



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

POLICE ACT GENERAL REGULATIONS

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For more information concerning the history of these regulations, please see the ***Table of Regulations*** on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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POLICE ACT
Chapter P-11.1

GENERAL REGULATIONS

Pursuant to section 58 of the *Police Act* R.S.P.E.I. 1988, Cap. P-11.1, Council made the following regulations:

1. Definitions

In these regulations

- (a) “**Act**” means the *Police Act* R.S.P.E.I. 1988, Cap. P-11.1;
- (b) “**approved police training agency**” means a police training agency that is declared by the Minister under section 16 to be an approved police training agency;
- (c) “**police agency**” means
 - (i) a police department,
 - (ii) the Atlantic Police Academy,
 - (iii) revoked by EC691/25,
 - (iv) where an agreement entered into under subsection 8(1) of the Act is in force, the Royal Canadian Mounted Police, and
 - (v) in respect of a chief officer or police officer appointed under section 14.4 of the Act, the Government. (EC141/10; 236/19; 691/25)

NOTICE TO MINISTER

1.1 Notice of intent to establish or contract

- (1) For the purposes of section 9.1 of the Act, a council that intends to apply to the Minister to establish a police department for a municipality or to contract for policing services in the municipality shall, as part of its application, provide the following information in writing to the Minister not less than 24 months prior to the establishment or effective date of the contract, as the case may be:
 - (a) the date on which policing services are to commence;
 - (b) the name of the police service that is being contracted to provide policing services in the municipality, if applicable;
 - (c) a detailed description and operational plan of the policing services that will be provided by the police department to be established by the municipality or the

police service that is being contracted to provide policing services, as the case may be.

Notice of intent to dissolve or terminate

- (2) For the purposes of section 9.2 of the Act, a council that intends to dissolve its police department or terminate a contract for policing services shall provide written notice to the Minister not less than 24 months prior to the dissolution of the police department or termination of the contract, as the case may be. (EC236/19)

ANNUAL REPORTS

2. Annual reports - chief officers

The chief officer of a police department shall include the following documents and information in any annual report that the chief officer submits to the Minister under subsection 10(7) of the Act:

- (a) a copy of every bylaw made, during the preceding calendar year, by the council of the municipality respecting the administration of the police department;
- (b) a copy of the register, as it reads on the expiry of the preceding calendar year, that is required to be kept under subsection 10(6) of the Act, or a copy of any changes made to the register during the preceding calendar year;
- (c) a report stating the number of public complaints received under subsection 21(1) of the Act and the disposition, if any, of these complaints;
- (d) any information pertaining to the police department that the Attorney General is required to make available to the public annually pursuant to subsection 25.3(1), subsection 83.31(1), subsection 195(5) or any other provision of the *Criminal Code* (Canada);
- (e) a report
 - (i) listing and describing the training that was offered to the police officers of the police department during the preceding calendar year,
 - (ii) listing the names of the police officers who took such training;
- (f) a report
 - (i) advising as to the use of force model adopted by the police department during the preceding calendar year,
 - (ii) stating the number of occasions on which a member of the police department has failed to comply with that use of force model during the preceding calendar year, and describing the details of each such occasion, and
 - (iii) advising of any changes in policy or practice that were made during the preceding calendar year by the police department as a result of any failure referred to in subclause (ii);
- (g) an organizational chart of the police department;
- (h) any other information respecting any aspect of the affairs and operations of the police department during the preceding calendar year that the Minister has requested. (EC141/10)

2.1 Annual reports - chief officer under section 14.4

A chief officer appointed under subsection 14.4(2) of the Act shall include the following documents and information in the annual report to be submitted to the Minister:

- (a) a report
 - (i) listing and describing the training that was offered to the police officers during the preceding calendar year, and
 - (ii) listing the names of the police officers who took the training;
- (b) a report
 - (i) identifying the use of force model adopted or used by the chief officer and police officers during the preceding calendar year,
 - (ii) stating the number of occasions on which the chief officer or a police officer failed to comply with the use of force model during the preceding calendar year and setting out the details of each occasion, and
 - (iii) notifying the Minister of any changes in policy or practice that were made during the preceding calendar year as a result of any failure referred to in subclause (ii);
- (c) any other information respecting any aspect of the affairs and operations under the chief officer's authority during the preceding calendar year that the Minister has requested. (EC236/19)

3. Annual reports -Director of the Atlantic Police Academy

The Director of the Atlantic Police Academy shall include the following documents and information in any annual report the Director submits to the Minister under subsection 52(2) of the Act:

