

**Caution:**

*This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.*

**CONSULTATION DRAFT**

**ONTARIO REGULATION**

to be made under the

**COMMUNITY SAFETY AND POLICING ACT, 2019**

**MATTERS RESPECTING THE APPOINTMENT AND FUNCTIONS OF SPECIAL  
CONSTABLES AND THE AUTHORIZATION OF SPECIAL CONSTABLE  
EMPLOYERS**

INTERPRETATION

**Interpretation**

1. (1) In this Regulation,

“conducted energy weapon” means a firearm listed in section 1 of Part 1 of the Schedule to the *Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited or Restricted* (SOR/98-462), made under the *Criminal Code* (Canada); (“FRENCH”)

“firearm” means a firearm as defined in section 2 of the *Criminal Code* (Canada), with the exception of a conducted energy weapon; (“arme à feu”)

“specialized investigation” means an investigation into any of the following:

1. Major cases within the meaning of [citation TBC – CSPA equivalent of Ontario Regulation 354/04 (Major Case Management)].
2. A criminal organization offence, as defined in section 2 of the *Criminal Code* (Canada).
3. A terrorism offence, as defined in section 2 of the *Criminal Code* (Canada).
4. Any incident resulting in the death of a person. (“enquête spécialisée”)

(2) For the purposes of this Regulation, in addition to land and structures, a reference to a premises may include,

- (a) water;
- (b) ships and vessels;
- (c) trailers and portable structures designed or used for residence, business or shelter; or
- (d) trains, railway cars, vehicles and aircraft, whether or not in operation.

#### CERTIFICATES OF APPOINTMENT, WEAPONS AND EQUIPMENT

##### **Obligation of issuer of certificate of appointment**

2. Where a police service board or the Commissioner specifies in a certificate of appointment a purpose that contemplates a person acting as a special constable in relation to a particular premises, the board or the Commissioner shall specify whether the person is authorized to act as a special constable in relation to matters that originate in that premises and continue outside of that premises.

##### **Certificate of appointment, purposes and powers**

3. For the purposes of clauses 92 (7) (c) and (d) of the Act, the certificate of appointment of a type of special constable described in Column 1 of the Schedule to this Regulation may specify,

- (a) any of the purposes for which a person may act as a special constable that are set out opposite in Column 2 of the Schedule; and
- (b) any powers of a police officer under a statute listed or described opposite in Column 3 of the Schedule, subject to any conditions or restrictions set out in Column 3.

##### **Permitted weapons**

4. (1) Subject to subsection (3), a special constable may only carry or use a weapon as permitted by subsection (2) and provided that, pursuant to clause 95 (6) (a) of the Act, the special constable's certificate of appointment authorizes the special constable to carry or use the weapon.

(2) A special constable of a type described in Column 1 of the Schedule to this Regulation may carry or use a weapon listed opposite in Column 4 of the Schedule, subject to any conditions or restrictions set out in Column 4.

(3) The restrictions set out in this section do not apply to the possession or use of a weapon by a special constable who is authorized under a law of Canada to provide policing in Ontario and to possess or use the weapon in the course of his or her duties.

### **Prohibition on motor vehicle pursuits**

5. (1) Subject to subsection (2), a special constable may not, by means of a motor vehicle, pursue a fleeing motor vehicle.

(2) Subsection (1) does not apply to a special constable who is an officer within the meaning of the *Royal Canadian Mounted Police Act*.

### **Patrol vehicles**

6. The Niagara Parks Commission and any special constable employer that employs special constables of a type referred to in Column 1 of Item 5 of the Schedule to this Regulation shall ensure that any patrol vehicle used by their special constables meets the following specifications:

1. It must not carry lamps that cast red and blue lights.
2. In the case of a patrol vehicle used by special constables whose special constable employer is the Niagara Parks Commission, it must have inscribed on it ,on each side, “Niagara Parks Commission”, “NIAGARA PARKS COMMISSION”, “Niagara Parks Police Service” or “NIAGARA PARKS POLICE SERVICE”.
3. In the case of a patrol vehicle used by special constables of a type referred to in Column 1 of Item 5 of the Schedule to this Regulation, it must have inscribed on it,
  - i. the name of the special constable employer on each side, and
  - ii. the words “Special Constable” or “SPECIAL CONSTABLE” on each side, the hood and the trunk.
4. The words required to be inscribed on the vehicle under paragraph 2 or 3 must be inscribed with a reflective material.

