

**LABOUR RELATIONS CODE**BRITISH COLUMBIA  
LABOUR RELATIONS BOARDEMPLOYEE APPLICATION FOR PARTIAL DECERTIFICATION  
(SECTION 142)

Both Parts I and II must be completed. Part I will be kept confidential by the Board. Part II will be sent to the parties (the union and employer).

- **PLEASE TYPE OR PRINT CLEARLY. ATTACH EXTRA PAGES IF NECESSARY.**
- EMPLOYEES WISHING TO HAVE THEIR UNION PARTIALLY DECERTIFIED SHOULD SELECT A PERSON TO ACT AS THEIR AUTHORIZED REPRESENTATIVE WITH THE BOARD.
- EACH EMPLOYEE MUST COMPLETE AN INDIVIDUAL REVOCATION FORM 142A (ATTACHED).  
\*NOTE: THE REVOCATION FORMS MUST BE SIGNED WITHIN 90 DAYS BEFORE THE APPLICATION BEING FILED WITH THE LABOUR RELATIONS BOARD.
- **THE BOARD WILL KEEP THE NAMES OF EMPLOYEES CONFIDENTIAL.**

## PART I

## APPLICANT INFORMATION

AUTHORIZED REPRESENTATIVE FOR THE EMPLOYEES SIGNING THE REVOCATIONS:

Name:

Do you consent to the Board releasing your name to the Employer and Union?

Yes       No

Address:  City:

Postal Code:

Work Telephone:  Home/Cell Telephone:  Fax:

Name of spokesperson (if different from above)

Do you consent to the Board releasing your name to the Employer and Union?

Yes       No

Address (if different from above):

Postal Code:

Work Telephone:  Home/Cell Telephone:  Fax:

## TRADE UNION INFORMATION

Full Name and Local of trade union:	<input type="text"/>	Local Number:	<input type="text"/>
Address:	<input type="text"/>	City:	<input type="text"/>
Postal Code:	<input type="text"/>	Telephone/Cell:	<input type="text"/>
		Fax:	<input type="text"/>
Name of Union Contact Person:	<input type="text"/>		

## EMPLOYER INFORMATION

Full name of employer:	<input type="text"/>		
Address:	<input type="text"/>	City:	<input type="text"/>
Postal Code:	<input type="text"/>	Telephone/Cell:	<input type="text"/>
		Fax:	<input type="text"/>
Name of Employer Contact Person:	<input type="text"/>		

## EMPLOYEE SUPPORT

Attach individual revocations signed by at least 45% of the employees in the group for which the application is being made (use Form 142A)

Number of signed revocation forms:	<input type="text"/>
Number of employees in the group for which application is being made:	<input type="text"/>
Total number of employees in the whole bargaining unit:	<input type="text"/>

Signature of Authorized Representative:	<input type="text"/>
Print name:	<input type="text"/>
Position:	<input type="text"/>
Date of signing:	<input type="text"/>

## LABOUR RELATIONS BOARD FEES

- APPLICATION/COMPLAINT MUST INCLUDE FEE OF \$100.00

- METHOD OF PAYMENT (CHECK ONE)

CREDIT CARD - MASTER CARD

VISA

CREDIT CARD NO:

EXPIRY DATE:

SIGNATURE: \_\_\_\_\_

 CHEQUE DEBIT CARD CHARGE TO PRE-APPROVED ACCOUNT

- PAYMENT (CHECK ONE)

 ENCLOSED TO BE SENT WITH ORIGINAL COPY AS APPLICATION/COMPLAINT SENT BY FAX CHARGED TO PRE-APPROVED ACCOUNT

- NOTE: FEE OF \$50.00 MUST ACCOMPANY REPLY TO APPLICATION/COMPLAINT
- NOTE: CREDIT CARD INFORMATION WILL BE DELETED BY THE BOARD PRIOR TO DISTRIBUTING THIS FORM TO THE PARTIES

04/2004

**PART II**

(This Part will be sent to the Union and The Employer)

The Board's policy regarding partial decertifications is set out in Board decision: *Certain Employees of White Spot Limited*, BCLRB No. B16/2001. \* A summary of the threshold requirement and other relevant factors to be considered is attached to this form. Please review this summary before filling out the information in Part II.

