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[Table of Public Statutes](#)

[Main Site](#)

[How current is this statute?](#)

[Responsible Department](#)

SNL1992 CHAPTER R-17

**ROYAL NEWFOUNDLAND
CONSTABULARY ACT, 1992**

Amended:

1993 c51; 1999 c22 s22; 2000 c31; 2001 c42 s40; 2004 c36 s40;
2006 c40 s21; 2007 c14; 2013 c16 s25; 2016 cM-5.01 s61

CHAPTER R-17

**AN ACT TO REVISE THE LAW RESPECTING THE ROYAL
NEWFOUNDLAND CONSTABULARY**

(Assented to December 23, 1992)

Analysis

[1. Short title](#)

[2. Definitions](#)

PART I
CONSTABULARY

[3. Constabulary continued](#)

[4. Chief of Police and commissioned officers](#)

[5. Oath or affirmation](#)

PART II
ADMINISTRATION

[6. Administration](#)

[7. Responsibilities of constabulary](#)

[8. Duties of police officers](#)

9. Agreements generally

10. Power to amend agreements

11. Boards, committees and councils

12. Payments

13. Hiring

14. Probationary period

15. Restrictions

16. Special constable

17. Withholding services

PART III

PUBLIC COMPLAINTS

18. Complaints commission

19. Functions of commissioner

20. Officers, investigators and employees

21. Chief

22. Public complaints

22.1 Commissioner not acting on certain complaints

23. Notice

24. Initial investigation

25. Discipline and appeal

26. Commission investigation and settlement

27. Powers of investigation

28. Dismissal or reference to an adjudicator

29. Adjudicators

30. Parties to proceeding

31. Procedure and powers of adjudicator

32. Public hearings

33. Orders of adjudicator

34. Entry of order

35. Recommendations

36. Appeal to Trial Division

37. Privileged information and protection from prosecution

38. Publication of order

39. Annual report

40. Notice

41. Employment record

42. Discipline by chief and alternate service

43. Proceedings suspended

PART IV

LABOUR RELATIONS

- [44. Interpretation](#)
- [45. Strikes forbidden](#)
- [46. Collective bargaining](#)
- [47. Referral to arbitrator](#)
- [48. Conduct of arbitration](#)
- [49. Regulations re: arbitration](#)
- [50. Rep. by 2000 c31 s1](#)
- [51. Rep. by 2000 c31 s1](#)
- [52. Rep. by 2000 c31 s1](#)
- [53. Rep. by 2000 c31 s1](#)

**PART V
MISCELLANEOUS AND REGULATIONS**

- [54. Unlawful disposal of equipment, etc.](#)
- [55. Misrepresentation](#)
- [56. Regulations](#)
- [57. Regulations](#)
- [57.1 Forms](#)
- [58. No bar to other actions](#)
- [59. Expenses subrogation](#)
- [60. Confidentiality](#)
- [61. Binding on Crown](#)
- [62. Penalty](#)
- [63. Transitional provision](#)
- [64. RSN 1990 cR-16 Rep.](#)
- [65. Commencement](#)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title

1. This Act may be cited as the *Royal Newfoundland Constabulary Act, 1992*.

[1992 cR-17 s1](#)

[Back to Top](#)

Definitions

2. In this Act

- (a) "adjudicator" means an adjudicator appointed under section 29;
- (b) "association" means

- (i) an association limited to the constabulary and whose objects include the improvement of the working conditions and remuneration of its members, and
- (ii) an association designated as an association for the purpose of this Act by the Lieutenant-Governor in Council;
- (c) "chief" means the Chief of Police appointed under subsection 4(1) and includes an acting Chief of Police;
- (d) "commissioned officer" means an officer who has received a commission under subsection 4(4);
- (e) "commissioner" means the commissioner appointed under subsection 18(1);
- (f) "complaint" means a complaint made by a person under section 22 and includes the appeal of a complaint under section 25;
- (g) "constabulary" means the Royal Newfoundland Constabulary continued under this Act;
- (h) "former Act" means the *Royal Newfoundland Constabulary Act* ;
- (i) "investigator" means an investigator appointed under section 20;
- (j) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (k) "municipality" means a municipality as defined in the *Municipalities Act* ;
- (l) "police officer" means the chief and every commissioned and non-commissioned officer and every recruit of the constabulary but does not include a special constable appointed under section 16;
- (m) "strike" means a strike within the meaning of the *Labour Relations Act* ; and
- (n) "trade union" means a trade union within the meaning of the *Labour Relations Act* , but does not include an association.

[1992 cR-17 s2; 2006 c40 s21](#)

PART I CONSTABULARY

[Back to Top](#)

Constabulary continued

3. (1) The Royal Newfoundland Constabulary referred to in the *Royal Newfoundland Constabulary Act* is continued under this Act.

(2) All persons who immediately before the commencement of this Act were police officers of the constabulary shall continue as police officers in the capacities in which they were serving immediately before the commencement of this Act.

(3) The constabulary shall consist of the chief and other police officers employed by the government of the province to carry out duties under this Act.

(4) The headquarters of the constabulary shall be in the City of St. John's or at another place designated by the Lieutenant-Governor in Council.

[1992 cR-17 s3](#)[Back to Top](#)**Chief of Police and commissioned officers**

4. (1) The Lieutenant-Governor in Council shall appoint a commanding officer of the constabulary to be known as the Chief of Police, who, subject to the minister's direction, has the general control and administration of the constabulary and its members.
- (2) The chief and commissioned officers shall hold office during the pleasure of the Lieutenant-Governor in Council.
- (3) Where the chief is unable to carry out his or her duties, the highest ranking commissioned officer at the headquarters of the constabulary has the duties and powers of the chief.
- (4) The Lieutenant-Governor in Council may name a police officer to the rank of commissioned officer and may authorize the issue of a commission to him or her under the Great Seal.

[1992 cR-17 s4](#)[Back to Top](#)**Oath or affirmation**

5. (1) Before commencing his or her duties of office every police officer and every other person employed in the constabulary shall swear or affirm an oath or affirmation of office and secrecy as prescribed by regulation.
- (2) The oaths or affirmations under subsection (1) may be taken and signed by the chief before a judge of the Supreme Court or a Provincial Court judge, and may be taken and signed by other persons before the chief or a commissioned officer who the chief may designate.
- (3) The oaths or affirmations taken under subsection (1) shall be retained by the chief as part of the records of his or her office.