## SPECIAL CONSTABLE EMPLOYER APPLICATIONS

### **Requirements to be a special constable employer**

7. For the purposes of subsection 97 (3) of the Act, the following are prescribed as requirements that an applicant must meet to be issued an authorization to employ special constables:

1. The applicant must be one of the following:

- i. A Ministry, commission, board or other administrative unit of the Government of Ontario, including any agency thereof.
  - ii. A municipality.
  - iii. A local board as defined in subsection 1 (1) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*.
  - iv. A municipally-controlled corporation as defined in section 223.1 of the *Municipal Act, 2001*.
  - v. A city-controlled corporation as defined in section 156 of the *City of Toronto Act, 2006*.
  - vi. A university.
  - vii. An entity that employs police officers or peace officers in another jurisdiction.
  - viii. An entity that employs First Nation Officers.
2. If the applicant would be a special constable employer mentioned in Column 1 of Item 2, 3 or 5 of the Schedule to this Regulation if the authorization were issued, the applicant must have the following in place:
  - i. A records management system that provides for the storage, retrieval, retention, manipulation and archiving of information pertaining to the activities of special constables performed for the applicant.
  - ii. Procedures governing the performance of the duties of special constables employed by the applicant.
  - iii. Procedures for obtaining assistance in an emergency from police services that provide policing in any area where the special constables are likely to act as special constables, that must have been approved by the relevant chiefs of police.
3. If an applicant would be a special constable employer referred to in Column 1 of Item 3 or 5 of the Schedule to this Regulation if the authorization were issued, the applicant must have entered into the following agreements with whoever is expected to appoint the applicant's special constables, that being either the relevant police service board or the Commissioner:

- i. An agreement as to any terms or conditions that are expected to be imposed on a special constable's certificate of appointment regarding the types of incidents the special constables may respond to and any investigations they may undertake.
  - ii. An agreement respecting reporting by the special constable employer to the board or Commissioner, as the case may be, regarding the types of incidents that the special constables respond to and the types of investigations they undertake.
4. An applicant, other than an entity that employs First Nation Officers, must have in place procedures respecting reporting to chiefs of police for areas where special constables are likely to act as special constables regarding reporting to the chiefs of police any incidents responded to and investigations undertaken by the special constables.
  5. The applicant must have commercial general liability insurance of a minimum amount of five million dollars and must name Her Majesty the Queen in right of Ontario as an additional insured, unless the applicant is a ministry, commission, board or other administrative unit of the Government of Ontario, including any agency thereof.

### **Information to be included in application**

**8.** For the purposes of subsection 97 (2) of the Act, the following information shall be included in an application for an authorization to employ special constables:

1. The applicant's name.
2. An indication of which special constable employer the applicant would be if the authorization were issued, from among those referred to in Column 1 of the Schedule to this Regulation, as well as,
  - i. the purposes for which a person may act as a special constable and the powers of a police officer that may be exercised by a special constable that the applicant wishes to see specified in certificates of appointment issued to persons employed by the applicant, and
  - ii. in the case of an applicant that would be a special constable employer referred to in Column 1 of Item 2 of the Schedule to this Regulation, the provincial statutes that a person appointed as a special constable and employed by the applicant would be authorized to enforce in the course of their employment with the applicant.
3. A detailed description of the reasons for which the applicant requires the use of special constables in relation to its mandate, unless,

- i. the applicant would be a special constable employer mentioned in Column 1 of Item 1, 3 or 4 of the Schedule to this Regulation if the authorization were issued, or
  - ii. the applicant employed special constables immediately before the day on which subsection 97 (1) of the Act came into force.
4. If the special constables that would be employed by the applicant would be acting as special constables in areas that are not contiguous, the arrangements that the applicant intends to put in place to support the activities of the special constables in such circumstances.
  5. The total number of special constables that the applicant intends to employ.
  6. Any information required to demonstrate that the applicant meets the requirements set out in section 7.

