

PART III MUNICIPAL POLICE SERVICES BOARDS

Police services boards

27. (1) There shall be a police services board or, as provided in subsection 5 (3), one or more police services boards, for every municipality that maintains a police force. 2002, c. 18, Sched. N, s. 61 (1).

Boards of commissioners of police continued as police services boards

(2) Every board of commissioners of police constituted or continued under the *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, or any other Act and in existence on the 31st day of December, 1990, is continued as a police services board. R.S.O. 1990, c. P.15, s. 27 (2).

Name

(3) A board shall be known as (*insert name of municipality*) Police Services Board and may also be known as Commission des services policiers de (*insert name of municipality*). R.S.O. 1990, c. P.15, s. 27 (3).

Three-member boards in smaller municipalities

(4) The board of a municipality whose population according to the last enumeration taken under section 15 of the *Assessment Act* does not exceed 25,000 shall consist of,

- (a) the head of the municipal council or, if the head chooses not to be a member of the board, another member of the council appointed by resolution of the council;
- (b) one person appointed by resolution of the council, who is neither a member of the council nor an employee of the municipality; and
- (c) one person appointed by the Lieutenant Governor in Council. 1997, c. 8, s. 19 (1).

Five-member boards in larger municipalities

(5) The board of a municipality whose population according to the last enumeration taken under section 15 of the *Assessment Act* exceeds 25,000 shall consist of,

- (a) the head of the municipal council or, if the head chooses not to be a member of the board, another member of the council appointed by resolution of the council;
- (b) one member of the council appointed by resolution of the council;
- (c) one person appointed by resolution of the council, who is neither a member of the council nor an employee of the municipality; and
- (d) two persons appointed by the Lieutenant Governor in Council. 1997, c. 8, s. 19 (1); 2002, c. 17, Sched. F, Table.

Smaller municipalities, option to expand board

[\(6\)](#) The council of a municipality to which subsection (4) would otherwise apply may determine, by resolution, that the composition of its board shall be as described in subsection (5). R.S.O. 1990, c. P.15, s. 27 (6).

Transition

[\(7\)](#) A resolution passed under clause 8 (2a) (b) of the *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, before the 31st day of December, 1990, shall be deemed to have been passed under subsection (6). R.S.O. 1990, c. P.15, s. 27 (7).

[\(8\)](#) Repealed: 2002, c. 17, Sched. F, Table.

Seven-member boards in certain circumstances

[\(9\)](#) The council of a municipality whose population according to the last enumeration taken under section 15 of the *Assessment Act* exceeds 300,000 may apply to the Lieutenant Governor in Council for an increase in the size of its board; if the Lieutenant Governor in Council approves the application, the board shall consist of,

- (a) the head of the municipal council or, if the head chooses not to be a member of the board, another member of the council appointed by resolution of the council;
- (b) two members of the council appointed by resolution of the council;
- (c) one person appointed by resolution of the council, who is neither a member of the council nor an employee of the municipality; and
- (d) three persons appointed by the Lieutenant Governor in Council. 1997, c. 8, s. 19 (1).

Vacancies

[\(10\)](#) If the position of a member appointed by the Lieutenant Governor in Council becomes vacant, the Solicitor General may appoint a replacement to act until the Lieutenant Governor in Council makes a new appointment. R.S.O. 1990, c. P.15, s. 27 (10).

Term of office

[\(10.1\)](#) The term of office for a member appointed by resolution of a council shall be as set out by the council in his or her appointment, but shall not exceed the term of office of the council that appointed the member. 1997, c. 8, s. 19 (2).

Same, and reappointment

[\(10.2\)](#) A member appointed by resolution of a council may continue to sit after the expiry of his or her term of office until the appointment of his or her successor, and is eligible for reappointment. 1997, c. 8, s. 19 (2).

Idem

[\(11\)](#) If the position of a member who is appointed by a municipal council or holds office by virtue of being the head of a municipal council becomes vacant, the board shall

notify the council, which shall forthwith appoint a replacement. R.S.O. 1990, c. P.15, s. 27 (11).

Remuneration

[\(12\)](#) The council shall pay the members of the board who are appointed by the Lieutenant Governor in Council or Solicitor General remuneration that is at least equal to the prescribed amount. R.S.O. 1990, c. P.15, s. 27 (12).

Persons who are ineligible to be members of a board

[\(13\)](#) A judge, a justice of the peace, a police officer and a person who practises criminal law as a defence counsel may not be a member of a board. 1997, c. 8, s. 19 (3).

Interpretation of municipal populations where more than one board

[\(14\)](#) Where there is more than one board in a municipality pursuant to subsection 5 (3), the references in subsections (4), (5) and (9) to the population of a municipality shall be read as references to the population of the part of the municipality that is served by the board that is the subject of the subsection. 2002, c. 18, Sched. N, s. 61 (2).

[\(15\)](#) Repealed: 1997, c. 8, s. 19 (3).