\* The full *White Spot* decision can be found on the LRB web site: [www.lrb.bc.ca](http://www.lrb.bc.ca) under "Decisions".

**BARGAINING UNIT INFORMATION**

Is your bargaining unit certified?

If no, is there a collective agreement?

Please enclose a copy of your current collective agreement if there is one. Are the Union and Employer currently engaged in collective bargaining or involved in a strike or lockout?

If so, please provide details:

  

Please state the bargaining unit description and location where the employees affected by this application are working (see the certification\* and/or the collective agreement).

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\* A copy of the certification can be obtained from the Labour Relations Board.

**THRESHOLD REQUIREMENT**

- The location or portion of the bargaining unit for which application is being made must meet the *IML* criteria for appropriateness (see *Island Medical Laboratories*, BCLRB No. B308/93, 19 CLRBR (2d) 161). \* The *IML* criteria are:
  - (a) similarity in skills, interests, duties and working conditions;
  - (b) the physical and administrative structure of the employer;
  - (c) functional integration;
  - (d) geography.

- The full *IML* decision can be found on the LRB web site: [www.lrb.bc.ca](http://www.lrb.bc.ca) under "Bulletins" - Trade Union Certification Process - Appropriateness (where there is a hyperlink to the full decision).

Describe the group of employees applying to be decertified.

Complete Section A or B below.

A. If the current Certification includes more than one employer location complete this section.

1. Does the decertification application include all employees at one of the employer's locations?

Yes  No

2. If No, which employees does it include?

3. Do employees at this location sometimes work at the employer's other locations as well?

Yes  No

4. Can employees at this location transfer to the employer's other locations?  Yes  No

5. Was this employer location varied into the original Certification?  Yes  No

**B. If the current Certification includes one employer location only, complete this section.**

1. Describe the employee classifications covered by this application.

<div data-bbox="196 195 1406 243" style="border: 1px solid black; height: 23px;"></div> <p>2. Describe the employee classifications in the bargaining unit not covered by this application.</p> <div data-bbox="196 411 1406 459" style="border: 1px solid black; height: 23px;"></div> <div data-bbox="196 483 1406 531" style="border: 1px solid black; height: 23px;"></div> <div data-bbox="196 562 1406 611" style="border: 1px solid black; height: 23px;"></div> <p>3. Is there an overlap between the work performed by the employees covered by this application and those employees not covered by this application? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>4. If yes, describe how.</p> <div data-bbox="196 884 1406 932" style="border: 1px solid black; height: 23px;"></div> <div data-bbox="196 957 1406 1005" style="border: 1px solid black; height: 23px;"></div>
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<p>COMPLETE AND DELIVER TO:</p> <p>Registrar Labour Relations Board 600 - 1066 West Hastings Street Vancouver, BC V6E 3X1 Tel: 604-660-1300 / Fax: 604-660-1892</p> <p>IF THESE FORMS HAVE BEEN FAXED, THE ORIGINAL SIGNED COPIES MUST ALSO BE FORWARDED TO THE BOARD (LRB RULES).</p>
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If you require further information please call the Board's Information Officer at 604-660-1304.

**LABOUR RELATIONS CODE**  
BRITISH COLUMBIA  
LABOUR RELATIONS BOARD

EMPLOYEE APPLICATION FOR PARTIAL DECERTIFICATION  
(SECTION 142)

BEFORE YOU SIGN THIS FORM, PLEASE ENSURE:

- The Trade Union's full name and local (if applicable) is filled out
- The date is filled out by you
- Your name is printed clearly
- The Employer's name is filled out

THIS FORM WILL NOT BE ACCEPTED UNLESS THESE REQUIREMENTS ARE MET AND THE FORM IS SIGNED AND DATED ON THE SAME DATE AND WITHIN 90 CALENDAR DAYS IMMEDIATELY BEFORE THE DATE ON WHICH THE PARTIAL DECERTIFICATION APPLICATION IS RECEIVED BY HE LABOUR RELATIONS BOARD.

