



BILL NO. 72

Government Bill

*2nd Session, 61st General Assembly
Nova Scotia
59 Elizabeth II, 2010*

An Act to Amend Chapter 31 of the Acts of 2004, the Police Act

CHAPTER 68
ACTS OF 2010

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 10, 2010**

The Honourable Ross Landry
Minister of Justice

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 31
of the Acts of 2004,
the Police Act**

Be it enacted by the Governor and Assembly as follows:

1 Section 2 of Chapter 31 of the Acts of 2004, the *Police Act*, is amended by

(a) adding immediately after clause (a) the following clause:

(aa) “agency” means the Provincial Police, the Royal Canadian Mounted Police, a municipal police department or another police department;

(b) adding immediately after clause (g) the following clause:

(ga) “Director” means the Nova Scotia Civilian Director appointed under this Act;

(c) striking out the period at the end of clause (k) and substituting a semicolon; and

(d) adding immediately after clause (k) the following clauses:

(l) “serious incident” means a death, serious injury or sexual assault or another matter that is determined under this Act to be in the public interest to be investigated;

(m) “Serious Incident Response Team” means the team established by this Act and includes the Director and investigators and other staff appointed to the Team.

2 (1) Subsection 5(3) of Chapter 31 is amended by

(a) by striking out clause (a) and substituting the following clause:

(a) issue a directive or a standard operating or administrative procedure to a police department or to the Serious Incident Response Team;

and

(b) adding “or the Serious Incident Response Team” immediately after “board” the second time it appears in the first line of clause (b).

(2) Section 5, as amended by Chapter 12 of the Acts of 2010, is further amended by adding immediately after subsection (3) the following subsection:

(3A) Where the Minister issues a directive or a standard operating or administrative procedure under subsection (3), the police department or the Serious Incident Response Team, as the case may be, shall comply with it.

3 Chapter 31 is further amended by adding immediately after Section 26 the following heading and Sections:

SERIOUS INCIDENT RESPONSE TEAM

26A There is hereby established a Serious Incident Response Team to provide oversight of policing by providing independent investigation of serious incidents involving police in the Province.

26B (1) The Governor in Council shall appoint a person to be the Nova Scotia Civilian Director of the Serious Incident Response Team.

(2) A person who is a current or former police officer in any jurisdiction may not be appointed as the Director.

(3) The Director holds office during good behaviour for a term of five years and may be re-appointed for one additional term of five years.

(4) The Director shall be paid such salary and remuneration as the Governor in Council determines.

(5) The Director ceases to hold office upon

(a) expiry of the Director's term of office;

(b) resignation in writing to the Minister by the Director; or

(c) termination of office by the Minister for cause,

whichever is earlier.

26C When the Director ceases to hold office, the Governor in Council may appoint an interim Director for one term not exceeding one year.

26D The Director is responsible to the Minister for

(a) the direction of the Serious Incident Response Team and the police officers made available to the Team from agencies for the purpose of assisting the Team;

(b) the direction of investigations and reporting on serious incidents involving police;

(c) the administration of the budget of the Team;

(d) the discharge of other duties as assigned under this Act or the regulations.

26E Such investigators and other employees as necessary for the purpose of the Serious Incident Response Team may be appointed pursuant to the *Civil Service Act*.

26F (1) The Minister may direct a chief officer of an agency to make available qualified police officers and other resources from the agency to the Serious Incident Response Team for the purpose of assisting the Team and the chief officer shall select police officers for that purpose and advise the Director accordingly.

(2) Upon consultation with the chief officer of an agency, the Director may assign police officers selected under subsection (1) from the agency to assist an investigation.

(3) Once a police officer is selected by the Director under this Section, that police officer reports solely to, and is under the sole command and direction of

the Director with respect to that investigation but remains the financial responsibility of the agency from which the officer was selected.

(4) No person may perform the role of a team commander or a lead investigator in an investigation relating to a police officer who is a member of the same agency.

26G The Director and the investigators appointed under Section 26E are peace officers and have all of the powers, authority, privileges immunities set out in subsection 42(1).

26H The Director may enter into agreements with an agency, the Government of Canada, the government of another province of Canada or a municipality as required to undertake the work of or related to the Serious Incident Response Team.

26I (1) A chief officer shall notify the Director as soon as practicable if the chief officer

(a) has reason to believe that an incident may have occurred in which the actions of a police officer may have resulted in the death, serious injury or sexual assault of any person; or

(b) determines that it would be in the public interest for an incident alleged to have occurred from the actions of a police officer to be dealt with in accordance with subsection (3).

