BILL

No. 164

An Act to amend The Police Act, 1990

(Assented to )

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, 2011.

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 17 amended

3 Subsection 17(3) is repealed and the following substituted:

“(3) If a hearing is held with respect to a member of a police service:

(a) the board responsible for that police service shall pay, subject to clause (b), all expenses related to the conduct of the hearing, including transcription expenses; and

(b) the minister shall:

(i) pay to the hearing officer the remuneration determined by the Lieutenant Governor in Council; and

(ii) reimburse the hearing officer for expenses at rates determined by the Lieutenant Governor in Council”.

Section 23 amended

4 Subsection 23(1) is repealed and the following substituted:

“(1) Subject to the approval of the Lieutenant Governor in Council, a municipality having a population greater than the minimum size prescribed in the regulations may enter into an agreement with the Government of Canada to employ and pay for a sufficient number of members of the Royal Canadian Mounted Police to provide policing services within the municipality”.

Section 38 amended

5(1) Subsection 38(3) is amended by striking out “subsection (5)” and substituting “clause 39(1)(c)”.

(2) Subsections 38(4) to (6) are repealed and the following substituted:

“(4) A person who receives a public complaint from a member of the public pursuant to subsection (2) shall:

(a) record the complaint in the form prescribed in the regulations;

(b) transmit the complaint to the PCC; and

(c) provide a copy of the transmittal to the complainant”.

Section 39 amended

6 Subsection 39(1) is repealed and the following substituted:

“(1) If the PCC receives a public complaint pursuant to subsection 38(4), the PCC shall:

(a) log the receipt of the complaint;
(b) inform the person making the complaint of:
   (i) the procedures that will be followed; and
   (ii) the rights of the complainant pursuant to this Act;
(c) if the complaint is with respect to a police service or a member, provide copies of the complaint to the board, the department, the member who is the subject of the complaint and the chief; and
(d) if the complaint is with respect to a chief, provide copies of the complaint to the department, the chief and the board.

“(1.1) The PCC shall:

(a) establish and maintain a record of all public complaints received by police services and their dispositions;
(b) inform, advise and assist complainants;
(c) advise and assist the chiefs and boards, the hearing officer and the commission with respect to the handling of public complaints;
(d) monitor the handling of public complaints and ensure that public complaints are handled in a manner consistent with the public interest;
(e) inspect annually, or at those times directed by the minister, the records, operations and systems of administration for the handling of public complaints by police services”.

Section 41 amended

7(1) Subsection 41(1) is amended in the portion preceding clause (a) by striking out “the complainant” and substituting “the PCC”.

(2) Subsection 41(2) is amended in the portion preceding clause (a) by striking out “the complainant” and substituting “the PCC”.

(3) The following subsection is added after subsection 41(2):

“(3) If the PCC receives notice pursuant to this section, the PCC shall, as soon as is practicable, give notice in writing to the complainant of the status of the complaint”.

Section 43.1 amended

8 Subsection 43.1(2) is repealed and the following substituted:

“(2) If a mediation is conducted respecting a member of a police service:

(a) the board responsible for that police service shall pay, subject to clause (b), all expenses related to the conduct of the mediation; and
(b) the minister shall:
   (i) pay to the mediator the remuneration determined by the Lieutenant Governor in Council; and
   (ii) reimburse the mediator for expenses at rates determined by the Lieutenant Governor in Council”.

Section 53 amended
9 Clause 53(5)(c) is amended by adding “, or with a reduction of pay,” after “without pay”.

New section 54.01
10 The following section is added after section 54:

“Mediation regarding allegation of misconduct by a member

54.01(1) If the PCC does not declare the matter to be a public complaint pursuant to subsection 54(3), the chief may, at any point before the completion of an investigation, refer the matter that is the subject of the investigation to mediation if the chief:
   (a) has the consent of the member;
   (b) has the approval of a hearing officer designated by the commission; and
   (c) is of the opinion that it is in the public interest to do so.

(2) If mediation is conducted respecting an allegation of misconduct by a member, the minister shall:
   (a) pay to the mediator the remuneration determined by the Lieutenant Governor in Council; and
   (b) reimburse the mediator for expenses at rates determined by the Lieutenant Governor in Council.

(3) A settlement may be concluded in relation to an allegation of misconduct by a member only with the approval of the commission.

(4) A settlement pursuant to this section has no force or effect unless approved by the commission”.

Section 55 amended
11 The following subsection is added after subsection 55(1):

“(1.1) If an allegation of misconduct by a chief is made to the board by a member, any disclosure of information for the purposes of that allegation does not constitute an offence for which the member may be disciplined pursuant to this Act or the regulations, unless it is determined that the allegation is:
   (a) trivial, frivolous or vexatious; or
   (b) unfounded and made in bad faith”.
New section 55.01

12 The following section is added after section 55:

“Mediation regarding allegation of misconduct by a chief

55.01(1) If the PCC does not declare the matter to be a public complaint pursuant to subsection 55(3), the board may, at any point before the completion of an investigation, refer the matter that is the subject of the investigation to mediation if the board:

(a) has the consent of the chief;
(b) has the approval of a hearing officer designated by the commission; and
(c) is of the opinion that it is in the public interest to do so.

(2) If mediation is conducted respecting an allegation of misconduct by a chief, the minister shall:

(a) pay to the mediator the remuneration determined by the Lieutenant Governor in Council; and
(b) reimburse the mediator for expenses at rates determined by the Lieutenant Governor in Council.

(3) A settlement may be concluded in relation to an allegation of misconduct by a chief only with the approval of the commission.

(4) A settlement pursuant to this section has no force or effect unless approved by the commission”.

