

DECLARATIONS

INTRODUCTION

Bargaining relationships are commonly altered by applications decided by the Board. To record these changes, the Board sometimes issues a declaration. A **declaration** is, then, a Board document signed by a Chair or Vice-Chair outlining an event that alters a bargaining relationship.

Declarations are used in the following circumstances:

- trade union successorship (Section 49) applications, see: [[Trade Union Successorships, Chapter 33\(c\)](#)];
- an employer sale, lease or transfer (Section 46) application when the bargaining relationship stems from a voluntary recognition agreement between the parties, see: [[Sale, Lease or Transfer, Chapter 26\(e\)](#)];
- an employer spin-off or construction industry spin-off (Sections 47 and 192) applications when the bargaining relationship stems from a voluntary recognition agreement between the parties, see: [[Spin-offs, Chapter 26\(f\)](#)];
- an governing body (Section 48) application when the bargaining relationship stems from a voluntary recognition agreement between the parties, see: [[Governing Bodies, Chapter 26\(d\)](#)]; and
- an modification of a certificate (Section 45) application, see: [[Modification of a Certificate, Chapter 26\(a\)](#)].

Declarations are **not** normally used when a bargaining relationship exists because of a Board certificate (except in trade union successorships and modifications of a certificate). The changes to the bargaining relationship are adequately recorded when the certificate is revoked and reissued.

This Chapter addresses:

- issuing a declaration;
- declarations for trade union successorships;
- declarations for sale, lease or transfer applications;
- declarations for employer spin-off or construction spin-off applications;
- declarations for governing body applications; and
- declarations addressing the modification of a certificate.

ISSUING A DECLARATION

Once the Board has approved an application requiring a declaration, Board staff take the following steps:

- The parties are advised of the Board's decision in writing.
- The officer drafts a declaration that captures the nature of the change. The declaration should mirror the standard wording outlined below. The declaration must include in the bottom left-hand corner the process file number(s), the CT and CL numbers and the BR number(s) relevant to the declaration. Declarations are numbered as follows: D<year>-Number (e.g., D2002-1, D2002-2).
- The declaration is presented to a Chair for review and, if approved, the Chair signs it.
- The declaration is posted on the BR file(s). A copy is also posted on the process file(s).
- Copies of Calgary declarations are sent to Edmonton and vice versa so that all BR files remain current at both sites.

DECLARATIONS FOR TRADE UNION SUCCESSORSHIPS

Trade unions commonly merge, amalgamate, disaffiliate and transfer jurisdictions of locals. This process occurs under Section 49 of the [Code](#). See: [[Trade Union Successorships, Chapter 33\(c\)](#)]. The Board issues declarations following any trade union successorship (regardless of whether the relationship existed as a result of a certificate or a voluntary recognition agreement). The declaration should mirror the following wording:

DECLARATION <number>

On <date of application>, the Board received an application for trade union successorship under Section 49 of the *Labour Relations Code* from the <successor union name>. It stated that the <successor union name> has become the successor trade union to the <donor union name> for the employees of <employer name> through a <type of successorship>. It requested a declaration to confirm the successorship.

On <date of decision>, after considering the documents submitted by the applicant, a panel of the Board declared that:

As a result of a <type of successorship>, the <successor union name> is the successor trade union to the <donor union name> for the employees of <employer> and has acquired all rights, privileges and duties under the Code.

ISSUED and DATED at the City of <name> in the Province of Alberta this <date> day of <month>, <year> by the Labour Relations Board and signed by its Chair/Vice-Chair

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DECLARATIONS FOR SALE, LEASE OR TRANSFER APPLICATIONS

Section 46 addresses the sale, lease or transfer of a business or undertaking or part of it. It also addresses the merger of one business with another. See: [[Sale, Lease or Transfer, Chapter 26\(e\)](#)]. These applications are collectively called employer successorship applications. The Board issues declarations following successful employer successorship where the bargaining relationship exists as a result of a voluntary recognition agreement between the parties. The Board does **not** issue declarations where the bargaining relationship exists as a result of a Board certificate.

