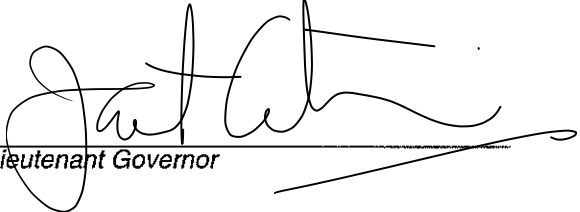


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 632

, Approved and Ordered November 22, 2021



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the Special Provincial Constable Complaint Procedure Regulation, B.C. Reg. 206/98, is amended as set out in the attached Schedule.



Minister of Public Safety and Solicitor General
and Deputy Premier



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Police Act, R.S.B.C. 1996, c. 448, ss. 74 and 184*

Other: *OIC 724/98*

R30508010

SCHEDULE

- 1 *The title of the Special Provincial Constable Complaint Procedure Regulation, B.C. Reg. 206/98, is repealed and the following substituted:*

SPECIAL PROVINCIAL CONSTABLE COMPLAINTS AND DISCIPLINE REGULATION .

- 2 *The following heading is added before section 1:*

PART 1 – INTERPRETATION .

- 3 *Section 1 is amended*

- (a) *by adding the following definitions:*

“**admissible complaint**” means a complaint that is determined to be admissible under

- (a) section 3.1 [*determination of whether complaint by member of public admissible*], or
(b) section 3.3 (6) (b) [*reconsideration of inadmissible complaint based on new information*];

“**complaint**” means a complaint made under section 3 [*procedure for complaint by member of public*];

“**conduct**” means an act or omission;

“**constabulary duty**” in relation to a special provincial constable, means a power or duty referred to in section 9 (3) [*special provincial constables*] of the Act that the special provincial constable is authorized to exercise or required to perform;

“**investigation**” means an investigation under section 4 [*investigation into admissible complaint*];, and

- (b) *in the definition of “respondent” by striking out “under section 3”.*

- 4 *Section 2 is amended*

- (a) *by renumbering the section as section 2 (1), and*

- (b) *by adding the following subsection:*

- (2) Nothing in this regulation limits or prohibits any disciplinary or other actions that may be taken by the employer of an employee who is a special provincial constable in respect of conduct that does not involve a constabulary duty of the special provincial constable.

- 5 *The following heading is added before section 3:*

PART 2 – COMPLAINTS AND DISCIPLINE .

6 *Section 3 is repealed and the following substituted:*

Procedure for complaint by member of public

- 3** (1) A member of the public may make a complaint against a special provincial constable if the member of the public is directly affected by or directly witnesses conduct of the special provincial constable that is alleged to involve either of the following:
- (a) the improper exercise or performance of a constabulary duty;
 - (b) neglect, without good or sufficient cause, to exercise or perform a constabulary duty.
- (2) An individual who is known to and acting on behalf of a member of the public described in subsection (1) may make a complaint on behalf of the member of the public if the member of the public is incapable of giving consent, because of age or a mental or physical condition, to the complaint being made.
- (3) A complaint must be submitted to the director or the supervisor, in writing, within 6 months after the occurrence of the conduct described in subsection (1).
- (4) A complaint must include the following information:
- (a) the complainant's full name;
 - (b) an address for sending notices to the complainant in relation to the complaint;
 - (c) the details of the complaint, including the respondent's name if known;
 - (d) a description of the conduct, in as much detail as possible;
 - (e) the names of any witnesses and their respective addresses, if known.
- (5) If a complaint is submitted to the director, the director must promptly send a copy of the complaint to the supervisor.
- (6) If a complaint is submitted to the supervisor, the supervisor must promptly send a copy of the complaint to the director.
- (7) After receiving a complaint from the director or complainant, the supervisor must promptly send a copy of the complaint to the respondent.

7 *The following sections are added:*

Determination of whether complaint by member of public admissible

- 3.1** (1) After receiving a complaint, the director must determine whether the complaint is admissible or inadmissible.
- (2) A complaint is admissible if all of the following requirements are met:
- (a) the complainant is directly affected by or directly witnesses the conduct to which the complaint relates;
 - (b) the conduct to which the complaint relates involves a constabulary duty;

- (c) the complaint
 - (i) is made within the time limit referred to in section 3 (3), or
 - (ii) is not made within the time limit referred to in section 3 (3) but the director considers that it is in the public interest to proceed with the complaint;
- (d) the complaint includes the information required under section 3 (4);
- (e) the complaint is not frivolous or vexatious.

**Notice of determination
respecting admissibility**

- 3.2** (1) After determining whether a complaint is admissible or inadmissible, the director must promptly give written notice of the determination to the complainant and the supervisor.
- (2) If the director determines that a complaint is inadmissible, the notice given under subsection (1) must include
- (a) the director's reasons for the determination, and
 - (b) notice of the reconsideration process under section 3.3.
- (3) After receiving the notice referred to in subsection (1), the supervisor must promptly send a copy of the notice, including, if applicable, the reasons and notice referred to in subsection (2), to the respondent.

Reconsideration of determination based on new information

- 3.3** (1) The director may, on request of the complainant, reconsider a determination that a complaint is inadmissible if the director is satisfied that new and relevant information has become available or been discovered.
- (2) The request under subsection (1) must be in writing and must be given to the director within 30 days after the complainant receives the notice referred to in section 3.2 (1).
- (3) The director may extend the time period for requesting a reconsideration if
- (a) the director is satisfied that special circumstances existed that precluded the request from being made within the 30-day time period referred to in subsection (2), or
 - (b) the director otherwise considers it appropriate to grant an extension.
- (4) After receiving a request under subsection (1), the director must promptly send a copy of the request to the supervisor.
- (5) After receiving a copy of the request sent under subsection (4), the supervisor must promptly send a copy of the request to the respondent.
- (6) After considering a request under subsection (1), the director may
- (a) confirm the director's determination, or
 - (b) determine that the complaint is admissible.

**Notice of director's decision
on reconsideration**

- 3.4** (1) After making a decision under section 3.3 (6), the director must promptly give written notice of the decision to the complainant and the supervisor.
- (2) After receiving the notice given under subsection (1), the supervisor must promptly send a copy of the notice to the respondent.

8 *Section 4 is amended*

- (a) *in subsection (1) by striking out “a complaint” and substituting “an admissible complaint”*,
- (b) *in subsection (1) (b) by striking out “provide notice” and substituting “give notice”*,
- (c) *in subsections (2) and (4) by striking out “a complaint” and substituting “an admissible complaint”, and*
- (d) *by repealing subsection (4) (b) and substituting the following:*
(b) promptly give notice of the investigation to the respondent and the director.

9 *Section 5 is amended*

- (a) *by repealing subsection (1) and substituting the following:*
(1) A supervisor may attempt to informally resolve an admissible complaint. ,
- (b) *in subsection (2) by striking out “A complaint” and substituting “An admissible complaint”*,
- (c) *in subsections (3) and (4) by striking out “a complaint” and substituting “an admissible complaint”, and*
- (d) *in subsection (4) (b) by striking out “promptly deliver” and substituting “promptly send”*.

10 *Section 6 is repealed.*

11 *Section 7 is amended by striking out “an investigation into a complaint” and substituting “an investigation into an admissible complaint”*.

12 *Section 8 (1) is amended by renumbering the section as section 8.*