



Province of Alberta

POLICE ACT

POLICE SERVICE REGULATION

Alberta Regulation 356/1990

With amendments up to and including Alberta Regulation 114/2014

Office Consolidation

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(Consolidated up to 114/2014)

ALBERTA REGULATION 356/90

Police Act

POLICE SERVICE REGULATION

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Definitions

1 In this Regulation,

- (a) “Act” means the *Police Act*;
- (b) “cited officer” means a police officer charged with contravening section 5;
- (b.1) “person in charge of the investigation” means the officer in charge of an investigating police service under section 46.1(2) of the Act or the head of an integrated investigative unit under section 46.2 of the Act, as the case may be;
- (c) “police officer standards of competency” means, with respect to the carrying out of the duties of a police officer, those basic standards of skill and knowledge referred to in section 3(1);
- (d) “presenting officer” means a police officer or lawyer referred to in section 14;
- (e) “presiding officer” means a person referred to in section 13 conducting a hearing under Part 5 of the Act;
- (f) “record” includes
 - (i) any book, record, document, account, statement, report, return or other memorandum of information whether in writing or in electronic form or represented or reproduced by any other means, and
 - (ii) the results of the recording of details of electronic data processing systems and programs to illustrate what the systems and programs do and how they operate;
- (g) “senior officer” means a police officer who
 - (i) holds a rank of not less than inspector, or

- (ii) is designated by the chief of police as a senior officer for the purposes of this Regulation.

AR 356/90 s1;136/2008;44/2011

Applicability

2 For the purposes of Part 5 of the Act, this Regulation governs the discipline and performance of duty of police officers.

AR 356/90 s2

Competency

3(1) In order for a person to be appointed as a police officer under section 36 of the Act, the person must, with respect to the carrying out of the duties of a police officer, meet those basic standards of skill and knowledge that are acceptable to the Minister of Justice and Solicitor General.

(2) to (4) Repealed AR 22/2014 s2.

AR 356/90 s3;170/2012;22/2014

Probationary periods

4(1) A person who

- (a) is appointed as a police officer shall, subject to clause (c), serve as a police officer for a probationary period of 18 months before his employment as a police officer is confirmed,
- (b) is a police officer in a police service and is promoted to a higher rank within the police service shall, subject to clause (c), serve in that higher rank for a probationary period of 6 months before his employment in that rank is confirmed, or
- (c) is appointed as or promoted to chief of police shall serve as the chief of police for a probationary period of 12 months before his employment as chief of police is confirmed.

(2) During the time that a police officer, other than the chief of police, is serving a probationary period, the police officer must be provided with periodic reviews of his performance by the chief of police.

(3) Notwithstanding subsection (1), where a person is appointed as a police officer other than as chief of police, the chief of police may, at any time prior to the expiration of that police officer's probationary period,

- (a) cancel the probationary period and confirm the employment of the police officer, or
- (b) recommend to the commission that the commission terminate the services of the police officer under section 37(2) of the Act.

(4) Where the chief of police under subsection (3)(b) recommends that the services of a police officer should be terminated, the chief of police shall

- (a) inform the police officer in writing of the reasons for making the recommendation, and
- (b) give the police officer an opportunity to respond to the recommendation.

(5) Notwithstanding subsection (1), where a police officer is promoted to a position of higher rank, the chief of police may at any time prior to the expiration of the police officer's probationary period

- (a) cancel the probationary period and confirm the promotion of the police officer, or
- (b) upon
 - (i) informing the police officer in writing of the reasons for doing so, and
 - (ii) giving the police officer an opportunity to respond, return the police officer to his former rank or position.

(6) Notwithstanding subsection (1), where a person is appointed to or promoted to the position of chief of police, the commission may at any time prior to the expiration of the police officer's probationary period

- (a) cancel the probationary period and confirm the employment as or the promotion to the position of the chief of police,
- (b) in the case of a police officer within the police service who was promoted to the position of chief of police,
 - (i) return the police officer to his former rank or position, or
 - (ii) terminate the services of the police officer under section 37(2) of the Act,

or

- (c) in the case of a person who was appointed to the position of chief of police, terminate the services of that person under section 37(2) of the Act.

