

Ontario Provincial Police Collective Bargaining Act, 2006S.O. 2006, CHAPTER 35
SCHEDULE B

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PART I**COLLECTIVE BARGAINING****Definitions**

[1.](#) In this Act,

“agreement” means an agreement in writing between the Crown on the one hand and the Association on the other hand; (“convention”)

“Association” means the Ontario Provincial Police Association; (“association”)

“Negotiating Committee” means the Ontario Provincial Police Negotiating Committee continued under section 3; (“comité de négociation”)

“public servant” has the same meaning as in the *Public Service of Ontario Act, 2006*; (“fonctionnaire”)

“Solicitor General” means the Solicitor General or such other member of the Executive Council as may be designated by the Lieutenant Governor in Council. (“solliciteur général”) 2006, c. 35, Sched. B, s. 1; 2009, c. 18, Sched. 23, s. 1.

Affiliation with trade union prohibited

1.1 (1) The Association shall not affiliate directly or indirectly with a trade union or with any organization that is affiliated directly or indirectly with a trade union. 2009, c. 18, Sched. 23, s. 2.

Definition

(2) In this section,

“trade union” has the same meaning as in the *Labour Relations Act, 1995*. 2009, c. 18, Sched. 23, s. 2.

Application, bargaining units

2. (1) This Act applies to persons who are part of the following bargaining units:

1. The police officers’ bargaining unit consisting of members of the Ontario Provincial Police Force who are cadets, recruit constables, probationary constables, constables, sergeants, staff sergeants, and sergeants major.
2. The civilian employees’ bargaining unit consisting of public servants who are employed at an Ontario Provincial Police headquarters, at the Ontario Police College or at the Ontario Provincial Police Academy or who work under the supervision of the Commissioner of the Ontario Provincial Police or of the Chief Firearms Officer for Ontario and who,
 - i. are not in the officers’ bargaining unit described in paragraph 1,
 - ii. are not a deputy commissioner of the Ontario Provincial Police, a commissioned officer or any other employee exercising managerial functions or employed in a confidential capacity in relation to labour relations,
 - iii. do not provide advice to Cabinet, a board or committee composed of ministers of the Crown, a minister or a deputy minister about employment related legislation that directly affects the terms and conditions of employment of employees in the public sector as it is defined in subsection 1 (1) of the *Pay Equity Act*,
 - iv. do not provide advice to Cabinet, a board or committee composed of ministers of the Crown, the Minister of Finance, the Chair of Management Board of Cabinet, a deputy minister in the Ministry of Finance or the Secretary of the Management Board of Cabinet on any matter within the powers or duties of the Treasury Board under Part 0.1 of the *Financial Administration Act*, and

- v. do not have duties or responsibilities that, in the opinion of the Ontario Labour Relations Board, constitute a conflict of interest with their being members of this bargaining unit. 2009, c. 18, Sched. 23, s. 3; 2009, c. 34, Sched. J, s. 32.

Bargaining authority

(2) The Association is the exclusive bargaining agent authorized to represent the employees who are part of a bargaining unit referred to in subsection (1) in bargaining with the employer on terms and conditions of employment, except as to matters that are exclusively the function of the employer under subsection (3), and, without limiting the generality of the foregoing, including rates of remuneration, hours of work, overtime and other premium allowance for work performed, the mileage rate payable to an employee for miles travelled when the employee is required to use his or her own automobile on the employer's business, benefits pertaining to time not worked by employees, including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance, the procedures applicable to the processing of grievances, the methods of effecting promotions, demotions, transfers, lay-offs or reappointments and the conditions applicable to leaves of absence for other than any elective public office, political activities or training and development. 2006, c. 35, Sched. B, s. 2 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is amended by striking out "under subsection (3)". (See: 2013, c. 19, ss. 1 (1), 3)

