

## Chapter 16

### AN ACT TO AMEND THE ROYAL CANADIAN MOUNTED POLICE AGREEMENT ACT

(Assented to June 8, 2021)

The Commissioner, by and with the advice and consent of the Legislative Assembly, enacts as follows:

- 1. This Act amends the *Royal Canadian Mounted Police Agreement Act*.**
- 2. The Act is renamed the *Police Act*.**
- 3. The following is added before section 1:**

#### PART 1 TERRITORIAL POLICE SERVICE AGREEMENT

- 4. Sections 2 and 3 are amended by replacing "Act" with "Part" wherever it appears.**
- 5. The following is added after section 3:**

#### PART 2 INVESTIGATIONS OF SERIOUS INCIDENTS

##### Definitions

- 4. In this Part,**

"charging officer" means a member of a contracted investigative body or contracted police force that is designated as a charging officer in accordance with an agreement made under section 6; (*agent de mise en accusation*)

"civilian monitor" means a civilian monitor appointed under paragraph 9(1)(a); (*observateur civil*)

"contracted investigative body" means an independent investigative body with respect to which an agreement under subsection 6(1) is in effect; (*organisme d'enquête sous contrat*)

"contracted police force" means a police force with respect to which an agreement under subsection 6(2) is in force; (*force de police sous contrat*)

"cultural advisor" means a cultural advisor appointed under subsection 10(1); (*conseiller culturel*)

"designated authority" means the person, body or authority designated under section 5; (*autorité désignée*)

"federal Act" means the *Royal Canadian Mounted Police Act* (Canada); (*Loi fédérale*)

"independent investigative body" means an entity created under the laws of a province or other territory that

- (a) has authority in the province or other territory to investigate the actions of police,
- (b) is managed independently with respect to police forces, other than those that investigate exclusively the actions of police, and
- (c) if it is a police force, investigates exclusively the actions of police; (*organisme d'enquête indépendant*)

"investigator" means a member of a contracted investigative body or contracted police force that is designated as an investigator in accordance with an agreement made under section 6; (*enquêteur*)

"police officer" means

- (a) a member of the Royal Canadian Mounted Police,
- (b) another person appointed or employed under Part I of the federal Act, or
- (c) any person assisting the Royal Canadian Mounted Police in exercising its powers or performing its duties and functions under the federal Act; (*policier*)

"serious incident" has the same meaning as in

- (a) subsection 45.79(1) of the federal Act for investigations under Part VII.1 of the federal Act, or
- (b) subsection 45.88(1) of the federal Act for investigations under Part VII.2 of the federal Act; (*incident grave*)

Designated authority

5. (1) The Commissioner in Executive Council may, by order, designate a person, body or authority to be the designated authority for the purposes of this Part and Parts VII.1 and VII.2 of the federal Act.

Reference to name or office

(2) An order under subsection (1) may designate a person either by name or by public office.

Agreement – contracted investigative body

6. (1) The Minister may, from time to time, on behalf of the Government of Nunavut, enter into an agreement with an independent investigative body, or with its government, to authorize the independent investigative body to be a contracted investigative body for the purposes of this Part.

Agreement – contracted police force

(2) The Minister may, from time to time, on behalf of the Government of Nunavut, enter into an agreement with a police force in Canada, or with its government, municipality or other authority, to authorize the police force to be a contracted police force for the purposes of this Part.

Included provisions

(3) An agreement under this section must provide for the designation of investigators and charging officers.

Amendment of agreement

(4) An agreement made under this section may be amended

- (a) with respect to the provisions of the agreement in respect of which a method of amendment is set out in the agreement, by that method; or
- (b) with respect to any other provision of the agreement, by the mutual consent of the parties to the agreement.

Implementation of agreement

(5) The Minister is authorized to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of Nunavut under an agreement made under this section.

Appointment

7. (1) Following a notification under section 45.8 of the federal Act, the designated authority shall

- (a) appoint a contracted investigative body to investigate the incident, unless the designated authority has reason to believe that a contracted investigative body would not be impartial or has another compelling reason why a contracted investigative body should not be appointed;
- (b) if a contracted investigative body is not appointed under paragraph (a), appoint a contracted police force to investigate the incident unless the designated authority has reason to believe that a contracted police force would not be impartial or has another compelling reason why a contracted police force should not be appointed; or
- (c) if no appointment is made under paragraph (a) or (b), notify the Royal Canadian Mounted Police of that fact.

#### Documenting and reporting reasons

- (2) If the designated authority does not appoint a contracted investigative body under paragraph (1)(a) or, if applicable, a contracted police force under paragraph (1)(b),
- (a) the designated authority shall provide the reason for that decision to the Minister in writing; and
  - (b) the Minister shall include the reason for that decision in the annual report referred to in subsection 11.1(1).

#### Territorial entity

8. (1) A contracted investigative body is deemed to be a territorial entity in Nunavut to the extent that is necessary for the purposes of the federal Act.

#### Powers

- (2) A contracted investigative body and a contracted police force has the power to investigate serious incidents in Nunavut for the purpose of determining whether an offence under federal or territorial law has occurred.

#### Peace officers

- (3) Investigators and charging officers are peace officers.

#### Charges

- (4) If, as a result of an investigation under this Part or Parts VII.1 and VII.2 of the federal Act, a charging officer determines that there are reasonable grounds to believe that a police officer has committed an offence under federal or territorial law, the charging officer shall cause charges to be laid against the police officer.

