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(Bill No. 45)

An Act to Amend the Police Act

Hon. Jordan K. M. Brown
Minister of Justice and Public Safety and Attorney General

GOVERNMENT BILL

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AN ACT TO AMEND THE POLICE ACT

BILL NO. 45

2018

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. **Section 1 of the *Police Act* R.S.P.E.I. 1988, Cap. P-11.1, is amended**
 - (a) **by the addition of the following after clause (a):**
 - (a.1) **“Chief Conservation Officer”** means the Chief Conservation Officer appointed under the *Wildlife Conservation Act* R.S.P.E.I. 1988, Cap. W-4.1;
 - (b) **in clause (b), by the addition of the words “, and includes a chief officer appointed under subsection 14.4(2)” after the words “of the police service”;**
 - (c) **by the addition of the following after clause (e):**
 - (e.1) **“conservation officer”** means a conservation officer appointed under the *Wildlife Conservation Act*;
 - (d) **by the addition of the following after clause (m):**
 - (m.01) **“judge”** means a judge of the Supreme Court or a judge of the Provincial Court;
 - (e) **by the repeal of subclause (u)(iii).**
2. (1) **Subsection 4(1) of the Act is amended**
 - (a) **by the deletion of the words “The Minister” and the substitution of the words “Subject to subsection (1.1), the Minister”; and**
 - (b) **by the addition of the words “or the Atlantic Police Academy” after the words “a police department”.**

(2) Section 4 of the Act is amended by the addition of the following after subsection (1):

Role of Police Commissioner

- (1.1) For the purposes of an investigation relating to matters referred to in sections 14.1 to 14.3, the Minister shall assign the responsibility for the appointment of an investigator to conduct the investigation in accordance with subsection (1) to the Police Commissioner.
- (3) Subsection 4(2) of the Act is amended by the addition of the words “or, in the case of an investigation referred to in subsection (1.1), the Police Commissioner,” after the words “the Minister”.**
- (4) Subsection 4(4) of the Act is amended by the addition of the words “and, in the case of an investigation referred to in subsection (1.1), the Police Commissioner,” after the words “the Minister”.**

3. Section 9 of the Act is amended by the addition of the following after subsection (1):

Notice to Minister

- (1.1) A council shall provide notice to the Minister of the appointment of a chief officer pursuant to subsection (1) within 10 business days of the appointment.

4. The Act is amended by the addition of the following after section 9:

9.1 Application to Minister

A council of a municipality that intends to act as specified in clause (a), (b) or (c) shall apply to the Minister, in accordance with the regulations and in the form approved by the Minister, for authorization

- (a) to establish a police department for the municipality;
- (b) to contract for policing services to be provided for the municipality by another municipality; or
- (c) to contract for policing services to be provided for the municipality by the Royal Canadian Mounted Police or a Provincial Police Service established under section 6.

9.2 Notice to Minister

A council of a municipality that intends to dissolve its police department or to terminate a contract for the provision of policing services referred to in clause 9.1(b) or (c) shall provide prior notice to the Minister in accordance with the regulations.

5. Subsection 10(5) of the Act is repealed and the following substituted:

Production of identification card

- (5) A member of a police department shall, when engaged in the exercise of the member’s authority or the execution of the member’s duties, produce the member’s identification card for inspection on request, unless in the opinion of the member it would be dangerous or impracticable for the member to comply with the request.

6. The Act is amended by the addition of the following after section 14:

14.1 Minister's powers

- (1) Where, pursuant to the report of an investigator under subsection 4(4), the Minister concludes that the operation or administration of a police department is not in compliance with the requirements of this Act or the regulations, the Minister may
 - (a) provide a summary of the findings contained in the report to the chief officer of the police department;
 - (b) specify the corrective action to be taken by the chief officer; and
 - (c) specify the time within which the corrective action referred to in clause (b) shall be taken.

Minister's direction to council

- (2) If the chief officer referred to in clause (1)(a) fails to take the required corrective action within the time specified by the Minister, the Minister may notify the council of the municipality that established the police department of the chief officer's failure and direct the council to take the corrective action within the time specified by the Minister.