Section 56 amended

13(1) Subsection 56(3) is repealed and the following substituted:

“(3) All hearings governed by this Part shall begin within 60 days after the designation of the hearing officer by the minister and shall be completed within a reasonable time and without undue delay, but may be adjourned from time to time”.

(2) Subsection 56(9.1) is amended:

(a) by striking out “or” after clause (a);
(b) by adding “or” after clause (b); and
(c) by adding the following clause after clause (b):

“(c) relates solely to employment performance and not to conduct and:

(i) does not have any impact on a member of the public or on public confidence in the police service or policing generally; and
(ii) it is not contrary to the public interest to do so”.

(3) Subsection 56(9.2) is repealed and the following substituted:

“(9.2) The hearing officer may:

(a) make an order banning the publication of any name or address of an individual involved in a hearing;

(b) if the conditions set out in clause (9.1)(c) are met, make an order banning:

(i) the publication of any oral evidence given or documentary evidence submitted at the hearing; or

(ii) the publication of the decision; or

(c) do any combination of the things mentioned in clauses (a) and (b)”.

New section 58.1

14 The following section is added after section 58:

“Timing of decision

58.1 After the conclusion of the hearing, the hearing officer shall make a decision within a reasonable time and without undue delay”.

Section 59 amended

15 Clause 59(1.1)(a) is repealed and the following substituted:

“(a) shall, subject to any order of the hearing officer made pursuant to subsection 56(9.2), make a decision of a hearing officer received pursuant to subsection 59(1) after the coming into force of this section available to the public”.

New section 60

16 Section 60 is repealed and the following substituted:

“Order respecting incompetence or unsuitability

60(1) Subject to subsections (3) and (4), the chief may do any of the things mentioned in subsection (2) if, in the opinion of the chief, a member:

(a) has rendered himself or herself unsuitable for police service by having been found guilty of an offence pursuant to:

(i) the Criminal Code (Canada);

(ii) any other Act of the Parliament of Canada; or

(iii) any Act; or

(b) has conducted himself or herself in a manner that, despite remedial efforts if it was reasonable in the circumstances to make remedial efforts, renders the member unsuitable for police service or establishes the member as incompetent for police service.
(2) In the circumstances mentioned in subsection (1), the chief may do any of the following:
   (a) order dismissal of the member;
   (b) order demotion of the member;
   (c) order suspension of the member with or without pay for a period of up to 60 days;
   (d) order a period of probation or close supervision of the member;
   (e) order the member to undergo counselling, treatment or training;
   (f) issue a reprimand to the member;
   (g) make any order he or she deems fit; or
   (h) do any combination of the things mentioned in clauses (a) to (g).

(3) For the purposes of clause (1)(b), the chief must be satisfied that:
   (a) the member’s deficiencies were brought to the member’s attention;
   (b) the member was given a reasonable opportunity to bring his or her performance up to an acceptable level or standard; and
   (c) if reasonable in the circumstances, the member was afforded treatment, training, guidance, coaching or counselling to assist the member in reaching an acceptable level or standard of performance.

(4) Before doing any of the things mentioned in subsection (2), the chief must be satisfied that:
   (a) there is an established history of disciplinary actions with respect to the member; or
   (b) in the absence of an established history of disciplinary actions, the member has conducted himself or herself in a manner that is likely to undermine public confidence in the police service.

(5) If the chief has made an order pursuant to subsection (2), the chief shall immediately give notice in writing to the member of the basis for that decision.

(6) If a collective bargaining agreement provides a procedure for terminating the services of a member for reasons other than those provided in this Part, that procedure shall be used for terminating the services of a member for the reasons provided in the collective bargaining agreement”.

Section 80.1 amended

17 Clause 80.1(c) is amended by striking out “police force” and substituting “police service”:
   (a) in subclause (i); and
   (b) in subclause (ii).

Section 80.28 amended

18 Clause 80.28(2)(b) is amended by striking out “police force” and substituting “police service”.
Section 80.51 amended
19 Section 80.51 is amended by striking out “police force” and substituting “police service”.

Section 80.6 amended
20 Section 80.6 is amended by striking out “police force” and substituting “police service”:
   (a) in the portion preceding clause (a); and
   (b) in clause (a).

Section 91.1 amended
21(1) Subsection 91.1(1) is amended in the portion preceding clause (a) by adding “who is a serving or retired member” after “investigation observer”.

(2) Subsection 91.1(2) is amended by adding “who is a serving or retired member” after “investigation observer”.

(3) Clause 91.1(3)(b) is amended by adding “and the Deputy Minister of the department” after “Deputy Minister of Justice”.

(4) Subsection 91.1(4) is amended by adding “or the Deputy Minister of the department” after “Deputy Minister of Justice”.

(5) The following subsections are added after subsection 91.1(4):
   “(5) If an investigation observer is appointed pursuant to this section, the minister of the department shall pay all costs associated with the appointment of the investigation observer.

   “(6) At the request of a police service or a detachment of the Royal Canadian Mounted Police conducting an investigation, the Deputy Minister of Justice may appoint an investigation observer for an investigation that does not meet the criteria set out in subsection (1), if the Deputy Minister is satisfied that:
      (a) the matter being investigated is of a publicly sensitive nature; and
      (b) it is in the public interest to do so.

   “(7) For the purposes of subsection (6), the Deputy Minister of Justice may appoint any person the Deputy Minister considers appropriate as an investigation observer”.

New section 94.2
22 The following section is added after section 94.1:

“Board training
94.2(1) In this section, ‘board member’ means a member of a board established pursuant to clause 24.1(2)(b), subsections 27(1) or (2), or subsection 29(1).

(2) The commission may establish procedures and requirements for training for board members.

(3) Board members must comply with any training requirements established by the commission and must do so within the time frames set by the commission”.

Coming into force
23 This Act comes into force on proclamation.