

UNEDITED

The Police Magistrates Act

being

Chapter 104 of *The Revised Statutes of Saskatchewan, 1953*
(effective February 1, 1954).

FOR HISTORICAL REFERENCE ONLY

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER 104

An Act respecting the Appointment of Police Magistrates

SHORT TITLE

Short title

1 This Act may be cited as *The Police Magistrates Act*.

R.S.S. 1953, c.104, s.1.

APPOINTMENT AND REMUNERATION

Appointment for cities and towns

2 The Lieutenant Governor in Council may appoint a police magistrate in and for every city and town in the province who shall have jurisdiction as hereinafter set forth.

R.S.S. 1940, c.94, s.2; R.S.S. 1953, c.104, s.2.

Remuneration

3 Such police magistrate shall be paid by the council out of the revenues of the city or town, as the case may be, an annual salary. Such salary shall be, in the case of the city of Regina, not less than \$2,500; in the case of the cities of Saskatoon and Moose Jaw respectively, not less than \$1,500; and in the case of other cities not less than \$750.

R.S.S. 1940, c.94, s.3; R.S.S. 1953, c.104, s.3.

Appointment for province

4 The Lieutenant Governor in Council may appoint one or more police magistrates for Saskatchewan who shall have jurisdiction as such throughout the province and who shall be paid such salaries as may be fixed by the Lieutenant Governor in Council.

R.S.S. 1940, c.94, s.4; R.S.S. 1953, c.104, s.4.

Requirements for appointment

5 No person shall be appointed a police magistrate unless:

- (a) he has been admitted to the bar of one of the provinces of Canada; or
- (b) he has served for a period of at least five years as a member of the Force within the meaning of the *Royal Canadian Mounted Police Act (Canada)* or as a member of any city police force.

1949, c.33, s.2; 1952, c.40, s.1; R.S.S. 1953, c.104, s.5.

Fees

6(1) Every police magistrate shall be entitled to have paid to him all fees authorized to be taken by justices of the peace under any law in force in Saskatchewan or municipal bylaw.

(2) Such fees shall, if no other provision is made respecting them, belong to the Crown for the public uses of the province and it shall be the duty of every such police magistrate to collect all such fees and deposit them as provided by section 20.

1948, c.28, s.2; 1949, c.33, s.3; R.S.S. 1953, c.104, s.6.

District court judges *ex officio* police magistrates

7 The judge of each district court shall be *ex officio* a police magistrate within his district.

1953, c.104, s.7.

JURISDICTION

Jurisdiction in cities and towns

8(1) A police magistrate appointed under the provisions of section 2 shall, in addition to the powers, jurisdiction and authority which now or hereafter may be conferred on a police magistrate under any special law, have and exercise, throughout the judicial district in which is situated the city or town for which he has been appointed police magistrate, all the powers, jurisdiction and authority now or hereafter vested in or conferred upon two justices of the peace sitting and acting together under any law in force in Saskatchewan, and shall have power to perform and shall perform all the duties which the *Criminal Code*, and all other Statutes of Canada from time to time in force in Saskatchewan and applicable thereto, purport to confer upon or require of a police magistrate or one or more justices of the peace, so far as the Legislature of Saskatchewan can confer or require the same; and every such police magistrate shall by virtue of his office be a justice of the peace for Saskatchewan.

(2) No such police magistrate shall, except as provided in sections 25 and 27, have or exercise any jurisdiction, power or authority, either as a police magistrate or a justice of the peace, in or in respect of any offence committed within the limits of any city or town, other than the city or town for which he is appointed, if the first mentioned city or town has a police magistrate.

R.S.S. 1940, c.94, s.7; R.S.S. 1953, c.104, s.8.

Jurisdiction of provincial police magistrates

9(1) A police magistrate appointed under the provisions of section 4 shall by virtue of his office be a justice of the peace for Saskatchewan.

(2) Every such police magistrate sitting as such, or as, by virtue of his office, a justice of the peace, shall have power to do alone whatever is authorized to be done by two or more justices of the peace.