The declaration should mirror the following wording:

DECLARATION <number>

On <date of application>, the Board received an application for employer successorship under Section 46 of the *Labour Relations Code* from <applicant's name>. It stated that <successor employer name> has become the successor employer to <donor employer name> for the employees of <employer name and description of employees if warranted>. It requested a declaration to confirm the successorship.

On <date of decision>, after considering the documents submitted by the applicant, a panel of the Board declared that:

As a result of a <type of successorship>, <successor employer name> is the successor employer to <donor employer name> for the employees of <donor employer name and description of employees if warranted> and has acquired all of <donor employer name>'s rights, privileges and duties under the Code. <Successor employer name> is bound by all proceedings under the Code and by the collective agreement(s) in force.

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DECLARATIONS FOR SPIN-OFF APPLICATIONS

Sections 47 and 192 addresses spin-off applications. See: [[Spin-offs, Chapter 26\(f\)](#)]. A spin-off application is normally filed by a union to prevent an employer, through a business reorganization, from avoiding its bargaining obligations. The Board issues declarations following successful spin-offs applications where the bargaining relationship exists as a result of a voluntary recognition agreement between the parties. The Board does **not** issue declarations where the bargaining relationship exists as a result of a Board certificate.

The declaration should mirror the following wording:

DECLARATION <number>

On <date of application>, the Board received a spin-off application under Section 47 <or 192> of the *Labour Relations Code* from <applicant's name>. It stated that <spin-off employer name> is a spin-off employer of <original employer name>. It requested a declaration to confirm that <spin-off employer name> is subject to the rights, privileges and duties of <original employer name> under the Code.

On <date of decision>, after considering the documents submitted by the applicant, a panel of the Board declared that:

As a result of an employer spin-off, <spin-off employer name> is the spin-off employer to <original employer name> and has acquired all of <original employer name>'s rights, privileges and duties under the Code. <Spin-off employer name> is bound by all proceedings under the Code and by the collective agreement(s) in force.

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DECLARATIONS FOR GOVERNING BODY APPLICATIONS

Section 48 addresses changes to governing bodies (e.g., governing bodies being merged) affecting bargaining relationships. See: [[Governing Bodies, Chapter 26\(d\)](#)]. The Board issues declarations following successful governing bodies applications where the bargaining relationship exists as a result of a voluntary recognition agreement between the parties. The Board does **not** issue declarations where the bargaining relationship exists as a result of a Board certificate.

The declaration should mirror the following wording:

DECLARATION <number>

On <date of application>, the Board received an application for governing body successorship under Section 48 of the *Labour Relations Code* from <applicant's name>. It stated that <successor governing body name> has become the successor governing body to <donor governing body name> for the employees of <governing body name and description of employees if warranted>. It requested a declaration to confirm the successorship.

On <date of decision>, after considering the documents submitted by the applicant, a panel of the Board declared that:

As a result of a governing body successorship, <successor governing body name> is the successor governing body to <donor governing body name> for the employees of <governing body name and description of employees if warranted> and has acquired all of <donor governing body name>'s rights, privileges and duties under the Code. <Successor governing body name> is bound by all proceedings under the Code and by the collective agreement(s) in force.

ISSUED and DATED at the City of <name> in the Province of Alberta this <date> day of <month>, <year> by the Labour Relations Board and signed by its Chair/Vice-Chair

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DECLARATIONS FOR MODIFYING A CERTIFICATE

Section 45 allows the parties or a certificate to request a change to the certificate's bargaining unit description to reflect the over- or under-bargaining of the certificate. See: [[Modification of a Certificate, Chapter 26\(e\)](#)]. The Board issues declarations following **any** modification to ensure the change is clear on the BR file.

The declaration should mirror the following wording:

DECLARATION <number>

On <date of application>, the Board received an application to modify the bargaining unit description on Certificate(s) No. <number(s)>. The application to modify the bargaining unit description was made because the description did not reflect the <situation>.

On <date of decision>, after considering the documents submitted by the <employer name> and <union name>, a panel of the Board declared that:

- 1. The amendment to the bargaining unit description in Certificate(s) No. <number(s)> (now replaced by Certificate(s) No. <number(s)>) neither expands nor diminishes the scope of the bargaining unit.**
- 2. The union continues to represent <description of unit>.**

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