Exclusive functions of employer

(3) Except in relation to matters governed by or under the *Police Services Act*, every collective agreement is deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality of the foregoing, includes the right to determine employment, appointment, complement, organization, **work methods and procedures**, kinds and location of equipment, **discipline and termination of employment**, assignment, classification, **job evaluation system**, merit system, **training and development, appraisal and the principles and standards governing promotion, demotion, transfer, lay-off and reappointment**, and that such matters will not be the subject of collective bargaining nor come within the jurisdiction of the Negotiating Committee or an arbitration board. 2006, c. 35, Sched. B, s. 2 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is repealed. (See: 2013, c. 19, ss. 1 (2), 3)

Questions as to bargaining unit

(4) If, in the course of bargaining for a collective agreement or during the period of operation of a collective agreement, a question arises as to whether a public servant is a person described in subparagraphs 2 i to vi of subsection (1), the question may be referred to the Ontario Labour Relations Board, and the decision of the Board is final. 2006, c. 35, Sched. B, s. 2 (4).

Negotiating Committee

3. (1) The body known as the Ontario Provincial Police Negotiating Committee in English and comité de négociation de la Police provinciale de l'Ontario in French is continued. 2006, c. 35, Sched. B, s. 3 (1).

Composition

- (2) The Negotiating Committee shall be composed of,
- (a) three members appointed by the Association to be known as the “staff side”;
 - (b) three members appointed by the employer to be known as the “employer side”; and
 - (c) a chair appointed by the members appointed under clauses (a) and (b) who shall not be a member of the staff side or of the employer side and who shall not vote. 2006, c. 35, Sched. B, s. 3 (2).

Acting chair

(3) The members appointed under clauses (2) (a) and (b) may appoint a person who is not a member of the staff side or of the employer side to act as chair when the chair is absent. 2006, c. 35, Sched. B, s. 3 (3).

Duties of chair

- (4) The chair of the Negotiating Committee shall,
- (a) at the request of a member convene a meeting of the Negotiating Committee;
 - (b) prepare the agenda for each meeting; and
 - (c) preside at each meeting. 2006, c. 35, Sched. B, s. 3 (4).

Agenda

- (5) At the request of a member of the Negotiating Committee, the chair shall place upon the agenda any matter concerning,
- (a) the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this Part so long as the request is made not earlier than 90 days and not later than 60 days before the expiration date of the agreement;
 - (b) the making of a first agreement; or
 - (c) the interpretation or clarification of any clause in an agreement. 2006, c. 35, Sched. B, s. 3 (5).

Same

- (6) Despite clause (5) (a), the chair shall place a matter concerning the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this Part on the agenda even though the request may have been made earlier than 90 days or later than 60 days before the expiration date of the agreement if,
- (a) a member of the Negotiating Committee requests that the matter be placed on the agenda; and
 - (b) both the staff side and the employer side of the Negotiating Committee consent that the matter be placed on the agenda. 2006, c. 35, Sched. B, s. 3 (6).

Quorum

- (7) A quorum of the Negotiating Committee consists of,
- (a) the chair;

(b) two members of the staff side; and

(c) two members of the employer side. 2006, c. 35, Sched. B, s. 3 (7).

Matters to be negotiated

(8) The Negotiating Committee shall negotiate such matters as are put on its agenda under subsections (5) and (6). 2006, c. 35, Sched. B, s. 3 (8).

Grievance procedure

4. (1) The Negotiating Committee may establish a binding arbitration procedure to deal with any grievance,

(a) concerning working conditions or terms of employment other than,

(i) a grievance to which the *Police Services Act* or the code of conduct contained in the regulations under that Act applies,

(ii) a grievance that relates to pensions for employees who are part of a bargaining unit referred to in subsection 2 (1),

(ii.1) a grievance that relates to supplemental pension benefits prescribed under clause 11 (b) for employees referred to in subclause (ii), or

(iii) a grievance that requires the creation of a new classification of employees referred to in subclause (ii), the alteration of an existing classification or a change to be made in the classification of any such employee; or

(b) concerning the interpretation or clarification of any clause in an agreement. 2006, c. 35, Sched. B, s. 4 (1); 2009, c. 18, Sched. 23, s. 4.