(7) Notwithstanding subsection (1)(a) and (b), where,

- (a) due to the unanticipated absences of a police officer who is on probation, or
- (b) because a police officer who is on probation is the subject of an ongoing disciplinary hearing or criminal investigation,

the chief of police has been unable during the probationary period to assess the progress of the police officer, the chief of police may request the police commission to extend the probationary period for up to 6 months, and the commission may in its discretion grant the extension.

(8) The police commission may, at the request of the chief of police and for the reasons set out in subsection (7)(a) and (b), extend the probationary period for further periods of up to 6 months each to allow the chief of police to assess the progress of the police officer who is on probation.

AR 356/90 s4;136/2008

Misconduct of a police officer

5(1) A police officer shall not engage in any action that constitutes one or more of the following:

- (a) breach of confidence;
- (b) consumption or use of liquor or drugs in a manner that is prejudicial to duty;
- (c) corrupt practice;
- (d) deceit;
- (e) discreditable conduct;
- (f) improper use of firearms;
- (g) insubordination;
- (h) neglect of duty;
- (i) unlawful or unnecessary exercise of authority.

- (2) For the purposes of subsection (1),
- (a) “breach of confidence” consists of one or more of the following:
- (i) divulging any matter that it is his duty to keep in confidence;
 - (ii) giving notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of the warrant or service of the summons;
 - (iii) without proper authorization from a superior police officer or in contravention of any rules of the police service of which he is a member, communicating to the news media or to any unauthorized person any matter connected with the police service;
 - (iv) without proper authorization from a superior police officer showing to
 - (A) any person who is not a member of the police service, or
 - (B) any unauthorized member of the police service, any record that is the property of or in the custody of the police service;
 - (v) signing or circulating a petition or statement in respect of a matter concerning the police service, except through the proper official channel or correspondence or established grievance procedure;
- (b) “consumption or use of liquor or drugs in a manner that is prejudicial to duty” consists of one or more of the following:
- (i) consuming liquor while on duty unless otherwise authorized to do so by a superior police officer;
 - (ii) consuming or otherwise using drugs that are prohibited by law from being in his possession;
 - (iii) reporting for duty, being on duty or standing by for duty while unfit to do so by reason of the use of alcohol or a drug;
 - (iv) demanding, persuading or attempting to persuade another person to give, purchase or obtain any liquor for a police officer who is on duty;

- (c) “corrupt practice” consists of one or more of the following:
- (i) failing to account for or to make a prompt and true return of money or property that the police officer received in his capacity as a police officer;
 - (ii) directly or indirectly soliciting or receiving a payment, gift, pass, subscription, testimonial or favour without the consent of the chief of police;
 - (iii) placing himself under a financial, contractual or other obligation to a person in respect of whom the police officer could reasonably expect he may be required to report or give evidence;
 - (iv) without adequate reason, using his position as a police officer for his personal or another person’s advantage;
- (d) “deceit” consists of one or more of the following:
- (i) wilfully or negligently making or signing a false, misleading or inaccurate statement or entry in an official document or record;
 - (ii) wilfully or negligently making or signing a false, misleading or inaccurate statement pertaining to the police officer’s official duties;
 - (iii) without a lawful excuse,
 - (A) destroying, mutilating or concealing an official document or record, or
 - (B) altering or erasing an entry in an official document or record;
- (e) “discreditable conduct” consists of one or more of the following:
- (i) contravening
 - (A) an Act of the Parliament of Canada,
 - (B) an Act of the Legislature of Alberta, or
 - (C) any regulation made under an Act of either the Parliament of Canada or the Legislature of Alberta,

- where the contravention is of such a character that it would be prejudicial to discipline or likely to bring discredit on the reputation of the police service;
- (ii) using oppressive or tyrannical conduct towards a subordinate;
 - (iii) using profane, abusive or insulting language to any member of a police service or to any member of the general public;
 - (iv) wilfully or negligently making a false complaint or statement against any member of a police service;
 - (v) withholding or suppressing a complaint against or a report made in respect of a peace officer or a police service;
 - (vi) abetting in or knowingly being an accessory to a contravention of this section by another peace officer;
 - (vii) differentially applying the law or exercising authority on the basis of race, colour, religion, sex, physical disability, mental disability, marital status, age, ancestry or place of origin;
 - (viii) doing anything prejudicial to discipline or likely to bring discredit on the reputation of the police service;
- (f) “improper use of firearms” consists of one or more of the following:
- (i) when on duty, having in his possession any firearm other than one that is issued to the police officer by the police service;
 - (ii) when on duty, other than when on a firearm training exercise, discharging a firearm, whether intentionally or by accident, and not reporting the discharge of the firearm as soon as practicable to his superior officer;
 - (iii) failing to exercise sound judgment and restraint in respect of the use and care of a firearm;
- (g) “insubordination” consists of one or both of the following:
- (i) being insubordinate to a superior police officer by word or action;
 - (ii) omitting or neglecting, without adequate reason, to carry out a lawful order, directive, rule or policy of

