



Province of Alberta

POLICE OFFICERS COLLECTIVE BARGAINING ACT

Revised Statutes of Alberta 2000
Chapter P-18

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POLICE OFFICERS COLLECTIVE BARGAINING ACT

Chapter P-18

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

Definitions

- 1 In this Act,

- (a) “bargain collectively” and “collective bargaining” mean to negotiate or negotiation with a view to the conclusion of a collective agreement or the revision or renewal of a collective agreement;
- (b) “bargaining agent” means
 - (i) the police association that represents a majority of the police officers who hold the rank of inspector or higher, excluding the chief constable and deputy chief constables, or
 - (ii) the police association that represents a majority of the police officers who hold ranks lower than that of inspector;
- (c) “bargaining unit” means
 - (i) the police officers of a municipal police service who hold the rank of inspector or higher, excluding the chief constable and deputy chief constables, or
 - (ii) the police officers of a municipal police service who hold ranks lower than that of inspector;
- (d) “Board” means the Labour Relations Board under the *Labour Relations Code*;
- (e) “collective agreement” means an agreement in writing between a municipality and a bargaining agent containing terms or conditions of employment;
- (f) “Director” means the person appointed pursuant to the *Public Service Act* as the Director of Mediation Services;
- (g) “dispute” means a difference or apprehended difference arising in connection with the entering into, renewing or revising of a collective agreement;
- (h) “lockout” includes
 - (i) the closing of a place of employment by a municipality,
 - (ii) the suspension of duties by a municipality, or
 - (iii) a refusal by a municipality to continue to employ police officers,

for the purpose of compelling the police officers of a municipal police service or to aid another employer in

compelling the employees of that employer to accept terms and conditions of employment;

- (i) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (j) “open period” means, with respect to a municipality and a bargaining agent,
 - (i) if no collective agreement is in effect, any time, or
 - (ii) if a collective agreement is in effect, any time after notice to commence collective bargaining is served under section 5;
- (k) “police association” means an association of either
 - (i) the police officers of a municipal police service who hold the rank of inspector or higher, excluding the chief constable and deputy chief constables, or
 - (ii) the police officers of a municipal police service who hold ranks lower than that of inspectorthat is limited to members of one municipal police service and has collective bargaining among its objects;
- (l) “police officers” means the members of the municipal police service appointed for policing duties and duties incidental to those duties;
- (m) “strike” includes
 - (i) a cessation of work or duties,
 - (ii) a refusal to work or carry out duties, and
 - (iii) a refusal to continue to work or carry out duties, by 2 or more police officers acting in combination or in concert or in accordance with a common understanding for the purpose of compelling the municipality to agree to terms or conditions of service or to aid other employees to compel their employer to accept terms and conditions of service or employment;
- (n) “trade union” means a trade union within the meaning of the *Labour Relations Code* or the *Public Service Employee Relations Act*, but does not include a police association.

1983 cP-12.05 s1;1988 cP-12.01 s67;1988 cL-1.2 s207

Part 1 Collective Bargaining

Right to organize and bargain collectively

2(1) All police officers, except the chief constable and deputy chief constables, have the right

- (a) to be members of a police association and to participate in its lawful activities, and
- (b) to bargain collectively with the municipality to which they are appointed through a bargaining agent,

except that no police officer shall remain or become a member of a trade union or of an organization that is affiliated, directly or indirectly, with a trade union.

(2) Notwithstanding subsection (1), if an application by a local authority within the meaning of the Special Forces Pension Plan to bring its police officers under that Plan has been granted, there is no right to bargain collectively for pension benefits.

1983 cP-12.05 s2;1985 cS-21.1 s51;1993 cP-30.7 s10

Strike and lockout prohibited

3(1) Notwithstanding section 2, no police officer, bargaining agent or person acting on behalf of a bargaining agent shall strike, cause a strike or threaten to cause a strike.

(2) No municipality shall lock out or threaten to lock out members of a bargaining unit.

1983 cP-12.05 s3

Collective bargaining by municipality

4(1) A municipality may

- (a) bargain collectively with a bargaining agent, and
- (b) bargain through a committee appointed to bargain on its behalf.

(2) A municipality may authorize the municipal police commission appointed by the municipality under the *Police Act* to bargain collectively with a bargaining agent on its behalf.

1983 cP-12.05 s4

Notice to initiate bargaining

5(1) Either the bargaining agent or the municipality may

- (a) when no collective agreement is in force, at any time, or
- (b) when a collective agreement is in force, not less than 30 and not more than 90 days preceding the expiry of the term of the collective agreement or within any longer period that may be provided for in the collective agreement,

by notice in writing require the other party to meet and bargain collectively.

