



Cross-Border Policing Act, C.C.S.M. c. C325

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C.C.S.M. c. C325

The Cross-Border Policing Act

(Assented to June 10, 2004)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

PART 1

DEFINITIONS

Definitions

1 The following definitions apply in this Act.

"appointing official" means a person designated under section 34. (« agent de nomination »)

"extra-provincial commander" means

(a) the commanding officer, director general or commissioner of the provincial police force of another province, or his or her designate; and

(b) the chief of police of a municipal or regional police force from another province or territory, or his or her designate. (« chef extraprovincial »)

"extra-provincial police officer" means a police officer appointed or employed under the law of another province or territory, but does not include a member of the Royal Canadian Mounted Police. (« agent de police extraprovincial »)

"local commander" means

(a) the chief of police of a municipal police force;

(b) the senior officer of a local RCMP detachment; and

(c) the commanding officer of a law enforcement body designated by regulation as a Manitoba police force. (« chef local »)

"local RCMP detachment" means a detachment of the Royal Canadian Mounted Police that is responsible for providing policing services to a specified area of Manitoba. (« détachement local de la GRC »)

"Manitoba police force" means

(a) a municipal police force in Manitoba; and

(b) a law enforcement body designated as a Manitoba police force by regulation. (« corps de police du Manitoba »)

"Manitoba police officer" means a police officer appointed to, or employed by, a Manitoba police force. (« agent de police du Manitoba »)

"minister" means the minister appointed by the Lieutenant Governor in Council to administer this Act. (« ministre »)

PART 2

STANDARD APPOINTMENT PROCEDURE

ROLE OF APPOINTING OFFICIAL

Appointing official to make appointment

2 An appointing official may appoint an extra-provincial police officer as a police officer in Manitoba for a period of not more than one year in accordance with this Part.

REQUEST

Request for appointment

3(1) An extra-provincial commander may request that a police officer under his or her command be appointed as a police officer in Manitoba so that the officer has the powers and protections of a police officer while performing police duties in Manitoba.

How request is made

3(2) The request must be made in writing to an appointing official.

Contents of request

3(3) The request must include the following information:

(a) the name and rank of the officer to be appointed;

(b) the duration of the requested appointment;

(c) the name and telephone number of the immediate supervisor of the officer to be appointed;

(d) a general description of the officer's duties in Manitoba, and in the case of an operation or investigation, the name of each person who is a target of the operation or investigation, if known;

(e) where the officer is expected to perform those duties;

(f) an assessment of the risks associated with the officer's duties, including the possibility of firearms being used;

(g) whether the duties might require a designation to be made under section 25.1 of the *Criminal Code* (Canada).

Additional information

4 The appointing official may ask the extra-provincial commander for any additional information about the request that he or she considers necessary, and may deny the request if the information is not provided.

Review with affected police forces

5 Before deciding whether to make the requested appointment, the appointing official must review the request with the local commander of any municipal police force or local RCMP detachment that the appointing official believes would be affected if the appointment is made.

APPOINTMENT

Deadline for decision

6 Within seven days after receiving a request, the appointing official must either make the requested appointment or advise the extra-provincial commander that the request has been denied.

Decision on request

7(1) The appointing official may make the requested appointment if he or she is of the opinion that it is appropriate in the circumstances for the extra-provincial police officer to be appointed as a police officer in Manitoba.

Form of appointment

7(2) The appointment must be made in a form approved by the minister.

Conditions on appointment

7(3) The appointing official may impose conditions on the appointment, which must be set out on the appointment form.

Providing appointment form

8 As soon as reasonably possible, but no later than five days after making the appointment, the appointing official must provide a copy of the appointment form to the appointee and the appointee's extra-provincial commander.

When appointment effective

9 The appointment is not effective until the appointee receives a copy of the appointment form from the appointing official.

Notice to minister

10(1) As soon as reasonably possible, but no later than five days after making the appointment,

the appointing official must provide the minister with written notice of the appointment.

Content of notice

10(2) The notice must contain only the following information:

- (a) the name and rank of the appointee, and the name of the appointee's police force;
- (b) the duration of the appointment; and
- (c) the reason for the appointment.

PART 3

APPOINTMENT IN URGENT CIRCUMSTANCES

ROLE OF LOCAL COMMANDER

Local commander to make appointment

11 A local commander may appoint an extra-provincial police officer as a police officer in Manitoba for a period of not more than 72 hours in accordance with this Part.