14.2 Complaint – chief officer

- (1) Where, pursuant to the report of an investigator under subsection 4(4), the Minister concludes that the chief officer of a police department has contravened or failed to comply with the requirements of this Act or the regulations, the Minister may
 - (a) notify the council of the municipality that appointed the chief officer of the contravention or failure to comply and provide a summary of the findings contained in the report;
 - (b) specify the corrective action to be taken by the council of the municipality; and
 - (c) specify the time within which the corrective action referred to in clause (b) shall be taken.

Failure to act

- (2) Where the council of a municipality referred to in subsection (1) fails to take the required corrective action within the time specified by the Minister, the Minister may make a complaint under section 35 respecting the conduct of the chief officer.

Application of subsection 35(2)

- (3) Subsection 35(2) does not apply to a complaint made by the Minister pursuant to subsection (2).

Time for making complaint

- (4) The Minister may make a complaint pursuant to subsection (2) only within six months after the date on which the Minister requires the corrective action to be taken pursuant to clause (1)(c).

14.3 Complaint – police officer

- (1) Where, pursuant to the report of an investigator under subsection 4(4), the Minister concludes that a police officer of a police department has contravened or failed to comply with the requirements of this Act, the Minister may

- (a) notify the chief officer of the police department of the police officer's contravention or failure to comply and provide a summary of the findings contained in the report;
- (b) specify the corrective action to be taken by the chief officer; and
- (c) specify the time within which the corrective action referred to in clause (b) shall be taken.

Failure to act

- (2) Where the chief officer referred to in subsection (1) fails to take the required corrective action within the time specified by the Minister, the Minister may make a complaint respecting the conduct of the police officer under section 21.

Application of subsection 21(2)

- (3) Subsection 21(2) does not apply to a complaint made by the Minister pursuant to subsection (2).

Time for making complaint

- (4) The Minister may make a complaint pursuant to subsection (2) only within six months after the date on which the Minister requires the corrective action to be taken pursuant to clause (1)(c).

- 7. **The Act is amended by the addition of the following immediately before the heading "PART V":**

PART IV.1

MINISTERIAL APPOINTMENTS

14.4 Appointment of police officer

- (1) Notwithstanding subsection 10(1), the Minister may
 - (a) appoint a conservation officer who meets the requirements of the regulations as a police officer; and
 - (b) subject to subsection (3), attach conditions to the appointment of a police officer referred to in clause (a), including conditions that impose restrictions on the powers and authority of the police officer.

Appointment of chief officer

- (2) Notwithstanding subsection 9(1), the Minister may
 - (a) appoint the Chief Conservation Officer as the chief officer in charge of the police officers appointed under subsection (1); and
 - (b) subject to subsection (3), attach conditions to the appointment of the chief officer referred to in clause (a), including conditions that impose restrictions on the powers and authority of the chief officer.

Details of appointment

- (3) The appointment of a police officer under subsection (1) or the chief officer under subsection (2) shall
- (a) be in writing; and
 - (b) specify any conditions that are attached to the appointment and the term of the appointment.

Term

- (4) The term of an appointment of a police officer or the chief officer expires as specified in the appointment, unless the Minister revokes the appointment as of an earlier date.

Oath or affirmation

- (5) Every police officer and the chief officer appointed under this section shall, before commencing the performance of his or her duties as a police officer, take the oath or solemn affirmation of office as prescribed by the regulations.

Identification card

- (6) The Minister shall ensure that an identification card in the form approved by the Minister containing the information required by the regulations is issued to each police officer and the chief officer after the appointment of the officer and before the officer undertakes his or her duties.

Proof

- (7) A copy of an identification card of a police officer or the chief officer that purports to be signed by the Minister is proof the individual named in it is a police officer or the chief officer, as the case may be, appointed under this section.

Production of identification card

- (8) A police officer and the chief officer shall, when engaged in the exercise of the officer's authority or the execution of the officer's duties, produce the officer's identification card for inspection on request, unless in the opinion of the officer it would be dangerous or impracticable for the officer to comply with the request.

Peace officer

- (9) Subject to the conditions attached to his or her appointment, a conservation officer appointed as a police officer under this section is a peace officer and has
- (a) all of the powers, authority, privileges, rights and immunities of a peace officer and constable under the common law, the *Criminal Code* (Canada) and any other federal or provincial enactment; and
 - (b) the power and authority to enforce and to act under the enactments of the province specified in the officer's appointment.

Conduct of officer

- (10) Every police officer appointed under this section, including the chief officer, shall carry out his or her duties, and exercise his or her powers, authorities and rights under this Act in a manner consistent with the Code.

