

BILL

No. 144

An Act to amend *The Police Act, 1990*

(Assented to _____)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Police (Miscellaneous) Amendment Act, 2023*.

SS 1990-91, c P-15.01 amended

2 *The Police Act, 1990* is amended in the manner set forth in this Act.

Section 2 amended

3 **Section 2 is amended:**

(a) **by repealing clause (a) and substituting the following:**

“(a) **‘advisory council’** means the SMS Governance Advisory Council established pursuant to section 36.6;

“(a.1) **‘board’** means, with respect to a municipality:

(i) if the municipality has established a board of police commissioners pursuant to section 27, the board of police commissioners;

(ii) if the municipality has not established a board of police commissioners, the council”;

(b) **by adding the following clauses after clause (b):**

“(b.1) **‘chief marshal’** means the chief marshal of the SMS designated pursuant to section 36.11;

“(b.2) **‘Civilian Executive Director’** means the Civilian Executive Director of the Serious Incident Response Team appointed pursuant to section 91.01, and includes an interim Civilian Executive Director”;

(c) **in clause (k):**

(i) **by striking out “and” after subclause (v); and**

(ii) **by adding the following after subclause (v):**

“(v.1) the chief marshal;

“(v.2) any officer, non-commissioned officer, constable or special constable of the SMS; and”;

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(d) by repealing clause (q) and substituting the following:

“(q) **‘police service’** means:

- (i) a police department, police service or police force established by:
 - (A) a board;
 - (B) any authority or person designated in the regulations pursuant to section 24.1; or
 - (C) any other person or entity prescribed in the regulations; or
- (ii) the Saskatchewan Marshals Service”; **and**

(e) by adding the following clauses after clause (r):

“(s) **‘Saskatchewan Marshals Service’** or **‘SMS’** means the Saskatchewan Marshals Service described in section 36.1;

“(t) **‘Serious Incident Response Team’** means the Serious Incident Response Team established pursuant to section 91.01”.

Section 12 amended

4 Subsection 12(2) is amended:

- (a) in clause (a) by adding “the chief marshal,” after “boards,”; and**
- (b) in clause (b) by adding “the chief marshal,” after “boards,”.**

Section 24.1 amended

5 Subsection 24.1(5) is repealed.

New Part III.1

6 The following Part is added after Part III:

“PART III.1
Saskatchewan Marshals Service

“Saskatchewan Marshals Service

36.1(1) This Part applies to the police service known as the Saskatchewan Marshals Service.

- (2) The SMS consists of:
 - (a) the chief marshal; and
 - (b) all other personnel of the SMS.
- (3) If there is a conflict between the provisions of this Part and any other provisions of this Act, the provisions of this Part prevail with respect to the SMS.
- (4) If there is a conflict between the provisions of this Part and the provisions of *The Public Service Act, 1998*, the provisions of this Part prevail with respect to the members of the SMS.

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“Chief marshal

36.11(1) The minister shall designate a chief marshal of the SMS.

(2) Subject to any direction, policy, strategy or plan provided by the minister pursuant to section 36.4 and to this Act and the regulations, the chief marshal is responsible for:

- (a) the administration, management and operation of the SMS;
- (b) coordinating and overseeing the performance of members’ powers and responsibilities pursuant to section 36.3; and
- (c) the maintenance of discipline within the SMS.

(3) For the purposes of carrying out the responsibilities imposed on the chief marshal by this Act and the regulations, the chief marshal may:

- (a) designate personnel as members or civilian members of the SMS and assign duties to those members and civilian members;
- (b) delegate to any member or civilian member any authority vested in the chief marshal that, in the opinion of the chief marshal, is required to properly manage the SMS; and
- (c) make directives necessary to carry out the daily administration and operations of the SMS.

(4) Unless otherwise provided, a reference in this Act or the regulations to a chief includes the chief marshal.

“Transitional

36.2 Notwithstanding section 36.11:

- (a) anyone who holds the position of chief of the SMS immediately before the coming into force of this section continues to be appointed as the chief marshal pursuant to this Part; and
- (b) any member or civilian member of the SMS who held the member’s or civilian member’s position immediately before the coming into force of this section continues to be designated as a member or civilian member pursuant to this Part.

“Members

36.3(1) Before entering on the duties of a member of the SMS, the member shall take and subscribe to an oath or affirmation, in the form approved by the minister, before a person authorized to administer an oath or affirmation.

