pursuant to subsection 54(1), internal discipline proceedings are initiated pursuant to this Part with respect to a member, the chief shall, as soon as is practicable, advise the member who is the subject of the proceedings, in writing, of the substance of the matter.

(2) Notwithstanding any other provision of this Part, if, after an investigation conducted pursuant to subsection 54(1), the chief is of the opinion that the actions of the member may constitute:

(a) an offence pursuant to an Act or an Act of the Parliament of Canada, the chief shall refer the matter to the minister or the Attorney General of Canada, as the case may be; or

(b) a contravention of the regulations governing the discipline of members:

(i) the chief, subject to the consent of the member, may order remedial action to be taken in accordance with the regulations without charging the member; or

(ii) if the chief does not proceed pursuant to subclause (i), the chief shall charge the member with a major or minor disciplinary offence and order a hearing into the matter as it relates to the contravention.

(3) If a matter is disposed of pursuant to subclause (2)(b)(i), the chief, within 15 days after the disposition, shall give notice in writing of the disposition to the member.

“Investigation without complaint regarding a chief

55(1) A board shall cause an investigation to be conducted into any allegation of misconduct by a chief, including an allegation that the actions of the chief may constitute an offence pursuant to an Act or an Act of the Parliament of Canada.

(2) If the matter to be investigated pursuant to subsection (1) directly relates to a member of the public, the board shall, as soon as is practicable, advise the PCC, in writing, of the substance of the matter.

(3) If the PCC is of the opinion that it is advisable to do so, the PCC may declare the matter to be a public complaint to be dealt with pursuant to sections 49 to 52.

(4) If the PCC declares a matter to be a public complaint pursuant to subsection (3):

(a) the member of the public to whom the matter directly relates is deemed to be the complainant; and

(b) the PCC may waive the requirements for notifying the complainant pursuant to this Part if it is of the opinion that it is advisable to do so.

“Internal discipline re chief

55.1(1) If, after an investigation conducted pursuant to subsection 55(1), internal discipline proceedings are initiated pursuant to this Part with respect to a chief, the board shall, as soon as is practicable, advise the chief who is the subject of the proceedings, in writing, of the substance of the matter.

(2) Notwithstanding any other provision of this Part, if, after an investigation conducted pursuant to subsection 55(1), the board is of the opinion that the actions of the chief may constitute:

(a) an offence pursuant to an Act or an Act of the Parliament of Canada, the board shall refer the matter to the minister or the Attorney General of Canada, as the case may be; or

- (b) a contravention of the regulations governing discipline:
 - (i) the board, subject to the consent of the chief, may order remedial action to be taken in accordance with the regulations without charging the chief; or
 - (ii) if the board does not proceed pursuant to subclause (i), the board shall charge the chief with a major or minor disciplinary offence and order a hearing into the matter as it relates to the contravention.
- (3) If a matter is disposed of pursuant to subclause (2)(b)(i), the board, within 15 days after the disposition, shall give notice in writing of the disposition to the chief".

Section 56 amended

27(1) Subsection 56(1) is amended by striking out "54 or 55" and substituting "54.1 or 55.1".

(2) Clause 56(4)(b) is amended by striking out "investigator" and substituting "PCC".

(3) The following subsection is added after subsection 56(9.2):

"(9.3) The hearing officer may make an order directing the party prosecuting the hearing to reimburse a complainant for reasonable expenses, other than legal costs, that the complainant incurs in attending the hearing".

Section 59 amended

28 Clause 59(1)(c) is amended by striking out "investigator" and substituting "PCC".

Section 69 amended

29(1) Subsection 69(2) is amended by striking out "investigator" wherever it appears and in each case substituting "PCC".

(2) Clause 69(4)(a) is amended:

- (a) by striking out "investigator" and substituting "PCC"; and**
- (b) by striking out "investigator's" and substituting "PCC's".**

New section 73

30 Section 73 is repealed and the following substituted:

"Compliance required

73 Subject to any appeal, if a hearing officer or the commission has made an order or decision respecting a member, chief or board or the PCC, the member, chief or board or the PCC shall comply with that order or decision".