Decision

(2) Every decision of the Negotiating Committee shall be in writing and in three copies and each copy shall be signed by the chair and by a representative of the staff side and by a representative of the employer side. 2006, c. 35, Sched. B, s. 4 (2).

When binding

(3) A decision of the Negotiating Committee shall not be binding on the staff side or the employer side until the decision has been approved in the manner set out in subsection (4) and transmitted by the chair for implementation as set out in subsection (5). 2006, c. 35, Sched. B, s. 4 (3).

Approval

(4) Approval of a decision of the Negotiating Committee shall be,

(a) on the staff side, by a decision of the Board of Directors of the Association; and

(b) on the employer side, by a decision of the Management Board of Cabinet. 2006, c. 35, Sched. B, s. 4 (4).

Implementation

(5) The chair of the Negotiating Committee shall transmit every decision of the Committee to the proper authority to be implemented. 2006, c. 35, Sched. B, s. 4 (5).

Conciliation

5. (1) If a majority of the members of the Negotiating Committee is unable to agree upon a matter concerning the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this Part, the chair shall, at the request of a member, request the Solicitor General to appoint a conciliation officer, and the Solicitor General shall appoint a conciliation officer upon receiving the request. 2006, c. 35, Sched. B, s. 5 (1).

Duty of conciliation officer

(2) The conciliation officer shall confer with the Negotiating Committee and endeavour to effect an agreement and shall, within 14 days after being appointed, make a written report of the results to the Solicitor General. 2006, c. 35, Sched. B, s. 5 (2).

Extension of time

(3) The 14-day period may be extended if the parties agree or if the Solicitor General extends it on the advice of the conciliation officer that an agreement may be made within a reasonable time if the period is extended. 2006, c. 35, Sched. B, s. 5 (3).

Report

(4) When the conciliation officer reports to the Solicitor General that an agreement has been reached or that an agreement cannot be reached, the Solicitor General shall promptly inform the Negotiating Committee of the report. 2006, c. 35, Sched. B, s. 5 (4).

Arbitration

6. (1) If the Solicitor General has informed the Negotiating Committee that the conciliation officer was not able to effect an agreement, the chair shall, at the request of a member, refer the matter to arbitration. 2006, c. 35, Sched. B, s. 6 (1).

Composition of arbitration board

(2) The following rules apply to the composition of the arbitration board:

1. The parties shall determine whether it shall consist of one person or of three persons. If they are unable to agree on this matter, or if they agree that the arbitration board shall consist of three persons but one of the parties then fails to appoint a person in accordance with the agreement, the arbitration board shall consist of one person.
2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the chair of the Ontario Police Arbitration Commission.
3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the chair of the Ontario Police Arbitration Commission.
4. If the arbitration board consists of one person who was appointed by the chair of the Ontario Police Arbitration Commission or if the arbitration board consists of three persons and the chair was appointed by the chair of the Commission, the chair of the Commission shall select the method of arbitration and shall advise the arbitration board of the selection. The method selected shall be mediation-arbitration unless the chair of the Commission is of the view that another method is more appropriate. The

method selected shall not be final offer selection without mediation and it shall not be mediation-final offer selection unless the chair of the Commission in his or her sole discretion selects that method because he or she is of the view that it is the most appropriate method having regard to the nature of the dispute. If the method selected is mediation-final offer selection, the chair of the arbitration board shall be the mediator or, if the arbitration board consists of one person, that person shall be the mediator. 2006, c. 35, Sched. B, s. 6 (2).

When hearings commence

(3) The arbitration board shall hold the first hearing within 30 days after the chair is appointed or, if the arbitration board consists of one person, within 30 days after that person is appointed. 2006, c. 35, Sched. B, s. 6 (3).

