

Coverage under Federal Statutes or Agreements between the Provincial and Federal Governments

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OBJECTIVE

1. This practice directive provides direction on the Board’s authority under section 97 of the *Workers Compensation Act* and aids in the interpretation of *Assessment Manual Item: AP1-97-1*.

INTERPRETATIVE GUIDELINES

2. Section 97 of the *Act* gives the Board the authority to exercise any power or duty conferred or imposed on it by or under a statute of Canada or an agreement between Canada and British Columbia.
3. *AP1-97-1* directs that the “Board administers coverage for Provincial Emergency Program and Federal Government workers on behalf of the Provincial and Federal Governments...”

ADJUDICATIVE GUIDELINES

I GOVERNMENT EMPLOYEES COMPENSATION ACT

4. The *Government Employees Compensation Act*, R.S.C. 1985, c. G-5 (the “*GECA*”) is federal legislation under which compensation is provided to employees of the federal government, federal crown corporations, and federal agencies who are injured in accidents arising out of employment or disabled by an industrial disease, and for dependents of employees killed by work-related accidents or industrial diseases. Generally, the *GECA* covers all employees of the federal government and most federal crown corporations and agencies; however, section 3(1) of the *GECA* specifically excludes members of the regular force of the Canadian Forces and the Royal Canadian Mounted Police.
5. The *GECA* stipulates that an employee is entitled to compensation if injured by an accident arising out of and in the course of employment, and any benefits are to be

paid at the same rate and under the same conditions as are provided in the provincial workers' compensation laws.¹

6. Section 97 of the *Workers Compensation Act* provides that the Board may exercise any power or duty conferred or imposed on it by or under a statute of Canada or agreement between Canada and the Province. Her Majesty the Queen in right of Canada, as represented by the Minister of Labour, entered into a written agreement dated 7 June 1996 with the Board, with the stated purpose of defining the respective responsibilities and obligations of the parties with regard to employees of the federal government and certain crown corporations subject to the *GECA* usually employed or deemed to be usually employed in British Columbia. Pursuant to this agreement, the Board administers the *GECA* in British Columbia; and the federal government reimburses the Board for all compensation costs awarded and paid to injured employees and pays administrative fees in accordance with the agreement.
7. The Assessment Department is of the view that section 2 of the *Workers Compensation Act* grants the Board authority over all workers in British Columbia, save for those exempted constitutionally. That is, the department believes that the workers of the federal government, federal crown corporations, and federal agencies are subject to the authority of the *Workers Compensation Act* unless the federal Minister of Labour with the approval of the Governor in Council declares such a worker to be an employee for the purposes of the *GECA*.

II CANADIAN FORCES AND THE ROYAL CANADIAN MOUNTED POLICE

8. Section 3(1) of the *GECA* states, “[t]his Act does not apply to any person who is a member of the regular force of the Canadian Forces or of the Royal Canadian Mounted Police”.
9. *API-97-1* directs that members of the regular force of the Canadian Forces, members of the Coast Guard, and members of the Royal Canadian Mounted Police are not covered by the Board.

A Canadian forces

10. Section 14 of the *National Defence Act*, R.S., 1985, c. N-5, (the “*NDA*”) defines the “Canadian Forces” as the armed forces of Her Majesty raised in Canada and states that they consist of one Service called the “Canadian Armed Forces”. Section 15 of the *NDA* describes two components of the Canadian Forces referred to as “the regular force” and “the reserve force”. It describes the regular force as consisting of officers and non-commissioned members who are enrolled for continuing, full-time military service, and describes the reserve force as consisting of the officers and non-commissioned members who are enrolled for other than continuing full-time military service when not on active service.

¹ Under section 6 of the *GECA*, a federal employee employed outside of Canada is deemed to be employed in Ontario.

11. The reference in subsection 3(1) of *GECA* to an exclusion of coverage for members of the regular force of the Canadian Forces, and the description in the *NDA* of a division of the Canadian Forces into two separate components, the regular force and the reserve force, suggests that the exclusion under *GECA* was not intended to apply to members of the reserve force.
12. The Board interprets the exclusion under *GECA* to apply only to members of the regular force of the Canadian Forces; and, therefore, members of the reserve force of the Canadian Armed Forces are covered under the *Workers Compensation Act*.

B Royal Canadian Mounted Police

13. An auxiliary member of the Royal Canadian Mounted Police is generally a civilian volunteer and not a federal public servant.
14. Although an auxiliary member has no coverage under the *GECA*, the auxiliary member has, through the application of section 3(5) of the *Workers Compensation Act*, been deemed to be a worker of the Crown in right of the Province.²

² Board Minute dated 30 May 1983 – “IT IS HEREBY RESOLVED that the Board ... deem individuals participating in the Reserve/Auxiliary Police Program in British Columbia to be workers of the Crown in right of the province and workers within the scope of Part 1 of the *Workers Compensation Act* while they are engaged in authorized Program activities and when they are not otherwise workers under the *Workers Compensation Act*”.