[1992 cR-17 s5; 2001 c42 s40](#)**PART II
ADMINISTRATION**[Back to Top](#)**Administration**

6. (1) The chief shall
- (a) establish and determine within the constabulary the rank of each police officer other than commissioned officers;
 - (b) recruit and appoint police officers to the constabulary;
 - (c) after the end of each calendar year file with the minister an annual report on the affairs of the constabulary;
 - (d) establish and enforce rules respecting policies and procedures for the effective management and control of the constabulary;

- (e) monitor the constabulary to ensure that adequate and effective police service is provided in the province;
 - (f) monitor the constabulary to ensure that police officers and other constabulary employees comply with required standards of service and discipline;
 - (g) administer discipline in accordance with this Act;
 - (h) develop and promote programs to enhance professional police practices, standards and training;
 - (i) conduct a system of inspection and review of the constabulary;
 - (j) assist in the co-ordination of police services in the province;
 - (k) develop, maintain and manage programs and statistical records and conduct research studies in respect of police services and related matters;
 - (l) issue orders, directives, rules and guidelines respecting policy and matters relating to the constabulary, police services, police officers and other constabulary employees; and
 - (m) develop and promote programs for community oriented police services.
- (2) The chief shall report to the minister and shall obey the minister's orders and directions.
- (3) The orders and directions referred to in subsection (2) shall be in writing.

[1992 cR-17 s6](#)

[Back to Top](#)

Responsibilities of constabulary

7. (1) The constabulary has the responsibility of
- (a) providing police services in areas of the province and upon terms and conditions determined by the minister with the approval of the Lieutenant-Governor in Council, including navigable bodies and courses of water, except those areas in the province that are within the jurisdiction of the Crown in right of Canada; and
 - (b) maintaining traffic and other patrols in the province.

(2) The minister may, with the approval of the Lieutenant-Governor in Council, enter into and implement agreements with the Government of Canada for the use or employment of the constabulary in carrying into effect a law of Canada in force in the province, including acting as and discharging the duties of fishery officers or fishery guardians.

[1992 cR-17 s7](#)

[Back to Top](#)

Duties of police officers

8. (1) The duties of a police officer include
- (a) preserving the peace;
 - (b) preventing crimes and other offences and providing assistance and encouragement to other persons in their prevention;

- (c) assisting victims of crime;
 - (d) apprehending criminals and other offenders and persons who may lawfully be taken into custody;
 - (e) laying charges, prosecuting and participating in prosecutions;
 - (f) executing warrants that are to be executed by police officers and performing related duties;
 - (g) obeying constabulary regulations, orders and rules respecting policy and procedures; and
 - (h) performing the lawful duties assigned to him or her.
- (2) A police officer has authority to act throughout the province.
- (3) A police officer has the powers and duties assigned to a constable at common law.

[1992 cR-17 s8](#)

[Back to Top](#)

Agreements generally

9. The minister may implement an agreement made under this Act.

[1992 cR-17 s9](#)

[Back to Top](#)

Power to amend agreements

10. Power to enter into an agreement shall include power to amend that agreement, but where the approval of the Lieutenant-Governor in Council is required for an agreement, the approval of the Lieutenant-Governor in Council is also required for an amending agreement.

[1992 cR-17 s10](#)

[Back to Top](#)

Boards, committees and councils

11. The minister may establish those boards, committees and councils that are considered necessary or desirable to help and advise the minister in administering this Act and shall appoint the members of those boards, committees and councils.

[1992 cR-17 s11](#)

[Back to Top](#)

Payments

12. (1) Payments required to be made by or on behalf of the Crown under an agreement entered into under this Act or in carrying out this Act or the regulations shall, where payment is not provided for under another Act, be paid by the Minister of Finance out of the Consolidated Revenue Fund of the province.

(2) For the purpose of subsection (1), the expression "payments" includes payments provided for by an order of an adjudicator under paragraphs 33(1)(c) and (3)(g), by an agreement made under section 46 and a decision or award of a board of arbitrators under section 47.

[1992 cR-17 s12](#)

[Back to Top](#)

Hiring

13. (1) A person shall not be appointed as a police officer unless he or she,

- (a) is a Canadian citizen or a permanent resident of Canada ;
- (b) is physically and mentally able to perform the duties of the position, having regard to his or her own safety and the safety of members of the public;
- (c) is of good moral character and habits; and
- (d) has completed an educational program or its equivalent in education and training that is prescribed by regulation.

(2) A candidate for appointment as a police officer shall provide relevant information or material that is lawfully requested in connection with his or her application.

[1992 cR-17 s13](#)

[Back to Top](#)

Probationary period

14. (1) A police officer's probationary period begins on the date he or she is appointed and ends on the 1st anniversary of the date of that appointment.

(2) The chief may terminate a police officer's employment at any time during his or her probationary period but, before doing so, shall give the police officer reasonable information with respect to the reasons for that termination and an opportunity to reply, orally or in writing, as the chief may determine.

(3) The decision of the chief under subsection (2) is final.

(4) Notwithstanding subsection (1), the chief may, in his or her absolute discretion, extend a police officer's probationary period for not longer than 3 months immediately following the 1st anniversary date of his or her appointment.

[1992 cR-17 s14](#)

[Back to Top](#)

Restrictions

15. (1) A police officer shall not engage in political activity, except as the regulations permit.

(2) A police officer shall not engage in an activity,

- (a) that interferes with or adversely influences the performance of his or her duties or is likely to do so;
- (b) that places him or her in a position of conflict of interest, or is likely to do so;

(c) that would prevent or impair his or her ability to be recalled to duty by the chief or his or her superior officer; and

(d) in which he or she may acquire an advantage derived from employment as a police officer.

(3) A police officer who proposes to undertake an activity that may contravene subsection (2), or who becomes aware that an activity that he or she has already undertaken, may contravene subsection (2) shall disclose full particulars of the activity to the chief.

(4) The chief shall decide whether or not an activity proposed to be engaged in or engaged in by a police officer is prohibited under this section and that police officer shall comply with the decision of the chief.

(5) A police officer, unless acting in the course of his or her duties under this Act shall not hold himself or herself out in a manner that expressly or otherwise might lead to the belief that he or she is carrying out his or her duties as a police officer.

[1992 cR-17 s15](#)

[Back to Top](#)

Special constable

16. (1) The chief may appoint a special constable to act for the term, area and purpose that he or she considers expedient.

(2) The appointment of a special constable may confer on him or her the powers of a police officer, to the extent and for the specific purpose set out in the appointment.

(3) A special constable shall not be employed by the constabulary to perform on a permanent basis, whether part time or full time, all the usual duties of a police officer.