Exception

(4) If the method of arbitration selected by the chair of the Ontario Police Arbitration Commission is mediation-arbitration or mediation-final offer selection, the time limit set out in subsection (3) does not apply in respect of the first hearing but applies instead, with necessary modifications, in respect of the commencement of mediation. 2006, c. 35, Sched. B, s. 6 (4).

Time for submission of information

(5) If the method of arbitration selected by the chair of the Ontario Police Arbitration Commission is mediation-arbitration or mediation-final offer selection, the chair of the arbitration board or, if the arbitration board consists of one person, that person may, after consulting with the parties, set a date after which a party may not submit information to the board unless,

- (a) the information was not available prior to the date;
- (b) the chair or, if the arbitration board consists of one person, that person permits the submission of the information; and
- (c) the other party is given an opportunity to make submissions concerning the information. 2006, c. 35, Sched. B, s. 6 (5).

Hearing

(6) If the method of arbitration selected by the chair of the Ontario Police Arbitration Commission is conventional arbitration, the arbitration board shall hold a hearing, but the chair of the arbitration board or, if the arbitration board consists of one person, that person may impose limits on the submissions of the parties and the presentation of their cases. 2006, c. 35, Sched. B, s. 6 (6).

Consolidation of disputes

(7) Disputes may be arbitrated together only if all the parties to the disputes agree. 2006, c. 35, Sched. B, s. 6 (7).

Time for decision

(8) The arbitration board shall give a decision within 90 days after the chair is appointed or, if the arbitration board consists of one person, within 90 days after that person is appointed. 2006, c. 35, Sched. B, s. 6 (8).

Extension

[\(9\)](#) The parties may agree to extend the time described in subsection (8), either before or after the time has passed. 2006, c. 35, Sched. B, s. 6 (9).

Factors to consider

[\(10\)](#) In making a decision on the matter, the arbitration board shall take into consideration all factors it considers relevant, including the following criteria:

1. The employer's ability to pay in light of its fiscal situation.
2. The extent to which services may have to be reduced, in light of the board's decision, if current funding and taxation levels are not increased.
3. The economic situation in Ontario.
4. A comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed.
5. The employer's ability to attract and retain qualified employees. 2006, c. 35, Sched. B, s. 6 (10).

Restriction

[\(11\)](#) Nothing in subsection (10) affects the powers of the arbitration board. 2006, c. 35, Sched. B, s. 6 (11).

Limitations on powers of the board

[\(12\)](#) In making a decision under this section, an arbitration board shall not require the parties to include in a collective agreement a term that,

- (a) requires the employer to guarantee an offer of a job for employees whose positions have been or may be eliminated or that otherwise compels the employer to continue to employ them;
- (b) requires the creation of a new classification of employees, the alteration of an existing classification or a change to be made in the classification of an employee; or
- (c) would require either directly or indirectly for its implementation the enactment or amendment of legislation, except for the purpose of appropriating money for its implementation. 2006, c. 35, Sched. B, s. 6 (12).

Pensions

[7. \(1\)](#) Subject to subsection (2), no matter relating to pensions for employees who are part of a bargaining unit described in section 2 shall be referred to arbitration and no arbitration board shall decide any matter relating to pensions for those employees. 2009, c. 18, Sched. 23, s. 5.

Same

[\(2\)](#) Matters relating to supplemental pension benefits for employees who are part of a bargaining unit described in section 2 that are prescribed under section 11 may be referred to arbitration and, in that case, an arbitration board shall decide any matter relating to supplemental pension benefits for those employees. 2009, c. 18, Sched. 23, s. 5.

8. Repealed: 2009, c. 18, Sched. 23, s. 6.

Jurisdiction of OLRB to hear disputes

9. (1) The Ontario Labour Relations Board has jurisdiction to deal with any complaint it receives relating to the assignment of particular work to persons in the bargaining unit described in paragraph 2 of subsection 2 (1) or in a trade union representing employees under the *Crown Employees Collective Bargaining Act, 1993* and subsections 99 (2) to (6) and (10) to (13) of the *Labour Relations Act, 1995* apply, with necessary modifications, to the determination of such a complaint. 2006, c. 35, Sched. B, s. 9 (1).