Election of chair

[28. \(1\)](#) The members of a board shall elect a chair at the board's first meeting in each year. R.S.O. 1990, c. P.15, s. 28.

Vice-chair

[\(2\)](#) The members of a board may also elect a vice-chair at the first meeting in each year, and the vice-chair shall act as the chair if the chair is absent or if the chair's position is vacant. 1997, c. 8, s. 20.

Protection from personal liability

[29. \(1\)](#) No action or other proceeding for damages shall be instituted against a member of a board for any act done in good faith in the execution or intended execution of his or her duty or for any alleged neglect or default in the execution in good faith of that duty.

Board's liability

[\(2\)](#) Subsection (1) does not relieve a board of liability for a member's acts or omissions, and the board is liable as if that subsection had not been enacted and as if the member were the board's employee. R.S.O. 1990, c. P.15, s. 29.

Board may contract, sue and be sued

[30. \(1\)](#) A board may contract, sue and be sued in its own name.

Members not liable for board's contracts

[\(2\)](#) The members of a board are not personally liable for the board's contracts. R.S.O. 1990, c. P.15, s. 30.

Responsibilities of boards

31. (1) A board is responsible for the provision of adequate and effective police services in the municipality and shall,

- (a) appoint the members of the municipal police force;
- (b) generally determine, after consultation with the chief of police, objectives and priorities with respect to police services in the municipality;
- (c) establish policies for the effective management of the police force;
- (d) recruit and appoint the chief of police and any deputy chief of police, and annually determine their remuneration and working conditions, taking their submissions into account;
- (e) direct the chief of police and monitor his or her performance;
- (f) establish policies respecting the disclosure by chiefs of police of personal information about individuals;
- (g) receive regular reports from the chief of police on disclosures and decisions made under section 49 (secondary activities);
- (h) establish guidelines with respect to the indemnification of members of the police force for legal costs under section 50;
- (i) establish guidelines for dealing with complaints under Part V, subject to subsection (1.1);
- (j) review the chief of police's administration of the complaints system under Part V and receive regular reports from the chief of police on his or her administration of the complaints system. R.S.O. 1990, c. P.15, s. 31 (1); 1995, c. 4, s. 4 (7); 1997, c. 8, s. 21 (1-3); 1997, c. 17, s. 8; 2007, c. 5, s. 9 (1).

Restriction

(1.1) Guidelines in respect of complaints made by members of the public under Part V shall not be established by the board unless they are consistent with,

- (a) any procedural rules or guidelines for the handling of public complaints established under clause 56 (1) (b) by the Independent Police Review Director; and
- (b) any procedure, condition or requirement made by regulation under paragraph 26.4 of subsection 135 (1). 2007, c. 5, s. 9 (2).

Members of police force under board's jurisdiction

(2) The members of the police force, whether they were appointed by the board or not, are under the board's jurisdiction.

Restriction

(3) The board may give orders and directions to the chief of police, but not to other members of the police force, and no individual member of the board shall give orders or directions to any member of the police force.

Idem

(4) The board shall not direct the chief of police with respect to specific operational decisions or with respect to the day-to-day operation of the police force.

Training of board members

(5) The board shall ensure that its members undergo any training that the Solicitor General may provide or require.

Rules re management of police force

(6) The board may, by by-law, make rules for the effective management of the police force. R.S.O. 1990, c. P.15, s. 31 (2-6).

Guidelines re secondary activities

(7) The board may establish guidelines consistent with section 49 for disclosing secondary activities and for deciding whether to permit such activities. 1997, c. 8, s. 21 (4).

Oath of office

32. Before entering on the duties of office, a member of a board shall take an oath or affirmation of office in the prescribed form. R.S.O. 1990, c. P.15, s. 32.

Agreement to constitute joint board

33. (1) Despite any special Act, the councils of two or more municipalities may enter into an agreement to constitute a joint board.

Consent of Solicitor General required

(2) The agreement must be authorized by by-laws of the councils of the participating municipalities and requires the consent of the Solicitor General.

Application of Act to joint boards

(3) The provisions of this Act that apply to boards also apply with necessary modifications to joint boards.

Three-member joint boards

(4) The joint board of municipalities whose combined population according to the last enumeration taken under section 15 of the *Assessment Act* does not exceed 25,000 shall consist of,

- (a) one person who is a member of the council of a participating municipality, appointed by agreement of the councils of the participating municipalities;
- (b) one person appointed by agreement of the councils of the participating municipalities, who is neither a member of a council of a participating municipality nor an employee of a participating municipality; and

(c) one person appointed by the Lieutenant Governor in Council.

Five-member joint boards

(5) The joint board of municipalities whose combined population according to the last enumeration taken under section 15 of the *Assessment Act* exceeds 25,000 shall consist of,

- (a) two persons who are members of the councils of any participating municipalities, appointed by agreement of the councils of the participating municipalities;
- (b) one person appointed by agreement of the councils of the participating municipalities, who is neither a member of a council of a participating municipality nor an employee of a participating municipality; and
- (c) two persons appointed by the Lieutenant Governor in Council.

