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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

GENERAL MATTERS UNDER THE AUTHORITY OF THE LIEUTENANT GOVERNOR IN COUNCIL

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PART I APPLICATION

Non-application to extra-provincial police officers

1. This Regulation does not apply with respect to police officers appointed under the *Interprovincial Policing Act, 2009*.

PART II DEFINITIONS AND CLARIFICATIONS

Definition of “emergency” in the Act

2. (1) For the purposes of the Act, “emergency” has the same meaning as in section 1 of the *Emergency Management and Civil Protection Act*.

(2) The definition of “emergency” in subsection (1) modifies the phrase “emergency assistance” in the Act but does not modify the phrases “emergency calls for service” and “emergency response” in the Act.

PART III PROVISION OF POLICING

Additional requirement for alternative provision of policing agreement

3. The following is prescribed as a requirement that must be met before a police service board or the Commissioner may enter into an agreement under section 14 of the Act:

1. Before entering into the agreement, the police service board or the Commissioner shall consult with the police service board or the Commissioner with whom the agreement will be entered into regarding the respective police services’ policies and procedures with respect to the policing function that is contemplated to be provided under the agreement.

PART IV GENERAL ADMINISTRATION

Policies to be established

4. (1) The following matters are prescribed for the purposes of clauses 38 (1) (g) and 60 (1) (f) of the Act:

1. The publication of crime analysis, call analysis and public disorder analysis data, and of information on crime trends.
2. Every matter with respect to which a chief of police is required, under Ontario Regulation ***/** [regulation number for reg2021.0708 to be filled in on filing] (Adequate and Effective Policing) made under the Act, to establish procedures.

(2) Policies established for the purposes of paragraph 1 of subsection (1) shall require that the data and information be published annually on the internet.

Strategic plan

5. The following matters are prescribed for the purposes of subparagraph 3 x of subsection 39 (1) of the Act and subparagraph 3 x of subsection 61 (1) of the Act:

1. Drug crime and clearance rates for drug crime.

PART V POLICE SERVICES MAINTAINED BY POLICE SERVICE BOARDS

Application

6. In this Part,

- (a) a reference to a police service is a reference to a police service maintained by a police service board; and
- (b) a reference to a police officer is a reference to a police officer who is a member of a police service maintained by a police service board.

Provision of uniform and equipment

7. A police service board shall provide to members of a police service maintained by the board all articles of uniform and equipment necessary for the performance of their duties but, if an article of uniform or piece of equipment is damaged or lost through the fault of the member of the police service, the member shall bear the cost of the replacement.

Ranks

8. (1) Every police service may have all or any of the police ranks listed in subsection (2) and the police ranks listed in subsection (3), if applicable, but may not have any others.

(2) The following are the police ranks mentioned in subsection (1):

1. Chief of Police.
2. Deputy Chief.
3. Staff Superintendent or Chief Superintendent.
4. Superintendent.
5. Staff Inspector.
6. Inspector.
7. Staff Sergeant.
8. Sergeant.
9. Constable, which shall have the following classifications in descending seniority:
 - i. First-Class Constable.
 - ii. Second-Class Constable.
 - iii. Third-Class Constable.
 - iv. Fourth-Class Constable.

(3) If a police service has a detective branch, the police service may have the ranks of,

- (a) Detective Superintendent, which is equivalent to the rank of Superintendent;
- (b) Detective Inspector, which is equivalent to the rank of Inspector;
- (c) Detective Sergeant, which is equivalent to the rank of Staff Sergeant;
- (d) Detective, which is equivalent to the rank of Sergeant; and
- (e) Detective Constable, which is equivalent to the rank of Constable and has the same classifications as set out in paragraph 9 of subsection (2).

(4) The police ranks listed in subsections (2) and (3) may only be issued to or held by members of the police service who are police officers.

(5) A Constable or Detective Constable is eligible for reclassification to the next highest constable classification, if any, after serving for one year in a given classification.