(2) A notice to commence collective bargaining is to be served at least 10 days before the time fixed in the notice for the commencement of collective bargaining.

(3) When a notice to commence collective bargaining has been served pursuant to this section, the bargaining agent and the municipality, without delay, but in any event within 15 days after notice is served, shall

- (a) meet and commence, or cause authorized representatives to meet and commence, to bargain collectively in good faith, and
- (b) make every reasonable effort to enter into a collective agreement.

1983 cP-12.05 s5

Effect of collective agreement

6 A collective agreement entered into by a bargaining agent and a municipality, insofar as its provisions do not conflict with this Act, is binding on

- (a) the bargaining agent and every member in the bargaining unit on whose behalf the agreement has been entered into, and
- (b) the municipality.

1983 cP-12.05 s6

Part 2 Mediation

Appointment of mediator

7(1) During an open period

- (a) either or both parties to a dispute may request the Director to appoint a mediator, or

- (b) the Minister may require the Director to appoint a mediator,

to assist the parties in resolving the dispute.

(2) The Director

- (a) may appoint a mediator if the Director receives a request under subsection (1)(a), and
- (b) shall appoint a mediator if the Director is required to do so under subsection (1)(b).

(3) When a mediator is appointed, the dispute shall be referred to the mediator and the parties notified accordingly.

1983 cP-12.05 s7

Duties of mediator

8(1) A mediator shall, in any manner that the mediator thinks fit, inquire into the dispute and endeavour to effect a settlement.

(2) During the mediator's inquiry the mediator shall

- (a) hear any representations made to the mediator by the parties to the dispute,
- (b) mediate between the parties to the dispute, and
- (c) encourage the parties to the dispute to effect a settlement.

1983 cP-12.05 s8

Part 3 Interest Arbitration

Request for interest arbitration board

9(1) If a dispute cannot be resolved, either or both parties to the dispute may make a request for the establishment of an interest arbitration board to

- (a) the mediator, if one has been appointed with respect to the dispute, or
- (b) the Director, if no mediator has been appointed with respect to the dispute.

(2) When the Director receives a request under subsection (1)(b), the Director shall appoint a mediator in accordance with section 7(2) and forward the request for the establishment of an interest arbitration board to the mediator.

(3) The mediator shall endeavour to effect a settlement in accordance with section 8 and shall, not later than 14 days after the mediator receives a request under subsection (1) or (2),

- (a) list the items in dispute and the items that have been settled by the parties, and
- (b) forward the list and the request for the establishment of an interest arbitration board to the Minister.

1983 cP-12.05 s9

Establishment of interest arbitration board

10 When the Minister receives a request for the establishment of an interest arbitration board, the Minister,

- (a) if the Minister considers it appropriate, may direct the parties to continue collective bargaining and may prescribe the procedure or conditions under which collective bargaining is to take place, or
- (b) if the Minister is satisfied that the dispute is appropriate to refer to an interest arbitration board, may establish an interest arbitration board in accordance with this Part.

1983 cP-12.05 s10

Appointment of members

11(1) If the Minister decides to establish an interest arbitration board, the Minister shall notify the parties to the dispute in writing accordingly and require each of them to appoint a person to act as a member of the interest arbitration board within 10 days after that notification.

(2) The 2 persons appointed under subsection (1) to act as members of an interest arbitration board shall appoint a 3rd person within 10 days after the date the 2nd person is appointed to act as a member and chair of the interest arbitration board.

1983 cP-12.05 s11

Appointments by Minister

12(1) If a party to the dispute fails to appoint a person as a member of an interest arbitration board, the Minister may appoint a person to act as a member.

(2) If the 2 persons appointed as members of an interest arbitration board fail to appoint a person to act as a member and chair, the Minister may appoint a person to act as a member and chair.

- (3) The remuneration and expenses of the persons appointed under subsection (1) or (2) or section 11 shall be paid,
- (a) in the case of a person who was appointed or who should have been appointed individually by a party, by that party, and
 - (b) in the case of the chair, jointly by the parties.
- (4) If a vacancy occurs in the membership of an interest arbitration board, it shall be filled in the same manner as provided for the appointment of the member or chair, as the case may be.
- (5) The members of an interest arbitration board have the powers, duties and immunities of a commissioner under the *Public Inquiries Act*.
- (6) A judge of the Court of Appeal or of the Court of Queen's Bench may be appointed as a member of an interest arbitration board.

1983 cP-12.05 s12;1999 c26 s19

Terms of reference

- 13** When 3 persons are appointed to act as members of an interest arbitration board, the Minister, by notice in writing to the chair, shall
- (a) establish the members as an interest arbitration board, and
 - (b) list the items in dispute to be resolved by the interest arbitration board.