- (a) a copy of the register required to be kept under subsection 52(1) of the Act, as it reads on the expiry of the preceding calendar year, or a copy of any changes made to the register during the preceding calendar year;
- (b) a report stating the number of public complaints received under subsection 21(1) of the Act and the disposition, if any, of these complaints;
- (c) a report
 - (i) listing and describing the training that was offered to the instructing officers of the Atlantic Police Academy during the preceding calendar year,
 - (ii) listing the names of the instructing officers who took such training;
- (d) a report
 - (i) advising as to the use of force model adopted by the Atlantic Police Academy during the preceding calendar year,
 - (ii) stating the number of occasions on which an instructing officer has failed to comply with that use of force model during the preceding calendar year, and describing the details of each such occasion, and
 - (iii) advising of any changes in policy or practice that were made during the preceding calendar year by the Atlantic Police Academy as a result of any failure referred to in subclause (ii);
- (e) an organizational chart of the Atlantic Police Academy;
- (f) any other information respecting any aspect of the affairs and operations of the Atlantic Police Academy during the preceding calendar year that the Minister has requested. (EC141/10)

4. Annual Report, Security Services Division of UPEI

Revoked by EC691/25. (EC141/10; 691/25)

IDENTIFICATION CARDS

5. Identification card

- (1) An identification card issued under subsection 10(3) of the Act to a person who is a member of a police department shall include
- (a) the person's full name and date of birth;
 - (b) a statement or wording indicating that the person is a police officer;
 - (c) the person's service number;
 - (d) the name of the police department of which the person is a member;
 - (e) a photograph of the person; and
 - (f) the expiry date of the identification card.

Section 14.4 officers

- (1.1) An identification card issued under subsection 14.4(6) of the Act to a conservation officer who is appointed as a police officer under subsection 14.4(1) of the Act or the Chief Conservation Officer appointed as chief officer under subsection 14.4(2) of the Act shall include
- (a) the person's full name and date of birth;
 - (b) a statement or wording indicating that the person is a police officer;
 - (c) the name of the Department of the Government of Prince Edward Island by which the person is employed;
 - (d) a photograph of the person; and
 - (e) the expiry date of the identification card.

Auxiliary constables

- (2) An identification card issued under subsection 45(6) of the Act for a person who is an auxiliary constable shall include
- (a) the person's full name and date of birth;
 - (b) a statement or wording indicating that the person is an auxiliary constable;
 - (c) the name of the police service the person has been appointed to assist;
 - (d) a photograph of the person; and
 - (e) the expiry date of the identification card.

Security police officers

- (3) Revoked by EC691/25.

Atlantic Police Academy

- (4) An identification card issued under subsection 48(5), 50(6), or 51(6) of the Act for a person who is an instructing officer, a police cadet or a civilian instructor of the Atlantic Police Academy, as the case may be, shall include
- (a) the person's full name and date of birth;
 - (b) a statement or wording indicating that the person is an instructing officer, a police cadet or a civilian instructor of the Atlantic Police Academy, as the case may be;

- (c) the person's service number;
- (d) a photograph of the person; and
- (e) the expiry date of the identification card. (EC141/10; 708/10; 236/19; 691/25)

QUALIFICATIONS AND RESTRICTIONS

6. Commissioner and Deputy Commissioner

A person shall, in order to qualify for appointment under section 16 of the Act as the Police Commissioner and the Deputy Police Commissioner,

- (a) be a lawyer with at least 10 years experience who
 - (i) has knowledge of law enforcement issues, and
 - (ii) has experience participating in hearings; or
- (b) be a former judge of the Provincial Court, Supreme Court or Court of Appeal. (EC141/10)

6.1 Adjudicator

A person shall, in order to qualify for appointment under section 19.1 of the Act as the Adjudicator,

- (a) be a lawyer with at least 10 years of experience who
 - (i) has knowledge of law enforcement issues, and
 - (ii) has experience in adjudicating hearings; or
- (b) be a former judge of the Provincial Court, Supreme Court or Court of Appeal. (EC236/19)

7. Chief officers and deputies of police departments

- (1) A person shall, in order to qualify for an appointment under subsection 9(2) of the Act, in a permanent capacity, as a chief officer or deputy chief officer of a police department,
 - (a) have the qualifications set out in clauses 8(1)(a) to (e) and (f) to (h);
 - (a.1) have the security clearance required by the Minister;
 - (b) have successfully completed the Senior Police Administration Course or the Executive Development Course offered by the Canadian Police College, the Senior Police Management Course offered by the Atlantic Police Academy, or an equivalent police management course offered at an approved police training agency; and
 - (c) have at least five years of policing experience.