(6) Despite subsection (5), a Constable or Detective Constable may be eligible for reclassification to the next highest constable classification, if any, in less than a year in the case of outstanding or meritorious service.

(7) For greater certainty, a constable classification applies in respect of a police officer regardless of whether their rank changes from Constable to Detective Constable or vice versa.

Definition, political organization

9. In sections 10 and 11,

“political organization” means a political party or any other organization engaged in political activity.

Political rights

10. A police officer may,

- (a) vote in an election;
- (b) be a member of a political organization or be an officer or director or otherwise participate in the leadership of a political organization; and
- (c) make contributions of money or goods to,
 - (i) a political organization, or
 - (ii) a candidate in an election.

Permitted activities while off duty

11. (1) A police officer may engage in any political activity if the officer is off duty and not in uniform, except that the officer may not,

- (a) express views on any issues directly related to the police officer’s responsibility as a police officer;
- (b) associate any of the police officer’s views with the police officer’s position or represent those views as those of a police service;
- (c) solicit or receive funds, including doing so on behalf of a political organization or on behalf of a candidate in an election; or

- (d) engage in any political activity that would place or be likely to place the police officer in a position of conflict of interest.

(2) Without limiting the generality of subsection (1) and subject to the restrictions set out in that subsection, a police officer may,

- (a) attend and participate in a public meeting, including,
 - (i) a meeting with elected representatives or government officials, or
 - (ii) a meeting with candidates in an election;
- (b) attend and participate in a meeting or convention of a political organization;
- (c) canvass on behalf of a political organization, or on behalf of a candidate in an election;
- (d) act as a scrutineer for a candidate in an election; and
- (e) on the polling day of an election, transport electors to a polling place on behalf of a candidate.

Permitted on-duty activities

12. If authorized to do so by the chief of police or, in the case of the chief of police, the police service board, a police officer may, on behalf of a police service,

- (a) express views on any issue, as long as the police officer does not, during an election campaign, express views supporting or opposing,
 - (i) a candidate in the election or a political party that has nominated a candidate in the election, or
 - (ii) a position taken by a candidate in the election or by a political party that has nominated a candidate in the election; and
- (b) attend and participate in a public meeting, subject to the restrictions set out in clause (a).

Appointments, etc.

13. (1) In this section,

“local board” means a local board as defined in section 1 of the *Municipal Affairs Act*, other than a police service board.

(2) Unless doing so would interfere with the police officer's duties as a police officer or place or be likely to place the police officer in a position of conflict of interest, a police officer may,

- (a) be a candidate for election to a local board, be appointed to a local board or serve on a local board; and
- (b) engage in political activity related to the candidacy, appointment or service.

Application, ss. 15, 16 and 17

14. Sections 15, 16 and 17 of this Regulation do not apply with respect to a chief of police or a deputy chief of police.

Candidacy for election

15. (1) Unless on a leave of absence granted under subsection (4), a police officer may not seek to become or be a candidate in,

- (a) a federal or provincial election;
- (b) an election for band council; or
- (c) an election for municipal council.

(2) A police officer who seeks to become a candidate in an election mentioned in subsection (1) shall apply to the police service board for a leave of absence without pay.

(3) Despite subsections (1) and (2), a police officer may seek to become a candidate or may be a candidate in an election for band council or an election for municipal council without taking a leave of absence if,

- (a) the police service board that employs the police officer does not provide police services within,
 - (i) the relevant First Nation reserve, in the case of an election for band council, or
 - (ii) the relevant municipality, in the case of an election for municipal council; and
- (b) seeking to become or being a candidate does not interfere with the police officer's duties and does not place, or is not likely to place, the police officer in a position of conflict of interest.

(4) Regardless of whether a leave of absence is required under this section, a police service board shall grant any leave of absence without pay that a police officer requests if the leave is to

enable the police officer to seek to become a candidate or to be a candidate in an election mentioned in subsection (1).