the commission, the chief of police or other person who has the authority to issue or make that order, directive, rule or policy;

- (h) “neglect of duty” consists of one or more of the following:
- (i) neglecting, without a lawful excuse, to promptly and diligently perform his duties as a police officer;
 - (ii) failing to work in accordance with orders or leaving an area, detail or other place of duty without due permission or sufficient cause;
 - (iii) permitting a prisoner to escape on account of the police officer being careless or negligent;
 - (iv) failing, when knowing where an offender is to be found, to report him or to make reasonable efforts to bring him to justice;
 - (v) failing to report a matter that it is his duty to report;
 - (vi) failing to report anything that he knows concerning a criminal or other charge;
 - (vii) failing to disclose any evidence that he, or any other person to his knowledge, can give for or against any prisoner or defendant;
- (i) “unlawful or unnecessary exercise of authority” consists of one or both of the following:
- (i) exercising his authority as a police officer when it is unlawful or unnecessary to do so;
 - (ii) applying inappropriate force in circumstances in which force is used.

AR 356/90 s5

Counselling

6(1) Where a supervisor or a superior officer is of the opinion that an action of a police officer is not of a sufficient nature so as to require the action to be dealt with in accordance with section 45 of the Act, the supervisor or officer of superior rank may nevertheless counsel the police officer, orally or in writing, with respect to the performance of duty of and the action taken by the police officer.

(2) A written record of any counselling carried out under this section may be kept on the police officer’s personnel file but may not be introduced as evidence in any proceeding under the Act.

(3) Nothing in this section shall be construed so as to prohibit the information maintained in any records kept under this section from being used for the purposes of making reviews of performance under section 4(2).

AR 356/90 s6

Time limits

7(1) A police officer shall not be charged with contravening section 5 at any time after 6 months from the day that a complaint is made in accordance with section 43 of the Act.

(2) Subject to section 47(2) and (3) of the Act, where a hearing is to be held under the Act, the hearing shall be commenced no later than 3 months from the day that a police officer is charged with contravening section 5.

(3) Where a hearing is commenced under the Act it shall, subject to section 47(1)(i) of the Act, be completed within a reasonable time and without undue delay.

(4) Notwithstanding that time limits are prescribed under this section, the commission may, if it is of the opinion that circumstances warrant it, extend any one or more of those time limits.

(5) The time limits set out in subsections (1) and (2) do not apply in respect of a matter where the Law Enforcement Review Board has ordered under section 20(2) of the Act that a hearing or rehearing of the matter be conducted.

AR 356/90 s7;136/2008;44/2011

Relief from duty

8(1) The chief of police may relieve from duty any police officer whom the chief of police, on reasonable grounds, suspects has contravened section 5.

(2) A senior officer may exercise the power of the chief of police to relieve a police officer from duty under subsection (1) where the senior officer exercising that power is senior in rank to the police officer being relieved from duty.

(3) The exercise of the power to relieve a police officer from duty under subsection (2) must be confirmed by the chief of police or his designate within 48 hours from the time of the exercise of that power if the police officer relieved from duty is to remain relieved from duty beyond that 48-hour period.