Option to expand joint board

(6) The councils of participating municipalities to which subsection (4) would otherwise apply may determine, by resolution of each of them, that the composition of their joint board shall be as described in subsection (5).

Seven-member joint boards

(7) Where the combined population of the participating municipalities according to the last enumeration taken under section 15 of the *Assessment Act* exceeds 300,000, the councils of the participating municipalities may apply to the Lieutenant Governor in Council for an increase in the size of their joint board; if the Lieutenant Governor in Council approves the application, the joint board shall consist of,

- (a) three persons who are members of the councils of any participating municipalities, appointed by agreement of the councils of the participating municipalities;
- (b) one person appointed by agreement of the councils of the participating municipalities, who is neither a member of a council of a participating municipality nor an employee of a participating municipality; and
- (c) three persons appointed by the Lieutenant Governor in Council. 1997, c. 8, s. 22.

Delegation

34. A board may delegate to two or more of its members any authority conferred on it by this Act, except,

- (a) Repealed: 1997, c. 8, s. 23.
- (b) the authority to bargain under Part VIII, which the board may delegate to one or more members. R.S.O. 1990, c. P.15, s. 34; 1997, c. 8, s. 23.

Meetings

35. (1) The board shall hold at least four meetings each year.

Quorum

(2) A majority of the members of the board constitutes a quorum.

Proceedings open to the public

(3) Meetings and hearings conducted by the board shall be open to the public, subject to subsection (4), and notice of them shall be published in the manner that the board determines.

Exception

(4) The board may exclude the public from all or part of a meeting or hearing if it is of the opinion that,

- (a) matters involving public security may be disclosed and, having regard to the circumstances, the desirability of avoiding their disclosure in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public; or
- (b) intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public. R.S.O. 1990, c. P.15, s. 35.

Evidence of by-laws

36. A document purporting to be a by-law of the board signed by a member or purporting to be a copy of such a by-law certified correct by a member is admissible in evidence without proof of the signature or authority of the person signing. R.S.O. 1990, c. P.15, s. 36.

Rules and procedures

37. A board shall establish its own rules and procedures in performing its duties under this Act and, except when conducting a hearing under subsection 65 (9), the *Statutory Powers Procedure Act* does not apply to a board. 1997, c. 8, s. 24.

Municipal police force

38. A municipal police force shall consist of a chief of police and such other police officers and other employees as are adequate, and shall be provided with adequate equipment and facilities. 1997, c. 8, s. 25.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 38 is repealed and the following substituted:

Municipal police force

38. A municipal police force shall consist of a chief of police employed by the police force and such other police officers employed by the police force and other employees of the police force as are adequate, and shall be provided with adequate equipment and facilities. 2009, c. 30, s. 46.

See: 2009, c. 30, ss. 46, 63.

Estimates

39. (1) The board shall submit operating and capital estimates to the municipal council that will show, separately, the amounts that will be required,

- (a) to maintain the police force and provide it with equipment and facilities; and
- (b) to pay the expenses of the board's operation other than the remuneration of board members.

Same

(2) The format of the estimates, the period that they cover and the timetable for their submission shall be as determined by the council.

Budget

(3) Upon reviewing the estimates, the council shall establish an overall budget for the board for the purposes described in clauses (1) (a) and (b) and, in doing so, the council is not bound to adopt the estimates submitted by the board.

Same

(4) In establishing an overall budget for the board, the council does not have the authority to approve or disapprove specific items in the estimates.

Commission hearing in case of dispute

(5) If the board is not satisfied that the budget established for it by the council is sufficient to maintain an adequate number of police officers or other employees of the police force or to provide the police force with adequate equipment or facilities, the board may request that the Commission determine the question and the Commission, shall, after a hearing, do so. 1997, c. 8, s. 26.

Reduction or abolition of police force

40. (1) A board may terminate the employment of a member of the police force for the purpose of abolishing the police force or reducing its size if the Commission consents and if the abolition or reduction does not contravene this Act.

Criteria for Commission's consent

(2) The Commission shall consent to the termination of the employment of a member of the police force under subsection (1) only if,

- (a) the member and the board have made an agreement dealing with severance pay or agreed to submit the matter to arbitration; or
- (b) the Commission has made an order under subsection (3).

Order imposing arbitration

(3) If the member and the board do not make an agreement dealing with severance pay and do not agree to submit the matter to arbitration, the Commission, if it is of the opinion that it would be appropriate to permit the abolition of the police force or the

reduction of its size, may order the member and the board to submit the matter to arbitration and may give any necessary directions in that connection.

Arbitration

[\(4\)](#) Section 124 applies to an arbitration referred to in this section with necessary modifications. R.S.O. 1990, c. P.15, s. 40.