

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

COMPLAINTS ABOUT SPECIAL CONSTABLES

APPLICATION

Application

1. (1) This Regulation does not apply in respect of special constables who are employed by the Niagara Parks Commission.

(2) For greater certainty, Part X of the Act applies in respect of complaints about special constables who are employed by the Niagara Parks Commission.

COMPLAINTS

Complaints about special constables

2. (1) Any person not listed in subsection (2) may make a complaint about a special constable to,

(a) the chief of police of the police service in which the special constable is employed; or

(b) the special constable employer who employs the special constable.

(2) The following persons shall not make a complaint about a special constable in accordance with subsection (1) and shall instead follow the applicable procedure set out in section 183 or 185 of the Act:

1. Other employees of the special constable employer.
2. Other members of the police service in which the special constable is employed, and members or employees of the police service board that maintains the police service.
3. The Minister.
4. The Inspector General, a deputy Inspector General or an inspector appointed under section 111 of the Act.
5. The Complaints Director, a deputy Complaints Director, an employee in the Law Enforcement Complaints Agency or an investigator.
6. The SIU Director or an employee or investigator in the Special Investigations Unit.

(3) A complaint may be made in accordance with subsection (1) on behalf of,

- (a) a person who is a minor, by the person's parent or guardian; or
- (b) a person who is incapable as defined in the *Substitute Decisions Act, 1992* and who is not a minor, by their substitute decision-maker under that Act.

(4) A complainant may act through an agent in respect of a complaint made in accordance with subsection (1).

(5) If a complainant acts through an agent, a requirement under this Regulation to give notice to the complainant may be met by giving notice to the complainant's agent.

(6) For greater certainty, a person referred to in subsection (2) may not make a complaint by acting through an agent under subsection (4).

Forwarding of complaints

3. (1) If a person who may make a complaint in accordance with this Regulation to a special constable's chief of police or special constable employer instead makes the complaint to any of the following persons, that person shall forward the complaint to the special constable's chief of police or special constable employer and inform the person who made the complaint that the complaint has been forwarded:

1. The Minister.
2. The Inspector General, a deputy Inspector General or an inspector appointed under section 111.
3. The SIU Director or an employee or investigator in the Special Investigations Unit.
4. Another chief of police.
5. A police service board or a member of a police service board.
6. An O.P.P. detachment board or a member of an O.P.P. detachment board.
7. A First Nation O.P.P. board or a member of a First Nation O.P.P. Board.
8. The Advisory Council or a member of the Advisory Council.
9. Another special constable employer.
10. A prescribed entity.
11. A prescribed policing provider.

(2) If a person who may make a complaint to a chief of police or a special constable employer in accordance with this Regulation instead makes the complaint to a member of a police service other than a chief of police or to a special constable who is not a member of a police service, the member of a police service or special constable shall notify their chief of police or special constable employer of the complaint.

(3) If the chief of police or special constable employer that receives the complaint under subsection (2) is not the chief or employer of the special constable who is the subject of the complaint, subsection (1) applies, with necessary modifications, as if the complaint had been made to the chief of police or special constable employer that received the complaint under subsection (2).

(4) The complaint of a person that is forwarded to a chief of police or special constable employer under this section is deemed for the purposes of this Regulation to have been made by the person directly to the chief of police or special constable employer, as applicable.

SPECIAL CONSTABLES EMPLOYED IN A POLICE SERVICE

Complaints process for members of police services

4. (1) Every police service board shall,

- (a) establish a process for complaints to be made to the chief of police of the police service maintained by the board about the conduct of special constables who are members of the police service maintained by the board; and
- (b) publish notice on the Internet informing people how to make a complaint described in clause (a).

(2) The Minister shall,

- (a) establish a process for complaints to be made to the Commissioner about the conduct of special constables who are members of the Ontario Provincial Police; and
- (b) publish notice on the Internet informing people how to make a complaint described in clause (a).

Investigation

5. (1) Every chief of police who receives a complaint about a special constable in their police service shall provide the complainant with written acknowledgment that the complaint has been received.
- (2) The chief of police shall ensure that the complaint is investigated to determine whether the special constable's conduct constitutes misconduct, contravened the terms and conditions of the special constable's certificate of appointment or contravened any provision of the Act or the regulations.
- (3) The chief of police shall ensure that any allegations in the complaint of conduct that may constitute criminal conduct are investigated by a member of the police service or of another police service.
- (4) For greater certainty, every investigation of a special constable under subsection (3) must comply with the standards for adequate and effective policing, including the standards with respect to the avoidance of conflicts of interest.
- (5) The chief of police shall, in writing, advise the complainant of the outcome of the investigation of the complaint.
- (6) If the police service is maintained by a police service board, the chief of police shall report on the outcome of the investigation to the police service board.
- (7) The chief of police shall endeavour to complete any investigation of a special constable under this section within 120 days after receiving the complaint and shall provide notice to the complainant and to the person being investigated of the status of the complaint every 30 days thereafter.
- (8) The requirement to give notice under subsection (7) does not apply if, in the opinion of the chief of police, giving the notice may prejudice the investigation.
- (9) If the special constable is found to have engaged in conduct that constitutes misconduct, contravened the terms and conditions of their certificate of appointment or contravened any provision of this Act or the regulations, the chief of police shall take appropriate action to remedy the contravention.

SPECIAL CONSTABLES EMPLOYED BY A SPECIAL CONSTABLE EMPLOYER

Complaints process

6. (1) Every special constable employer shall establish a process for complaints to be made to the special constable employer about the conduct of its special constables.

(2) The special constable employer shall publish notice on the Internet informing people how to make a complaint described in subsection (1).

Investigation

7. (1) Every special constable employer who receives a complaint about a special constable in their employ shall provide the complainant with written acknowledgment that the complaint has been received.

(2) Subject to subsection (3) of this section and pursuant to clause 98 (2) (a) of the Act, the special constable employer shall ensure that the complaint is investigated to determine whether the special constable's conduct constitutes misconduct, contravened the terms and conditions of the special constable's certificate of appointment or contravened any provision of the Act or the regulations.

(3) If the complaint alleges conduct that may constitute criminal conduct, the special constable employer shall refer the complaint for investigation by,

- (a) the most senior ranking First Nation Officer the special constable employer employs, if applicable; or
- (b) the chief of police of any police service with policing responsibility for an area in which the conduct is alleged to have occurred.

(4) The special constable employer shall, in writing, advise the complainant of the outcome of the investigation of the complaint.

(5) The special constable employer shall report on the outcome of the investigation to the police service board, or the Commissioner, that appointed the special constable as required by clause 98 (2) (b) of the Act.

(6) The special constable employer shall endeavour to complete any investigation of a special constable under this section within 120 days after receiving the complaint and shall provide notice to the complainant and to the person being investigated of the status of the complaint every 30 days thereafter.

(7) The requirement to give notice under subsection (6) does not apply if, in the opinion of the special constable employer, giving the notice may prejudice the investigation.

(8) If the special constable is found to have engaged in conduct that constitutes misconduct, contravened the terms and conditions of their certificate of appointment or contravened any provision of this Act or the regulations, the special constable employer shall take appropriate action as required by section 98 of the Act.

COMMENCEMENT

Commencement

8. [Commencement]