- (4) Every police officer relieved from duty shall, at the time of being relieved from duty, be informed of the reasons for his being relieved from duty.
- (5) Where a police officer is relieved from duty and he is informed orally of the reasons for his being relieved from duty, the person who relieved the police officer from duty shall, within 24 hours from the time the police officer is relieved from duty, provide to that police officer written reasons for his being relieved from duty.
- (6) If, within 7 days from the day that a police officer is relieved from duty, the police officer is not charged with a contravention of section 5, the police officer shall be returned to duty.
- (7) Notwithstanding subsection (6), the chief of police may, for cause, extend the period of time that a police officer is relieved from duty.
- (8) While relieved from duty, the police officer shall not
- (a) exercise any power or authority vested in him as a police officer, or
 - (b) wear or use any article of uniform or equipment issued to him by the police service.
- (9) A police officer who has been relieved from duty pursuant to this section shall be returned to duty
- (a) on completion of any investigation, where the chief of police is satisfied that no further disciplinary action is required to be taken under the Act against the police officer, or
 - (b) on the disposition of any charge, unless that disposition results in suspension, resignation or dismissal of the police officer.
- (10) Where the chief of police is of the opinion that exceptional circumstances exist respecting the alleged contravention of section 5 by a police officer, the chief of police may relieve the police officer from duty without pay.
- (11) If the chief of police relieves a police officer from duty without pay, the chief of police must have that direction confirmed by the commission within 30 days from the day that the police officer is relieved from duty without pay.
- (12) Where a police officer is relieved from duty without pay and
- (a) the commission does not confirm that the police officer be relieved from duty without pay, or

- (b) the police officer is not charged with a contravention of section 5,

all pay and benefits withheld from the police officer shall forthwith be returned to him.

(13) Where a police officer is relieved from duty for a 30-day period, the chief of police shall, at the conclusion of the 30-day period and at the conclusion of any subsequent 30-day periods, report to the commission as to the status of the matter.

AR 356/90 s8

Relief from duty re criminal matters, etc.

9 Where a police officer is relieved from duty on the basis of being charged with or convicted for a contravention of an Act of the Legislature of Alberta or the Parliament of Canada and,

- (a) in respect of the charge,
 - (i) the charge is not proceeded with, or
 - (ii) the police officer is not found guilty of the charge or of an included offence,

or

- (b) in respect of the conviction that is appealed, the police officer is found not guilty of the charge or of an included offence,

the police officer shall

- (c) immediately be reinstated to duty, and
- (d) be entitled to receive all pay, benefits and other rights and privileges to which he would have been entitled if he had not been relieved from duty or suspended.

AR 356/90 s9

Statements

10(1) Where an investigation is carried out in respect of a complaint as to the actions of a police officer, the police officer shall be advised as to the details of the complaint and be provided with a copy of all statements made by the complainant.

(2) A police officer in respect of whom an investigation is being carried out may, on a voluntary basis, provide the investigator with an explanatory report in the police officer's own words setting out his version of the subject-matter of the complaint.

(3) Where

- (a) a police officer in respect of whom an investigation is being carried out is directed by the investigator to provide an explanatory report referred to in subsection (2) setting out the police officer's version of the subject-matter of the complaint, and
- (b) pursuant to that direction the police officer provides an explanatory report,

that explanatory report shall be regarded as an involuntary statement and shall not be admissible in evidence in any proceedings carried out under the Act, except to prove that the statement is false.

(4) Where

- (a) a police officer who might reasonably have knowledge of matters pertaining to a complaint or report is directed by the investigator to provide an explanatory report referred to in subsection (2) setting out his knowledge of any matters pertaining to the matter under investigation, and
- (b) pursuant to that direction the police officer provides an explanatory report,

that explanatory report shall be regarded as an involuntary statement and shall not be admissible in evidence in any proceedings carried out under the Act against him, except to prove that the statement is false.

(5) A police officer who is directed by an investigator under subsection (3)(a) or (4)(a) to provide an explanatory report shall do so within 14 days of being notified of the direction.

(6) A statement made under subsection (3) or (4) may be used by the chief of police for the purposes of section 45(3) or (4) of the Act and by the chief of police or the police officer in charge of the investigating police service for the purposes of section 46.1(4) of the Act.

AR 356/90 s10;136/2008

Interview

10.1(1) The chief of police, when investigating under section 45 of the Act a complaint as to the actions of a police officer, may direct the police officer whose actions may have resulted in the complaint to attend at an interview and answer questions.

