

Excluded Employees Application for Indemnity Coverage



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PART 1 - ADMINISTRATIVE INFORMATION

Applicant Surname	Applicant Given Name(s)	Employee Identification Number
Home Mailing Address – Street, Unit #	City/Province	Postal Code
Current Position Title, Ministry/Organization	Applicant Phone Number	Applicant Email Address
Name of Your Direct Supervisor/Manager	Supervisor/Manager Phone Number	Supervisor/Manager Email Address
Name of Your Deputy Minister (or equivalent)	Deputy Minister Phone Number	Deputy Minister Email Address
Does the legal proceeding you are seeking indemnity coverage for involve your current position? <input type="checkbox"/> Yes <input type="checkbox"/> No	If you answered “no”, state the ministry/organization, position title and time period that the legal proceeding involves.	

PART 2 – DETAILS OF LEGAL PROCEEDING (to be completed by the Applicant)

For what type of legal proceeding are you seeking indemnity coverage? (check one and also the final box if applicable)
<input type="checkbox"/> Civil action against the Applicant
<input type="checkbox"/> Defamation action against the Applicant
<input type="checkbox"/> Defamation action commenced or continued by the Applicant
<input type="checkbox"/> Professional body proceeding in which the Applicant is the respondent
<input type="checkbox"/> Human rights proceeding in which the Applicant is a respondent
<input type="checkbox"/> Prosecution in which the Applicant is an accused person
<input type="checkbox"/> Penalty proceeding in which the Applicant is an accused person or the respondent
<input type="checkbox"/> Appeal or judicial review of the exercise of a statutory power by a person other than the Applicant
<input type="checkbox"/> An appeal from a proceeding related to any of the above
<input type="checkbox"/> Legal proceeding in which the Applicant is subpoena'd or otherwise wishes to appear as a witness
<input type="checkbox"/> No legal proceeding has been commenced, but there are reasonable grounds to believe a proceeding will likely be commenced
NOTE: Please attach a copy of the notice of proceeding or other official documentation establishing that you are a party to this proceeding.

Excluded Employees Application for Indemnity Coverage



Where ideas work

Describe what conduct and/or circumstances have given rise to your involvement in this legal proceeding and how the conduct and/or circumstances are related to your employment duties (a separate explanatory document may be attached if necessary)

Do you affirm that your conduct in relation to the legal proceeding was not dishonest, malicious or in bad faith? (Applies only in non-criminal proceedings)

Yes No

If you are to be a witness in a legal proceeding, have you been served with a subpoena?

Yes No

Did you incur any legal fees, expenses or other financial obligations related to this legal proceeding before you informed your deputy minister of the proceeding?

Yes No

If you answered "yes" and are seeking reimbursement, please explain why such fees, expenses or financial obligations needed to be incurred before you informed your deputy minister (a separate explanatory document may be attached if necessary)

Excluded Employees Application for Indemnity Coverage



Where ideas work

PART 3 – APPLICANT DECLARATION (to be signed by the Applicant)

Notice of Collection

The information requested on this form is being collected for the purpose of processing your application for indemnity coverage under the Excluded Employees Indemnity Protection Regulation and Excluded Employees (Legal Proceedings) Indemnity Regulation. This information is collected in accordance with section 26 of the *Freedom of Information and Protection of Privacy Act*. Questions about the collection of this information can be directed to the Director, Policy and Research Branch, BC Public Service Agency, PO BOX 9404, Victoria, BC, V8W 9V1, (250) 952-6000.

Taxation

I acknowledge that if there is a finding in the proceeding that the conduct in relation to which I have received indemnity coverage did not occur in the performance of my office or was dishonest, malicious or otherwise in bad faith, the amount of the coverage may be treated as a benefit for income tax purposes.

Declaration of Applicant

I, the undersigned, wish to be considered for indemnity coverage regarding the legal proceeding described herein. I certify, to the best of my knowledge, that the information I have provided is complete, honest and accurate. I understand that misrepresentations by me may result in refusal, suspension or cancellation of coverage. I understand that all information provided in this application is subject to audit and verification and is subject to disclosure if required by law, including under the *Freedom of Information and Protection of Privacy Act*.

For the purpose of verifying information contained in this form, and for the purpose of further investigating my request for indemnification, I consent to the disclosure and indirect collection of my personal information relevant to this indemnity application by or to the BC Public Service Agency and other provincial ministries, departments and agencies. My consent is effective from the date of this form and does not expire unless it is revoked in writing to the BC Public Service Agency.

I also hereby consent under section 33.1(1)(b) of the *Freedom of Information and Protection of Privacy Act* to disclosure by government of the total amount paid or incurred by the government for coverage relating to the proceeding, and waive solicitor-client privilege respecting the total amount paid or reimbursed.