(2) Unless otherwise indicated in the member’s appointment, a member of the SMS has the power and the responsibility to:

- (a) perform all duties that are assigned to constables or peace officers in relation to:
 - (i) the preservation of peace;
 - (ii) the prevention of crime and offences against the laws in force in Saskatchewan; and
 - (iii) the apprehension of criminals, offenders and others who may lawfully be taken into custody;

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(b) execute all warrants and perform all duties and services under or in relation to them that, pursuant to the laws in force in Saskatchewan, may lawfully be executed and performed by constables or peace officers; and

(c) perform all duties that may lawfully be performed by constables or peace officers in relation to the escorting and conveyance of persons in lawful custody to and from courts, places of confinement, correctional facilities or camps, hospitals or other places.

(3) Unless otherwise indicated in the member's appointment, a member of the SMS has authority to exercise the powers and perform the duties mentioned in subsection (2) throughout Saskatchewan.

“Role of minister

36.4(1) Subject to subsection (2), the minister shall:

(a) provide general direction, policy and priorities to the chief marshal respecting the SMS; and

(b) develop long-term strategic plans for the SMS.

(2) The minister shall not:

(a) provide direction to members of the SMS, other than the chief marshal;

(b) provide any direction, policy, strategy or plan to the chief marshal with respect to investigations, the conduct of operations, the discipline of members or the day-to-day administration of the SMS; or

(c) provide any direction, policy, strategy or plan that:

(i) requires a member of the SMS to do anything or refrain from doing anything that is inconsistent with the member's duties pursuant to this Act or the regulations; or

(ii) prohibits a member of the SMS from collecting information for the purpose of investigating an offence or assisting with the prosecution of an offence.

(3) A reference to the board in any of the following provisions, or any regulations made with respect to the following provisions, is deemed to be a reference to the deputy minister for matters respecting the SMS:

(a) Part IV;

(b) sections 83 to 86;

(c) sections 91.01 to 91.15;

(d) any other provisions prescribed in the regulations.

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“Indemnification of members

36.5(1) If a claim for damages is made, or a civil action is instituted, against a member of the SMS as a result of an act committed while acting in the scope of employment as a member, the minister shall:

- (a) retain and pay for the services of a legal counsel to act on behalf of that member; and
- (b) pay any sum required in connection with a judgement or settlement of a claim for damages and costs awarded against the member.

(2) If a member is criminally prosecuted as a result of an act committed while acting in the scope of employment as a member, and the member is found not guilty, the minister may indemnify the member for all reasonable costs incurred in the defence of the criminal prosecution.

“SMS Governance Advisory Council

36.6(1) The SMS Governance Advisory Council is established.

(2) The advisory council consists of at least three members appointed by the Lieutenant Governor in Council.

(3) A member of the advisory council:

- (a) holds office at pleasure for a term not exceeding 3 years and until a successor is appointed; and
- (b) may be reappointed for 1 or more additional terms.

(4) The Lieutenant Governor in Council:

- (a) shall designate a member of the advisory council as chairperson; and
- (b) may designate another member of the advisory council as vice-chairperson.

(5) If the chairperson is absent or unable to act or the office of the chairperson is vacant, the vice-chairperson may exercise all the powers and shall perform all the duties of the chairperson.

“Role of advisory council

36.7(1) The advisory council shall advise the minister with respect to the use of the minister’s powers and duties pursuant to section 36.4.

(2) The minister may submit any of the following to the advisory council for review:

- (a) a direction, policy, strategy or plan provided by the minister pursuant to section 36.4;
- (b) any proposed direction, policy, strategy or plan that the minister intends to provide pursuant to section 36.4.

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(3) At the request of the advisory council, the minister shall provide the following to the advisory council for review:

- (a) a direction, policy, strategy or plan provided by the minister pursuant to section 36.4;
- (b) any proposed direction, policy, strategy or plan that the minister intends to provide pursuant to section 36.4.

(4) On receiving a direction, policy, strategy or plan pursuant to subsection (2) or (3), the advisory council shall:

- (a) review the direction, policy, strategy or plan for compliance with this Part; and
- (b) provide any advice or recommendations to the minister with respect to the direction, policy, strategy or plan that the advisory council considers appropriate.

(5) The minister may publish, in a manner the minister considers appropriate, any advice or recommendation the minister receives from the advisory council pursuant to subsection (4).