REQUEST

Request by extra-provincial officer

12(1) An extra-provincial police officer may request appointment as a police officer in Manitoba if he or she

- (a) wishes to have the powers and protections of a police officer while participating in an operation or investigation in Manitoba; and
- (b) believes that the operation or investigation could be compromised by the delay that would result from requiring the request to be made under Part 2.

Request by immediate supervisor

12(2) If it is impractical for the officer to make the request, the officer's immediate supervisor may request the appointment on behalf of the officer.

How request is made

12(3) The request must be made to the local commander of the Manitoba police force or local RCMP detachment providing policing services in the area where the investigation or operation is expected to be conducted. The request may be made orally or in writing.

Content of request

12(4) The request must include the information required under subsection 3(3) and an explanation of how the operation or investigation could be compromised if the officer was required to obtain an appointment under Part 2.

Additional Information

13 The local commander may ask the extra-provincial police officer and the officer's

immediate supervisor for any additional information about the request that he or she considers necessary, and may deny the request if the information is not provided.

APPOINTMENT

Timing of decision

14 As soon as reasonably possible after receiving a request, the local commander must either make the requested appointment or advise the requesting officer that the request has been denied.

Decision on request

15(1) The local commander may make the requested appointment if he or she is of the opinion that

- (a) it is appropriate in the circumstances for the appointment to be made; and
- (b) the delay that would result from requiring a request to be made under Part 2 could compromise the operation or investigation.

Form of appointment

15(2) The appointment must be made in a form approved by the minister.

Conditions on appointment

15(3) The local commander may impose conditions on the appointment, which must be set out on the appointment form.

Providing appointment form

16 As soon as reasonably possible after making the appointment, the local commander must provide a copy of the appointment form to the appointee.

When appointment effective

17 Subject to section 18, the appointment is not effective until the appointee receives a copy of the appointment form from the appointing official.

Appointment with immediate effect

18(1) A local commander who is of the opinion that it is impractical to provide the appointee with a copy of the appointment form before the appointee requires the powers and protection of a police officer in Manitoba may make the appointment effective immediately by

- (a) indicating on the appointment form
 - (i) that the appointment is effective immediately, and
 - (ii) the exact time when the appointment is made; and
- (b) giving oral confirmation of the appointment to the appointee, including the exact times when the appointment is effective and expires, and any conditions imposed on it.

Oral confirmation to immediate supervisor

18(2) If the request for appointment was made under subsection 12(2) (request by immediate supervisor), oral confirmation of the appointment may be given to the appointee's immediate supervisor.

NOTICE OF APPOINTMENT

Notice to appointing official

19 Within three days after making the appointment, the local commander must provide an appointing official with a copy of the appointment form and all information provided to the commander in support of the request for the appointment.

Notice to commander and minister

20 As soon as reasonably possible after receiving a copy of the appointment form under section 19, the appointing official must

- (a) provide the appointee's extra-provincial commander with a copy of the appointment form; and
- (b) provide the minister with written notice of the appointment that meets the requirements of subsection 10(2).

RENEWING APPOINTMENT

Renewing appointment

21(1) At the request of the appointee or the appointee's immediate supervisor, the local commander may renew an appointment made under this Part for a period of not more than 72 hours if

- (a) a request for an appointment under Part 2 has been made in respect of the appointee; and
- (b) a decision to approve or deny that request has not been made.

Applicable provisions

21(2) Sections 12 to 20 apply to the renewal of an appointment made under this Part, with necessary changes.

Further extensions

21(3) An appointment made under this Part may be renewed more than once, as long as the conditions in subsection (1) are satisfied.

PART 4

APPOINTEE'S

DUTIES AND STATUS

Advance notice to local commander

22(1) Before performing any police duties in an area of Manitoba, an appointee must give notice to the local commander of the Manitoba police force or local RCMP detachment that provides policing services to that area, unless the duties are of a routine nature that are unlikely to affect the policing services provided by the force or detachment.

Content of notice

22(2) The notice must include a general description of the appointee's duties and all conditions imposed on the appointment.

Exception

22(3) If it is impractical for the appointee to give notice to the local commander before performing duties in the area, the appointee must do so as soon as possible after the first duties are performed.

Appointee must comply with direction

23 An appointee must comply with any direction from a local commander respecting how the appointee is to perform his or her duties while in the area in which the commander's force or detachment provides policing services.

Early termination of appointment

24(1) An appointing official may terminate an appointment before it expires if he or she is of the opinion that

(a) the appointee has failed to

(i) comply with this Act,

(ii) comply with a condition imposed on the appointment, or

(iii) act in a professional manner at any time while in Manitoba; or

(b) it is no longer appropriate in the circumstances for the appointee to have the powers and protections of a police officer in Manitoba.