(5) The leave of absence granted to a police officer under subsection (4) shall begin and end on the date specified in the police officer's application, subject to the following restrictions:

1. A leave of absence to be a candidate in an election mentioned in subsection (1) may not begin earlier than,
 - i. the day on which the police officer is nominated as a candidate, in the case of a leave for an election for band council or an election for municipal council, or
 - ii. the day on which the writ for the election is issued, in the case of a leave for a federal or provincial election.
2. The latest day on which a leave of absence to be a candidate in a federal or provincial election may begin is the last day for nominating candidates under the applicable provincial statute or the *Canada Elections Act*.
3. No leave of absence may continue after,
 - i. the day on which the police officer withdraws from or loses the nomination campaign, or
 - ii. polling day, if the police officer wins the nomination.

Resignation upon election

16. (1) Subject to subsection (2), a police officer who is elected in a federal or provincial election, an election for band council or an election for municipal council shall immediately resign as a police officer.

(2) A police officer elected in an election for band council or an election for municipal council is not required to resign if,

- (a) the police service board that employs the police officer does not provide police services within,
 - (i) the relevant First Nation reserve, in the case of an election for band council, or
 - (ii) the relevant municipality, in the case of an election for municipal council; and

- (b) being a member of the municipal council or the band council would not interfere with the police officer's duties or place, or be likely to place, the police officer in a position of conflict of interest.

(3) A police officer who is elected in an election for municipal council and who, as permitted by subsection (2), does not resign as a police officer shall not,

- (a) take part at any meeting of the municipal council in the discussion of, or vote on, any question relating to the budget for a police service board under section 50 of the Act; and
- (b) attempt in any way, whether before, during or after a meeting of the municipal council, to influence the voting on any such question.

(4) Subject to the restrictions on being appointed a police officer set out in section 83 of the Act, a former police officer who resigns as required by subsection (1) and who later ceases to hold the elected position that led the officer to resign is entitled to be appointed to any vacant position for which the former officer is qualified on the police service of the former officer if the former officer,

- (a) ceased to hold the elected position within five years after resigning as a police officer; and
- (b) makes an application to be reappointed to the police service within 12 months after ceasing to hold the elected position.

(5) Another person's right to be appointed or assigned to a position on a police service by virtue of a collective agreement prevails over the right conferred by subsection (4).

Effect of absence on length of service

17. (1) The period of a leave of absence granted under subsection 15 (4) shall not be counted in determining the length of the police officer's service, but the service before and after the period of leave shall be deemed to be continuous for all purposes.

(2) Subsection (1) applies, with necessary modifications, to a police officer who has resigned and subsequently been reappointed to the police service in accordance with subsection 16 (4).

Forfeiture of pay

18. (1) If a disciplinary measure of more than one day's forfeiture of pay is imposed under Part XII of the Act, not more than one day's pay shall be deducted in each pay period until the full amount has been paid, unless otherwise agreed to by the police officer against whom the disciplinary measure is imposed or otherwise ordered by the chief of police, police service board or adjudicator, as applicable, imposing the disciplinary measure.

(2) If the police officer against whom a disciplinary measure described in subsection (1) is imposed ceases to be a member of the police service, the whole amount of the forfeiture of pay then remaining may be deducted from any pay then due.

PART VI ONTARIO PROVINCIAL POLICE

Provision of uniform and equipment

19. The Commissioner shall provide to other members of the Ontario Provincial Police all articles of uniform and equipment necessary for the performance of their duties but, if an article of uniform or piece of equipment is damaged or lost through the fault of a member of the Ontario Provincial Police, the member shall bear the cost of the replacement.

Ranks

20. (1) The Ontario Provincial Police may have all or any of the police ranks listed in subsections (2) and (3) but may not have any others.

(2) The following are the police ranks mentioned in subsection (1):

1. Commissioner.
2. Deputy Commissioner.
3. Chief Superintendent.
4. Superintendent.
5. Inspector.
6. Sergeant Major.
7. Staff Sergeant.
8. Sergeant.
9. Constable, which shall have the following classifications in descending seniority:
 - i. First-Class Constable.
 - ii. Second-Class Constable.
 - iii. Third-Class Constable.

iv. Fourth-Class Constable.