- (2) Subject to subsection (3), a police officer directed under subsection (1) to attend at an interview shall do so
- (a) immediately, or
 - (b) where there are appropriate grounds for the delay, no later than 24 hours after the request was made.
- (3) The chief of police may request that an interview take place at a later time than that set out in subsection (2)(b).
- (4) Where practicable, the interview shall be recorded by audio recording or video recording.
- (5) A police officer directed under subsection (1) to attend at an interview shall be provided with a copy of any recording of the interview made pursuant to subsection (4).

AR 136/2008 s6;44/2011;22/2014

Investigations by another police service or an integrated investigative unit

10.2 Where the Minister under section 46.1(2) of the Act has requested or directed another police service, or the head of an integrated investigative unit, to conduct an investigation into a serious incident or complaint, the chief of police shall ensure that, pending the other police service or integrated investigative unit taking charge of the scene of the serious incident or complaint, the scene is secured by the police service in a manner consistent with the policies and usual practice of the police service for serious incidents and complaints.

AR 136/2008 s6

Segregation of police officers

10.3(1) Where the Minister under section 46.1(2) of the Act has requested or directed another police service, or the head of an integrated investigative unit, to conduct an investigation into a serious incident or complaint, the chief of police shall, to the extent that is practicable, segregate all the police officers involved in the incident or complaint from each other until the investigating police service or the integrated investigative unit has finished interviewing all the officers involved.

(2) A police officer referred to in subsection (1) shall not communicate with any other police officer who was involved in the incident or complaint concerning the details of the incident or complaint until after the investigating police service or the integrated investigative unit has finished interviewing all the officers involved.

AR 136/2008 s6

Police officer's notes

10.4(1) In this section and sections 10.5 and 10.6,

- (a) “subject officer” means a police officer who is the subject of a complaint or whose actions may have resulted in a serious or sensitive incident;
- (b) “witness officer” means a police officer who is a witness to or has material information relating to the events complained of or to the serious or sensitive incident.

(2) A witness officer shall complete in full the officer's notes in respect of the serious incident or the actions complained of in accordance with the procedures of the police service and, subject to subsection (5) and section 10, shall provide the notes to the chief of police within 24 hours after a request for the notes is made by the investigating police service or the integrated investigative unit to the chief of police.

(3) Subject to subsection (5) and section 10, the chief of police shall provide copies of a witness officer's notes to the investigating police service or the integrated investigative unit on request and no later than 24 hours after the request was made.

(4) The person in charge of the investigation referred to in section 10.2 may extend the time within which copies of a witness officer's notes must be provided to the investigating police service or the integrated investigative unit by the chief of police.

(5) A subject officer shall complete in full the officer's notes in respect of the incident or the actions complained of.

(6) A subject officer is not required to provide the officer's notes to the investigating police service or the integrated investigative unit, and no other person may provide the officer's notes to the investigating police service or the integrated investigative unit without the express permission of the subject officer.

AR 136/2008 s6

Interview

10.5(1) The person in charge of the investigation referred to in section 10.2, or a person acting under the authority of that person, may direct that a witness officer attend at an interview and answer questions.

(2) Subject to subsection (3), a police officer directed under subsection (1) to attend at an interview shall do so

- (a) immediately, or

- (b) where there are appropriate grounds for the delay, no later than 24 hours after the request was made.
- (3) The person in charge of the investigation, or a person acting under the authority of that person, may request that an interview take place at a later time than that set out in subsection (2)(b).
- (4) Where practicable, the interview shall be recorded by audio recording or video recording.
- (5) A police officer directed under subsection (1) to attend at an interview shall be provided with a copy of any recording of the interview made pursuant to subsection (4).

AR 136/2008 s6;44/2011;22/2014

Status of police officer

10.6(1) The person in charge of the investigation referred to in section 10.2 shall,

- (a) before directing an interview with a police officer under section 10.5 or requesting copies of the police officer's notes under section 10.4,
 - (i) determine whether the police officer is a subject officer or a witness officer, and
 - (ii) advise the police officer in writing concerning the determination whether the police officer is a subject officer or a witness officer,

and

- (b) as soon as practicable, advise the chief of police in writing concerning the determination whether the police officer is a subject officer or a witness officer.

(2) The person in charge of the investigation shall advise the chief of police and the police officer in writing if, at any time after advising the chief of police and the officer under subsection (1) of the officer's status, the officer in charge decides that an officer formerly considered to be a subject officer is now considered to be a witness officer or an officer formerly considered to be a witness officer is now considered to be a subject officer.

