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## CLIENT BULLETIN

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### Definition of Employee for Election Purposes

Employees of a local government are disqualified from being nominated for or elected to office with their local government under section 67 of the *Local Government Act*. For the purposes of section 67, “employee” means:

**67** (1) For the purposes of this section, “**employee**” means

- (a) an employee or salaried officer of a municipality or regional district, or
- (b) a person who is within a class of persons deemed by regulation under section 156 to be employees of a specified municipality or regional district,

but does not include a person who is within a class of persons excepted by regulation under section 156.

Employees of a local government who want to run for office with their local government must take a leave of absence during the nomination period, and election, as specified in section 67. If an employee is elected, the employee must resign from employment with the local government. The Province recently enacted a new regulation under section 67 of the *Local Government Act* specifying that certain classes of persons are not “employees” under that section.

The regulation which is titled “Volunteer Eligibility for Office Regulation” provides that volunteers who do not receive monetary compensation from a local government are not “employees” under section 67. It goes on further to specify that the following does not constitute “monetary compensation”:

- (a) reasonable and necessary expenses actually incurred and reimbursed that arise directly out of the performance of the volunteer services for a municipality or regional district;
- (b) the provision of insurance coverage, workers’ compensation coverage, personal clothing, equipment or training directly related to the performance of the volunteer services for a municipality or regional district; or
- (c) gifts in recognition of long service or exemplary service in the provision of volunteer services to a municipality or regional district.

Therefore, volunteers who do not receive remuneration beyond their direct expenses in providing the volunteer services are not considered “employees” under section 67 and can run for office without taking a leave of absence and can continue volunteering even if elected.

We would have thought that true volunteers, as described in the regulation, would never have been considered “employees” for the purposes of section 67 and, as such, the regulation was not necessary to address the application of section 67 to them. Thus, the new regulation appears to be addressed at volunteers who are remunerated beyond expenditures to clarify that they are “employees”.

In the past, clients have sought advice as to whether volunteer firefighters are “employees” under section 67. Our general view has been that if a volunteer firefighter receives remuneration for attending practices, training and call outs, then the individual is an employee and is subject to the requirements of section 67. The above regulation confirms that volunteer firefighters who are covered by a local government’s workers’ compensation and insurance coverage and are reimbursed for expenses directly related to firefighting are not employees. However, as it does not specifically exempt volunteer firefighters who receive remuneration for attending practices, training and call outs, we are supported in our view that volunteer firefighters who receive remuneration beyond direct expenses are “employees” for the purposes of section 67 of the *Local Government Act* and must take a leave of absence and resign as required by section 67.

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