1983 cP-12.05 s13

Methods of arbitration

- 14(1)** On receipt of a notice under section 13, the interest arbitration board shall inquire into the items in dispute and endeavour to effect a settlement.
- (2) If the interest arbitration board is unable to effect a settlement, it shall consider the position of the parties on each item in dispute and determine what method or combination of methods of arbitration it shall implement to resolve any or all of the items in dispute.
- (3) Without restricting the generality of subsection (2), the method or combination of methods of arbitration determined under that subsection may include the method of arbitration known as "final offer selection".

1983 cP-12.05 s14

Matters to be considered

15 To ensure that wages and benefits are fair and reasonable to the police officers and the municipality and are in the best interest of the public, the interest arbitration board

(a) shall consider, for the period with respect to which the award will apply, the following:

- (i) wages and benefits in private and public and unionized and non-unionized employment;
- (ii) the continuity and stability of private and public employment, including
 - (A) employment levels and incidence of layoffs,
 - (B) incidence of employment at less than normal working hours, and
 - (C) opportunity for employment;

(iii) the general economic conditions in Alberta;

and

(b) may consider, for the period with respect to which the award will apply, the following:

- (i) the terms and conditions of employment in similar occupations outside the employer's employment taking into account any geographic, industrial or other variations that the board considers relevant;
- (ii) the need to maintain appropriate relationships in terms and conditions of employment between different classification levels within an occupation and between occupations in the employer's employment;
- (iii) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered;
- (iv) any other factor that it considers relevant to the matter in dispute.

1983 cP-12.05 s15;1988 cL-1.2 s207

Award

16(1) As soon as possible after a dispute is referred to the interest arbitration board, and in any case within

- (a) twenty days after the date on which it is established, or
- (b) any longer time that may be agreed to by the parties to the dispute or fixed by the Minister,

the interest arbitration board shall make an award and in its award shall deal with each item in dispute.

(2) An award of a majority of the members of an interest arbitration board is an award of the interest arbitration board, but if there is no majority, the award of the chair is the award of the interest arbitration board.

(3) The *Arbitration Act* does not apply to arbitration under this Part.

(4) Subject to subsection (5), no award, proceeding or decision of an interest arbitration board shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the interest arbitration board in any of its proceedings.

(5) An award, proceeding or decision of an interest arbitration board may be questioned or reviewed by way of an application for judicial review in the nature of certiorari or mandamus if the application is filed with the court not later than 30 days after the date of the award, proceeding or decision of the interest arbitration board.

RSA 2000 cP-18 s16;2009 c53 s136

Filing and service of award

17(1) On making an award, the interest arbitration board shall

- (a) file a copy of it with the Minister, and
- (b) serve a copy of it on the parties to the dispute.

(2) An award of an interest arbitration board is binding on

- (a) the bargaining agent and every member of the bargaining unit, and
- (b) the municipality,

and the parties shall forthwith give effect to it.

- (3) The terms of the award shall be included in a collective agreement.
- (4) The Minister may publish an award in any manner the Minister considers fit.

1983 cP-12.05 s17

Incorporation of award

18(1) If either of the parties to the dispute neglects or refuses to participate in the preparation of a collective agreement in accordance with section 17(3), the other party may prepare the agreement giving effect to

- (a) the award of the interest arbitration board, and
- (b) any other matters that are agreed to by the parties,

and shall submit the agreement to the interest arbitration board to certify that the agreement accurately incorporates the award of that interest arbitration board.

(2) When an interest arbitration board receives a collective agreement pursuant to subsection (1) and is satisfied that the collective agreement gives effect to its award, the interest arbitration board shall certify the collective agreement as accurately incorporating its award.

(3) A collective agreement certified under subsection (2) is binding on the persons and organizations referred to in section 17(2).

1983 cP-12.05 s18

Reconvening of interest arbitration board

19(1) If a question arises concerning the award of an interest arbitration board within 30 days from the date on which the award was made, the Minister, at the request of the parties, may direct the chair of the interest arbitration board to reconvene the interest arbitration board for the purpose of deciding the question.

(2) When the interest arbitration board makes its decision under subsection (1), it shall forward a copy of the decision to the Minister and the parties to the dispute, and the decision is binding on the persons and organizations referred to in section 17(2).

1983 cP-12.05 s19

Part 4 Grievance Procedure

Grievance procedure

20 Every collective agreement shall contain a method for the settlement of differences arising

- (a) as to the interpretation, application or operation of a collective agreement,
- (b) with respect to a contravention or alleged contravention of a collective agreement, and
- (c) as to whether a difference referred to in clause (a) or (b) can be the subject of arbitration

between the parties to or persons bound by the collective agreement.