(3) If, after interviewing a police officer who was considered to be a witness officer when the interview was requested or after obtaining a copy of the notes of a police officer who was considered to be a witness officer when the notes were requested, the person in charge of the investigation decides that the police officer is a subject officer, the person in charge shall

- (a) advise the chief of police and the officer in writing that the officer is now considered to be a subject officer,
- (b) give the police officer the original and all copies of the record of the interview, if any, and
- (c) give the chief of police the original and all copies of the police officer's notes.

AR 136/2008 s6;22/2014;114/2014

Charging of police officer

11(1) Where a police officer is to be charged with contravening section 5, the charge shall be in writing and shall

- (a) identify the specific offence under section 5 that the police officer is charged with, and
- (b) state the date, time and place that the police officer is to appear before a hearing into the offence.

(2) A charge prepared in accordance with subsection (1) may be in the form set out in the Schedule.

(3) A charge prepared under this section shall have attached to it

- (a) a statement setting out the particulars of the actions of the police officer that constitute the contravention of section 5, and
- (b) a list of witnesses and a statement of the evidence to be introduced as evidence in the hearing.

(4) A copy of the charge and attachments shall be served on the cited officer at least 10 days before the commencement of the hearing.

AR 356/90 s11

New evidence

12 Notwithstanding section 11(3)(b) of this Regulation and subject to section 47(1)(e) and (f) of the Act, where evidence is obtained after service on the cited officer of the statement of evidence, that evidence may be introduced in the hearing if the presiding officer is satisfied that

- (a) the evidence was not available at the time of service on the cited officer of the statement of evidence, and
- (b) the cited officer was given notice of the new evidence as soon as practicable.

AR 356/90 s12

Presiding officer

13(1) Any of the following persons may serve as the presiding officer at a hearing:

- (a) subject to subsection (1.1), a currently serving or former police officer;
- (b) a former member of the judiciary, including judges of the Court of Queen's Bench and the Provincial Court.

(1.1) A police officer serving as a presiding officer pursuant to subsection (1)(a) must be senior in rank to the cited officer.

(2) A person who meets the requirements of subsection (1) but who has direct knowledge of the investigation of the complaint is not eligible to be appointed to preside at a hearing arising from that investigation.

AR 356/90 s13;44/2011

Presenting officer

14 Where a hearing is to be held under section 45(3) of the Act, the chief of police may appoint a police officer or engage a lawyer to present the case and the evidence against the cited officer.

AR 356/90 s14

Procuring witnesses

15 The presenting officer and the cited officer shall provide the presiding officer with the names of witnesses they intend to call to give evidence at the hearing and the presiding officer shall summon those witnesses to attend the hearing.

AR 356/90 s15

Holding of hearing

16(1) Where a hearing or a portion of a hearing is to be conducted under Part 5 of the Act,

- (a) in the case of a complaint referred to in section 45 of the Act, the chief of police shall direct that the hearing or a portion of it be conducted in public or private whichever he determines to be in the public interest, and
- (b) in the case of a complaint referred to in section 46 of the Act, the person who is to preside over the hearing shall direct that the hearing or a portion of it be conducted in public or private whichever he determines to be in the public interest.

(2) When a hearing is held in private, the hearing may be attended only by those persons involved in the proceedings.

(2.1) Notwithstanding subsection (2), a representative of the commission may attend a hearing or any portion of a hearing that is held in private.

(3) Notwithstanding subsection (2), when a hearing is held in private and a minor is called to testify at a hearing, a parent or representative of the minor may be present when the minor is testifying.

(4) Notwithstanding that a hearing is held in private, the chief of police may authorize a police officer to attend a hearing as an observer for the purpose of becoming familiar with the procedures.

(5) Where a hearing or a portion of a hearing is held in public, the written decision or the portion of it arising from the public hearing shall be made publicly available.

AR 356/90 s16;136/2008;44/2011

Punishment

17(1) Where at a hearing it is determined that a cited officer is guilty of contravening section 5, the presiding officer shall impose on the cited officer one or more of the following punishments:

(a) a reprimand;

(a.1) a course of treatment or participation in a rehabilitation program;

(b) forfeiture of hours of work accumulated through overtime, not to exceed 40 hours;

(c) suspension from duty without pay for a period not to exceed 80 hours of work;

(d) reduction of seniority within a rank;

(e) reduction in rank;

(f) dismissal from the police service.