(4) Subsection (3) does not prohibit the constabulary from employing special constables to escort and convey persons in custody.

(5) The chief may suspend or terminate the appointment of a special constable.

(6) Before a special constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing, as the chief determines.

(7) Notwithstanding subsection (6), the chief's decision under subsection (5) is final.

(8) A person appointed to be a special constable shall, before entering on the duties of his or her office, take an oath or affirmation of office and secrecy in a form prescribed by regulation.

[1992 cR-17 s16](#)

[Back to Top](#)

Withholding services

17. (1) A police officer shall not,

(a) reduce or withhold his or her services;

(b) disobey lawful orders or fail to carry out orders of his or her superior officers; or

(c) contravene the provisions of this Act.

(2) A person, who, for the purpose of this subsection, includes a police officer or an association, shall not induce or attempt to induce a police officer to do anything that he or she is prohibited from doing under paragraph (1)(a), (b) or (c).

[1992 cR-17 s17](#)

PART III PUBLIC COMPLAINTS

[Back to Top](#)

Complaints commission

18. (1) The Lieutenant-Governor in Council shall appoint a Royal Newfoundland Constabulary Public Complaints Commission consisting of a commissioner.

(2) The commissioner shall supervise and direct the officers, investigators and other employees and the work of the commission.

(3) The commissioner shall

- (a) serve for 5 years during good behaviour; and
- (b) continue in office until he or she is reappointed or replaced.

(4) The commissioner shall

- (a) act as a registrar of complaints received and ensure that complaints are dealt with in accordance with this Act; and
- (b) perform the duties and functions prescribed for him or her by this Act.

(5) Where the commissioner is unable to act as commissioner the Lieutenant-Governor in Council may temporarily appoint a person to carry out the duties of the commissioner under this Act, and where the position of commissioner is vacated, the Lieutenant-Governor in Council shall appoint a person to fill that vacancy and that person shall be appointed to hold office for the remainder of the term of office of the commissioner being replaced.

[1992 cR-17 s18](#)

[Back to Top](#)

Functions of commissioner

19. (1) The commissioner may

- (a) receive and review a complaint made against a police officer;
- (b) investigate a complaint; and
- (c) dismiss or refer a complaint for a hearing under section 28.

(2) The commissioner or an adjudicator shall not consider a complaint which relates to Part IV or an agreement resulting from negotiations under Part IV.

(3) The commissioner may make recommendations respecting matters of concern or interest to the public relating to police services by sending the recommendations, with supporting documents, to the chief and a copy to the minister.

[1992 cR-17 s19](#)

[Back to Top](#)

Officers, investigators and employees

20. (1) The officers, investigators and employees that are necessary for the proper conduct of the work of the commission shall be appointed at the direction of the minister in the manner established by law.

(2) The Lieutenant-Governor in Council may determine the remuneration for services and allowances for travelling and other expenses that shall be paid to officers, investigators and employees employed under subsection (1) and to the commissioner.

[1992 cR-17 s20](#)

[Back to Top](#)

Chief

21. Where a complaint has been made against the chief, that complaint shall be immediately taken up by the commissioner as if that complaint were an appeal under subsection 25(3).

[1992 cR-17 s21](#)

[Back to Top](#)

Public complaints

22. (1) A person, other than a police officer and a person employed in the constabulary, may file a complaint concerning

- (a) the conduct of a police officer; or
- (b) the operational policies or procedures of the constabulary which govern the manner in which a police officer discharges his or her duties

where the person making the complaint has been directly affected by that conduct or those policies or procedures.

(2) Notwithstanding subsection (1), a police officer or a person employed in the constabulary may file a complaint under that subsection where the matter giving rise to the complaint occurs outside the scope of the police officer's or the person's employment.

(3) A complaint made under subsection (1) shall be in writing and may be filed at a constabulary office or with the commissioner.

(4) A complaint made under subsection (1) shall be a complaint which, if substantiated, would lead to

- (a) review and discipline under this Act; or
- (b) a recommendation by the commissioner to the chief and the minister.

(5) The complainant shall be given a statement, in the prescribed form, which sets out the procedures to be followed in dealing with a complaint and describes the rights of the complainant.

(6) A complaint made under subsection (1) shall be made within 6 months after

(a) the alleged misconduct occurs; or

(b) the date the policy or procedure complained of affected the complainant.

(7) Notwithstanding subsection (6), where a complaint made under subsection (1)

(a) concerns a case of continuing misconduct by an officer, a complaint shall be made within 6 months after the last incidence of the alleged misconduct; or

(b) concerns a case where the policies or procedures of the constabulary are directly affecting the complainant in a continuous manner, a complaint shall be made within 6 months after the last date the policy or procedure complained of affected the complainant.

(8) Notwithstanding subsections (6) and (7), the 6 month time limit referred to in those subsections shall not begin to run against a complainant until he or she knows or, considering all circumstance of the matter, ought to know that he or she has a right of complaint concerning the conduct of a police officer or the policies or procedures of the constabulary and the burden of proving a postponement of the running of time under this subsection is upon the complainant claiming the benefit of that postponement.

(9) Where the postponement of filing a complaint is claimed under subsection (8), the matter of that postponement shall be referred to the commissioner who shall determine whether or not the complaint may be filed.

(10) Where a complaint is made by a person other than the person who is alleged to have been subjected to the misconduct, the commissioner may refuse to act on the complaint unless the person alleged to have been subjected to the misconduct consents.

(11) Where a police officer against whom a complaint has been made resigns or retires from the constabulary before the completion of an investigation or hearing under this Part, the complaint may be dealt with under this Part as if that police officer had not resigned or retired.

[2007 c14 s1](#)

[Back to Top](#)

Commissioner not acting on certain complaints

22.1 Where the commissioner is satisfied that the subject matter of a public complaint is frivolous or vexatious, occurred more than 6 months after facts on which it is based occurred, that the complainant was not directly affected by the policy or procedure that is the subject of the complaint or the complaint does not fall within the scope of section 22, the commissioner

(a) shall decline to take further action on the complaint and shall, in writing, inform the complainant, the police officer against whom the complaint has been made, where the complaint was made under paragraph 22(1)(a), and the chief of his or her reasons for declining to take further action; or

(b) may consult with the complainant, the police officer against whom the complaint has been made, where the complaint was made under paragraph 22(1)(a), and the chief for the purpose of resolving the complaint informally.