Notice of termination

24(2) The appointing official must provide written notice of the termination to

(a) the appointee;

(b) the appointee's extra-provincial commander; and

(c) the minister.

When termination effective

24(3) The appointment is terminated when the appointee receives a copy of the notice of termination.

Surrendering appointment

25(1) An appointee who ceases to require the powers and protections of a police officer in Manitoba before his or her appointment expires must surrender the appointment by written notice to an appointing official.

Notice to minister

25(2) The appointing official must provide the minister with a copy of the notice of surrender.

Status

26 While an appointment is in effect, the appointee has, throughout Manitoba, all the powers and protections that a peace officer has by law, subject to any conditions imposed on the appointment.

PART 5

OVERSIGHT OF MANITOBA POLICE OFFICERS IN OTHER JURISDICTIONS

Application

27 This Part applies to a Manitoba police officer who has been appointed as a police officer or peace officer in another province or territory.

Manitoba police officer to co-operate

28 If an investigation, hearing or inquest is held under authority of a statute in another province or territory to examine

- (a) the conduct of a Manitoba police officer who was appointed as a police officer or peace officer in the other jurisdiction; or
- (b) the operation or investigation that led the officer to be appointed as a police officer or peace officer in the other jurisdiction;

the officer must co-operate with an investigator and appear before any inquest or hearing, subject to the rights and privileges that a police officer from the other jurisdiction would have in the same situation.

Manitoba police force must disclose documents

29 If a Manitoba police officer is involved in an investigation, hearing or inquest referred to in section 28, the Manitoba police force of which the officer is a member must disclose and provide to the investigator, inquest or hearing any relevant documents in its possession, subject to any rights and privileges that a police force from that other jurisdiction would have in the same situation.

Law Enforcement Review Act applies

30 A Manitoba police officer who has been appointed as a police officer or peace officer in another province or territory is subject to investigation and discipline in Manitoba under *The Law Enforcement Review Act* with respect to his or her conduct in the other jurisdiction, as if the conduct took place in Manitoba, even if an investigation, hearing or inquest referred to in section 28 has been held in the other jurisdiction.

Inadmissible statements and evidence

31 No statement or evidence given by a Manitoba police officer in an investigation, hearing or inquest referred to in section 28 is admissible without the officer's consent in

- (a) an investigation or hearing under *The Law Enforcement Review Act*; or
- (b) internal disciplinary proceedings conducted by the officer's Manitoba police force.

PART 6

INDEMNIFICATION

Manitoba police force must indemnify

32 Subject to an agreement under clause 33(a), a Manitoba police force must indemnify a police force from another province or territory against all costs, charges and expenses — including an amount paid to settle an action or satisfy a judgment — reasonably incurred in respect of a civil, criminal or administrative action or proceeding if

- (a) the police force from that other jurisdiction is a party to the action or proceeding; and
- (b) the action or proceeding arises out of the actions of a member of the Manitoba police force while the member was appointed as a police officer or peace officer in that other jurisdiction.

Indemnity agreement

33 A Manitoba police force may enter into an agreement regarding indemnification for costs arising out of

- (a) the appointment of a Manitoba police officer as a police officer or peace officer in another province or territory; and
- (b) the appointment of an extra-provincial police officer as a police officer in Manitoba.

PART 7

GENERAL PROVISIONS

Designation of appointing officials

34 The minister may designate one or more of the following persons to act as appointing officials:

- (a) a Manitoba police officer;
- (b) a member of the Royal Canadian Mounted Police who is a resident of Manitoba.

Local commander may delegate powers

35 A local commander may delegate his or her powers under this Act to a police officer under his or her command.

Law of hot pursuit not affected

36 Nothing in this Act affects the common law regarding hot pursuit.

Power of appointment reserved

37 Nothing in this Act limits or affects the power to appoint peace officers or special constables under another Act.

Regulations

38 The Lieutenant Governor in Council may make regulations

(a) designating a law enforcement body for the purpose of clause (b) of the definition "Manitoba police force" in section 1;

(b) respecting any matter necessary or advisable to carry out the purposes of this Act.

39 to 49 NOTE: These sections made up Part 8 of the original Act and contained amendments to *The Law Enforcement Review Act* that are now included in that Act.

PART 9

C.C.S.M. REFERENCE AND COMING INTO FORCE

C.C.S.M. reference

50 This Act may be referred to as chapter C325 of the *Continuing Consolidation of the Statutes of Manitoba*.

Coming into force

51 This Act comes into force on a day to be fixed by proclamation.

NOTE: S.M. 2004, c. 4, was proclaimed in force November 19, 2004.

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