(2) Where the punishment to be imposed on the cited officer is dismissal, the presiding officer may, if he is of the opinion that the circumstances warrant it, permit the cited officer to resign from the police service within the time specified by the presiding officer instead of being dismissed.

(3) In addition to any penalty applied pursuant to subsection (1)(a) to (f), the cited officer may also be directed to undertake special training or professional counselling.

(4) Notwithstanding subsection (1), where the presiding officer

- (a) is not the chief of police, and
- (b) makes a finding that the cited officer is guilty of a contravention under section 5,

the presiding officer may, before determining the punishment to be imposed on the cited officer, consult with the chief of police with respect to the punishment to be imposed.

AR 356/90 s17;136/2008;44/2011

Application of punishment

18(1) Where the punishment imposed on a cited officer is reduction in rank, the presiding officer shall indicate the numerical position the police officer is to occupy in the seniority roll concerned.

(2) Where a cited officer is to be dismissed or permitted to resign from the police service under section 17,

- (a) that action shall be held in abeyance, and
- (b) the cited officer shall be placed under suspension without pay,

until the period of appeal to the Law Enforcement Review Board has lapsed or until the appeal has been concluded.

AR 356/90 s18;136/2008

Revocation of commission

18.1(1) In this section, “commission” means a commission issued under section 60.1 of the *Police Act* to a senior officer or chief of police.

(2) A chief of police in the case of a senior officer, or a police commission in the case of a chief of police, may recommend to the Minister in writing that a commission previously issued to the senior officer or chief of police should be revoked on any one or all of the following grounds:

- (a) the senior officer or chief of police has been convicted of an offence under the *Criminal Code* (Canada);
- (b) the senior officer or chief of police has been found guilty of serious misconduct referred to in section 19(1.1);

- (c) the senior officer or chief of police is alleged to have committed conduct that would, in the event of a hearing under section 19(1.1), likely result in a finding of guilt; however, the police officer or chief of police retired, resigned or a loss of jurisdiction occurred;
- (d) one of the following has requested that the commission be revoked for any other sufficient reason:
 - (i) the senior officer or chief of police to whom the commission was issued;
 - (ii) a chief of police in the case of a senior officer's commission;
 - (iii) a police commission in the case of a commission issued to a chief of police.

AR 22/2014 s6

Minor contraventions

19(1) Where a matter is disposed of under section 45(4) of the Act without conducting a hearing, the chief of police

- (a) may
 - (i) dismiss the matter,
 - (ii) issue an official warning, or
 - (iii) take any other action that in the opinion of the chief of police is appropriate in the circumstances,
- or
- (b) with the agreement of the cited officer, may
 - (i) issue a reprimand,
 - (ii) order the forfeiture of hours of work accumulated through overtime, not to exceed 40 hours, or
 - (iii) suspend the police officer from duty without pay for a period not to exceed 80 hours of work.

(1.1) For the purpose of determining whether a matter may be disposed of in accordance with subsection (1), the chief of police shall consider the following factors:

- (a) whether the conduct of the cited officer

- (i) may constitute an offence under the *Criminal Code* (Canada),
 - (ii) may constitute a breach of the *Canadian Charter of Rights and Freedoms*, or
 - (iii) consisted of an act of deceit;
- (b) whether the cited officer's behaviour is non-cooperative or obstructive;
- (c) the cited officer's disciplinary record.
- (2) Repealed AR 44/2011 s9.
- (3) Repealed AR 136/2008 s9.

AR 356/90 s19;136/2008;44/2011

Return of back pay, etc.

20 Where a police officer is charged with a contravention of section 5 and

- (a) the charge is withdrawn,
- (b) the police officer is found not guilty of the charge, or
- (c) the police officer is found guilty but on appeal is found not guilty of the charge,

any punishment imposed on the police officer shall be rescinded and any pay, benefits or time forfeited or lost by reason of the suspension shall be returned to the cited officer.

AR 356/90 s20

Record of proceedings

21 Where requested in writing by the cited officer, the chief of police shall provide the cited officer with a copy of the record of proceedings from and any document and reports used in the cited officer's hearing.