[2007 c14 s2](#)

[Back to Top](#)

Notice

23. Where a complaint has been received under section 22, the police officer against whom the complaint is made shall within a reasonable time be given notice of the substance of the complaint unless, in the opinion of the chief, or the commissioner where the complaint relates to the chief, to do so would prejudice further investigation of the matter.

[1992 cR-17 s23](#)

[Back to Top](#)

Initial investigation

24. (1) Where, under section 22, a complaint is filed with the commissioner or is received at a constabulary office, that complaint shall be referred to the chief, or where the chief is not available, the deputy chief.

(2) Where a complaint is received at a constabulary office, the chief or deputy chief shall notify the commissioner of that complaint.

(3) Upon receipt of a complaint under subsection (1), the chief, or the deputy chief shall investigate the complaint and that investigation shall be completed as soon as is practicable but no later than 3 months from the date the complaint is filed or received.

(4) The chief or the deputy chief may appoint a police officer to investigate complaints referred to him or her under subsection (1).

(5) Notwithstanding subsection (3), the chief or deputy chief may, where he or she believes it to be in the public interest to do so, transmit the complaint to the commissioner and that complaint shall be considered by the commissioner under section 26 as if it were an appeal under section 25.

[1992 cR-17 s24; 2007 c14 s3](#)

[Back to Top](#)

Discipline and appeal

25. (1) Following an investigation under section 24, the chief or the deputy chief shall consider the complaint and he or she may

(a) with the agreement of all parties, settle the matter;

(b) dismiss the complaint;

(b.1) where the complaint is a complaint as to the policies or procedures of the constabulary, the chief, or the deputy chief as directed by the chief, may take whatever action is considered appropriate, if any; or

(c) discipline the police officer who is the subject of the complaint.

(2) The complainant and the police officer who is the subject of a complaint shall be informed, in writing, of the dismissal of the complaint or of the discipline imposed and the reasons for that dismissal or discipline.

(3) Where a police officer is disciplined under this section, that police officer may, within 15 days of his or her receipt of that discipline decision, appeal that decision by filing an appeal with the commissioner.

(4) A complainant who is not satisfied with a decision of the chief or deputy chief under subsection (1) may, within 15 days of his or her receipt of that decision, appeal the decision by filing an appeal with the commissioner.

[1992 cR-17 s25; 2007 c14 s4](#)

[Back to Top](#)

Commission investigation and settlement

26. (1) Upon receipt of an appeal under section 25, the commissioner shall forward a notice of the appeal to the chief and the other parties.

(2) Where an appeal under section 25 is filed with the commissioner, the commissioner or an investigator shall investigate the complaint.

(3) Following an investigation of a complaint, the commissioner, with the consent of the parties, may effect a settlement of the complaint.

(4) Where the commissioner effects a settlement of a complaint under subsection (3), he or she shall report the settlement to the chief, and the commissioner shall notify the other parties that no further action will be taken with regard to the complaint unless the terms of the settlement are not complied with.

(5) Where the terms of a settlement referred to in this section are not complied with, the commissioner may reopen the complaint and proceed as if a settlement had not been effected.

(6) A complaint shall be considered settled for the purpose of this Part only if the commissioner and all parties approve the settlement and comply with its terms.

(7) For the purpose of this section, the word "parties" shall include the chief, the complainant and the police officer against whom the complaint was made.

[1992 cR-17 s26](#)

[Back to Top](#)

Powers of investigation

27. (1) For the purpose of the investigation of a complaint, the commissioner or an investigator may, if he or she has reasonable grounds to believe that it is necessary to do so, and, after informing the chief, enter, without a warrant, premises or property owned or occupied by the constabulary and examine there books of account, records, documents, work, material and other things related to the investigation and the persons in those premises shall

(a) answer all questions concerning those matters put to them; and

(b) produce for inspection books of account, records, documents, work, material and other things related to that investigation

for the commissioner or investigator.

(2) Where the commissioner or an investigator believes on reasonable grounds that there is in a place anything that there are reasonable grounds to believe will provide evidence with respect to a complaint, the commissioner or an investigator may, with a warrant issued under subsection (3), at a reasonable time enter a building or a place and may investigate, inquire into, examine and copy books of account, records, documents, work, material and other things relating to that investigation.

(3) Where a Provincial Court judge is satisfied by information upon oath or affirmation that there are reasonable grounds for believing that there is in a building or a place anything that there are reasonable grounds to believe will provide evidence with respect to a complaint, he or she may issue a warrant authorizing the commissioner or the investigator to enter and search that building or place and to make those inquiries and copies of books of account, records, documents, work, material and other things that are necessary, subject to those conditions that may be specified in the warrant.

(4) The owner or person in charge of the building or place referred to in this section and persons found there shall give the commissioner or investigator named in the warrant reasonable help to enable that person to carry out his or her duties and functions under this section and shall provide the information the commissioner or investigator may reasonably require.

(5) A person shall not conceal or destroy documents or things relating to an investigation by the chief or the commissioner under this Part.

[1992 cR-17 s27; 2004 c36 s40](#)

[Back to Top](#)

Dismissal or reference to an adjudicator

28. (1) Following an investigation of a complaint, where the commissioner determines that the decision of the chief or deputy chief appealed under subsection 25(3) or (4) was properly made, he or she may dismiss the complaint and confirm the decision of the chief or deputy chief.

(1.1) Following an investigation of a complaint, where the commissioner does not confirm the decision of the chief or the deputy chief under subsection (1) and is satisfied

- (a) that the subject matter of a complaint is frivolous or vexatious;
- (b) that the complaint has been abandoned or withdrawn; or
- (c) that there is insufficient evidence supporting the complaint to justify a public hearing,

the commissioner shall decline to take further action on the complaint.

(1.2) Where the commissioner declines to take further action on a complaint under subsection (1.1), the commissioner

- (a) shall, in writing, inform the complainant, the police officer against whom the complaint has been made and the chief or deputy chief of his or her reasons for declining to take further action; and
- (b) may consult with the complainant, a police officer against whom a complaint has been made and the chief or the deputy chief for the purpose of resolving the complaint informally.

(1.3) Where a complainant who is not satisfied with a decision of the chief or deputy chief appeals that decision under subsection 25(4) to the commissioner, the commissioner may determine whether or not the complaint concerns the misconduct of a police officer or the policies or procedures of the constabulary and may consider the appeal accordingly.

(2) Following an investigation of a complaint and where the commissioner does not dismiss a complaint and confirm the decision of the chief or deputy chief under subsection (1) and does not effect a settlement under section 26, he or she shall refer the matter to the chief adjudicator of the panel appointed under section 29 who shall conduct a hearing into the matter or refer it to another adjudicator.