Annual Report

- (11) The chief officer appointed under subsection 14.4(2) shall, within three months after the end of each calendar year, file with the Minister an annual report for the preceding calendar year that includes the information and documents required by the regulations.

Commission of offence

- (12) A police officer appointed under this section who is charged with an offence under a provincial enactment shall not be convicted if it is made to appear to the judge before whom the offence is being prosecuted that the police officer
- (a) committed the offence while discharging his or her responsibilities;
 - (b) was reasonably justified in committing the offence having regard to the responsibility being discharged; and
 - (c) conducted himself or herself in a reasonable manner having regard to all of the circumstances.

Liability

- (13) No action or other proceeding for damages lies or shall be instituted against a police officer appointed under this section for anything done by the police officer in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, or for any neglect or default of the police officer in the performance or exercise in good faith of any such duty or power.

8. (1) Clause 18(3)(b) of the Act is amended by the addition of the words “or make a solemn affirmation” after the words “be sworn”.

(2) Subsection 18(6) of the Act is amended by the deletion of the words “may prescribe forms” and the substitution of the words “may approve forms”.

9. The Act is amended by the addition of the following after section 19:

PART VI.1 - ADJUDICATOR

19.1 Appointment of Adjudicator

- (1) The Lieutenant Governor in Council, after consultation with the Minister, shall appoint a person who has the qualifications specified in the regulations to be the Adjudicator.

Term of office

- (2) Subject to subsection (3), the Adjudicator
- (a) shall hold office for a term not to exceed five years;
 - (b) shall continue in office on the expiry of that term until a successor is appointed; and
 - (c) may be appointed for a further term.

Resignation

- (3) The Adjudicator may at any time resign his or her office by submitting a written resignation to the Minister.



Remuneration and expenses

- (4) The Adjudicator shall be paid the remuneration, and be entitled to the necessary expenses, as determined by the Lieutenant Governor in Council.

Application of *Civil Service Act*

- (5) The *Civil Service Act* does not apply to the Adjudicator.

19.2 Functions of Adjudicator

- (1) The Adjudicator shall perform the functions assigned to the Adjudicator by
- (a) this Act or the regulations;
 - (b) the Lieutenant Governor in Council; and
 - (c) the Minister.

Powers of Adjudicator

- (2) The Adjudicator has, in relation to any matter before the Adjudicator under this Act, the power
- (a) to summon any person before the Adjudicator and to require that person to give oral or written evidence on oath and to produce the documents and things under that person's control that the Adjudicator considers necessary to the full review of that matter;
 - (b) to administer oaths and solemn affirmations; and
 - (c) to receive and accept on oath or solemn affirmation, or by affidavit, the evidence and other information that the Adjudicator considers appropriate, whether or not the evidence or information would be admissible in a court of law.

Certification of contempt

- (3) The Adjudicator may find a person who
- (a) fails or refuses to appear before the Adjudicator;
 - (b) refuses to be sworn or make a solemn affirmation as a witness;
 - (c) fails or refuses without just cause to answer any relevant question or to produce documents or things in his or her control; or
 - (d) disrupts or otherwise obstructs a hearing before the Adjudicator,
- to be in contempt and may certify the contempt to the Supreme Court by issuing a certificate describing the contempt and causing it to be filed with the Registrar of the Supreme Court.

Inquiry by Supreme Court

- (4) On the filing of a certificate under subsection (3), a judge of the Supreme Court may summon the person found to be in contempt, may inquire into the matter and, after hearing any statement that may be offered in defence, may punish that person as if he or she had been guilty of contempt of the Court or suspend punishment on condition that the person appear, testify, produce or cease to disrupt or obstruct the hearing, as required.

Hearings

- (5) The Adjudicator may hold hearings anywhere in the province relating to the performance of the functions assigned to the Adjudicator.

Rules of practice and procedure

- (6) The Adjudicator shall make rules respecting practice and procedure before the Adjudicator and may approve forms to be used for that purpose.