### Factors to be considered

9. For the purposes of subsection 97 (4) of the Act, the following are prescribed as the factors that the Minister shall take into consideration in considering whether to issue an authorization to an applicant that meets the requirements set out in section 7:

1. Whether the description referred to in paragraph 3 of section 8 demonstrates a need for special constables, given any alternatives that may be available to the applicant.
2. Whether the arrangements referred to in paragraph 4 of section 8 are sufficient.

### Amendment to this Regulation

10. Item 1 of the Schedule to this Regulation is amended by striking out “*Liquor Licence Act*” in Column 3 and substituting “*Liquor Licence and Control Act, 2019*”.

### Commencement

#### 11. [Commencement]

## SCHEDULE

### PURPOSES AND POWERS FOR CERTIFICATES OF APPOINTMENT AND PERMITTED WEAPONS

| Item | Column 1<br>Type of special constable          | Column 2<br>Purposes for which a person may act as a special constable | Column 3<br>Acts setting out powers of a police officer and applicable conditions or restrictions | Column 4<br>Permitted weapons and applicable conditions or restrictions |
|------|--|--|---|---|
| 1.   | Special constables who are members of a police | 1. Providing security and law enforcement functions, other             | The powers of a police officer under the following  | 1. Oleoresin capsicum spray.  |

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|    | <p>service or whose special constable employer is an entity that employs First Nation Officers</p>  | <p>than conducting specialized investigations, in relation to premises that,</p> <ol style="list-style-type: none"> <li>i. are used for court proceedings, or</li> <li>ii. are used by a police service, the Government of Ontario, a municipal government or a band council.</li> </ol> <ol style="list-style-type: none"> <li>2. Conducting investigations, other than specialized investigations, that are not in relation to the premises referred to in paragraph 1.</li> <li>3. Assisting police officers or First Nation Officers with performing policing functions.</li> <li>4. Performing activities to support investigations conducted by police officers or First Nation Officers.</li> <li>5. Serving summonses or other legal documents and executing warrants.</li> <li>6. Searching, ensuring secure custody of and transporting persons who are in custody.</li> <li>7. Performing policing functions related to highway safety and enforcing legislation related to vehicles.</li> </ol> | <p>Acts may be specified in a certificate of appointment if the certificate of appointment specifies either or both of the purposes set out in paragraphs 1 and 2 in Column 2 of Item 1:</p> <ol style="list-style-type: none"> <li>1. The <i>Cannabis Control Act, 2017</i>.</li> <li>2. The <i>Courts of Justice Act</i>.</li> <li>3. The <i>Liquor Licence Act</i>.</li> <li>4. The <i>Mental Health Act</i>.</li> <li>5. The <i>Provincial Animal Welfare Services Act, 2019</i>.</li> <li>6. The <i>Provincial Offences Act</i>.</li> <li>7. The <i>Safe Streets Act, 1999</i>.</li> <li>8. The <i>Smoke-Free Ontario Act, 2017</i>.</li> <li>9. The <i>Trespass to Property Act</i>.</li> <li>10. The <i>Youth Criminal Justice Act (Canada)</i>.</li> </ol> <p>The powers of a police officer under the following Acts may be specified in a certificate of appointment if the certificate of appointment specifies the purpose set out in paragraph 7 in Column 2 of Item 1:</p> <ol style="list-style-type: none"> <li>1. The <i>Compulsory Automobile Insurance Act</i>.</li> <li>2. The <i>Off-Road Vehicles Act</i>.</li> <li>3. The <i>Highway Traffic Act</i>.</li> <li>4. The <i>Motorized Snow Vehicles Act</i>.</li> </ol> | <ol style="list-style-type: none"> <li>2. Oleoresin capsicum foam.</li> <li>3. A baton.</li> </ol>  |
| 2. | <p>Special constables whose special constable employer is a ministry, commission, board or other administrative unit of the Government of</p> | <ol style="list-style-type: none"> <li>1. Exercising the powers of a peace officer under the <i>Criminal Code (Canada)</i> and other federal statutes in relation to the performance of the person's duties in enforcing a</li> </ol>   | None  | <p>The following weapons may only be used if the special constable is already authorized to carry or use the weapon for the purpose of performing the special</p> |

