
BULLETIN NUMBER: INS-06-001

TITLE: EMPLOYEE BENEFIT PLANS

LEGISLATION: THE *INSURANCE COMPANY EXEMPTION REGULATION – SECTION 12* AND THE *FINANCIAL INSTITUTIONS ACT*.

DATE: JANUARY 2006

PURPOSE

The purpose of this bulletin is to provide information to the public, members of employee benefit plans and to administrators and employers who offer employee benefit plans in British Columbia about certain requirements of the *Financial Institutions Act* ("Act") and section 12 of the *Insurance Company Exemption Regulation*.

BACKGROUND:

Section 75 of the Act states that a person must not carry on insurance business in British Columbia unless certain requirements are met. These requirements include being authorized as an insurer or licensed as an insurance agent or insurance salesperson in British Columbia.

In 1999, the definition of "insurance business" was amended with the result that "non-profit" insurance activities were generally brought under the Act. As a result, it was unclear whether employers offering employee benefit plans were technically required to obtain a business authorization under the Act in order to offer employee benefits. It was recognized that the amendment to the definition of "insurance business" was not intended to include such aspects of the employer/employee relationship.

Accordingly a regulatory exemption was introduced in July 2002, to clarify that employee benefit plans offered by employers were exempt from section 75 of the Act provided certain conditions were met.

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In order to ensure that employees are aware that their benefits are not offered by a regulated insurance company and, as a consequence, to ensure that they are in a position to obtain supplemental coverage, if they believe it to be appropriate, a notice requirement is imposed on employers offering employee benefit plans under the exemption.

LEGISLATION:

Section 12 of the *Insurance Company Exemption Regulation* states:

"12 (1) *In this section:*

"employee benefits" *means one or more of the following that are provided to employees or their dependants:*

- (a) accident and sickness insurance;*
- (b) disability insurance;*
- (c) life insurance;*

"employees" *includes former employees, directors, former directors, officers, former officers and, in respect of a union or society, members and former members;*

"employer" *includes*

- (a) a group of employers,*
- (b) a union or group of unions, and*
- (c) an entity formed by an employer to provide employee benefits to the employer's employees.*

(2) *Section 75 of the Act does not apply to an employer providing employee benefits to employees or their dependants, on the condition that the employer discloses in writing to his or her employees that*

- (a) the employee benefits are not insured by an insurance company regulated under the Act, and*
- (b) the employer is exempt from the regulatory requirements of the Act."*

In the event a plan does not fall within the definition set out in the Regulation or in the event that the plan has not complied with the requirements of this section, it is necessary to obtain the appropriate business authorization to carry on insurance business from the Financial Institutions Commission.

Contacts

For more information, please contact:

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