10. Subsection 21(5) of the Act is repealed and the following substituted:

Persons who may not make a complaint

- (5) A complaint may not be made under this Part by
- (a) a member of a police department, including an auxiliary constable;
 - (b) a chief officer of a police department or a chief officer appointed under subsection 14.4(2);
 - (c) the Police Commissioner or Deputy Police Commissioner;
 - (d) the Adjudicator;
 - (e) an instructing officer;
 - (f) the Director;
 - (g) a conservation officer appointed as a police officer under subsection 14.4(1);
 - (h) a security police officer; or
 - (i) an employer of a person referred to in clause (a) or (b) or clauses (e) to (h).

- 11. (1) Clause 23(1)(c) of the Act is amended by the addition of the words “or to the Manager at the Office of the Police Commissioner” after the words “of the police department” wherever they occur.**

- (2) Section 23 of the Act is amended by the addition of the following after subsection (1):**

Manager shall forward complaint

- (1.1) Where a complaint is received by the Manager pursuant to clause (1)(c), the Manager shall immediately forward the complaint to the chief officer referred to in subsection (1).

Notification to manager

- (1.2) Where a complaint is received by a chief officer pursuant to clause (1)(c), the chief officer shall immediately notify the Manager respecting the complaint.

“Delivering”, defined

- (1.3) In clause (1)(c), “**delivering**” includes, with respect to a complaint,
- (a) sending the complaint to the chief officer or the Manager, as the case may be, by ordinary mail, registered mail or courier, or by facsimile transmission;
 - (b) leaving the complaint with the chief officer or the Manager, as the case may be; or
 - (c) another method authorized by the Police Commissioner.

- (3) Subsection 23(2) of the Act is amended by the deletion of the words “a complaint is delivered to” and the substitution of the words “a complaint is received by”.**



- 12. (1) Subclauses 29(3)(c)(ii) and (d)(ii) of the Act are amended by the deletion of the words “Police Commissioner” and the substitution of the word “Adjudicator”.**
- (2) Subsection 29(6) of the Act is repealed and the following substituted:**
- Referral to Adjudicator - notice**
- (6) Where the investigator, pursuant to subsection (3), decides to refer a request and complaint to the Adjudicator, the investigator shall as soon as possible
- (a) make the referral by submitting a written notice to the Adjudicator; and
 - (b) submit a written notice to the Police Commissioner of the decision to make the referral.
- 13. Subsection 31(3) of the Act is repealed and the following substituted:**
- Where complaint referred**
- (3) Where the investigator, pursuant to subsection 29(3), refers a request and complaint to the Adjudicator for a hearing, the investigator shall promptly cause a written notice to be served on the parties to the complaint, the chief officer and the Police Commissioner that advises them of the referral.
- 14.(1) Section 32 of the Act is amended by the deletion of the words “Police Commissioner” wherever they occur and the substitution of the word “Adjudicator”.**
- (2) Subsection 32(9) of the Act is repealed and the following substituted:**
- Decision in writing with reasons**
- (9) A decision of the Adjudicator made under subsection (8)
- (a) shall be in writing and shall include the reasons for making it; and
 - (b) shall be served, within 15 days after the day on which it was made by the Adjudicator, on the parties, the respondent’s chief officer at the office or station of the police department, and the Police Commissioner.
- 15. Section 33 of the Act is amended by the deletion of the words “Police Commissioner” wherever they occur and the substitution of the word “Adjudicator”.**
- 16. The heading preceding section 34 is amended by the addition of the words “, CONSERVATION OFFICERS” after the words “THE DIRECTOR”.**
- 17. Section 34 of the Act is amended**
- (a) in clause (a), by the addition of the words “a conservation officer appointed under subsection 14.4(1)” after the words “the Director,”;**
 - (b) in subclause (b)(ii), by the deletion of the word “and” after the comma; and**

(c) **by the addition of the following after subclause (ii):**

- (ii.1) in the case of a complaint concerning the conduct of a conservation officer appointed as a police officer under subsection 14.4(1), the conservation officer who is the subject of the complaint,

18. (1) Subsection 35(1) of the Act is repealed and the following substituted:

35. Complaints

- (1) Subject to this Part, any person may make a complaint about the conduct of
- (a) the chief officer of a police department or a chief officer appointed under subsection 14.4(2);
 - (b) a conservation officer appointed as a police officer under subsection 14.4(1);
 - (c) a security police officer, if the security police officer is employed by
 - (i) the University of Prince Edward Island, or
 - (ii) an employer of a class or type prescribed by the regulations for the purposes of this subsection; or
 - (d) the Director,
- if the person has reasonable grounds for believing that the conduct of the chief officer, conservation officer, security police officer or the Director, as the case may be, constitutes a breach of the Code.