Application of LRA, 1995

(2) For the purposes of the application of subsections 99 (2) to (6) and (10) to (13) of the *Labour Relations Act, 1995* to the determination of a complaint referred to in subsection (1), any reference to a trade union in those subsections is deemed to include a reference to the Association. 2006, c. 35, Sched. B, s. 9 (2).

Implementation of collective agreements, etc.

10. The Minister of Government Services or such other minister as may be designated under the *Executive Council Act* for the purposes of this section shall by order implement,

- (a) collective agreements and awards made in accordance with the collective bargaining procedures applicable to public servants employed under Part III of the *Public Service of Ontario Act, 2006* who are represented by the Association;
- (b) approved decisions of the Negotiating Committee under section 4; and
- (c) decisions of an arbitration board under section 6. 2006, c. 35, Sched. B, s. 10.

Probationary period, recruit constables

10.1 (1) Despite subsection 37 (1) of the *Public Service of Ontario Act, 2006*, where a person is appointed a public servant to employment as a Recruit Constable for a term that is not fixed, the person shall be on probation during the period beginning on the date of his or her appointment as a Recruit Constable and ending on the first anniversary of the date of his or her promotion to Probationary Constable. 2009, c. 18, Sched. 23, s. 7.

Same

(2) The *Public Service of Ontario Act, 2006* applies to a person on probation under subsection (1) as if he or she were on probation under subsection 37 (1) of that Act. 2009, c. 18, Sched. 23, s. 7.

Regulations

11. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the rules of procedure governing proceedings of the Negotiating Committee;
- (b) prescribing as supplemental pension benefits for the purposes of subsection 7 (2) benefits that are available to employees in the police and fire sectors under the supplemental plan established under section 11 of the *Ontario Municipal Employees Retirement System Act, 2006*. 2009, c. 18, Sched. 23, s. 8.

PART II (ss. 12-19) Repealed: 2009, c. 18, Sched. 23, s. 9.

PART II
APPLICATION OF LABOUR RELATIONS ACT, 1995

[20.](#) Repealed: 2009, c. 18, Sched. 23, s. 11.

Application of *LRA, 1995*

Rules of Board

[21. \(1\)](#) The rules of practice made by the chair of the Ontario Labour Relations Board under subsection 110 (17) of the *Labour Relations Act, 1995* apply to a proceeding before the Board relating to a question referred to in subsection 2 (4) or a complaint made under section 9. 2009, c. 18, Sched. 23, s. 12 (1).

Powers of the Board

[\(2\)](#) In a proceeding referred to in subsection (1), the Board has all of the powers and duties referred to in section 111 of the *Labour Relations Act, 1995*. 2006, c. 35, Sched. B, s. 21 (2).

Application of miscellaneous provisions

[\(3\)](#) Section 108, subsections 110 (9), (11), (12), (13), (14), (15) and (16), section 112, subsection 114 (1) and sections 115.1, 117, 119, 120, 122 and 123 of the *Labour Relations Act, 1995* apply with necessary modifications to a proceeding referred to in subsection (1). 2006, c. 35, Sched. B, s. 21 (3).

Same

[\(4\)](#) Sections 116 and 118 of the *Labour Relations Act, 1995* apply with necessary modifications to a decision or order of the Board made with respect to a complaint made under section 9. 2009, c. 18, Sched. 23, s. 12 (2).

Deemed reference to Association

[\(5\)](#) Any reference to a trade union in any of the provisions of the *Labour Relations Act, 1995* referred to in subsections (1) to (4) is deemed to include a reference to the Association for the purposes of the application of those provisions to a proceeding referred to in subsection (1). 2009, c. 18, Sched. 23, s. 12 (3).

[22., 23.](#) Repealed: 2009, c. 18, Sched. 23, s. 13.