R.S.S. 1940, c.94, s.8; R.S.S. 1953, c.104, s.9.

CONDITIONS AND TENURE OF OFFICE

Not to act as agents, etc., in criminal matters

10 Within the judicial district in which is situated the city or town for which he has been appointed police magistrate, no police magistrate and no partner or clerk of a police magistrate shall act as agent, solicitor or barrister in any cause, matter, prosecution or proceeding of a criminal nature; nor shall such police magistrate, partner or clerk act as aforesaid in any matter which by law may be investigated or tried before a police magistrate or justice of the peace within the judicial district in which is situated the city or town for which he has been appointed police magistrate.

R.S.S. 1940, c.94, s.9; R.S.S. 1953, c.104, s.10.

Oath of office

11 A police magistrate appointed under the provisions of this Act shall before he is gazetted or acts as such take and subscribe the oath of allegiance and the following oath before some person authorized to administer oaths in the province, namely:

I, _____ of _____ in the Province of _____ do swear that I will well and truly serve our Sovereign Lady the Queen in the office of a police magistrate, and that I will duly and faithfully and according to the best of my ability and knowledge execute the several duties and powers of a police magistrate.

Sworn at _____ this _____ day of _____, 19____, before me.

R.S.S. 1940, c.94, s.10; 1949, c.33, s.6; R.S.S. 1953, c.104, s.11.

Record of oath

12 The oaths of office and allegiance taken by a police magistrate shall forthwith be transmitted by him to the Attorney General and shall be filed in his office.

R.S.S. 1940, c.94, s.11; R.S.S. 1953, c.104, s.12.

Resignation

13 A police magistrate may at any time resign his office by writing signed by him and delivered to the Attorney General.

R.S.S. 1940, c.94, s.12; R.S.S. 1953, c.104, s.13.

PROCEDURE

Application of certain provisions of *Criminal Code*

14 Except it is otherwise specially provided, the provisions of the *Criminal Code* relating to summary convictions and to extraordinary remedies apply to proceedings before police magistrates under or by virtue of any law in force in Saskatchewan or under municipal bylaws and to appeals from convictions or orders made thereunder.

R.S.S. 1940, c.94, s.13; R.S.S. 1953, c.104, s.14.

Police office

15(1) In every city or town in and for which a police magistrate is appointed, the council shall establish and keep a police office where all the police magistrate's business for the city or town shall be transacted.

(2) The city or town council may appoint a clerk to perform the duties of clerk to the police magistrate.

R.S.S. 1940, c.94, s.14; R.S.S. 1953, c.104, s.15.

RECORDS AND RETURNS

Police office record book

16 There shall be kept in the police office a book to be provided by the council and called "The Police Office Record Book" which shall be ruled in the same manner as the return of proceedings set out in form A in the schedule to this Act; and the police magistrate shall from time to time enter or cause to be entered in the said book the information required to be given in the said return.

R.S.S. 1940, c.94, s.15; 1948, c.28, s.3; R.S.S. 1953, c.104, s.16.

When entries made

17 All entries shall be made forthwith upon the happening of the event in respect of which information is to be entered; and, in case a fine or penalty is not collected within three months after the imposition thereof, the reason therefor shall be written in the column for remarks.

R.S.S. 1940, c.94, s.16; R.S.S. 1953, c.104, s.17.

Open to inspection

18(1) The said book may be inspected at any reasonable time as follows:

- (a) by any person upon payment of a fee of ten cents;
- (b) by any officer of the municipality without payment of any fee;
- (c) by a person upon whom a fine or penalty has been imposed or someone in his behalf, in respect of the entry of his conviction only, without payment of any fee.

(2) Inspection fees shall be paid to the police magistrate or his clerk, who shall pay the same into the revenues of the city or town.

R.S.S. 1940, c.94, s.17; R.S.S. 1953, c.104, s..