Director of Atlantic Police Academy

- (2) A person shall, in order to qualify for an appointment under section 47 of the Act, for appointment as the Director of the Atlantic Police Academy, have the qualifications set out in subsection (1). (EC141/10; 269/21)

8. Police officers

- (1) A person shall, in order to qualify for appointment under section 10 of the Act, in a permanent or temporary capacity, as a police officer of a police department,
 - (a) be at least 19 years of age;

- (b) be a Canadian citizen or have Canadian landed immigrant status;
- (c) have graduated from the police cadet training program at the Atlantic Police Academy or from a similar program at an approved police training agency;
- (d) revoked by EC236/19;
- (e) not have been found guilty of an offence under the *Criminal Code* (Canada) or the *Controlled Drugs and Substances Act* (Canada) unless a pardon has been granted or a record suspension has been ordered under the *Criminal Records Act* (Canada) in respect of the conviction for the offence;
- (e.1) have the security clearance required by the chief officer of the police department;
- (f) possess a valid class 5 driver's license issued under the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5, or a valid and subsisting driver's license of an equivalent class issued to the person under the applicable law of another province, territory, state or country that has not been suspended pursuant to that applicable law;
- (g) be physically and mentally able to perform the duties of a police officer, having regard to his or her own safety and the safety of members of the public; and
- (h) be of good moral character.

Exception, permanent or temporary appointment

- (2) Notwithstanding that a person does not have the qualification required by clause (1)(c), the person may be appointed by the chief officer of a police department under section 10 of the Act, in a permanent or temporary capacity, as a police officer of the police department, if the chief officer believes that the person has a minimum of three years of satisfactory full-time service as a member of any police service in Canada.

Exception, temporary appointment

- (3) Notwithstanding that a person does not have the qualification required by clause (1)(c), the person may be appointed under section 10 of the Act, in a temporary capacity, as a police officer of a police department, if the person
 - (a) is a police cadet; and
 - (b) has completed all of the required courses of the police cadet training program at the Atlantic Police Academy. (EC141/10; 236/19; 269/21; 691/25)

8.1 Section 14.4 officers

A person shall, in order to qualify for appointment as a police officer under subsection 14.4(1) of the Act or a chief officer under subsection 14.4(2) of the Act, in addition to the requirements set out in clauses 14.4(1)(a) and 14.4(2)(a) of the Act respectively,

- (a) be at least 19 years of age;
- (b) be a Canadian citizen or have Canadian landed immigrant status;
- (c) not have been found guilty of an offence under the *Criminal Code* (Canada) or the *Controlled Drugs and Substances Act* (Canada) unless a pardon has been granted or a record suspension has been ordered under the *Criminal Records Act* (Canada) in respect of the conviction for the offence;
- (d) possess a valid class 5 driver's license issued under the *Highway Traffic Act* or a valid and subsisting driver's license of an equivalent class issued to the person under the applicable law of another province, territory, state or country that has not been suspended pursuant to that applicable law;
- (d.1) have the security clearance required by the Minister;

- (e) be physically and mentally able to perform the duties of a police officer, having regard to his or her own safety and the safety of members of the public; and
- (f) be of good moral character. (EC236/19; 269/21; 691/25)

9. Investigator

A person shall, in order to qualify for employment or hiring under section 17 of the Act as an investigator,

- (a) have all the qualifications set out in clauses 8(1)(a) to (e) and (f) to (h);
- (a.1) have the security clearance required by the Minister; and
- (b) have at least five years of policing experience. (EC141/10; 269/21)

10. Auxiliary constables

- (1) Subject to subsection (2), a person shall, in order to qualify for appointment under section 45 of the Act as an auxiliary constable, have all of the qualifications set out in clauses 8(1)(a) and (b) and (d) to (h).