(2) Subsection 35(5) of the Act is repealed and the following substituted:

Persons who may not make a complaint

- (5) A complaint may not be made under this Part by
- (a) a member of a police department, including an auxiliary constable;
 - (b) a chief officer of a police department or a chief officer appointed under subsection 14.4(2);
 - (c) the Police Commissioner or Deputy Police Commissioner;
 - (d) the Adjudicator;
 - (e) an instructing officer;
 - (f) the Director;
 - (g) a conservation officer appointed as a police officer under subsection 14.4(1);
 - (h) a security police officer; or
 - (i) an employer of a person referred to in clause (a) or (b) or clauses (e) to (h).

(3) Subsection 35(6) of the Act is amended by the addition of the following after clause (a):

- (a.1) to the Manager at the Office of the Police Commissioner concerning the conduct of the chief officer appointed under subsection 14.4(2) or a conservation officer appointed as a police officer under subsection 14.4(1);

19. Section 36 of the Act is repealed and the following substituted:

36. Complaints concerning Director, etc.

Sections 37 to 44 shall be interpreted and applied in respect of complaints concerning the conduct of the Director, a security police officer, a chief officer appointed under subsection 14.4(2) or a conservation officer appointed as a police officer under subsection 14.4(1) as if

- (a) each reference in those sections to a “chief officer”, a “chief officer of a police department” or a “respondent” were a reference to the Director, a security police officer, a chief officer appointed under subsection 14.4(2) or a conservation officer appointed as a police officer under subsection 14.4(1), as the case may be;
- (b) each reference in those sections to the “council responsible for the police department of which the respondent is a member” were a reference,
 - (i) in the case of a complaint against the Director, to the President of Holland College,
 - (ii) in the case of a complaint against a security police officer, to the employer of the security police officer,
 - (iii) in the case of a complaint against a chief officer appointed under subsection 14.4(2), the Minister, and
 - (iv) in the case of a complaint against a conservation officer appointed as a police officer under subsection 14.4(1), the Chief Conservation Officer; and
- (c) each reference in those sections to the “offices or station of the police department of the respondent” were a reference,
 - (i) in the case of a complaint against the Director, to the office of the President of Holland College,
 - (ii) in the case of a complaint against a security police officer, to the office of the employer of the security police officer,
 - (iii) in the case of a complaint against a chief officer appointed under subsection 14.4(2), to the office of the Minister, and
 - (iv) in the case of a complaint against a conservation officer appointed as a police officer under subsection 14.4(1), to the office of the Chief Conservation Officer.

20. Section 37 of the Act is repealed and the following substituted:

37. Making complaint

- (1) A person who wishes to make a complaint under this Act in respect of the conduct of a chief officer of a police department shall make the complaint to the Police Commissioner by
 - (a) stating the complaint in writing, including the grounds for the complaint;
 - (b) signing the complaint; and
 - (c) delivering the complaint to the Manager at the office of the Police Commissioner.

Notice of receipt of complaint

- (2) Within 15 days after the day that a complaint is received by the Manager, the Manager shall ensure that
 - (a) written notice that the Manager has received the complaint is served on the complainant; and

- (b) a copy of the complaint is served on the respondent.

“Delivering”, defined

- (3) In clause (1)(c), “**delivering**” includes, with respect to a complaint,
 - (a) sending the complaint to the Manager by ordinary mail, registered mail or courier, or by facsimile transmission;
 - (b) leaving the complaint with the Manager at the office of the Police Commissioner; or
 - (c) another method authorized by the Police Commissioner.

21. (1) Subsection 40(1) of the Act is amended by the deletion of the words “a complaint is made to” and the substitution of the words “a complaint is received by”.

(2) Subsection 40(4) of the Act is repealed and the following substituted:

Written report to Police Commissioner

- (4) Where the investigator
 - (a) has informally resolved the complaint;
 - (b) has dismissed the complaint; or
 - (c) is satisfied that the complaint cannot be informally resolved or dismissed and has decided to refer the complaint to the Adjudicator for a hearing,the investigator shall, as soon as possible after resolving or dismissing the complaint, or deciding to refer the complaint, submit a written report to the Police Commissioner setting out
 - (d) if the complaint is resolved, the manner of the final disposition;
 - (e) if the complaint has been dismissed, a notice of the dismissal; or
 - (f) if the investigator has decided to refer the complaint to the Adjudicator for a hearing, a notice of that referral.