1983 cP-12.05 s20

Model clauses

21 If a collective agreement does not contain the provisions required under section 20, the collective agreement is deemed to contain those of the following provisions in respect of which it is silent:

(a) *If a difference arises between the parties to or persons bound by this collective agreement*

(i) *as to the interpretation, application, operation or contravention or alleged contravention of this agreement, other than a difference concerning a matter to which the Police Act or the regulations under that Act apply,*

(ii) *notwithstanding subclause (i), with respect to the termination of the services of a police officer for reasons other than disciplinary reasons, or*

(iii) *as to whether the difference can be the subject of arbitration,*

the parties agree to meet and endeavour to resolve the difference.

(b) *If the parties are unable to resolve a difference referred to in clause (a), either party may notify the other in writing of its desire to submit the difference to arbitration.*

(c) *The notice referred to in clause (b) shall*

- (i) contain a statement of the difference, and
 - (ii) specify a name or a list of names of the person or persons it is willing to accept as the single arbitrator.
- (d) On receipt of a notice referred to in clause (b), the party receiving the notice
 - (i) if it accepts the person or one of the persons suggested to act as arbitrator shall, within 7 days, notify the other party accordingly, and the difference shall be submitted to the arbitrator, or
 - (ii) if it does not accept any of the persons suggested by the party sending the notice shall, within 7 days, notify the other party accordingly and send the name or a list of names of the person or persons it is willing to accept as the single arbitrator.
- (e) If the party sending the notice referred to in clause (b) accepts the person or one of the persons suggested to act as arbitrator under clause (d)(ii), it shall within 7 days notify the other party accordingly, and the difference shall be submitted to the arbitrator.
- (f) If the parties are unable to agree on a person to act as the single arbitrator, either party may request the Minister in writing to appoint a single arbitrator.
- (g) The arbitrator may, during the arbitration, proceed in the absence of any party or person who, after notice, fails to attend or fails to obtain an adjournment.
- (h) The arbitrator shall inquire into the difference and issue an award in writing, and the award is final and binding on the parties and on every employee affected by it.
- (i) The parties agree to share equally the expenses of the arbitrator.
- (j) The arbitrator shall not alter, amend or change the terms or conditions of the collective agreement.

1983 cP-12.05 s21;1988 cP-12.01 s67

Appointment of single arbitrator

22(1) If the parties to a collective agreement that provides for the appointment of a single arbitrator are unable to agree on a person to act as a single arbitrator within 14 days after the notice requiring that the matter go to arbitration, or any longer period that the

collective agreement may contain for the selection of a single arbitrator, either party may request the Minister in writing to appoint a single arbitrator.

(2) The parties shall share equally the remuneration and expenses of a single arbitrator appointed under subsection (1).

1983 cP-12.05 s22

Appointment to grievance arbitration board

23(1) When a grievance arbitration board or other body is to be appointed or established pursuant to the terms of a collective agreement

- (a) if either party to the collective agreement fails or neglects to appoint a member or members within 7 days after the written notice from the other party of the appointment of the other party's member or members, the Minister shall, on the request of the other party, appoint a person or persons the Minister considers fit for the purpose, and that person or those persons are deemed to be appointed by that party,
- (b) if the appointed members fail to agree on a person to act as a chair within 7 days from the date of the appointment of the last appointed member, the Minister shall appoint a chair on the request of either party, and
- (c) if the chair or any member of the grievance arbitration board refuses to act or is or becomes incapable of acting, a new chair or member may be appointed in the same manner as the original chair or member was appointed.

(2) The remuneration and expenses of the person, persons or chair appointed under subsection (1) shall be paid

- (a) in the case of a member or members appointed under clause (a) or (c) of that subsection, by the party who fails or neglects to appoint the member or members, or
- (b) in the case of the chair appointed under clause (b) or (c) of that subsection, equally by the parties.

(3) When both parties agree, the time within which any of the appointments is to be made may be extended.

1983 cP-12.05 s23

Ineligibility

24 No person shall be appointed as an arbitrator or as a member of an arbitration board or other body who is directly affected by the

difference or has been involved in an attempt to negotiate or settle the difference.

1983 cP-12.05 s24

Speeding up decision

25 When a difference has been submitted to an arbitrator, arbitration board or other body and one of the parties to the difference complains to the Board that the arbitrator, arbitration board or other body has failed to render an award within a reasonable time, the Board may, after consulting with the parties and the arbitrator, arbitration board or other body,

- (a) issue whatever directive it considers necessary in the circumstances to ensure that an award will be rendered in the matter without further undue delay, or
- (b) appoint a new arbitrator, arbitration board or other body to act in the place of the arbitrator, arbitration board or other body complained against.