AR 356/90 s21;44/2011

Records of discipline

22 When, and only when,

- (a) a period of 5 years has elapsed from the day that punishment is imposed on a police officer for a contravention of section 5, or

- (b) a period of not less than one and not more than 3 years, as specified in writing by the chief of police, in respect of a police officer, or the commission, in respect of the chief, has elapsed from the day that an action is taken in respect of a police officer under section 19(1),

if during that time no other entries concerning a contravention of this Regulation have been made on the police officer's record of discipline, any record of the punishment, the contravention or the action taken shall

- (c) be removed from the police officer's record of discipline and destroyed, and
- (d) not be used or referred to in any future proceedings respecting that police officer.

AR 356/90 s22;136/2008;44/2011

Application to chief of police

23 This Regulation applies to a chief of police in the same manner as it applies to a police officer except that any duty or responsibility that is placed on the chief of police under this Regulation shall be carried out by the commission.

AR 356/90 s23

Factors to be considered by Board

23.1(1) In this section, "Board" means the Law Enforcement Review Board.

(2) The following factors are to be considered by the Board in deciding whether an appeal may be concluded in accordance with section 19.2(1)(b) of the Act:

- (a) whether the record before the chief of police was tainted, flawed or grossly inadequate;
- (b) the complainant's conduct during the investigation, including whether the complainant actively participated in the investigation;
- (c) whether the appeal raises issues of acceptability of police conduct or the integrity of the discipline process.

AR 44/2011 s12

Review of disciplinary matters

24(1) At the request of the commission, the chief of police shall permit the commission or a person appointed by the commission to

monitor complaints to review any document or record relating to a complaint or a disciplinary proceeding arising out of a complaint.

(2) The commission or a person appointed by the commission to monitor complaints may attend any disciplinary proceeding that arises out of a complaint and is conducted under Part 5 of the Act.

AR 356/90 s24;136/2008

Delegation

25 The commission may authorize the chief of police to carry out any duty or function of the commission under this Regulation other than the duties or functions of the commission set out in sections 4(6), 7(4), 8(11), (12) and (13), 23 and 24.

AR 356/90 s25

Transitional

26(1) Sections 17(1) and 22, as amended by sections 8 and 10 of the *Police Service Amendment Regulation*, apply to investigations and disciplinary proceedings in respect of complaints made in accordance with the Act on or after the coming into force of the *Police Service Amendment Regulation*.

(2) Sections 10 and 19(1) and (2), as amended by sections 5 and 9 of the *Police Service Amendment Regulation*, apply to investigations and proceedings under the Act in respect of complaints made in accordance with the Act whether commenced but not concluded before or commenced on or after the coming into force of the *Police Service Amendment Regulation*.

AR 356/90 s26;136/2008

Expiry

26.1 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be re-passed in its present or an amended form following a review, this Regulation expires on January 31, 2021.

AR 53/2003 s1;31/2007;136/2008;22/2014

Repeal

27 The following regulations are repealed:

- (a) *The Municipal Police Disciplinary Regulations* (Alta. Reg. 179/74);
- (b) the *Municipal Police Forces Probationary Regulation* (Alta. Reg. 211/83).

AR 356/90 s27

Schedule

Police Act

Notice and Record of Disciplinary Proceedings

NOTICE

Police Service: _____ Date: _____

To: _____

You are alleged to have contravened the *Police Service Regulation* that governs the discipline and performance of duty of police officers by engaging in:

(quote relevant clause of section 5(1) of the *Police Service Regulation*)

as defined by section 5(2) (insert relevant clause and subclause of section 5(2) of the *Police Service Regulation*).

Details of Allegation:

(insert date, time, place and description of actions that constitute the allegation).

You are required to appear before a disciplinary hearing at (place) on (date) at (time) to answer to this matter.

(signature of chief or designate)

Note: Submit the names of witnesses you wish to call to (presiding officer).

Attachments: List of Witnesses _____
Statements of Complainant _____

Date served on cited officer: _____

(signature of person serving form)

RECORD OF PROCEEDINGS

Date _____ Action/Disposition _____

(insert plea entered, adjournments (with dates), findings, punishment)

(signature of presiding officer)

AR 356/90 Sched.



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