

EXTENSION OF CERTIFICATE

INTRODUCTION

An employer may recognize a trade union that is certified for some of its employees as the bargaining agent for another unit of employees, and bargain collectively with that union. This is a form of voluntary recognition. Under Section 43(1) of the [Code](#), such employers can serve a notice to end voluntary recognition and not continue bargaining.

When this happens, Section 44 allows the union to apply to the Board to extend its existing certificate to include the voluntarily recognized group of employees without applying for certification. That is to say, an existing certificate may be extended to include a unit of employees recognized by an employer through voluntary recognition. This **only** happens when a union certified for one unit of employees has voluntary recognition for another unit of employees that the employer wants to end.

This policy describes:

- the statutory requirements;
- the application;
- processing the application; and
- the disposition of the application.

STATUTORY REQUIREMENTS

Section 44 of the [Code](#) sets out the statutory requirements for extending a certificate.

Where a trade union

- (a) is the certified bargaining agent on behalf of a unit of employees,
- (b) has bargained a collective agreement on behalf of any other employees of the same employer, and
- (c) is served with a notice of intention to terminate recognition pursuant to section 43 in respect of those other employees,

the trade union may apply to the Board to vary the original certificate and, on receipt of the application, and after conducting such votes and inquiries as the Board considers necessary, the Board may vary or decline to vary the certificate in question.

THE APPLICATION

Only a certified bargaining agent may apply to extend a certificate. The application is usually in the form of a letter with supporting documents. The applicant must serve a copy of the application on the respondent(s). See: [[Rules of Procedure 5.1 and 6](#)].

The Director of Settlement checks the application for:

- the names and contact information of all affected parties and their counsel (if any);
- the section of the [Code](#) relied upon;
- the certificate(s) affected;
- a copy of the collective agreement covering employees affected by voluntary recognition;
- a copy of the notice from the employer terminating voluntary recognition; and
- the remedy sought.

Bring any deficiencies to the applicant's attention immediately. Have them provide any missing information before accepting the application. Enter the matter in the database and open a process file. The Director of Settlement then assigns it to an officer.

PROCESSING THE APPLICATION

The Director of Settlement, usually with the officer, decides on a dispute resolution strategy. See: [[Dispute Resolution Initiatives, Chapter 19\(c\)](#)].

The officer contacts all the affected parties about the application. In order to inform the employees of the application, the Board prepares notices and asks the employer to post them. The notices give a brief description of the application. They also direct that affected employees who have objections or comments to contact the Board—usually within 14 days. Depending on the dispute resolution strategy, all the parties are advised in writing about how the Board intends to proceed.

With assistance from the officer, the parties may be able to agree to the facts and resolve their differences. The officer considers such issues as:

- what are the present bargaining relationships;
- what units and numbers of employees are affected, and how;
- what certificates and voluntary recognition are involved;
- the details of the employer's notice to terminate voluntary recognition, and whether it is timely;
- the appropriateness of the bargaining unit if the certificates extended to include both groups of employees, see: [[Appropriate Bargaining Units, Chapter 22\(b\)](#)];
- if more than one collective agreement in effect, which agreement remains in effect; and
- if the union has the support of the employees in the voluntarily recognized unit.

The officer tries to resolve or narrow any outstanding issues. If the parties agree to the extension of the certificate and the bargaining unit description, the matter would go to the Board for approval. If there is no agreement, the officer may issue a report with recommendations or schedule the matter directly to hearing.

These applications should be treated as expedited applications. This is necessary so that the proper bargaining unit for bargaining is determined in advance of the 120-day start of the notice to bargain period.

DISPOSITION OF THE APPLICATION

If the officer is unable to resolve the dispute or a party objects to the officer's report, the Director of Settlement sets the matter to hearing. See: [[Hearings and Scheduling, Chapter 34\(a\)](#)]. If there are no objections or the issues have been resolved, the officer presents the application and details to a Board panel or a Chair or Vice-Chair alone for approval. In these cases, the Board may decide the matter without scheduling a hearing.

Where the application proceeds to hearing and the Board finds the extension of the certificate is appropriate, the Board may issue a new certificate. The certificate names the trade union and the employer as well as describes the newly revised unit.

Once the Board makes its decision, advise the parties in writing. The bargaining relationship number will usually remain the same but with the revised unit description. Update the database and close the file.