(3) The following are the police ranks mentioned in subsection (1) in respect of detective ranks:

1. Detective Superintendent, which is equivalent to the rank of Superintendent;
2. Detective Inspector, which is equivalent to the rank of Inspector;
3. Detective Staff Sergeant, which is equivalent to the rank of Staff Sergeant;
4. Detective Sergeant, which is equivalent to the rank of Sergeant; and
5. Detective Constable, which is equivalent to the rank of Constable and has the same classifications as set out in paragraph 9 of subsection (2).

(4) The police ranks listed in subsections (2) and (3) may only be issued to or held by members of the Ontario Provincial Police who are police officers.

Political activity

21. No member of the Ontario Provincial Police shall contravene or fail to comply with any provision in Part V (Political Activity) of the *Public Service of Ontario Act, 2006*.

No contracting debts

22. No member of the Ontario Provincial Police shall contract debts that the member is unwilling or unable to discharge and that may interfere with the performance of the member's duties as a member of the Ontario Provincial Police.

Forfeiture of pay

23. (1) If a disciplinary measure of more than one day's forfeiture of pay is imposed under Part XII of the Act, not more than one day's pay shall be deducted in each pay period until the full amount has been paid, unless otherwise agreed to by the police officer against whom the disciplinary measure is imposed or otherwise ordered by the Commissioner or adjudicator or, if the disciplinary measure is imposed on the Commissioner, by the Minister.

(2) If the police officer against whom a disciplinary measure described in subsection (1) is imposed ceases to be a member of the Ontario Provincial Police, the whole amount of the forfeiture of pay then remaining may be deducted from any pay then due.

Notice of resignation

24. Without the consent of the Commissioner, no member of the Ontario Provincial Police shall resign unless the member has given two weeks' notice in writing to the Commissioner.

PART VII
DUTIES OF MEMBERS OF A POLICE SERVICE

Preparing informations

25. (1) A member of a police service shall not swear an information that alleges the commission of an offence unless it has been prepared by a member of a police service.

(2) A member of a police service shall ensure that an information mentioned in subsection (1) is prepared in a manner suitable for laying before a justice of the peace and, if required, on a prescribed form.

Withdrawal of certificates of offence, offence notices

26. A member of a police service shall not offer to withdraw a certificate of offence or offence notice issued under the *Provincial Offences Act* on the condition that the person to whom the certificate or notice has been issued participate in a program offered by the police service.

Acoustic hailing device

27. (1) A member of a police service shall not use an acoustic hailing device, unless,

- (a) the device is used only for the purpose of communicating;
- (b) the sound levels emitted by the device, or by another device that is the same model and made by the same manufacturer, have been measured at various settings and distances from the device, and an analysis of the resulting measurements is set out in a report;
- (c) recommendations about the device are available to the chief of police that,
 - (i) are based on the report referred to in clause (b),
 - (ii) address matters such as settings, distances, duration of use and other reasonable protective measures, and
 - (iii) are capable of supporting the establishment of procedures under clause (d);
- (d) the chief of police has established procedures in respect of the use of the device to protect members of the public from being exposed to a sound level produced by the device that is greater than an equivalent sound exposure level of 85 dBA, $L_{ex,8}$; and
- (e) the member has received training on the procedures referred to in clause (d) and on proper use of the device.

(2) The report and recommendations referred to in clauses (1) (b) and (c) may not be used to satisfy the requirements set out in those clauses unless the person who made the report or recommendations met the following requirements at the time the report or recommendations were made:

1. The person was not a member of the police service of which the chief of police referred to in clause (1) (d) is a member.
2. The person was independent of the manufacturer of the device.
3. The person was qualified because of knowledge, training and experience to prepare the report or recommendations.