(3) Notwithstanding subsections (1), (1.1), (1.2) and (2), where a decision is appealed under subsection 25(3) or (4) and the penalty imposed upon a police officer by the chief or deputy chief includes a suspension without pay for 2 weeks or longer, dismissal or demotion, the commissioner shall refer the matter to the chief adjudicator of the panel appointed under section 29 who shall conduct a hearing into the matter or refer it to another adjudicator.

[1992 cR-17 s28; 1993 c51 s1; 2007 c14 s5](#)

[Back to Top](#)

Adjudicators

29. (1) The Lieutenant-Governor in Council shall, on the recommendation of the minister, appoint a panel of persons to act as adjudicators.

(2) A panel appointed under subsection (1) shall consist of 12 persons, each of whom shall be a lawyer and 1 of them shall be appointed as the chief adjudicator.

(3) A member of the panel shall

(a) serve for 3 years during good behaviour; and

(b) continue in office until reappointed or replaced.

(4) The Lieutenant-Governor in Council shall determine the rate of remuneration and allowances for travelling and other expenses of the members of the panel.

[1992 cR-17 s29; 1993 c51 s2](#)

[Back to Top](#)

Parties to proceeding

30. (1) The parties to a proceeding before an adjudicator are

(a) the commissioner, who shall have the carriage of the matter;

(b) the complainant;

(c) the police officer who is the subject of the complaint;

(d) the chief, in the case of an appeal by the police officer who is the subject of the complaint; and

(e) a person who satisfies the adjudicator that he or she has a substantial interest in the complaint.

(2) The adjudicator shall notify the parties, in writing, of the time and place of the hearing and the notices shall contain a copy of the complaint.

[1992 cR-17 s30](#)

[Back to Top](#)

Procedure and powers of adjudicator

31. (1) An adjudicator has the powers of a commissioner appointed under the *Public Inquiries Act*.

(2) An adjudicator shall conduct a hearing without undue delay to inquire into the matter referred to him or her and shall give full opportunity to all parties to present evidence and make representations, in person or through counsel.

[1992 cR-17 s31](#)

[Back to Top](#)

Public hearings

32. (1) All hearings conducted by an adjudicator shall be open to the public and the commissioner shall publish notice of those hearings in the *Gazette* in the manner prescribed by regulation.

(2) Notwithstanding subsection (1), where

- (a) the matter under consideration involves public security or the desirability of avoiding disclosure in the public interest outweighs the desirability of adhering to the principle of having proceedings open to the public; or
- (b) in the public interest or for intimate financial or personal reasons the desirability of avoiding disclosure outweighs the desirability of maintaining public proceedings

the adjudicator may hold all or part of a hearing in private.

(3) Where, in the opinion of the adjudicator, complaints respecting more than 1 police officer arise from the same incident or matter, those complaints may be heard at the same time.

[1992 cR-17 s32](#)

[Back to Top](#)

Orders of adjudicator

33. (1) Following a hearing not respecting the chief an adjudicator shall make a determination on the balance of probability and may order

- (a) that the decision appealed from be confirmed;
- (b) that the police officer who is the subject of the complaint
 - (i) comply with standards of police service prescribed in the regulations,
 - (ii) enter a rehabilitative or further training program which the adjudicator considers necessary,
 - (iii) be reinstated with or without a reprimand,
 - (iv) where he or she is not a commissioned officer, not be considered for promotion for a time period of up to 3 years,
 - (v) where he or she is not a commissioned officer, be demoted permanently or for a specified period,
 - (vi) where he or she is not a commissioned officer, be suspended with or without a salary for a specified period of time, and
 - (vii) where he or she is not a commissioned officer, be dismissed from his or her position with the constabulary;

- (c) that, where the police officer who was the subject of the complaint conducted himself or herself in a proper manner, he or she be compensated for the reasonable costs incurred by him or her as a result of an investigation, a hearing or both;
- (d) that the police officer who was the subject of the complaint pay the reasonable costs incurred by the constabulary in an investigation and discipline of that police officer by the chief; and
- (e) that the police officer who was the subject of the complaint pay the reasonable costs incurred by the commission in conducting an investigation, a hearing or both.

(2) Following a hearing under this Part respecting a commissioned officer, an adjudicator shall make a determination on the balance of probability and may recommend to the minister that

- (a) a commission granted under subsection 4(4) be revoked;
- (b) the commissioned officer not be considered for promotion for a period of up to 3 years;
- (c) the commissioned officer be demoted; and
- (d) the commissioned officer be suspended with or without a salary for a specified period of time or dismissed from his or her office as commissioned officer.

(3) Following a hearing respecting the chief, the adjudicator shall make a determination on the balance of probability and may recommend in writing to the minister that the chief

- (a) comply with standards of police service prescribed in the regulations;
- (b) enter a rehabilitative or further training program which the adjudicator considers necessary;
- (c) be reprimanded;
- (d) be demoted permanently;
- (e) be dismissed from his or her office as chief;
- (f) be suspended or further suspended with or without a salary for a specified period of time;
- (g) where found to have conducted himself or herself in a proper manner respecting the matter of complaint, be compensated for reasonable costs incurred by him or her as a result of an investigation, a hearing or both; and
- (h) except in the circumstances referred to in paragraph (g), pay the reasonable costs incurred by the commission in conducting an investigation, a hearing or both.

(4) An order or recommendation of an adjudicator shall be made in writing, together with a statement of the reasons for the order or recommendation, and a copy shall be provided to the commissioner, the chief and all parties.

(5) The minister shall consider a recommendation made under subsection (2) or (3) and recommend a course of action based upon that recommendation to the Lieutenant-Governor in Council.

(6) The Lieutenant-Governor in Council shall consider the recommendation of the minister under subsection (5) and may order that a recommendation made under subsection (2), (3) or (5) be implemented.

(7) Following a hearing under this Part, where an adjudicator concludes that the actions of a complainant in making a complaint were unfounded, the adjudicator may order that the complainant pay the reasonable costs incurred by the commission in conducting an investigation, a hearing, or both.

(8) An order of an adjudicator shall be binding on all parties.

(9) Where a person is ordered to pay costs under this section, he or she may apply to have those costs taxed in accordance with the *Judicature Act*.

(10) Notwithstanding paragraphs (1)(d) and (e), 3(h) and subsection (7), costs shall not be assessed against a person for expenses incurred by delays or other proceedings commenced which were beyond the control of that person.