(3) Subsection 40(7) of the Act is repealed and the following substituted:

Where complaint referred

- (7) Where the investigator refers a complaint under subsection (4) to the Adjudicator for a hearing, the investigator shall promptly cause a written notice to be served on the parties to the complaint and the Adjudicator that advises them of the referral.

22. (1) Section 43 of the Act is amended by the deletion of the words “Police Commissioner” wherever they occur and the substitution of the word “Adjudicator”.

(2) Clause 43(5)(g) of the Act is amended by the deletion of the words “special constable” and the substitution of the words “security police officer”.

(3) Subsection 43(9) of the Act is repealed and the following substituted:

Decision in writing with reasons

- (9) A decision of the Adjudicator made under subsection (8)
 - (a) shall be in writing and shall include the reasons for making it; and

- (b) shall be served, within 15 days after the day on which it was made by the Adjudicator, on the parties, the council responsible for the respondent's police department, and the Police Commissioner.

23. Section 44 of the Act is amended by the deletion of the words "Police Commissioner" wherever they occur and the substitution of the word "Adjudicator".

24. (1) Subsection 45(8) of the Act is repealed and the following substituted:

Production of identification card

- (8) An auxiliary constable shall, when engaged in the exercise of his or her authority or the execution of his or her duties, produce his or her identification card for inspection on request, unless in the opinion of the auxiliary constable it would be dangerous or impracticable for him or her to comply with the request.

(2) Subsections 45(10) and (11) of the Act are repealed and the following substituted:

Power to act - restrictions, conditions

- (10) An auxiliary constable shall act in accordance with any restrictions or requirements established by the regulations and any conditions attached to his or her appointment.

25. Subsection 46(8) of the Act is repealed and the following substituted:

Production of identification card

- (8) A security police officer shall, when engaged in the exercise of his or her authority or the execution of his or her duties, produce his or her identification card for inspection on request, unless in the opinion of the security police officer it would be dangerous or impracticable for him or her to comply with the request.

26. Section 47 of the Act is repealed and the following substituted:

47. Appointment of Director

- (1) The President of Holland College may appoint a person as the Director of the Atlantic Police Academy in accordance with this section.

Director qualifications

- (2) No person shall be appointed as the Director of the Atlantic Police Academy unless the person has the qualifications, including training, education and experience, required by the regulations.

Notification to Minister

- (3) The President of Holland College shall notify the Minister of the appointment of the Director within 10 business days.

Oath or affirmation

- (4) The Director shall, before commencing his or her duties, take the oath or solemn affirmation of office as prescribed in the regulations.

27. Subsection 48(7) of the Act is repealed and the following substituted:

Production of identification card

- (7) An instructing officer shall, when engaged in the exercise of his or her authority or the execution of his or her duties, produce his or her identification card for inspection on request, unless in the opinion of the instructing officer it would be dangerous or impracticable for him or her to comply with the request.

28. Subsection 50(8) of the Act is repealed and the following substituted:

Production of identification card

- (8) A police cadet shall, when engaged in the exercise of his or her authority or the execution of his or her duties, produce his or her identification card for inspection on request, unless in the opinion of the police cadet it would be dangerous or impracticable for him or her to comply with the request.

29. Subsection 51(8) of the Act is repealed and the following substituted:

Production of identification card

- (8) A civilian instructor shall, when engaged in the exercise of his or her authority or the execution of his or her duties, produce his or her identification card for inspection on request, unless in the opinion of the civilian instructor it would be dangerous or impracticable for him or her to comply with the request.

30. Section 53 of the Act is amended by the addition of the following after clause (b):

- (b.1) the Adjudicator;

31. Clauses 56(a) and (b) of the Act are amended by the deletion of the words “or the Deputy Commissioner” and the substitution of the words “, the Deputy Commissioner or the Adjudicator”.