1983 cP-12.05 s25

Court reference as to application of Police Act

26(1) Where a question arises between the parties over whether a matter is a difference as to the interpretation, application, operation, contravention or alleged violation of the collective agreement or is a matter to which the *Police Act* and the regulations under that Act apply, either party or any arbitrator before whom the matter arises on the arbitrator's own motion may, by application, refer the matter to a judge of the Court of Queen's Bench.

(2) The procedure in a reference shall be as determined by the judge.

(3) The judge on hearing the reference may do all or any of the following:

- (a) make any finding of fact that is necessary;
- (b) quash, vary or confirm any action taken by either party, or by the arbitrator;
- (c) amend or waive any time limit as the judge sees fit;
- (d) refer the matter back to the parties or to the arbitrator for further consideration.

(4) Subject to subsection (3)(c), the judge by the judge's decision shall not alter, amend or change the terms of the collective agreement.

- (5) The decision of the judge is binding on both parties and on all persons affected.
- (6) The judge may make any award as to costs of the reference that the judge considers fit.

RSA 2000 cP-18 s26;2009 c53 s136

Difference when no collective agreement in effect

27 If a difference arises between the municipality and the bargaining agent or a person bound by the collective agreement during the time between the date the collective agreement ceases to be in effect and the date on which a new or renewed collective agreement comes into force, the provisions that were contained in the collective agreement pursuant to sections 20 and 21 apply to the parties and the difference as if the collective agreement had remained in effect.

1983 cP-12.05 s27

Majority decision and award

28(1) A decision of the majority of the members of a grievance arbitration board or other body is the decision of the grievance arbitration board or other body, but if there is no majority, the decision of the chair governs, and the chair's decision is deemed to be the award of the grievance arbitration board or other body.

(2) Every arbitrator, grievance arbitration board or other body shall, immediately on making an award, file a copy of the award with the Director.

(3) The award of an arbitrator, grievance arbitration board or other body shall be served on the parties to the difference by double registered mail or personally, and the arbitrator or the chair of the grievance arbitration board or other body shall, at the request of any of the parties to the difference, make an affidavit or an affirmation that the award has been served.

(4) On receipt of the award of the arbitrator, grievance arbitration board or other body, the Director may publish the award in any manner the Director considers fit.

1983 cP-12.05 s28

Effect of award on collective agreement

29 No arbitrator, grievance arbitration board or other body shall by its award alter, amend or change the terms of a collective agreement.

1983 cP-12.05 s29

Powers of arbitrator

30(1) The arbitrator or the chair of the grievance arbitration board or other body may

- (a) at any reasonable time enter any premises, other than a private dwelling, where work is being done or has been done by police officers or in which a municipality carries on business or an undertaking or where anything is taking place or has taken place concerning any difference submitted to that person or it and inspect and view any work, material, machinery, appliance or article in the premises and question any person under oath in the presence of the parties or their representatives concerning any matter connected with the difference;
- (b) authorize any person to do anything that the arbitrator or chair of the grievance arbitration board or other body may do under clause (a) and to report to the arbitrator or grievance arbitration board on it;
- (c) correct in any award any clerical mistake, error or omission.

(2) An arbitrator, grievance arbitration board or other body

- (a) may accept any oral or written evidence that it, in its discretion, considers proper, whether admissible in a court of law or not, and
- (b) is not bound by the law of evidence applicable to judicial proceedings.

1983 cP-12.05 s30

Attendance of witness and production of evidence

31(1) If, in the opinion of an arbitrator or the chair of a grievance arbitration board or other body,

- (a) the attendance of a person is required, or
- (b) the attendance of a person to produce a document or other thing is necessary,

the arbitrator or the chair of the grievance arbitration board or other body may cause to be served on the person concerned a notice to attend or a notice to attend and produce a document or other thing, as the case may be, signed by the arbitrator or chair.

(2) If a person fails or refuses to comply with

- (a) a notice to attend, or

(b) a notice to attend and produce a document or other thing,

issued under subsection (1), a judge of the Court of Queen's Bench, on application of the arbitrator or the chair of the grievance arbitration board or other body, may issue a bench warrant requiring the attendance of the person or the attendance of the person to produce the document or other thing, as the case may be, before the arbitrator, grievance arbitration board or other body.

1983 cP-12.05 s31

Parties bound by award

32 The award of an arbitrator, grievance arbitration board or other body is binding on the municipality, the members of the bargaining unit and the bargaining agent, and the municipality, members of the bargaining unit and the bargaining agent shall do or abstain from doing anything, as required of them by the award.

1983 cP-12.05 s32

Appeal of award

33(1) Subject to subsection (2), no award or proceeding of an arbitrator, grievance arbitration board or other body shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the arbitrator, grievance arbitration board or other body in any of that person's or its proceedings.

