

# Practice Directive Number AP1-3-1 (A)

## Undertaking in the Public Interest: Admitting Volunteer Organizations

Effective October 1, 2003

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**Reference** *Workers Compensation Act* section 3(5):

- (5) Where a person or group of persons carries on an undertaking that the Board thinks is in the public interest, the Board may, on the terms and conditions it directs,
  - (a) deem the person or group of persons, whether or not any of them receive payment for their services, to be workers for the purposes of this Act;
  - (b) on approval of the Lieutenant Governor in Council, deem the person or group of persons to be workers of the Crown in right of the Province; and
  - (c) where a person who is deemed to be a worker is not regularly employed, and having regard to all the circumstances, including his or her income, fix his or her average earnings at not less than \$25 per week or more than the maximum wage rate provided under section 33. [Note – This amount is changed periodically by regulation.]

**Reference** Assessment Policy 1-3-1:

In defining “public interest” for the purpose of section 3(5), the Board considers undertakings that affect a broad segment of the public rather than those whose activities centre around specific interest groups.

The persons involved in the project or program must apply in writing to the Board for coverage. If the Board feels that the undertaking is in the public interest, the matter may be referred to the Lieutenant Governor in Council to consider whether the individuals involved should be accepted as workers of the Crown in Right of the Province. If the Lieutenant Governor in Council agrees, the Board will fix the average earnings of those individuals. Alternatively, such individuals may be admitted as workers of a municipality or other organization where appropriate.

If a volunteer fire or ambulance brigade is operated by a society (including Indian Bands), coverage is not compulsory, but may be extended to the society on a voluntary basis.

## **PRACTICE**

Most organizations, including the Provincial Government, obtain private insurance for their volunteers. However, the Workers' Compensation Board (the "WCB") and the Provincial Government have extended coverage to volunteers in cases where the protection of life or property has been involved.

## **APPLICATION**

### **Subsection 3(5)(a)**

Under Section 3(5)(a) of the *Workers Compensation Act* (the "Act"), certain volunteers designated by the WCB as working in the public interest may be deemed workers under the Act.

The WCB has granted voluntary coverage under Section 3(5)(a) for members of volunteer fire brigades subject to the following terms and conditions:

1. the organization must operate under a registered British Columbia Society or Association name;
2. the organization will provide fire-fighting services to unorganized territories;
3. the fire-fighters are volunteers;
4. the organization will maintain a roster containing the names of all volunteers;
5. the volunteers are under the direction and control of a fire chief or a delegate only; and
6. the organization agrees to comply with all WCB regulations and the payment of assessments.

An organization applying for such coverage must provide the WCB with a written agreement listing the way in which it satisfies the above criteria.

### *Procedure*

A Board Officer must first determine whether an applicant applying for voluntary coverage for volunteer firefighter brigades under Section 3(5)(a) meets the six criteria shown above. If so, the applicant is sent a "volunteer fire brigade-terms and conditions" letter along with an Employer's Registration Application and a Voluntary Coverage Statement. The applicant is required to return the Employer's Registration Application along with the Voluntary Statement signed by the Fire Chief or other signing officer of the association. The applicant is also required to acknowledge and accept the terms and conditions for voluntary coverage as outlined in the letter.

### **Section 3(5)(b)**

If specific volunteers are declared working in a broad public interest, they may be declared workers of the Crown under 3(5)(b) and if injured are covered under the Province's deposit

class account. Instances of application of 3(5)(b) are rare – examples are St. John’s Ambulance or the Mountain Rescue Society.

The WCB will consider whether:

1. the group is a legally constituted, non-profit organization;
2. the services are related directly to the protection of life, health, or safety;
3. there is an identifiable need for the services being provided by the organization;
4. the services provided by the organization are available to a broad spectrum of the public as opposed to a particular interest group;
5. it is the only organization which is providing the services;
6. the services provided fall within the responsibility or mandate of the provincial government;
7. the services have been requested, or in some way initiated, by the provincial government;
8. the organization receives funding or other types of support from the provincial government or any other government;
9. it is feasible or practical for the provincial government to exercise the supervisory controls required to assess the organization's operating procedures and the validity of claims;
10. the organization can be attached to a particular Ministry and therefore be eligible for workers' compensation or other disability or liability coverage under that Ministry;
11. the organization is eligible for coverage under the provincial government's insurance policy for volunteers;
12. the organization is associated with, or provides services to, a commercial venture which might otherwise be required to provide coverage.

Before proceeding with the application for voluntary coverage, the applicant must provide in writing details on why the organization requires coverage and a response to the above criteria. The applicant is also required to acknowledge and accept the terms and conditions for voluntary coverage.

#### *Procedure*

Coverage under Section 3(5)(b) is subject to approval the Provincial Government; the WCB facilitates the application process:

1. A Board Officer will request from the applicant all information applicable to determine whether the above criteria are met.
2. The aforementioned information will then be referred to the Ministry of Labour to consider the application.
3. Once the WCB receives a response from the Ministry, the Assessment Department will inform the organization of the Ministry’s decision.