32. Section 58 of the Act is amended

- (a) in clause (b),

(i) by the addition of the words “14.4(5),” after the words “10(2),” and

(ii) by the deletion of the words “47(2)” and the substitution of the words “47(4)”;

- (b) in clause (c), by the addition of the words “14.4(6),” after the words “10(3),”;

- (c) in clause (e), by the addition of the words “or the chief officer appointed under subsection 14.4(2)” after the words “police departments”;



(d) by the addition of the following after clause (f.4):

(f.5) respecting the use of force by conservation officers appointed as police officers under section 14.4 in the performance of their duties, including requiring the police officers to comply with a specified use of force model developed by a police force or police association;

(e) by the addition of the following after clause (g):

(g.01) respecting the qualifications required for a person to be appointed as the Adjudicator;

(f) by the addition of the following after clause (h):

(h.1) respecting the functions, powers or duties of the Adjudicator;

(g) in clause (r),

(i) in the words preceding subclause (i), by the addition of the words “conservation officers and the chief officer appointed as police officers under section 14.4,” after the words “police departments”, and

(ii) in subclause (iii), by the deletion of the words “and the Police Commissioner” and the substitution of the words “, the Police Commissioner and the Adjudicator”; and

(h) by the addition of the following after clause (s):

(s.1) respecting the fees and expenses that are payable to witnesses summoned by the Adjudicator under subsection 19.2(2);

33. This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.

EXPLANATORY NOTES

SECTION 1 amends section 1 of the Act to incorporate the definitions of “Chief Conservation Officer” and “conservation officer” for the purposes of later amendments, to provide a definition of “judge” and to remove a subclause that is spent.

SECTION 2 amends section 4 of the Act to clarify that for the purposes of an investigation relating to matters referred to in the new sections 14.1 to 14.3, the Minister shall assign the responsibility for appointing an investigator to the Police Commissioner, and makes additional amendments to integrate the Police Commissioner in the process.

SECTION 3 amends section 9 of the Act by adding a new subsection (1.1) that requires a council of a municipality to give notice to the Minister of the appointment of a chief officer within 10 business days.

SECTION 4 amends the Act by adding a new section 9.1 that authorizes a municipality to apply to the Minister for authorization to establish a police department or to contract for policing services, and a new section 9.2 that requires a council to give notice to the Minister if it intends to dissolve its police department or to terminate a contract for policing services.

SECTION 5 amends subsection 10(5) of the Act to clarify that the requirement for a member of a police department to produce an identification card applies when the member is engaged in the exercise of his or her authority or the execution of his or her duties, unless it would be dangerous or impracticable for the member to do so.

SECTION 6 amends the Act by adding 3 new sections 14.1 to 14.3. Section 14.1 authorizes the Minister to act, based the report of an investigator under subsection 4(4) that a police department is not in compliance with the Act or the regulations. The Minister shall notify the chief officer of the department and the council of the municipality of the findings and specify the corrective action to be taken. If the chief officer fails to take the corrective action, the Minister may notify the council and direct the council to take it. Section 14.2 authorizes the Minister to act with respect to a finding of an investigation that a chief officer has contravened or failed to comply with the Act and regulations. The Minister may notify the council of the contravention or failure to comply and may make a complaint under section 35 respecting the conduct of the chief officer. Section 14.3 provides similar powers to the Minister with respect to a finding of an investigation that a police officer has contravened or failed to comply with the Act and regulations.

SECTION 7 amends the Act by adding a new Part IV.1 containing the new section 14.4, which provides the Minister with authority to appoint conservation officers as police officers, and the Chief Conservation Officer as the chief officer of those police officers, including the authority to attach conditions to the appointments. The appointed police officers are peace officers with the same powers, authority, privileges and the like, and the same protection from liability, as other police officers under the Act, subject to any conditions attached to the appointments.

SECTION 8 amends subsection 18(6) of the Act by deleting an incorrect reference to the Police Commissioner “prescribing” forms and substituting an authorization for the Police Commissioner to approve forms for the purposes of the Police Commissioner’s process under the Act.

SECTION 9 amends the Act by adding a new Part VI.1 containing new sections 19.1 and 19.2 after section 19. Section 19.1 authorizes the Lieutenant Governor in Council, after consulting with the Minister, to appoint an Adjudicator for the purposes of sections 29 to 33 of the Act, and specify the Adjudicator's term of office, not to exceed five years, and remuneration. The *Civil Service Act* does not apply to the Adjudicator. The new section 19.2 establishes the functions and powers of the Adjudicator, which are similar to those of the Police Commissioner.