(2) The decision or proceedings of an arbitrator, grievance arbitration board or other body may be questioned or reviewed by way of an application for judicial review in the nature of certiorari or mandamus if the application is filed with the court not later than 30 days after the issuance of the award of the arbitrator, grievance arbitration board or other body.

RSA 2000 cP-18 s33;2009 c53 s136

Enforcement of award

34(1) If any member of a bargaining unit, a bargaining agent or a municipality fails to comply with an award of an arbitrator or grievance arbitration board or other body, any municipality, bargaining agent or police officer affected by the award may, after 30 days from the date on which the award is made, or by the date provided in it for compliance, whichever is the later date, file a copy of the award with the clerk of the Court of Queen's Bench at the judicial centre closest to the place where the cause of the proceedings before the arbitrator or grievance arbitration board or other body arose.

(2) On filing a copy of an award with the clerk of the Court pursuant to subsection (1), the award of an arbitrator, grievance arbitration board or other body has the same force and effect, and all proceedings may be taken on it, as if the award were an order of that Court.

RSA 2000 cP-18 s34;2009 c53 s136

Arbitration Act

35 The *Arbitration Act* does not apply to arbitrations under collective agreements.

1983 cP-12.05 s35

Part 5 Unfair Practices

Prohibited practices

36(1) No municipality and no person acting on behalf of a municipality shall

- (a) participate in or interfere with the formation or administration of a police association, or
- (b) contribute financial or other support to a police association.

(2) A municipality does not contravene subsection (1) by reason only that it

- (a) in respect of a police association for the members of its police force
 - (i) permits a member or representative of a police association to confer with them during working hours or to attend to the business of the police association during working hours without deduction in the computation of time worked by the member and without deduction of wages in respect of the time so occupied,
 - (ii) provides free transportation to representatives of the police association for purposes of collective bargaining, the administration of a collective agreement and related matters, or
 - (iii) permits the police association to use its premises for the purposes of the police association,

or

- (b) makes to a police association donations to be used solely for the welfare of the members of the police force and their dependants.

(3) No municipality and no person acting on behalf of a municipality shall

- (a) impose any condition in a contract of service that restrains, or has the effect of restraining, a police officer from exercising any right conferred on the police officer by this Act;
- (b) deny to any member of a police association any pension rights or benefits to which the member would be entitled except for the dismissal of the employee contrary to this Act;
- (c) seek by intimidation, threat of termination or any other kind of threat, by the imposition of a pecuniary or other penalty or by any other means, to compel a person to refrain from becoming or to cease to be a member, officer or representative of a police association;
- (d) suspend, discharge or impose any financial or other penalty on a member of a police association or take any other disciplinary action against such a person, by reason of that person's having refused to perform an act prohibited by this Act;
- (e) discriminate against a person in regard to service or conditions of service or intimidate, refuse to employ, dismiss or threaten to dismiss or in any other manner coerce a person or impose a pecuniary or other penalty on a person, because the person
 - (i) is a member of a police association,
 - (ii) has been expelled or suspended from membership in a police association,
 - (iii) has testified or otherwise participated or may testify or otherwise participate in a proceeding authorized or permitted under a collective agreement or in a proceeding under this Act,
 - (iv) has made or is about to make a disclosure that the person may be required to make in a proceeding authorized or permitted under a collective agreement or in a proceeding under this Act,

- (v) has made an application or filed a complaint under this Act, or
- (vi) has exercised any right under this Act.

1983 cP-12.05 s36

Prohibited practices

37 No police association and no person acting on behalf of a police association shall

- (a) require a municipality to terminate the service of a member of the police association because the member has been expelled or suspended from membership in the police association;
- (b) expel or suspend a person from membership in the police association or deny membership in the police association to a person by applying to the person in a discriminatory manner the membership rules of the police association;
- (c) take disciplinary action against or impose any form of penalty on a person by applying to the person in a discriminatory manner the standards of discipline of the police association;
- (d) deny a member or former member of the bargaining unit the right to be fairly represented by the police association with respect to the member's or former member's rights under the collective agreement;
- (e) expel or suspend a person from membership in the police association or take disciplinary action against or impose any form of penalty on a person by reason of the person having refused to perform an act that is contrary to this Act;
- (f) discriminate against a person in regard to service or membership in a police association or intimidate or coerce a person or impose a pecuniary or other penalty on a person, because the person
 - (i) has testified or otherwise participated or may testify or otherwise participate in a proceeding authorized or permitted under a collective agreement or in a proceeding under this Act,
 - (ii) has made or is about to make a disclosure that the person may be required to make in a proceeding authorized or permitted under a collective agreement or a proceeding under this Act, or

- (iii) has made an application or filed a complaint under this Act.