[1992 cR-17 s33; 2007 c14 s6](#)

[Back to Top](#)

Entry of order

34. An order made by an adjudicator under subsection 33(1) may be filed with the Trial Division and is enforceable in the same manner as an order or a judgment of the Trial Division.

[1992 cR-17 s34; 2013 c16 s25](#)

[Back to Top](#)

Recommendations

35. Notwithstanding section 33 and an order which the adjudicator may make, the adjudicator may also make recommendations respecting matters of concern or interest to the public relating to police services by sending the recommendations, with supporting documents, to the minister.

[1992 cR-17 s35](#)

[Back to Top](#)

Appeal to Trial Division

36. (1) The complainant or the police officer who is the subject of the complaint may appeal an order or decision of the commissioner under paragraph 22.1(a), subsection 22(9), 28(1), 28(1.1) or of the adjudicator under section 33 by way of application to the Trial Division.

(2) An appeal shall not be made without leave of a judge of the Trial Division.

(3) An application for leave to appeal made under subsection (2) shall be made by way of originating application, without giving notice to other interested parties, within 15 days of the receipt by the appellant of the order of the adjudicator.

(4) An application made to the Trial Division shall be filed within 15 days of the date leave to appeal is granted.

(5) An application made under subsection (4) shall be served, together with all affidavits in support, on the commissioner and each party to the proceeding before the adjudicator at least 5 days before the return date.

(6) A judge of the Trial Division may confirm, reverse or vary the order of the adjudicator and may make an order that an adjudicator may make under section 33.

(7) Commencement of an appeal under this section does not operate as a stay of proceedings of the order of an adjudicator unless a judge of the Trial Division otherwise orders.

(8) The commissioner shall provide to a judge on the hearing of an appeal all papers and documents in his or her possession which may affect the matter being appealed.

(9) Technical errors as to form, failure to file or to give notice on time, and other procedural errors of a minor nature, do not go to the jurisdiction of an adjudicator and may not be appealed to the Trial Division on any ground, unless the error prejudiced a fair determination of the issues at the public hearing.

[1992 cR-17 s36; 2001 c42 s40; 2007 c14 s7](#)

[Back to Top](#)

Privileged information and protection from prosecution

37. The commissioner or a person employed in the administration of this Act shall not be required to give evidence or produce records obtained in the course of an investigation under this Act in a proceeding, except

- (a) to an adjudicator appointed under this Part to deal with a matter to which that information is relevant; or
- (b) in an appeal under section 36.

[1992 cR-17 s37](#)

[Back to Top](#)

Publication of order

38. The commissioner shall publish an order of an adjudicator and the reasons and recommendations of the adjudicator in whatever manner he or she considers advisable.

[1992 cR-17 s38](#)

[Back to Top](#)

Annual report

39. (1) The commissioner shall as he or she considers necessary but at least annually report to the House of Assembly on the work of the commission under this Act and the commissioner shall call attention to anything that he or she considers significant.

(2) Each report of the commissioner referred to in subsection (1) shall be submitted to the Speaker of the House of Assembly and the speaker shall table each report before the House of Assembly immediately after receipt of the report by him or her or, where the House of Assembly is not then in session, on the 1st day of the commencement of the next session of the House of Assembly or on the 1st day after the House of Assembly resumes sitting following an adjournment.

(3) The annual report of the commissioner shall be submitted not later than January 31 following the close of the fiscal year to which the report relates.

[1992 cR-17 s39](#)

[Back to Top](#)

Notice

40. A notice or other document required to be given or sent under this Part shall be considered to be received

- (a) if delivered personally; or
- (b) 7 clear days after being sent by 1st class mail to the person at that person's last known place of residence.

[1992 cR-17 s40](#)

[Back to Top](#)

Employment record

41. A reference to a complaint, hearing or discipline under this Act shall not be made in a police officer's employment record and the matter shall not be taken into account for a purpose related to that police officer's employment, unless

- (a) the police officer is convicted of an offence in connection with the incident;
- (b) an adjudicator makes a disciplinary order under section 33 and that order is not appealed or is upheld on appeal;
- (c) the chief or the deputy chief disciplines a police officer under section 25 and that discipline is not appealed or is upheld on appeal; or
- (d) the police officer resigns before the complaint is disposed of.

[1992 cR-17 s41](#)

[Back to Top](#)

Discipline by chief and alternate service

42. (1) Notwithstanding this Part, the chief or his or her delegate, may, in accordance with the regulations, consider matters of a disciplinary nature which do not arise as a result of a complaint under section 22.

(2) Notwithstanding another section of this Act or the regulations, where the chief considers it necessary, he or she may immediately suspend a police officer on terms that are prescribed by regulation.

(3) Where, under this Act, personal service of a notice or other document upon a police officer or former police officer has been attempted and not effected, that notice may be served upon a member of the executive of the association and that service shall be considered to be service upon the person intended to be served.

[1992 cR-17 s42](#)

[Back to Top](#)

Proceedings suspended

43. (1) Where a criminal investigation is being conducted or a prosecution is commenced under an Act of the Parliament of Canada or another Act relating to the subject-matter of a complaint, proceedings under this Part shall be suspended pending a decision on that prosecution.

(2) Where a proceeding is suspended under subsection (1), notice of that suspension shall be given to all parties in writing, together with the reason for that suspension.

(3) Where, respecting a complaint or proceedings resulting from a complaint under this Part, there is a conflict with a collective agreement made under Part IV, this Part shall prevail.

[1992 cR-17 s43](#)

PART IV LABOUR RELATIONS

[Back to Top](#)

Interpretation

44. (1) In this Part

- (a) "government negotiator" means the minister or another person that may be authorized by the Lieutenant-Governor in Council to bargain on behalf of the province under this Part; and
- (b) "officer" means every police officer except commissioned officers.

(2) The government negotiator is considered on behalf of the province to be a party to the bargaining under this Part.

[1992 cR-17 s44](#)

[Back to Top](#)

Strikes forbidden

45. (1) A police officer shall not become or remain a member of a trade union or of an organization that is affiliated directly or indirectly with a trade union.

(2) A police officer shall not strike.

(3) Notwithstanding subsection (1), an association and its members may affiliate with the Canadian Labour Congress or the Newfoundland and Labrador Federation of Labour.