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|    | Ontario, including any agency thereof, other than the Niagara Parks Commission or Metrolinx                             | provincial statute that the person is authorized to enforce in the course of their employment with the special constable employer.   |  | constable's duties in enforcing a provincial statute in the course of their employment with the special constable employer:<br><br>1. Oleoresin capsicum spray.<br><br>2. Oleoresin capsicum foam<br><br>3. A baton |
| 3. | Special constables whose special constable employer is the Niagara Parks Commission                                     | 1. Performing policing functions, other than conducting specialized investigations, in relation to the Parks, as defined in section 1 of the <i>Niagara Parks Act</i> .  | 1. Any Act of the Legislature.<br><br>2. The <i>Youth Criminal Justice Act</i> (Canada).   | 1. A firearm<br><br>2. A conducted energy weapon<br><br>3. Oleoresin capsicum spray.<br><br>4. Oleoresin capsicum foam<br><br>5. A baton  |
| 4. | Special constables whose special constable employer employs police officers pursuant to the law of another jurisdiction | 1. Performing policing functions in any specified area of Ontario or throughout Ontario.   | 1. Any Act of the Legislature.   | 1. A firearm<br><br>2. A conducted energy weapon<br><br>3. Oleoresin capsicum spray.<br><br>4. Oleoresin capsicum foam<br><br>5. A baton  |
| 5. | Special constables not otherwise described in Column 1 of Items 1 to 4  | 1. Providing security and law enforcement functions, other than conducting specialized investigations, in relation to the premises of the special constable employer<br><br>2. Performing policing functions that do not otherwise fall within a purpose for which the special constable may act as a special constable in relation to incidents that require a policing response and that occur on the premises of the special constable employer, until members of a police service are able to respond to the incident.<br><br>3. Assisting police officers or First Nation Officers in performing policing functions in relation to the premises of the special constable employer.<br><br>4. Serving summonses or other legal documents and executing | The powers of a police officer under the following Acts may be specified in a certificate of appointment if the certificate of appointment specifies the purpose set out in paragraph 1 in Column 2 of Item 5:<br><br>1. The <i>Cannabis Control Act, 2017</i> .<br><br>2. The <i>Liquor Licence Act</i> .<br><br>3. The <i>Mental Health Act</i> .<br><br>4. The <i>Provincial Animal Welfare Services Act, 2019</i> .<br><br>5. The <i>Provincial Offences Act</i> . | 1. Oleoresin capsicum spray.<br><br>2. Oleoresin capsicum foam<br><br>3. A baton  |



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|  |  | <p>warrants on the premises of the special constable employer.</p> <p>5. Performing policing functions related to highway safety and enforcing legislation related to vehicles on the premises of the special constable employer.</p> | <p>6. <i>The Safe Streets Act, 1999.</i></p> <p>7. <i>The Smoke-Free Ontario Act, 2017.</i></p> <p>8. <i>The Trespass to Property Act.</i></p> <p>9. <i>The Youth Criminal Justice Act (Canada).</i></p> <p>The powers of a police officer under the following Acts may be specified in a certificate of appointment if the certificate of appointment specifies the purpose set out in paragraph 5 in Column 2 of Item 5:</p> <p>1. <i>The Off-Road Vehicles Act.</i></p> <p>2. <i>The Highway Traffic Act.</i></p> <p>3. <i>The Motorized Snow Vehicles Act.</i></p> |  |
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