1983 cP-12.05 s37

Complaint of unfair practice

38(1) Any municipality, member of a bargaining unit, bargaining agent or other person may make a complaint in writing to the Board that there has been or is a failure to comply with any provision of this Act that is specified in the complaint.

(2) The Board has no jurisdiction to hear a complaint made pursuant to section 37(b) or (c) unless the complainant establishes to the satisfaction of the Board that

- (a) the complainant presented an appeal to the police association in accordance with the appeal procedure established by the police association, and
- (b) the police association failed to deal with the matter within 6 months of the date the complainant made that appeal.

(3) Subsection (2) does not apply when the Board is satisfied that

- (a) the action or circumstance giving rise to the complaint is such that the complaint should be dealt with without delay, or
- (b) the police association has not given the complainant ready access to a reasonable appeal procedure.

1983 cP-12.05 s38

Inquiry into complaint

39(1) When a complaint is made to the Board under section 38, the Board or a person designated by the Board may cause to be served a notice of the complaint on the person against whom the complaint is made.

(2) When a complaint is made, the Board or a person designated by the Board may appoint an officer to inquire into the complaint and endeavour to effect a settlement.

(3) When the Board or a person designated by the Board does not appoint an officer under subsection (2) or when the appointed officer is unable to effect a settlement within a period that the Board or the person designated by the Board considers to be reasonable in the circumstances, the Board may inquire into the complaint.

(4) The Board may refuse to inquire into any complaint in respect of a matter that, in the opinion of the Board, could be referred by the complainant to an arbitrator, grievance arbitration board or other body pursuant to a collective agreement or to any other body pursuant to this Act or the *Police Act*.

(5) When the Board is satisfied after an inquiry that a municipality, police association, police officer or other person has failed to comply with any provision of this Act that is specified in a complaint, the Board may issue a directive to rectify the act in respect of which the complaint is made and, without restricting the generality of the foregoing,

- (a) may issue a directive or interim directive to the municipality, police association, police officer or other person concerned to cease doing the act in respect of which the complaint was made,
- (b) may issue a directive to require the municipality, police association, police officer or other person
 - (i) to reinstate any police officer suspended or discharged contrary to this Act;
 - (ii) to pay to any police officer or former police officer suspended or discharged contrary to this Act compensation not exceeding the sum that, in the opinion of the Board, would have been paid by the municipality to the police officer, together with a sum not exceeding the amount of interest paid by the police officer on money borrowed to support the police officer and the police officer's family during the time the police officer was so suspended or discharged;
 - (iii) to reinstate or admit a person as a member of a police association;
 - (iv) to rescind any disciplinary action or pecuniary or other penalty taken or imposed contrary to this Act;
 - (v) to pay to a person compensation not exceeding a sum that, in the opinion of the Board, is equivalent to the pecuniary or other penalty imposed on a person contrary to this Act;
 - (vi) to pay to a police officer in respect of a failure to comply with section 36 compensation not exceeding a sum that, in the opinion of the Board, is equivalent to the remuneration that would have been paid to the

police officer by the municipality if the municipality had complied with that section.

(6) When the Board is satisfied after an inquiry that a municipality, police association or authorized representative of either of them is failing or has failed to comply with section 5(3), the Board

- (a) shall issue a directive directing the municipality, police association or authorized representative concerned to bargain in good faith and make every reasonable effort to enter into a collective agreement, and
- (b) may prescribe the procedure or conditions under which collective bargaining is to take place.

(7) If any directive or interim directive made by the Board pursuant to subsection (5) or (6) is not complied with, the Board may, on the request of a person affected by the directive or interim directive, file a copy of the directive or interim directive with the clerk of the Court of Queen's Bench at the judicial centre closest to the place where the complaint arose and, on being filed, the directive or interim directive is enforceable as a judgment or order of the Court.

(8) A directive or interim directive under subsection (5)(a) to cease a strike or lockout is binding on the police association, police officer, municipality or other person to whom it is directed with respect to the strike or lockout referred to in the directive or interim directive and any future strike or lockout that occurs for the same or a substantially similar reason.

(9) Nothing in this section or in section 44 excludes the jurisdiction of the Court with respect to strikes or lockouts that are not permitted by this Act.

(10) If in the opinion of the Board the complaint is without merit, the Board may reject the complaint at any time.

(11) Nothing in this section detracts from or interferes with the right of a police commission or police chief to suspend, transfer, lay off or discharge police officers for proper and sufficient cause.

RSA 2000 cP-18 s39;2009 c53 s136

Part 6 General

Settlement of differences

40(1) When a difference exists concerning the application or operation of this Act, any party to the difference may refer the difference to the Board.