SECTION 10 amends subsection 21(5) of the act to establish those persons who are not permitted to make a complaint under Part VII.

SECTION 11 amends section 23 of the Act to clarify the way in which, and the person to whom, a complaint may be made. In addition to delivering the complaint to the chief officer of the police department involved, the complaint may also be delivered to the Manager at the Office of the Police Commissioner. The amendments also clarify what is meant by "delivering".

SECTIONS 12 to 15 amend sections 29 and 31 to 33 of the Act to delete references to the Police Commissioner and substitute references to the Adjudicator as specified.

SECTION 16 amends the heading preceding section 34 of the Act to include a reference to conservation officers, to clarify that complaints about those officers shall be dealt with under that Part.

SECTIONS 17 and 18 amend sections 34 and 35 of the Act to incorporate conservation officers appointed under section 14.4 into the complaint and discipline process in Part VIII.

SECTION 19 repeals section 36 of the Act and substitutes a new section 36 to establish the rules of interpretation and application for sections 37 to 44 of the Act as they relate to complaints against the Director, a security police officer, the chief officer appointed under subsection 14.4(2) and conservation officers appointed as police officers under subsection 14.4(1).

SECTION 20 repeals section 37 of the Act and substitutes a new section 37 with updated wording and added clarification regarding what constitutes "delivering" under that section, similar to the amendment to section 23 of the Act.

SECTION 21 amends subsection 40(1) of the Act to clarify that the Manager's duties under that subsection are triggered by the receipt of a complaint. The section also repeals subsections 40(4) and (7) and replaces them with new subsections (4) and (7) to replace references to the Police Commissioner with references to the Adjudicator.

SECTION 22 amends clause 43(5)(g) of the Act to remove an incorrect reference to a "special constable" and substitute a correct reference to a "security police officer", and also to delete references to the Police Commissioner and substitute references to the Adjudicator for the purposes of that section.

SECTION 23 amends section 44 of the Act to delete references to the Police Commissioner and substitute references to the Adjudicator for the purposes of that section.



SECTION 24 repeals subsection 45(8) of the Act and substitutes a new subsection (8) that requires an auxiliary constable, when engaged in the exercise of his or her authority or the execution of his or her duties, to produce his or her identification on request, unless in his or her opinion it would be dangerous or impracticable to do so. The section also repeals subsections 45(10) and (11) of the Act and substitutes a new subsection 45(10) that requires an auxiliary constable to act in accordance with any restrictions or requirements established by the regulations and any conditions attached to his or her appointment.

SECTION 25 repeals subsection 46(8) of the Act and substitutes a new subsection 46(8) that requires a security police officer, when engaged in the exercise of his or her authority or the execution of his or her duties, to produce his or her identification on request, unless in his or her opinion it would be dangerous or impracticable to do so.

SECTION 26 repeals section 47 of the Act and substitutes a new section 47 that clarifies the process for the appointment of the Director of the Atlantic Police Academy by the President of Holland College.

SECTIONS 27 to 29 amend subsections 48(7), 50(8) and 51(8) to provide consistency in the requirements for the specified persons to produce identification on request, based on the new subsections 14.4(8), 45(8) and 46(8) of the Act.

SECTION 30 amends section 53 of the Act by adding the Adjudicator to the list of persons who are protected from liability for anything done in good faith in the performance of their duties or the exercise of their powers under the Act.

SECTION 31 amends section 56 of the Act by adding a reference to the Adjudicator as a person who shall not be hindered, obstructed or misled in the performance of his or her functions.

SECTION 32 amends section 58 of the Act by adding new regulation-making powers to deal with the use of force by conservation officers in the performance of their duties, including requiring those officers to comply with a specified use of force model developed by a police force or police association, providing for their oaths or solemn affirmations and their identification cards, and integrating them in the Code of Professional Conduct and Discipline, and adding regulation-making powers respecting the Adjudicator's qualifications, functions, powers and duties.

SECTION 33 provides for the commencement of the Act.

(Bill No. 45)

An Act to Amend the Police Act

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	November 14, 2018
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable Antoinette Perry, Lieutenant Governor

Honourable Francis (Buck) Watts, Speaker

Charles H. MacKay, Clerk

Hon. Jordan K. M. Brown
Minister of Justice and Public Safety and Attorney General

GOVERNMENT BILL

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