Restrictions, auxiliary constables

- (2) An auxiliary constable shall not
 - (a) carry a firearm;
 - (b) carry a prohibited or restricted weapon or device as defined in section 84 of the *Criminal Code* (Canada), unless he or she has successfully completed the prescribed training in the use of that weapon or device; or
 - (c) identify himself or herself as a police officer. (EC141/10)

11. Security police officers

Revoked by EC691/25. (EC141/10; 269/21; 691/25)

12. Instructing officer

A person shall, in order to qualify for appointment under section 48 of the Act as an instructing officer,

- (a) have all the qualifications set out in clauses 8(1)(a) to (e) and (f) to (h); and
- (b) have the security clearance required by the Director of the Atlantic Police Academy. (EC141/10; 269/21)

13. Police cadets

A person shall, in order to qualify for appointment under section 50 of the Act as a police cadet,

- (a) have all the qualifications set out in clauses 8(1)(a), (b), (e) and (f) to (h); and
- (b) have the security clearance required by the Director of the Atlantic Police Academy. (EC141/10; 269/21)

14. Civilian instructor

A person shall, in order to qualify for appointment under section 51 of the Act as a civilian instructor,

- (a) have all of the qualifications set out in clauses 8(1)(a), (b), (e) and (f) to (h); and
- (b) have the security clearance required by the Director of the Atlantic Police Academy.
(EC141/10; 269/21)

OATH OR AFFIRMATION OF OFFICE

15. Oath or affirmation of office

Any oath or affirmation of office required under a provision of the Act shall be sworn before a Commissioner of Oaths and shall include the following statement:

I,....., born..... (date), having been appointed as a (chief officer, police officer, auxiliary constable, director, instructing officer, police cadet, or civilian instructor) of the (name of police service or agency) do solemnly swear/affirm (*select one*) that I will diligently, faithfully, and impartially perform all the duties of my appointment according to law and I will not, except in the discharge of my duties, disclose to any person any matter of evidence that may come to my notice during this appointment, so help me God/I so affirm (*select one*). (EC141/10; 691/25)

APPROVED TRAINING AGENCIES

16. Approved police training agency

The Minister may declare a police training agency to be an approved police training agency for the purposes of these regulations if the Minister is satisfied it is in the public interest to do so. (EC141/10)

SERIOUS INCIDENT INVESTIGATIONS

17. Definitions

In this section and sections 18 to 29,

- (a) “**investigating agency**” means a police service that conducts an investigation under clause 4.5(1)(b) of the Act or an investigative unit, police agency, person or other entity in another province or territory of Canada that conducts an investigation under clause 4.5(1)(d) of the Act;
- (b) “**police official**” means a subject officer or witness officer;
- (c) “**witness officer**” means a member of a police service or auxiliary constable who is a witness to, was present at or has material information related to a serious incident.
(EC691/25)

18. Chief officer unable to act

Where a chief officer becomes a subject officer, the chief officer’s powers and duties under Part 1.2 of the Act shall be carried out by the chief officer’s designate. (EC691/25)

19. Notification within 24 hours

- (1) For the purposes of subsection 4.4(1) of the Act, the chief officer shall submit a notification report to the head of the investigative body no later than 24 hours after notifying the head of the investigative body of the serious incident.

Provision of additional information

- (2) Where the chief officer is unable to provide all the information required in the notification report within the period referred to in subsection (1), the chief officer shall submit a revised notification report to the head of the investigative body as soon as all the required information is available. (EC691/25)

20. Notification by head of investigative body

The head of the investigative body shall immediately notify the relevant chief officer and the disciplinary authority that the head of the investigative body

- (a) has arranged for the investigative body to conduct an investigation of the serious incident;
- (b) has referred an investigation of the serious incident to an investigating agency; or
- (c) has entered into an agreement to have an investigating agency conduct an investigation of the serious incident. (EC691/25)

21. Protecting, obtaining, preserving evidence

On notification of an investigation under section 20, a chief officer shall ensure that members of the police service at the scene of the serious incident take any lawful measures that appear to the members to be necessary or expedient for the purposes of protecting, obtaining and preserving evidence relating to the serious incident until the investigative body or investigating agency takes charge of the scene. (EC691/25)

22. Separation of police officials

- (1) On notification of an investigation under section 20, a chief officer shall ensure, to the extent practicable, that all police officials are separated from each other until the investigative body or the investigating agency has completed all the interviews with the police officials, unless the person in charge of the investigation directs otherwise.

Communication prohibited

- (2) Unless the person in charge of the investigation directs otherwise, a police official shall not communicate, directly or indirectly, the details of the serious incident with any other police official until the investigative body or the investigating agency has completed all the interviews with the police officials. (EC691/25)

23. Completion of notes

- (1) A police official shall complete the police official's notes about the serious incident in accordance with the procedures of the police service in which the police official is employed.