(2) When a difference is referred to the Board pursuant to subsection (1), the Board or a person designated by the Board may appoint an officer to inquire into the difference and endeavour to effect a settlement.

(3) When the Board or a person designated by the Board does not appoint an officer under subsection (2) or when the appointed officer is unable to effect a settlement within a period that the Board or the person designated by the Board considers to be reasonable in the circumstances, the Board may inquire into the difference.

(4) After conducting an inquiry under subsection (3), the Board may decide the difference and issue any directives it considers appropriate to ensure compliance with and enforcement of this Act.

1983 cP-12.05 s40

Service of documents

41(1) Except when this Act otherwise provides, if anything is required or permitted to be served under this Act, it is deemed to be properly served if it is served

- (a) in the case of an individual,
 - (i) personally or by leaving it for the individual at the individual's last or most usual place of abode with some person who is apparently at least 18 years old, or
 - (ii) by mailing it to the individual by registered or certified mail at the individual's last known post office address;
- (b) in the case of a municipality,
 - (i) personally on the chief administrative officer or a designated officer or by leaving it for that officer at the municipal office with some person who is apparently an officer, employee or agent of the municipality and apparently at least 18 years old, or
 - (ii) by sending it by registered or certified mail to the chief administrative officer or a designated officer at the address of the municipal office;
- (c) in the case of a police association,
 - (i) personally on the president, secretary or an officer of the police association or by leaving it at that person's

address with some person who is apparently at least 18 years old, or

- (ii) by sending it by registered or certified mail to the address of the president, secretary or an officer of the police association.

(2) If it is necessary to prove service of anything for the purposes of this Act,

- (a) if service is effected personally, the actual date on which it is served is the date of service;
- (b) if service is effected by registered mail or certified mail, service of it is deemed to have been made 5 days after the date of mailing;
- (c) if service is effected by leaving it with a person apparently at least 18 years old, service of it is deemed to have been made on the date it was so left.

1983 cP-12.05 s41;1994 cM-26.1 s642(52)

Capacity of police association

42 For the purposes of this Act, a police association is capable of

- (a) prosecuting and being prosecuted, and
- (b) suing and being sued.

1983 cP-12.05 s42

Powers of Board

43(1) All the provisions of the *Labour Relations Code* relating to the powers and jurisdiction of the Board, its chair, vice-chairs, members and officers, hearings procedure, enforcement of orders, appeals and rights, privileges and immunities of the Board, if those matters are not provided for specifically in this Act, apply and have effect as if this Act formed part of the *Labour Relations Code*.

(2) In addition to its powers under the *Labour Relations Code*, the Board may decide for the purposes of this Act whether

- (a) a body is a municipality;
- (b) an organization is a police association;
- (c) a person is a police officer;
- (d) a collective agreement has been entered into;

- (e) a person, bargaining agent or municipality is bound by a collective agreement;
- (f) a municipality or a police association is a party to a collective agreement;
- (g) a collective agreement has been entered into on behalf of any person;
- (h) a collective agreement is in effect;
- (i) the parties to a dispute have settled the terms to be included in a collective agreement;
- (j) a police association represents a majority of persons in a bargaining unit;
- (k) a person is a member in good standing of a police association;
- (l) a person is included in or excluded from a bargaining unit,

and the Board's decision is final and binding.

1983 cP-12.05 s43;1988 cL-1.2 s207

Jurisdiction of Board

44(1) The Board has exclusive jurisdiction to exercise the powers conferred on it by or under this Act and to determine all questions of fact or law that arise in any matter before it, and the action or decision of the Board on them is final and conclusive for all purposes, but the Board may, at any time, reconsider any decision, order, directive, declaration or ruling made by it and vary, revoke or affirm the decision, order, directive, declaration or ruling.

(2) Subject to subsection (3), no decision, order, directive, declaration, ruling or proceeding of the Board shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the Board or any of its proceedings.

(3) A decision, order, directive, declaration, ruling or proceeding of the Board may be questioned or reviewed by way of an application for judicial review in the nature of certiorari or mandamus if the application is filed with the court and served on the Board not later than 30 days after the date of the Board's decision, order, directive, declaration or ruling or reasons in respect of it, whichever is later.

RSA 2000 cP-18 s44;2009 c53 s136

Prevalence of Act

45 Subject to section 60 of the *Police Act*, if a conflict arises between this Act and

- (a) any other Act, or
- (b) any bylaw or regulation of a municipality,

this Act applies.

1983 cP-12.05 s45;1988 cP-12.01 s67

Offence and penalty

46 Any person, municipality or police association that contravenes

- (a) this Act, or
- (b) the regulations

is guilty of an offence and liable to a fine of not more than \$1000 and in default of payment to imprisonment for a term not exceeding 90 days.

1983 cP-12.05 s46



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