[1992 cR-17 s45](#)

[Back to Top](#)

Collective bargaining

46. (1) Where the Lieutenant-Governor in Council is requested in writing by a majority of officers to direct the government negotiator to act under this section, the government negotiator, on the direction of the Lieutenant-Governor in Council, shall, within 60 days after receipt of the request by the Lieutenant-Governor in Council,

- (a) bargain with a bargaining committee; and
- (b) make a reasonable effort to come to an agreement for the purpose of making, subject to the approval of the Lieutenant-Governor in Council and, where required, the enactment of appropriate legislation, or both, an agreement in writing, defining, determining and providing for remuneration, grievance procedures and working conditions for officers.

(2) Where 50% or more of the officers belong to an association, the request under subsection (1) shall be made by the association.

(3) The committee mentioned in subsection (1) shall consist of officers, unless subsection (2) applies, in which case

(a) the persons on the bargaining committee shall be members of the association described in subsection (2); and

(b) at meetings held for the purpose of bargaining under this Act, the bargaining committee may be accompanied by 2 members of the association who attend in an advisory capacity only,

and nothing in this subsection prevents the bargaining committee of an association from being made up of officers.

(4) A bargaining committee under this section may, in addition to persons who may accompany it under subsection (3), be accompanied by 1 legal counsel and 1 other advisor, and the government negotiator may be accompanied by 1 law officer of the Crown, and shall be accompanied by a representative of the Department of Justice.

(5) An agreement entered into under this section shall provide for the period for which the agreement is to remain in effect, and, notwithstanding an Act or law to the contrary, that agreement may provide for that period to be of a duration in excess of 1 year.

[1992 cR-17 s46](#)

[Back to Top](#)

Referral to arbitrator

47. (1) Where, after bargaining under section 46, the government negotiator or the bargaining committee is satisfied that an agreement cannot be reached, he, she or they may by written notice to the other party require matters in dispute to be referred to arbitration.

(2) Each party shall assume its own costs with respect to the arbitration and, in the event the arbitration is conducted by an arbitration board, each party shall share the cost of the chairperson equally.

[2000 c31 s1](#)

[Back to Top](#)

Conduct of arbitration

48. (1) An arbitration begun under section 47 shall be conducted in the manner provided for in the regulations made under section 49.

(2) The decision of the arbitrator is final and binding on the parties to the arbitration.

[2000 c31 s1](#)

[Back to Top](#)

Regulations re: arbitration

49. The Lieutenant-Governor in Council may make regulations with respect to

(a) whether an arbitration shall be conducted by a single arbitrator or by a board of arbitrators;

(b) time limits for the appointment of an arbitrator once a notice is given under subsection 47(1);

- (c) the composition of a board of arbitrators, where a board is appointed in accordance with a regulation made under paragraph (a);
- (d) the powers of an arbitrator including the power to establish time limits for the conduct of an arbitration and to set the period during which the arbitrator's award would be binding on the parties to whom it applies;
- (e) the criteria an arbitrator shall apply in making an arbitration award; and
- (f) generally to facilitate the conduct of an arbitration between the parties.

[2000 c31 s1](#)

[Back to Top](#)

Rep. by 2000 c31 s1

50. [Rep. by 2000 c31 s1]

[2000 c31 s1](#)

[Back to Top](#)

Rep. by 2000 c31 s1

51. [Rep. by 2000 c31 s1]

[2000 c31 s1](#)

[Back to Top](#)

Rep. by 2000 c31 s1

52. [Rep. by 2000 c31 s1]

[2000 c31 s1](#)

[Back to Top](#)

Rep. by 2000 c31 s1

53. [Rep. by 2000 c31 s1]

[2000 c31 s1](#)

PART V MISCELLANEOUS AND REGULATIONS

[Back to Top](#)

Unlawful disposal of equipment, etc.

54. (1) A police officer or other person shall not unlawfully dispose of, receive, buy or sell, or have in his or her possession without lawful cause, or refuse to deliver when lawfully required, a vehicle, firearms, clothing or other thing used for the purposes of the constabulary.

(2) Personal property held in safe keeping by the constabulary for which there is no known owner or which is sold or auctioned in a manner authorized by regulation shall not be purchased by

- (a) a police officer;

- (b) an employee of the constabulary;
- (c) a spouse of a person referred to in paragraphs (a) and (b); or
- (d) a relation by blood or adoption who is a parent, stepparent, child, stepchild, brother, stepbrother, sister or stepsister of a person referred to in paragraphs (a), (b) and (c).

[1992 cR-17 s54](#)

[Back to Top](#)

Misrepresentation

55. A person who by false certificates, false representations or by concealment of a fact is to be employed or is employed by the constabulary shall upon discovery of those false certificates or representations or that concealment be

- (a) refused employment by the constabulary; or
- (b) dismissed from the constabulary and that person may be denied pay, gratuity or pension.

[1992 cR-17 s55](#)

[Back to Top](#)

Regulations

56. The Lieutenant-Governor in Council may make regulations,

- (a) providing for the establishment of a trust fund into which
 - (i) fines and forfeitures paid by police officers under this Act,
 - (ii) fines, fees, commissions or other sums earned by or awarded or granted to members in connection with the performance of their duties, above their regular pay and allowances, and
 - (iii) other sums

to the extent that the Lieutenant-Governor in Council may specify shall be paid, and prescribing how a fund may be used or spent for the benefit of police officers, former police officers, dependents of police officers or of former or deceased police officers;
- (b) providing for the maximum period and the conditions of leave of absence, including sick leave which may be allowed to police officers;
- (c) prescribing procedures for the inspection and review by the minister of the constabulary;
- (d) respecting the political activities in which members are permitted to engage;
- (e) prescribing the manner of accounting for, handling and disposal of money and personal property which comes into the possession of the constabulary and for which there is no other legal means of handling and disposal;
- (f) respecting fines which may be ordered paid by police officers and the association by the chief or by an adjudicator;
- (g) providing for the payment of fees and expenses to witnesses at hearings conducted under Part III; and

(h) respecting a matter that is necessary or advisable to carry out the purpose of this Act.