#### Limitation

- (5) A contracted investigative body or a contracted police force may only exercise powers under this Part with respect to a serious incident that they have been appointed to investigate under section 7.

#### Civilian monitor or observer

9. (1) The designated authority may appoint
- (a) a civilian monitor for each investigation by a contracted police force into a serious incident under this Part; and
  - (b) if applicable, an observer for the purposes of Parts VII.1 and VII.2 of the federal Act.

#### Restriction on appointment

- (2) A person who is employed by a police force, other than an independent investigative body, may not be appointed as a civilian monitor or observer.

#### Assessing impartiality

- (3) When a civilian monitor is appointed for an investigation under this Part, the contracted police force conducting the investigation shall permit the civilian monitor to assess the impartiality of the investigation.

#### Recommendations

(4) If a civilian monitor has concerns with the impartiality of an investigation, the civilian monitor may inform the contracted police force of their concerns and may make any recommendations to the contracted police force that they consider appropriate to address the concerns.

#### Report

(5) The civilian monitor shall, in accordance with the regulations, provide a report respecting the impartiality of the investigation of a serious incident to the designated authority and to the contracted police force that conducted the investigation.

#### Response

(6) If the civilian monitor's report identifies concerns with respect to the impartiality of the investigation, the contracted police force that conducted the investigation shall provide to the designated authority a written response to the civilian monitor's report that includes a description of what actions have or will be taken by it to address those concerns.

#### Report on response

(7) If the designated authority is not satisfied with a response provided under subsection (6), the designated authority shall issue a report to that effect to the Minister.

#### Cultural advisor

10. (1) The designated authority shall
- (a) appoint a cultural advisor to advise a contracted investigative body or contracted police force during an investigation under this Part if
    - (i) the designated authority is of the opinion that it is appropriate to do so in the circumstances, or
    - (ii) the victim, or alleged victim, of the serious incident requests it; and
  - (b) consider a request from the following individuals to appoint a cultural advisor, as well as any information included in the request, in formulating their opinion under subparagraph (a)(i):
    - (i) an individual related to the victim, or alleged victim, of the serious incident by blood, marriage or adoption, or
    - (ii) any other individual whom it is reasonable in the circumstances to regard as being related to the victim, or alleged victim, of the serious incident.

#### Same person

(2) Subject to the regulations, a civilian monitor may be appointed as cultural advisor for the same investigation.

#### Documenting and reporting reasons

(3) If the designated authority does not appoint a cultural advisor under subsection (1),

- (a) the designated authority shall provide the following information to the Minister in writing
  - (i) whether a request described in paragraph (1)(b) was made, and
  - (ii) the reasons for why a cultural advisor was not appointed; and
- (b) the Minister shall include that information in the annual report referred to in subsection 11.1(1).

#### Immunity

11. (1) No action or proceeding may be brought against an investigator, charging officer, civilian monitor or a cultural advisor or any other person acting under the authority of this Part for anything done or omitted to be done in good faith in the exercise or intended exercise of any power, or the performance or intended performance of any duty or function under this Part.

#### Information subject to privilege

(2) Nothing in this Part authorizes a person to disclose to a civilian monitor or a cultural advisor privileged information, as defined in subsection 45.4(1) of the federal Act, and a civilian monitor or a cultural advisor shall not, despite the *Access to Information and Protection of Privacy Act*, use or disclose that information if it is disclosed.

#### Not members of public service

- (3) For greater certainty,
- (a) investigators and charging officers are not members of the public service; and
  - (b) civilian monitors and cultural advisors who are not members of the public service do not become members of the public service by virtue of an appointment under this Part.

#### Annual report

11.1. (1) The Minister shall, within six months of the end of each fiscal year, prepare an annual report on the administration of this Part.

#### Tabling of annual report

(2) The Minister shall table the annual report referred to in subsection (1) in the Legislative Assembly during the first sitting of the Assembly after the report is prepared that provides a reasonable opportunity for tabling the report.

#### Tabling of agreements

(3) Subject to subsection (4), the Minister shall table a copy of each agreement or amendment entered into under section 6 in the Legislative Assembly during the first sitting of the Assembly that provides a reasonable opportunity for tabling it.

#### Redaction

(4) The copies tabled under subsection (3) shall not include those provisions whose disclosure would, in the opinion of the Minister, impair the effectiveness of investigative techniques or procedures currently used, or likely to be used, under the agreement.

#### Regulations

12. The Minister may make regulations

- (a) respecting the criteria and procedures for the appointment of
  - (i) civilian monitors,
  - (ii) subject to the federal Act, observers under paragraph 9(1)(b), and
  - (iii) cultural advisors;
- (b) respecting the role of civilian monitors and cultural advisors;
- (c) respecting a civilian monitor's reporting obligations;
- (d) respecting the access to, and use of, the notes, reports or other material prepared by a civilian monitor or cultural advisor in relation to the investigation of a serious incident under this Part; and
- (e) prescribing the periods within which
  - (i) the civilian monitor must provide a report under subsection 9(5),
  - (ii) a contracted police force must provide a response under subsection 9(6), and
  - (iii) the designated authority must provide a report under subsection 9(7).

#### **Coming into force**

**6. This Act comes into force on a day to be fixed by order of the Commissioner.**