(6) When publishing advice or recommendations pursuant to subsection (5), the minister may exclude any information that:

- (a) discloses personal information, as defined by *The Freedom of Information and Protection of Privacy Act*, about an individual, including a member of the SMS;
- (b) discloses personal health information, as defined by *The Health Information Protection Act*, about an individual, including a member of the SMS;
- (c) is described in subsection 15(1) of *The Freedom of Information and Protection of Privacy Act*; or
- (d) the minister reasonably believes is in the public interest to exclude from publication.

“Conciliation, collective bargaining agreements, etc.

36.8 Unless otherwise provided in the regulations, and without limiting the generality of this Act, sections 83 to 86 apply, with any necessary modification, with respect to the SMS.

“Regulations for Part

36.9(1) The Lieutenant Governor in Council may make regulations:

- (a) respecting any matter mentioned in section 12;
- (b) prescribing any other matter or thing required or authorized by this Part to be prescribed;
- (c) respecting any matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Part.

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(2) Any regulations made pursuant to clause (1)(a) apply with respect to the SMS in the place of any regulations made pursuant to section 12 respecting that matter.

(3) On the coming into force of this section, any previous regulation made pursuant to section 24.1 with respect to the SMS is deemed to have been made pursuant to this section and continues in force”.

Section 37.1 amended**7 The following subsection is added after subsection 37.1(4):**

“(5) If a complaint pursuant to this Part relates to a matter that is under the investigation or review of the Serious Incident Response Team, the PCC may, on the direction of the Civilian Executive Director:

(a) waive any requirement pursuant to this Part for the board, chief or PCC to provide a copy of a complaint or other notice to a chief, member or member of the public; or

(b) prohibit the board or chief from providing a copy of a complaint or other notice to a chief, member or member of the public pursuant to this Part”.

Section 38 amended**8(1) Subsection 38(7) is amended by striking out “No public complaint” and substituting “Subject to subsection (8), no public complaint”.****(2) The following subsection is added after subsection 38(7):**

“(8) Subsection (7) does not apply to a matter that is referred to the PCC by the Civilian Executive Director pursuant to clause 91.08(4)(g) or (10)(b)”.

Section 80.001 amended**9(1) Subsection 80.001(4) is amended by striking out “No complaint” and substituting “Subject to subsection (4.1), no complaint”.****(2) The following subsection is added after subsection 80.001(4):**

“(4.1) Subsection (4) does not apply to a matter that is referred to the PCC by the Civilian Executive Director pursuant to clause 91.08(4)(g) or (10)(b)”.

Section 88 amended**10 Subclause 88(8)(b)(i) is amended by adding “or transfer payable” after “grant payable”.****New section 91.081****11 The following section is added after section 91.08:****“Warrant**

91.081(1) In this section:

‘investigator’ means any of the following:

(a) an investigator appointed by the Civilian Executive Director pursuant to section 91.03;

(b) a person conducting an investigation pursuant to clause 91.08(4)(b) or (d);

‘justice’ means a judge of the Provincial Court of Saskatchewan or a justice of the peace.

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(2) If the Civilian Executive Director or an investigator has reasonable grounds to believe that a person is in possession of a record, document, property or other item that will assist in an investigation conducted pursuant to section 91.08, and it is necessary to enter a place, premises or vehicle for the purposes of gaining access to that record, document, property or other item, the Civilian Executive Director or investigator may apply without notice to a justice for a warrant.

(3) If an application pursuant to subsection (2) is with respect to an electronic device, the application shall contain a description of the type of examination to be conducted of the electronic device and any measures that are in place to protect the privacy rights of any individual who may be subject to the warrant.

(4) On an application pursuant to subsection (2), if the justice who receives the application is satisfied that there are reasonable grounds for believing that a person is in possession of a record, document, property or other item that will assist in an investigation pursuant to section 91.08, it is necessary to enter a place, premises or vehicle for the purposes of gaining access to that record, document, property or item and, if applicable, the measures described in subsection (3) are sufficient to protect the privacy rights of any individual who may be subject to the warrant, the justice may issue a warrant authorizing the Civilian Executive Director, an investigator or any other person named in the warrant:

- (a) to enter and search any place or premises named in the warrant;
- (b) to stop and search any vehicle described in the warrant; and
- (c) to seize and remove from any place, premises or vehicle searched any record, document, property or other item that will assist in the investigation pursuant to section 91.08.