New section 74

31 Section 74 is repealed and the following substituted:

"Prosecution

74(1) Subject to subsection (2), a hearing or appeal conducted pursuant to this Part is to be prosecuted:

- (a) by the chief who or board that brought the charge or allegation of unsuitability or incompetence against the member or chief; or

- (b) by an individual designated by the chief or board to conduct the prosecution on the chief's or board's behalf.
- (2) If the PCC has chosen to proceed pursuant to clause 45.1(2)(c) or 49.1(2)(c), a hearing or appeal conducted pursuant to this Part is to be prosecuted by an individual designated by the PCC to conduct the prosecution on its behalf.
- (3) The police service whose member is the subject of the prosecution shall bear the PCC's costs in prosecuting a hearing or conducting an appeal pursuant to this Part or in conducting a review pursuant to clause 45.1(2)(c) or 49.1(2)(c)".

New Part V.1

32 The following Part is added after Part V:

**“PART V.1
Cross-border Policing**

**“DIVISION 1
Interpretation of Part**

“Interpretation of Part

80.1 In this Part:

- (a) **‘appointee’** means an extra-jurisdictional police officer who is appointed as a police officer in Saskatchewan pursuant to this Part;
- (b) **‘appointing official’** means a person designated pursuant to section 80.7;
- (c) **‘extra-jurisdictional commander’** means:
- (i) the commanding officer, director general or commissioner of the provincial police force of another province or that person's designate; or
 - (ii) the chief of police of a municipal or regional police force from another province or territory or that chief of police's designate;
- (d) **‘extra-jurisdictional police officer’** means a police officer appointed or employed pursuant to the law of another province or territory, but does not include a member of the Royal Canadian Mounted Police;
- (e) **‘local commander’** means:
- (i) with respect to a municipal police service, the chief of police of that service; and
 - (ii) with respect to a local detachment, the senior officer of that local detachment;
- (f) **‘local detachment’** means a detachment of the Royal Canadian Mounted Police that is responsible for providing policing services to a municipality;

(g) **‘municipal police service’** means a police service established for a municipality in Saskatchewan pursuant to section 24.1, 26 or 28;

(h) **‘police officer in Saskatchewan’** means an extra-jurisdictional police officer who is appointed pursuant to this Part.

“DIVISION 2 Standard Appointment Procedure

“Appointing official to make appointment

80.2 An appointing official may appoint an extra-jurisdictional police officer as a police officer in Saskatchewan for a period of not more than one year in accordance with this Division.

“Extra-jurisdictional request for appointment

80.21(1) An extra-jurisdictional commander may request that an extra-jurisdictional police officer under the commander’s command be appointed as a police officer in Saskatchewan so that the extra-jurisdictional police officer has the powers and protections of a member pursuant to section 36 while the extra-jurisdictional police officer performs police duties in Saskatchewan.

(2) A request pursuant to this section must be made in writing to an appointing official.

(3) A request pursuant to this section must include the following information:

(a) the name and rank of the extra-jurisdictional police officer to be appointed;

(b) the duration of the requested appointment;

(c) the name and telephone number of the immediate supervisor of the extra-jurisdictional police officer to be appointed;

(d) a general description of the extra-jurisdictional police officer’s duties in Saskatchewan and, in the case of an operation or investigation, the name of each person who is a target of the operation or investigation, if known;

(e) where the extra-jurisdictional police officer is expected to perform his or her duties;

(f) an assessment of the risks associated with the extra-jurisdictional police officer’s duties, including the possibility of the use of firearms;

(g) whether the duties might require a designation to be made pursuant to section 25.1 of the *Criminal Code*.

“Additional information

80.22 The appointing official may communicate with the extra-jurisdictional commander to obtain any additional information about the request that the appointing official considers necessary.

“Review with affected police services

80.23 Before deciding whether to make the requested appointment, the appointing official may review the request with any local commander that the appointing official believes might be affected if the appointment is made.

“Deadline for decision

80.24 Within seven days after receiving a request, the appointing official must either:

- (a) make the requested appointment; or
- (b) advise the extra-jurisdictional commander that the request has been denied.

“Decision to approve within the discretion of the appointing official

80.25(1) The appointing official may make the requested appointment if the appointing official is of the opinion that it is appropriate in the circumstances for the extra-jurisdictional police officer to be appointed as a police officer in Saskatchewan.

- (2) The appointment must be made in a form approved by the minister.
- (3) The appointing official may impose any conditions on the appointment that the appointing official considers appropriate or necessary.
- (4) Any conditions on an appointment must be set out on the appointment form.

“To whom appointment form must be provided

80.26 As soon as is reasonably possible, but not later than five days after making the appointment, the appointing official must provide a copy of the appointment form to:

- (a) the appointee; and
- (b) the appointee’s extra-jurisdictional commander.