Penalty

19 A police magistrate who receives any moneys in respect of a conviction or order made by him and neglects to make or cause to be made the proper entry in respect thereto for more than one month after the receipt thereof, shall forfeit and pay the sum of \$100 together with costs of suit to be recovered by the Attorney General on behalf of Her Majesty in the Court of Queen's Bench, and the same when recovered shall form part of the general revenue of the province.

R.S.S. 1940, c.94, s.18; R.S.S. 1953, c.104, s.19.

Returns and deposits

20(1) Every police magistrate who receives the amount of any fine, penalty, fees or other sum of money which is payable to the province or belongs to the Crown for the public uses of the province shall forthwith after he has received the same deposit the amount to an account designated "Attorney General, Police Magistrate's Suspense Account" in a branch of a chartered bank designated by the Provincial Treasurer.

(2) Every police magistrate by or before whom, whether alone or with one or more other justice or justices, any matter of any nature whatsoever is commenced, tried, heard or adjudicated upon shall, in the months of January and July in each year and before the fifteenth day thereof, make a return in writing signed by him to the Attorney General showing the result and disposition of, or action taken upon or in regard to, any such matter so dealt with theretofore which has not been included in some previous return made by such magistrate to the Attorney General.

(3) Such return (form A) shall truly set forth the information indicated as required by the headings to the different columns in said form.

(4) Where no proceedings have been had or taken before any police magistrate since the making of his last returns, he shall make a return so stating.

R.S.S. 1940, c.94, s.19; 1948, c.28, s.4; R.S.S. 1953, c.104, s.20.

Disposition of unclaimed moneys

21 The Lieutenant Governor in Council may from time to time by order provide for the disposition of unclaimed moneys now or hereafter held by any police magistrate or magistrates, which have been so held for a period exceeding six years or for such other period as the Lieutenant Governor in Council may determine, and for the disposition of which no provision is made in this or any other Act.

R.S.S. 1940, c.94, s.20; R.S.S. 1953, c.104, s.21.

Procedure to enforce returns

22(1) Any police magistrate whose duty it is to make returns or deposit fines, penalties, fees or other moneys, who refuses or neglects to make a return or deposit an amount in the manner and at the time above provided, may be required, by written notice from the Attorney General, forwarded to the usual or last known address of the magistrate by post prepaid or delivered to him in person, to make the return or deposit the amount forthwith.

(2) After the expiration of thirty days from the date of posting or delivering the notice, should the magistrate still refuse or neglect to make the return or deposit the amount, the Attorney General shall report such refusal or neglect to the Provincial Secretary.

(3) The Provincial Secretary shall cause the names of police magistrates reported for default to be published in two successive issues of *The Saskatchewan Gazette*, with a notice stating that in case of any magistrate therein named failing to make the return or deposit, as to which he is in default, within thirty days from the first publication of such notice, his commission will be cancelled.

(4) If, at the expiration of the thirty days limited by subsection (3), the magistrate is still in default, the Provincial Secretary shall cancel his commission, and thereupon he shall be deprived of all power, authority and jurisdiction as a police magistrate and as a justice of the peace, and shall not be eligible for reappointment.

R.S.S. 1940, c.94, s.21; 1948, c.28, s.5; R.S.S. 1953, c.104, s.22.

Penalty for making false returns

23 Any police magistrate before whom a conviction takes place or by whom an order for the payment of money is made, who receives any such money and who neglects or refuses to make the return or deposit as herein provided and any such magistrate who wilfully makes a false, partial or incorrect return, shall forfeit and pay the sum of \$100 together with costs of suit to be recovered by the Attorney General on behalf of Her Majesty before the Court of Queen's Bench as a debt, and the same when recovered shall form part of the consolidated fund.

R.S.S. 1940, c.94, s.22; 1948, c.28, s.6; R.S.S. 1953, c.104, s.23.

Penalties for neglect to make returns

24 The penalties in this Act provided for omission to make entries and returns or deposit of money as herein provided shall be in addition to all other fines, penalties or punishment provided therefor by any other Act or law in force in Saskatchewan and shall not affect any other right or remedy which Her Majesty may have by law or in respect thereof.