Provision of witness officer's notes within 48 hours

- (2) Subject to subsection (3), a witness officer shall provide the witness officer's notes to the person in charge of the investigation and a copy to the chief officer within 48 hours after the person in charge of the investigation requests the notes.

Person in charge may shorten period

- (3) Where, in the opinion of the person in charge of the investigation, giving a witness officer 48 hours to provide the witness officer's notes would cause an unreasonable delay that may jeopardize the investigation, the person in charge of the investigation may require that the notes be provided within a shorter period.

Subject officer's notes not required to be provided

- (4) A subject officer is not required to provide the subject officer's notes to the person in charge of the investigation, and no other person may provide the subject officer's notes to the person in charge of the investigation without the subject officer's written consent. (EC691/25)

24. Person in charge may direct witness officer's attendance, etc.

- (1) Subject to subsection (2), the person in charge of the investigation may direct that a witness officer attend an interview and answer questions as part of the investigation at a specified place and at a specified time that is at least 48 hours after the serious incident occurred.

Person in charge may specify earlier time

- (2) Where, in the opinion of the person in charge of the investigation, waiting at least 48 hours to conduct an interview with a witness officer would cause an unreasonable delay that may jeopardize the investigation, the person in charge of the investigation may specify an earlier time for the interview.

Right to counsel

- (3) Subject to subsection (4), before conducting an interview, the person in charge of the investigation shall notify the subject officer or the witness officer, as the case may be, of the officer's right to be represented by counsel and give the subject officer or witness officer a reasonable opportunity to consult with counsel.

Exception – unreasonable delay

- (4) Subsection (3) does not apply if, in the opinion of the person in charge of the investigation, waiting for an opportunity for the witness officer to consult with counsel would cause an unreasonable delay that may jeopardize the investigation. (EC691/25)

25. Interview to be recorded

An interview conducted in accordance with section 24 shall, when practicable, be recorded by audio recording or video recording. (EC691/25)

26. Prior notification regarding status

Before a request is made for notes under section 23 or an interview under section 24, the person in charge of the investigation shall notify, in writing, the chief officer, the police official and the disciplinary authority whether the police official is considered to be a subject officer or a witness officer. (EC691/25)

27. Notification of change of status

- (1) Where, at any time after notice is given under section 26, the person in charge of the investigation determines that the police official is considered to be a subject officer instead of a witness officer or a witness officer instead of a subject officer, the person in charge of the

investigation shall notify, in writing, the chief officer, the police official and the disciplinary authority of the change of status.

Result of change of status

- (2) Where, after notes have been obtained from or interviews have been conducted with a police official when the police official was considered to be a witness officer, the person in charge of the investigation determines that the police official is instead a subject officer, the person in charge of the investigation shall
- (a) give the police official the original and all copies of the record of their interview; and
 - (b) give the chief officer or, where the chief officer is the police official, the disciplinary authority the original and all copies of the notes of the police official. *(EC691/25)*

28. Required contents of summary

- (1) For the purposes of subsection 4.8(1) of the Act, a summary containing the following information shall be provided to the Minister and the relevant disciplinary authority within three months after the conclusion of an investigation:
- (a) a summary of facts;
 - (b) the duration of the investigation;
 - (c) the number of civilian witnesses and witness officers interviewed;
 - (d) a statement of the relevant legal issues;
 - (e) a summary of the decision of the head of the investigatory body respecting the investigation and the reasons for the decision.

Optional information

- (2) A summary may include the names of the subject officers and the witness officers involved in the investigation.

Supplemental summary

- (3) Where a charge is laid as a result of the investigation, the head of the investigative body may provide a supplemental summary at the conclusion of the prosecution, setting out the reasons why the charge was laid. *(EC691/25)*

29. Annual report

- (1) For the purposes of section 4.9 of the Act, the head of the investigative body shall provide an annual report for the preceding calendar year to the Minister.

Required contents

- (2) An annual report shall contain the following information:
- (a) a comparison between the number of times in the year the head of the investigative body is notified, or otherwise becomes aware, of a serious incident and the number of investigations of serious incidents started and concluded in the year;
 - (b) the number of times in the year the head of the investigative body referred an investigation of a serious incident to a police agency;
 - (c) the number of times in the year the head of the investigative body entered into an agreement to have an investigative unit, police agency, person or other entity in another province or territory of Canada conduct an investigation of a serious incident. *(EC691/25)*