“When appointment effective

80.27 The appointment is not effective until the appointee receives a copy of the appointment form from the appointing official.

“Notice to minister

80.28(1) As soon as is reasonably possible, but not later than five days after making the appointment, the appointing official must provide the minister with written notice of the appointment.

- (2) The notice must contain only the following information:
 - (a) the name and rank of the appointee;
 - (b) the name of the appointee’s police force;
 - (c) the term of the appointment; and
 - (d) the reason for the appointment.

**“DIVISION 3
Appointment in Urgent Circumstances**

“Local commander to make appointment

80.3 A local commander may appoint an extra-jurisdictional police officer as a police officer in Saskatchewan pursuant to this Division for a period of not more than 72 hours in accordance with this Division.

“Request for appointment

80.31(1) An extra-jurisdictional police officer may request appointment as a police officer in Saskatchewan if the extra-jurisdictional police officer:

(a) wishes to have the powers and protections of a police officer in Saskatchewan while participating in an operation or investigation in Saskatchewan; and

(b) believes that the operation or investigation could be compromised by the delay that would result if the extra-jurisdictional police officer were required to request an appointment pursuant to Division 2.

(2) If it is impractical for the extra-jurisdictional police officer to make the request, that extra-jurisdictional police officer’s immediate supervisor may request the appointment on behalf of the extra-jurisdictional police officer.

(3) A request pursuant to this section:

(a) must be made to the local commander in the area where the operation or investigation is expected to be conducted; and

(b) may be made orally or in writing.

(4) A request pursuant to this section must include:

(a) the information required pursuant to subsection 80.21(3); and

(b) an explanation of how the operation or investigation could be compromised if the extra-jurisdictional police officer were required to request an appointment pursuant to Division 2.

“Additional information

80.32 The local commander may communicate with the extra-jurisdictional police officer and the extra-jurisdictional police officer’s immediate supervisor to obtain any additional information about the request that the local commander considers necessary.

“Timing of decision

80.33 As soon as is reasonably possible after a request is made pursuant to this Division, the local commander must either:

(a) make the requested appointment; or

(b) advise the requesting extra-jurisdictional police officer or, if the request is made by the extra-jurisdictional police offer’s immediate supervisor, the immediate supervisor that the request has been denied.

“Appointment

80.34(1) The local commander may make the requested appointment if he or she is of the opinion that:

- (a) it is appropriate in the circumstances for the appointment to be made; and
- (b) the delay that would result from requiring a request to be made pursuant to Division 2 could compromise the extra-jurisdictional police officer’s operation or investigation.

- (2) The appointment must be made in a form approved by the minister.
- (3) The local commander may impose any conditions on the appointment that the local commander considers appropriate or necessary.
- (4) Any conditions on an appointment must be set out on the appointment form.

“Providing appointment form

80.35 As soon as is reasonably possible after making the appointment, the local commander must provide a copy of the appointment form to the appointee.

“When appointment effective

80.36 Subject to section 80.37, the appointment is not effective until the appointee receives a copy of the appointment form from the appointing official.

“Appointment with immediate effect

80.37(1) A local commander who determines that it is impractical to provide the appointee with a copy of the appointment form before the appointee requires the powers and protections of a police officer in Saskatchewan may make the appointment effective immediately by:

- (a) indicating on the appointment form that the appointment is effective immediately and the exact time when the appointment is made; and
- (b) giving oral confirmation of the appointment to the appointee, including the exact times when the appointment is effective and expires and any conditions imposed on the appointment.

(2) If the request for appointment was made pursuant to subsection 80.31(2), oral confirmation of the appointment may be given to the appointee’s immediate supervisor.

“Notice to appointing official

80.38 Within three days after making the appointment, the local commander must provide an appointing official with a copy of the appointment form and all information provided to the local commander in support of the request for the appointment.

“Notice to extra-jurisdictional commander and minister

80.381 As soon as is reasonably possible after the appointment is made, the appointing official who received notice pursuant to section 80.38 must:

- (a) provide a copy of the appointment form to the appointee’s extra-jurisdictional commander; and
- (b) provide the minister with written notice of the appointment that meets the requirements of subsection 80.28(2).