Applicant's Signature

Date Signed

Excluded Employees

Application for Indemnity Coverage



Where ideas work

PART 4 – CONFIRMATION BY DEPUTY MINISTER (to be completed by the Applicant’s deputy minister)

As the Applicant’s deputy minister, can you confirm that you have made appropriate inquiries within your ministry and on that basis have satisfied yourself on each of the following points:

- (a) the Applicant’s involvement as a party to the proceeding arises from conduct that occurred in the performance of his or her office,
- (b) if the Applicant’s involvement is as a witness in the proceeding, the evidence or testimony the Applicant is to provide relates to information acquired in the course of his or her office, and
- (c) there is no reason to believe the Applicant’s conduct in connection with this legal proceeding was dishonest, malicious or in bad faith? (Applies only in non-criminal proceedings)

Yes No

Please provide any additional explanation or qualification with whatever particulars you feel are relevant (a separate explanatory document may be attached if necessary)

If this is a legal proceeding where the Applicant wishes to sue in defamation, please identify the factors you believe make such an action in the public interest (check all that apply) and provide particulars as indicated (a separate explanatory document may be attached if necessary)

The need to rehabilitate the Applicant’s usefulness for employment or appointment, including future employment or appointment by an employer
(What is the connection between reputation and the Applicant’s ability to perform his/her employment or office? Why is reputation key to the performance of that employment or office, or to the Applicant’s future employment/appointment? What specific and practical impacts have the attacks on his/her reputation had in that regard? Please provide evidence. Why is it in the public interest (as distinct from the Applicant’s own interest) to rehabilitate that particular person’s usefulness?)

The need to restore or preserve the integrity of the Applicant’s office or position of employment or appointment
(What is it about the office or position of employment that requires protection? How has the defamatory attack on the Applicant undermined the integrity of the office or position (as distinct from the Applicant him or herself)? What specific and practical ongoing impact will there be on the office or position if the attack is not answered?)

The degree of likelihood that the defamation action will achieve the objectives set out in the two bullets above
(Assuming the defamation action will be successful at law, and an injunction can be obtained with respect to current and future defamatory publications, how and to what degree will that result alleviate the reputational harm which has impacted the Applicant’s usefulness to government?)

Excluded Employees Application for Indemnity Coverage



Where ideas work

The need to achieve general deterrence of defamatory statements against Applicants
(General deterrence of attacks of this nature, as distinct from specific deterrence of this attacker or attacks against this Applicant)

Other factors that may be relevant to the public interest in commencing or continuing the defamation action by the Applicant. Please briefly describe any such factors:
(Cost benefit analysis. Will an action in defamation merely create a platform and legal mechanisms for the defamer to pursue a personal vendetta or his/her broader complaints against government? Is there another way to address, in whole or part, the impacts of the attacks, other than by effectively putting the Applicant's reputation on trial?)

If this is a legal proceeding where the Applicant is seeking coverage as party to an appeal, please identify the factors you believe make such coverage in the public interest (check all that apply) and provide particulars as indicated (a separate explanatory document may be attached if necessary)

There are reasonable grounds to believe that the Applicant's reputation or personal privacy interests, or the integrity of the Applicant's office or position of employment, is likely to be adversely affected if the appeal did not proceed.

Other factors that may be relevant to the public interest. Please briefly describe any such factors.

If this is a legal proceeding where the Applicant is seeking coverage as a witness, and the Applicant has not been subpoena'd, please identify the factors you believe make such coverage in the public interest (check all that apply) and provide particulars as indicated (a separate explanatory document may be attached if necessary)

There are reasonable grounds to believe that the Applicant's reputation is likely to be adversely affected by evidence given in the proceeding.

There are reasonable grounds to believe that any conduct of the Applicant in the performance of employment is likely to be subject to negative findings in the proceeding.

Excluded Employees Application for Indemnity Coverage



Where ideas work

There are reasonable grounds to believe that the Applicant's personal privacy interests are likely to be adversely affected.

Other factors that may be relevant to the public interest. Please briefly describe any such factors.

PART 5 – DEPUTY MINISTER DECLARATION (to be completed by the Applicant's deputy minister)

I, the undersigned, recommend indemnity coverage for this Applicant regarding the legal proceeding described herein.

I agree to immediately notify the Head of the BC Public Service Agency and/or the Assistant Deputy Attorney General, Ministry of Justice and Attorney General, regarding any issues or emerging facts that may affect the applicant's eligibility for indemnity coverage.

Deputy Minister's Signature

Date Signed

To the Applicant's Deputy Minister – Once completed and signed, please submit this form to:

Debbie Godfrey
Deputy Minister
BC Public Service Agency
PO BOX 9404
Victoria, BC V8W 9V1
Email: Debbie.Godfrey@gov.bc.ca