(5) A justice may issue a warrant pursuant to subsection (4) on any terms and conditions that the justice considers appropriate, including any terms and conditions to protect the privacy rights of a person who may be required to provide any record, document, property or other item in accordance with the warrant.

(6) With a warrant issued pursuant to subsection (4), the Civilian Executive Director, an investigator or any other person named in the warrant may, subject to any terms and conditions of the warrant:

- (a) enter and search any place or premises named in the warrant;
- (b) stop and search any vehicle described in the warrant;
- (c) open and examine the contents within any trunk, box, bag, parcel, closet, cupboard or other receptacle that the Civilian Executive Director, investigator or other person finds in the place, premises or vehicle;
- (d) require the production of and examine any record, document, property or other item that the Civilian Executive Director, investigator or other person believes, on reasonable grounds, will assist in the conduct of an investigation pursuant to section 91.08;

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(e) in order to produce, copy and store any information, use any computer hardware or software or other data storage, processing or retrieval device or system; and

(f) remove, for the purposes of making copies, retrieving information, or conducting further examination, any record, document, property or other item examined pursuant to this section, if the Civilian Executive Director, investigator or other person believes, on reasonable grounds, that the record, document, property or other item will assist in the conduct of an investigation pursuant to section 91.08.

(7) If the Civilian Executive Director, an investigator or any other person named in a warrant removes a record, document, property or other item pursuant to subsection (6), the Civilian Executive Director, investigator or other person shall:

(a) provide a receipt to the person who provided the record, document property or other item; and

(b) return, as soon as is reasonably possible, the record, document, property or other item to the place from which it was removed or any other place agreed to by the person who provided the record, document, property or other item.

(8) Information obtained pursuant to this section is to be used only for the purposes of an investigation pursuant to section 91.08.

(9) If the Civilian Executive Director, an investigator or any other person named in a warrant produces, copies, stores or otherwise retrieves information from an electronic device or system pursuant to this section, the Civilian Executive Director, investigator or other person shall:

(a) retain only that information that is directly related to the investigation that is the subject of the warrant; and

(b) destroy, as soon as is reasonably practicable, any other information that is not described in clause (a)".

Section 91.09 amended

12(1) Subsection 91.09(1) is amended by striking out "On the conclusion" and substituting "Subject to subsection (1.1), on the conclusion".

(2) The following subsection is added after subsection 91.09(1):

“(1.1) If a matter has been referred to the Attorney General for Saskatchewan or the Attorney General for Canada pursuant to clause 91.08(10)(a), the Civilian Executive Director shall not make an investigation file available pursuant to subsection (1) during the period that the matter remains under the consideration of the Attorney General for Saskatchewan or the Attorney General for Canada”.

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New section 91.091**13 Section 91.091 is repealed and the following substituted:****“Investigation summary**

91.091 After receiving a report pursuant to subsection 91.08(9), the Civilian Executive Director shall publish a summary of the report, in accordance with any requirements prescribed in the regulations, on the later of the following:

- (a) 3 months after receiving the report pursuant to subsection 91.08(9);
- (b) if the matter has been referred to the Attorney General for Saskatchewan or the Attorney General for Canada pursuant to clause 91.08(10)(a), 3 months after the date on which the Attorney General for Saskatchewan or the Attorney General for Canada notifies the Civilian Executive Director that it has concluded its consideration of the matter”.

Coming into force

14(1) Subject to subsections (2) to (4), this Act comes into force on assent.

(2) Clause 3(a), the portion of clause 3(b) that defines “chief marshal”, clauses 3(c) and (d), the portion of clause 3(e) that defines “Saskatchewan Marshals Service” or “SMS” and sections 4 to 6 come into force by order of the Lieutenant Governor in Council.

(3) Subject to subsection (4), section 9 comes into force on the day on which section 4 of *The Police Amendment Act, 2020* comes into force.

(4) If this Act is assented to after the day on which section 4 of *The Police Amendment Act, 2020* comes into force, section 9 comes into force on assent.

FOURTH SESSION

Twenty-ninth Legislature

SASKATCHEWAN

BILL

No. 144

An Act to amend *The Police Act, 1990*

Received and read the

First time

Second time

Third time

And passed

Honourable Paul Merriman