(2) The Minister may notify the Director if the Minister determines that it would be in the public interest for an incident alleged to have occurred from the actions of a police officer to be dealt with in accordance with subsection (3).

(3) Upon notification of an incident pursuant to subsection (1) or (2) or where the Director becomes aware of a serious incident, the Director may do any one or more of the following:

(a) arrange for an investigation to be undertaken by the Serious Incident Response Team, which may include taking over an ongoing investigation at any stage;

(b) refer the matter to an agency to conduct an investigation, which may include taking over an ongoing investigation at any stage;

(c) upon consultation with a chief officer, assign one or more police officers selected under subsection 26F(1) to assist or advise an agency that is investigating an incident or to assist or advise the Team investigating an incident;

(d) enter into an agreement to have an independent team or agency from another province of Canada conduct an investigation;

(e) direct that the Team oversee, observe, monitor or review an investigation by an agency;

(f) appoint a community liaison or observer to work with the Team in the course of an investigation;

(g) refer the matter to the chief officer or the Complaints Commissioner in accordance with Section 71;

(h) refer the matter under the complaints process in Part VII of the *Royal Canadian Mounted Police Act* (Canada);

(i) determine that the matter is not within the mandate of the Team.

26J Upon the conclusion of an investigation under Section 26I or as requested by the Director, a report must be submitted to the Director in the form prescribed by the Director.

26K (1) Upon the conclusion of an investigation by the Serious Incident Response Team under clause 26I(3)(a) and receipt of the report from the Team under Section 26J, the Director shall decide whether a charge will be laid.

(2) Upon the conclusion of an investigation by an agency under clause 26I(3)(b), that agency shall decide whether a charge will be laid.

(3) Upon the conclusion of an investigation by a team or agency under clause 26I(3)(d), that team or agency shall decide whether a charge will be laid.

26L Upon conclusion of an investigation by the Serious Incident Response Team under clause 26I(3)(a), the Director shall make the investigative file of the Team available to the disciplinary authority for the agency in which the police officer under investigation is employed.

26M (1) As soon as reasonably practicable but no later than three months after receiving a report pursuant to Section 26J, the Director shall provide a summary of any investigation conducted in accordance with Section 26I to the Minister and to the agency in which the police officer under investigation is or was employed.

(2) The summary must be in the form prescribed by the regulations.

(3) The Director or the Minister shall make a summary of an investigation available to the public in the form prescribed by the regulations.

26N The Director shall submit an annual report to the Minister on the operations of the Serious Incident Response Team, which must include

(a) the number of investigations started and concluded in the year;

(b) the nature of each investigation;

(c) the result of each investigation;

(d) the number of charges against police officers laid in the year;

(e) other administrative and financial details as the Minister may direct; and

(f) such other matters as prescribed by the regulations.

4 Subsection 42(1) of Chapter 31 is amended by

(a) striking out “or other” in the second line and substituting “, another”;

(b) adding “or the Serious Incident Response Team” immediately after “Province” in the third line;

(c) **striking out “or other” in the seventh line of clause (b) and substituting “, another”; and**

(d) **adding “or the Serious Incident Response Team” immediately after “Province” in the last line.**

5 Section 94 of Chapter 31 is amended by

(a) **striking out “or” in the third line and substituting a comma; and**

(b) **adding “or the Serious Incident Response Team” immediately after “Board” the second time it appears in the third line.**

6 Section 95 of Chapter 31 is amended by adding “(1)” immediately after the Section number and adding the following subsection:

(2) Notwithstanding subsection (1), the Director has the sole authority to lay a charge with respect to a matter that is investigated by the Serious Incident Response Team under clause 26I(3)(a).

7 Subsection 97(1) of Chapter 31 is amended by

(a) **adding “and the Serious Incident Response Team” immediately after “departments” in the first and in the third lines;**

(b) **adding immediately after clause (n) the following clauses:**

(na) respecting the powers, privileges and immunities of the Serious Incident Response Team;

(nb) respecting investigations conducted by the Serious Incident Response Team;

(nc) respecting the operation and function of the Serious Incident Response Team;

(nd) prescribing forms required for investigations by the Serious Incident Response Team and for reports or summaries to or by the Team;

(ne) respecting the annual report of the Director;

(nf) creating programs to support the work of the Serious Incident Response Team;

and

(c) **striking out “and auxiliary police officers” in the third line of clause (t) and substituting “, auxiliary police officers and the Serious Incident Response Team”.**

8 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