“Renewing appointment

80.39(1) At the request of the appointee or the appointee’s immediate supervisor, the local commander may renew an appointment made pursuant to this Division for a period of not more than 72 hours if:

- (a) a request for an appointment pursuant to Division 2 has been made on the appointee’s behalf; and
 - (b) a decision has not been made to approve or deny that request.
- (2) Sections 80.31 to 80.381 apply, with any necessary modification, to the renewal of an appointment made pursuant to this Division.
- (3) An appointment made pursuant to this Division may be renewed more than once, as long as the conditions in subsection (1) are satisfied.

**“DIVISION 4
Appointee’s Duties and Status**

“Advance notice to local commander

80.4(1) Before performing any police duties in an area of Saskatchewan, an appointee must give notice to the local commander of the police service or local detachment providing policing services to that area, unless the duties are of a routine nature that are unlikely to affect the policing services provided by the police service or local detachment.

- (2) The notice must include a general description of the appointee’s duties and all conditions imposed on the appointment.
- (3) If it is impractical for the appointee to give notice to the local commander before performing his or her duties in that area, the appointee must do so as soon as possible after the first duties are performed.

“Appointee must comply with request

80.41(1) A local commander may provide direction to an appointee specifying how the appointee’s duties are to be performed in the area in which the local commander’s police service or the local detachment provides policing services.

- (2) An appointee must comply with every direction made pursuant to subsection (1).

“Terminating appointment

80.42(1) An appointing official may terminate an appointment before it expires if he or she is of the opinion that:

- (a) the appointee has failed to:
 - (i) comply with this Act;
 - (ii) comply with a condition imposed on the appointment; or
 - (iii) act in a professional manner at any time while in Saskatchewan; or
- (b) it is no longer appropriate in the circumstances for the appointee to have the powers and protections of a police officer in Saskatchewan.

(2) The appointing official must provide written notice of the termination to:

- (a) the appointee;
- (b) the appointee’s extra-jurisdictional commander; and
- (c) the minister.

(3) The appointment is terminated when the appointee receives a copy of the written notice of termination.

“Surrendering appointment

80.43(1) An appointee who no longer requires the powers and protections of a police officer in Saskatchewan must provide an appointing official with written notice that the appointee is surrendering his or her appointment.

(2) The appointing official must provide the minister with a copy of every notice of surrender received pursuant to subsection (1).

“Status – powers and protections of a member

80.44 While an appointment is in effect, the appointee has, throughout Saskatchewan, all the powers and protections that a member has pursuant to section 36, subject to any conditions imposed on the appointment.

**“DIVISION 5
Police Oversight**

“Member to co-operate

80.5(1) This section applies to an investigation, hearing or inquest that is held pursuant to the authority of a statute in another province or territory to examine:

- (a) the conduct of a member who has been appointed as a police officer in the other jurisdiction; or
- (b) the operation or investigation that led the member to be appointed as a police officer in the other jurisdiction.

(2) A member must co-operate with an investigation and appear before any inquest or hearing mentioned in subsection (1), subject to the rights and privileges that a police officer from the other jurisdiction would have in the same situation.

“Disclosure of documents

80.51 If a member is involved in an investigation, hearing or inquest mentioned in section 80.5, the police service of which he or she is a member must disclose and provide any relevant documents in its possession, subject to any rights and privileges that a police force from that other jurisdiction would have in the same situation.

“Discipline and review in Saskatchewan

80.52(1) A member who has been appointed as a police officer in another province or territory is subject to Part IV in Saskatchewan in accordance with this Act with respect to his or her conduct in the other jurisdiction, as if the conduct took place in Saskatchewan.

(2) No statement or evidence given by a member in an investigation, hearing or inquest mentioned in section 80.5 is admissible in professional review or discipline proceedings held in Saskatchewan.

(3) An extra-jurisdictional police officer who is appointed as a police officer in Saskatchewan is not subject to professional review and discipline in Saskatchewan with respect to his or her conduct in Saskatchewan.

“Certain statements and evidence not admissible

80.53 No statement or evidence given by a member in an investigation, hearing or inquest mentioned in section 80.5 is admissible without the member’s consent in any public complaint, internal discipline or other proceeding conducted pursuant to this Act.

**“DIVISION 6
Indemnification**

“Indemnification of member acting outside Saskatchewan

80.6 Subject to an agreement pursuant to clause 80.61(a), a municipal police service must indemnify a police force from another province or territory against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred with respect to a civil, criminal or administrative action or proceeding if:

- (a) the police force from that other jurisdiction is a party to the action or proceeding; and
- (b) the action or proceeding arises out of the actions of a member while the member was appointed as a police officer in that other jurisdiction.