(3) For greater certainty and for the purposes of clause (1) (a), the use of an alarm or alert tone on an acoustic hailing device to get the attention of members of the public is communicating.

(4) In this section,

“acoustic hailing device” means a device that was designed for communicating voice messages or other sounds over long distances and that is capable of emitting, or was designed to emit, sounds that are 135 decibels or greater when measured at a distance of one metre from the device, but does not include a siren that was designed to be mounted on a vehicle; (“dispositif à ondes acoustiques”)

“dBA” means a measure of sound level in decibels using a reference sound pressure of 20 micropascals when measured on the A-weighting network of a sound level meter; (“dBA”)

“equivalent sound exposure level” is the steady sound level in dBA that is produced by an acoustic hailing device which, if a person were exposed to the sound level for eight hours in a day, would contain the same total energy as that generated by the actual and varying sound levels produced by the device to which the person is exposed in the day, determined in accordance with the following formula:

$$L_{ex,8} = 10 \text{ Log}_{10} \left(\frac{[\sum_{i=1}^n (t_i \times 10^{0.1 \text{ SPL}_i})]}{8} \right)$$

in which,

$L_{ex,8}$ is the equivalent sound exposure level in eight hours,

Σ is the sum of the values in the enclosed expression for all activities from $i = 1$ to $i = n$,

- i is a discrete instance in which a person is exposed to a sound level produced by an acoustic hailing device,
- t_i is the duration in hours of i,
- SPL_i is the sound level of i in dBA, and
- n is the total number of discrete instances in which the person is exposed to a sound level produced by an acoustic hailing device in a day. (“niveau d’exposition sonore équivalent”)

Sub-compact motor vehicle

28. A member of a police service shall not use a sub-compact motor vehicle for the purpose of general police patrol.

PART VIII COURT SECURITY

Court security

29. If a police service board or the Commissioner has the responsibilities referred to in section 243 of the Act with respect to premises where court proceedings are conducted, the chief of police of the relevant police service or the Commissioner shall,

- (a) prepare a court security plan;
- (b) establish procedures on court security that address supervision and training; and
- (c) ensure that court security personnel have the capability to perform their functions related to court security.

PART IX DUTIES OF THE CHIEFS OF POLICE

Operational plan for certain incidents

30. (1) This section applies if,

- (a) an incident requires multiple members of a chief of police’s police service to provide emergency response or maintaining the public peace policing functions outside of the area for which the police service has policing responsibility; and
- (b) the provision of policing functions by the police service in relation to the incident is anticipated to continuously last, or has already continuously lasted, longer than the duration of a normal shift for the involved members of the police service.

(2) The chief of police shall develop an operational plan for the deployment of members of the chief's police service in relation to the incident described in subsection (1), having regard to any applicable collective agreements.

(3) The operational plan shall address, without limitation, breaks and meals for members of the police service who are deployed in relation to the incident.

(4) The chief of police shall comply with the requirements in the operational plan.

Skills development and learning plan

31. Every chief of police shall establish a skills development and learning plan for the members of the police service that addresses,

- (a) the provision of a program to coach or mentor new officers; and
- (b) the development and maintenance of the capabilities of members of the police service, including,
 - (i) the police service's criminal investigators,
 - (ii) members of the police service who provide investigative support functions, if any,
 - (iii) members of a public order unit, if any, and
 - (iv) members of the police service who provide any emergency response functions.

Investigation of misconduct

32. Every chief of police shall establish procedures for the investigation of misconduct.

Annual report

33. (1) On or before June 30 in each year, every chief of police, other than the Commissioner, shall prepare an annual report for the police service board relating to the activities of the police service during the previous fiscal year, including information on,

- (a) implementation of the strategic plan prepared and adopted by the police service board under subsection 39 (1) of the Act;
 - (b) public complaints; and
 - (c) the actual cost of policing.
- (2) The relevant police service board shall publish the annual report on the Internet.

**PART X
COMMENCEMENT**

Commencement

34. [Commencement]