R.S.S. 1940, c.94, s.23; 1948, c.28, s.7; R.S.S. 1953, c.104, s.24.

GENERAL PROVISIONS**On resignation, etc., disposal of pending business**

25(1) Where any police magistrate through resignation, removal, death or other cause ceases to hold office, any business pending before him may on application of the party lawfully moving in the same be taken up and proceeded with by any police magistrate or by any two justices of the peace.

(2) In such case any pending summons, warrant, process, order, conviction or other matter or thing may be taken up, proceeded with and enforced by the police magistrate or two justices applied to notwithstanding the initiatory proceedings were not taken before such police magistrate or such two justices.

(3) This section shall not be construed to prevent one justice of the peace from acting in the place of such police magistrate in any matter in which one justice would have jurisdiction.

R.S.S. 1940, c.94, s.24; R.S.S. 1953, c.104, s.25.

Delivery of certain property to successor

26 Every police magistrate having the possession, custody or control of any books, records, documents, accounts, vouchers, reports, or anything belonging to or relating to his office and not being private property shall, as part of the duties of his office, give up possession and deliver the same to his successor in office or to any person appointed by the Lieutenant Governor in Council to demand and receive the same; and every such person refusing or neglecting to deliver up the same is guilty of an offence and liable on summary conviction to a fine not exceeding \$200.

R.S.S. 1940, c.91, s.25; R.S.S. 1953, c.104, s.26.

Disposal of business during magistrate's illness

27(1) In case of the absence or illness or at the request of a police magistrate any other police magistrate or any two or more justices of the peace, or at the request in writing of such police magistrate, any barrister may act in his place in any matter within the jurisdiction of such police magistrate; and the police magistrate, justices of the peace or barrister acting in his place shall have and may exercise all the powers which the police magistrate first in this section mentioned might or could have exercised.

(2) This section also applies to matters in which the initiatory proceedings have been taken before the said first mentioned police magistrate.

(3) This section shall not be construed to prevent one justice of the peace from acting for such police magistrate in any matter in which one justice would have jurisdiction.

R.S.S. 1940, c.94, s.26; R.S.S. 1953, c.104, s.27.

Certain matters not to disqualify

28 No police magistrate shall be disqualified from acting in respect of any matter, otherwise within his jurisdiction, by reason of the fact:

- (a) that the city or town or any officer or servant of the city or town, or any member of the city or town council, is a party thereto or interested therein; or
- (b) that such police magistrate is a ratepayer of the city or town, and that the result of such matter may affect the revenue to be derived by the city or town; or
- (c) that the complainant or informant is related to the police magistrate, provided that the complainant or informant is acting in a public or official capacity; or
- (d) that the complainant or informant is indemnified by the city or town; or
- (e) that any resolution or agreement has been passed or made by the city or town council, or by any of its committees, providing for the indemnification of such complainant or informant.

R.S.S. 1940, c.94, s.27; R.S.S. 1953, c.104, s.27.

FORM A

(Sections 16 and 20)

RETURN BY POLICE MAGISTRATE

I, the undersigned, one of Her Majesty's police magistrates, do hereby certify the following to be a true and correct return of all proceedings heretofore had in which I took part as such police magistrate and not included in any previous return made by me to the Attorney General for Saskatchewan:

Name of prosecutor or informant	Name of accused or respondent	Nature of charge or matter	Statute, Act or bylaw proceeded on	Date of hearing	Adjudication: sentence, if any: amount of fine, if any, imposed and date	Amount of costs imposed	Amount of police magistrate's fees collected	Date of payment to magistrate of penalty and costs	To whom penalty paid by magistrate	Date of payment by magistrate	Remarks, giving subsequent action, if any: and, if fine imposed has not been paid, giving reasons for non-payment

FOR HISTORICAL REFERENCE ONLY

Dated at _____, 19____.

Police Magistrate