“Indemnity agreement

80.61 A municipal police service may enter into an agreement regarding indemnification for costs arising out of:

- (a) the appointment of a member as a police officer in another province or territory; and
- (b) the appointment of an extra-jurisdictional police officer as a police officer in Saskatchewan.

**“DIVISION 7
General Provisions**

“Appointing officials

80.7 The minister may, by order, designate one or more of the following persons to act as an appointing official in Saskatchewan for the purposes of this Act:

- (a) a member;
- (b) a member of the Royal Canadian Mounted Police who is a resident of Saskatchewan.

“Local commander may delegate powers

80.71 A local commander may delegate the local commander’s powers pursuant to this Part to a police officer under the local commander’s command.

“Law of hot pursuit not affected

80.72 Nothing in this Act affects the common law regarding hot pursuit by a peace officer.

“Power of appointment reserved

80.73 Nothing in this Part limits or affects the power to appoint peace officers or special constables pursuant to this Act or any other Act”.

New section 91.1

33 The following section is added after section 91:

“Investigation observer

91.1(1) Notwithstanding any other provision of this Act, a police service or detachment of the Royal Canadian Mounted Police providing policing services within a municipality shall, as soon as reasonably possible, request the Deputy Minister of Justice to appoint an investigation observer from another police service or detachment of the Royal Canadian Mounted Police if:

- (a) a person has suffered a serious injury or died while in the custody of that police service or detachment; or
- (b) a person has suffered a serious injury or died as a result of the actions of a member or officer of that police service or detachment of the Royal Canadian Mounted Police.

(2) On receipt of a request pursuant to subsection (1), the Deputy Minister of Justice shall appoint an investigation observer from another police service or detachment of the Royal Canadian Mounted Police.

(3) If an investigation observer is appointed pursuant to this section:

(a) the police service or detachment of the Royal Canadian Mounted Police shall grant the investigation observer full access to the investigation conducted by the police service or detachment of the Royal Canadian Mounted Police respecting the matters mentioned in subsection (1); and

(b) the investigation observer shall provide the Deputy Minister of Justice with a confidential report respecting the results of an investigation mentioned in clause (a).

(4) A report provided to the Deputy Minister of Justice pursuant to subsection (3) is not subject to *The Freedom of Information and Protection of Privacy Act*”.

New section 94.1

34 The following section is added after section 94:

“Appointment to ranks

94.1(1) The Lieutenant Governor in Council shall annually authorize the issue of a Commission under the Great Seal to each member who, in the year for which the Commission is issued, was first appointed to any one of the following ranks:

- (a) inspector;
- (b) superintendent;
- (c) deputy chief; or
- (d) chief.

(2) In the case of a member who holds one of the ranks mentioned in subsection (1) on the day that this section comes into force, the Lieutenant Governor in Council shall authorize the issue of a Commission under the Great Seal to the member if:

- (a) in the case of a member other than a chief, the minister receives written confirmation from the chief of the police service in which the member serves that the member was appointed to that rank; or
- (b) in the case of a chief, the minister receives written confirmation from the board of the police service in which the chief serves that the chief was appointed to that rank”.

Section 95 amended

35 The following clauses are added after clause 95(e.1):

“(e.2) prescribing the period within which anything is required or authorized to be done by this Act or the regulations, including, notwithstanding any other provision of this Act, extending the period within which a thing may be done;

“(e.3) prescribing persons or boards for the purposes of clause 16(4)(e)”.

Transitional

36 Notwithstanding the enactment of this Act, if, on the day before the coming into force of this Act, an investigation was being conducted pursuant to *The Police Act, 1990*, as that Act existed on the day before the coming into force of this Act and that investigation had not been concluded:

(a) that investigation is to be continued in conformity with the provisions of *The Police Act, 1990*, as that Act existed on the day before the coming into force of this Act;

(b) all persons who were conducting the investigation may continue to conduct the investigation in conformity with, and may exercise the powers and shall fulfil the duties prescribed by, *The Police Act, 1990*, as that Act existed on the day before the coming into force of this Act; and

(c) the provisions of *The Police Act, 1990*, as that Act existed on the day before the coming into force of this Act, continue to apply to an investigation conducted pursuant to this section.

S.S. 1990-91, c.F-22.01, section 23 amended

37 The following clause is added after clause 23(3)(f) of *The Freedom of Information and Protection of Privacy Act*:

“(f.1) section 91.1 of *The Police Act, 1990*”.

Coming into force

38 This Act comes into force on proclamation.