[1992 cR-17 s56](#)

[Back to Top](#)

Regulations

57. The minister may make regulations

- (a) prescribing standards for police services;
- (b) designating highways in the province on which traffic patrols are to be maintained;
- (c) prescribing the manner of administering an oath or affirmation;
- (d) prescribing procedures and rules of proceedings of the commissioner regarding complaints and the conduct of an investigation ordered under Part III ;
- (e) prescribing the procedures for the conduct of a hearing including the form and manner of providing notice of that hearing;
- (f) respecting the use of recording and audio visual equipment during the conduct of a hearing by an adjudicator;
- (g) providing for the appointment, governing, regulating, arming, clothing, equipping, lodging and payment of, making of allowances to and providing of medical attention for, police officers;
- (h) regulating the residence, classification, rank, service, instruction and distribution of the constabulary;
- (i) governing the qualifications for the appointment of persons to the constabulary and for their promotion;
- (j) respecting personal property held in safe keeping by the constabulary;
- (k) regulating or prohibiting the use of equipment by members of the constabulary;
- (l) regulating the use of force by police officers;
- (m) prescribing standards of dress for police officers on duty and prescribing requirements respecting police uniforms;
- (n) prescribing the required education or courses of training for police officers and prescribing standards in that connection including prescribing which training facilities are acceptable for the purpose of this Act;
- (o) governing the conduct, duties, discipline, suspension and dismissal of police officers and respecting the consideration of a complaint and conduct of a hearing following an investigation carried out under section 24;
- (p) prescribing the circumstances under which police officers are permitted and not permitted to pursue persons by means of motor vehicles, and prescribing procedures that shall be followed when a person is pursued in that manner;
- (q) prescribing the records, returns, books and accounts to be kept by the constabulary and its members;

- (r) prescribing the method of accounting for fees and costs that comes into the hands of members of the constabulary; and
- (s) prescribing a code of conduct or other regulations or rules in which offences constituting misconduct are described.

[1992 cR-17 s57; 2007 c14 s8](#)

[Back to Top](#)

Forms

57.1 The minister may prescribe forms for the purpose and administration of this Act.

[2007 c14 s9](#)

[Back to Top](#)

No bar to other actions

58. (1) Nothing in this Act shall preclude prosecution under an Act of the Parliament of Canada or another Act or the commencement of a civil action arising out of a complaint.

(2) A person is not liable for loss or damage suffered by another person because of anything done or omitted to be done in good faith pursuant to or in the exercise or supposed exercise of the powers conferred by this Act.

[1992 cR-17 s58](#)

[Back to Top](#)

Expenses subrogation

59. (1) Where

- (a) pay or allowance is paid to a police officer while absent from his or her duties; or
- (b) medical or hospital expenses are paid or medical or hospital services are provided from public funds in respect of a police officer,

because of an injury or disability caused or contributed to or resulting from the fault or neglect or other wrongful act or omission of another person, the amount paid in respect of pay, allowance, medical or hospital expenses and the cost of the medical or hospital services provided is a debt due by that other person, or by his or her estate if he or she is dead, to the Crown and may be recovered by the Attorney General and an action or proceeding for the recovery of the debt shall be instituted in the name of the Attorney General.

(2) Where, in an action or other proceeding brought for the recovery of the debt referred to in subsection (1), the police officer in respect of whom the debt was incurred is 1 of the persons found to be negligent, no amount shall be recoverable for the portion of the debt caused by the negligence of the police officer, and the portion of the debt caused by the negligence of the police officer shall be determined under sections 2 and 3 of the *Contributory Negligence Act*, although the police officer may not be a party to the action or other proceeding.

(3) Paragraph (1)(b) does not apply to expenses for which provision is made for recovery by the minister under sections 41 to 45 of the *Medical Care and Hospital Insurance Act*.

[1992 cR-17 s59; 2016 cM-5.01 s61](#)

[Back to Top](#)

Confidentiality

60. (1) A police officer, an employee of the constabulary, an investigator, the commissioner, adjudicators and all persons acting under this Act shall preserve secrecy in respect of all information obtained in the course of their duties and shall not communicate that information to another person except

(a) as required in connection with the administration of this Act;

(a.1) as required under section 174 of the *Highway Traffic Act*, section 15 of the *Child, Youth and Family Services Act*, section 7 of the *Fatalities Investigation Act* or section 19 or 20 of the *Corrections and Conditional Release Act* (Canada); and

(b) to his or her legal counsel in relation to a disciplinary matter under Part III where he or she is the subject of that disciplinary matter.

(2) A document or report prepared under Part III as the result of a matter before the commissioner or an adjudicator under that Part is not admissible in a civil proceeding against a police officer except at a hearing held under Part III or at an appeal to the Trial Division under Part III.

[1992 cR-17 s60; 1999 c22 s22; 2001 c42 s40](#)

[Back to Top](#)

Binding on Crown

61. (1) This Act is binding upon the Crown.

(2) Where this Act conflicts with another Act, this Act shall prevail except with respect to the provisions of those Acts referred to in paragraph 60(1)(a.1).

(3) Where an Act refers to the former Act it shall be considered to be a reference to this Act, with the necessary changes.

[1992 cR-17 s61; 1999 c22 s22](#)

[Back to Top](#)

Penalty

62. (1) A person who

(a) does anything prohibited by, or refuses or neglects to do anything required under, this Act;

(b) deprives, abridges or attempts to deprive, abridge or restrict a person or class of persons in the enjoyment of a right under this Act;

(c) makes a false statement or answer to a question put to him or her under this Act;

(d) hinders, obstructs, molests or interferes with or attempts to hinder, obstruct, molest or interfere with the commissioner, a person acting under the authority of the commissioner, an adjudicator or anyone else acting under the authority of this Act in the exercise of their duties or powers under this Act; or

(e) fails or refuses to comply with an order or part of an order of an adjudicator,

commits an offence and is liable on summary conviction to

(f) for the 1st offence, a fine of not more than \$2,000 or to imprisonment for not more than 3 months or to both a fine and imprisonment; and

(g) for each subsequent offence, a fine of not more than \$4,000 or to imprisonment of not more than 6 months or to both a fine and imprisonment.

(2) An association which contravenes this Act commits an offence and is liable on summary conviction for the 1st offence,

(a) to a fine of not more than \$20,000; and

(b) for each subsequent offence a fine of not more than \$25,000,

and each day that the offence continues shall be considered to be a separate offence.

[1992 cR-17 s62](#)

[Back to Top](#)

Transitional provision

63. Where, prior to the coming into force of this Act, a disciplinary proceeding has been begun against a police officer under the former Act, or regulations made under that Act, and has not been concluded, the former Act and the regulations made under it continue to apply to the proceeding as if that Act had not been repealed by this Act.

[1992 cR-17 s63](#)

[Back to Top](#)

RSN 1990 cR-16 Rep.

64. *The Royal Newfoundland Constabulary Act is repealed.*

[1992 cR-17 s64](#)

[Back to Top](#)

Commencement

65. This Act comes into force on a day to be proclaimed by the Lieutenant-Governor in Council. (In force - May 1/93)

[1992 cR-17 s65](#)

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