(THE BOARD WILL KEEP NAMES OF EMPLOYEES CONFIDENTIAL)

I HEREBY WISH TO APPLY FOR PARTIAL CANCELLATION OF CERTIFICATION AND REVOCATION OF BARGAINING RIGHTS HELD BY MY UNION FOR THAT LOCATION OR PORTION OF THE BARGAINING UNIT WHERE I WORK:

NAME OF TRADE UNION

**LOCAL NUMBER**

(The union's name and local (if applicable) must be filled out at the time of your signature)

**NAME OF EMPLOYER**

I UNDERSTAND THAT IF THE APPLICATION SUCCEEDS, THE UNION WILL CEASE TO BE MY EXCLUSIVE BARGAINING AGENT AND WILL NO LONGER REPRESENT ME IN COLLECTIVE BARGAINING. I HEREBY AUTHORIZE THE REPRESENTATIVE NAMED ON THE ACCOMPANYING APPLICATION TO ACT ON MY BEHALF IN THE PROCEEDINGS BEFORE THE LABOUR RELATIONS BOARD.

Print Your Name:  Signature: \_\_\_\_\_

Date: Day:  Month:  Year:

(The date must **be completed by you at the time of your signature**)

Print your complete address:

Street:  City:  Province:

Postal Code:  Phone/Cell Number:

## **Summary of *White Spot Limited*, BCLRB No. B16/2001 (with some additional explanations for the benefit of applicants)**

*Note: This summary is provided by the Board's Registry for informational purposes only and does not constitute a definitive interpretation of the White Spot decision. It also does not constitute legal advice. Applicants are encouraged to read the White Spot decision and other relevant decisions of the Board before filing their application and/or to consider seeking the advice and assistance of a labour lawyer or labour relations consultant.*

Section 142 of the *Labour Relations Code* gives the Board the discretion to grant applications for partial decertification in appropriate circumstances. Applicants must meet a "threshold requirement" before the Board will consider granting such an application. If the applicants meet the threshold test, then the Board will consider exercising its discretion in favour of granting the application. However, even if the application meets the threshold requirement, the Board may decline to grant partial decertification due to a number of other relevant factors, discussed below.

### Threshold Requirement

The threshold requirement is a two-part test. First, the applicants must demonstrate that, if the Board were to grant the application and allow the group to leave the bargaining unit, the unit remaining would continue to be appropriate for collective bargaining. (For example, seeking to remove a random group of employees who work in various departments or locations likely would not meet this part of the threshold test.) Second, the applicants must also demonstrate that a "rational and defensible line" can be drawn around the group leaving. (For example, seeking to remove the entire group of employees who work at a single location of a multi-location bargaining unit would be more likely to meet this part of the threshold test.)

In addition to this requirement, the applicants must be able to demonstrate that at least 45% of the employees in the group for which application is being made support the application. Evidence of this support must be presented by way of properly filled out revocation forms (Form 142A).

### Other Relevant Factors

If the application does not meet the threshold requirement, it will be dismissed. If the application does meet the threshold test, the Board will go on to consider a number of other relevant factors in deciding whether to grant the application. These include two factors which



the Board will weigh in the balance against the wishes of the applicant employees. The first is the impact of granting the application on the collective agreement rights and other interests (such as opportunities for transfers and career advancement) of the employees remaining in the bargaining unit. The second is whether there will be a destabilizing effect on the union's collective bargaining relationship with the employer. Where relevant, the Board will also consider other matters such as the timing or context of the application; any allegations of improper interference by the employer or another person; whether it is a disguised raid application; and the difficulty of decertifying the unit as a whole. Further details about these factors can be found in the *White Spot* decision.

### Overall Approach

The Board's current policy on partial decertification gives increased recognition to the wishes of employees to decertify than has been the case in the past. In practical terms, an application will more likely be granted where an entire group of employees at one location seeks to leave a multi-location bargaining unit. However, partial decertification remains a limited rather than a routine solution to problems in the bargaining unit. Even in the case of multi-location certifications, functional integration between the group and the rest of the bargaining unit or other considerations may mean an application will not be granted. The Board may encourage applicants and their union to make use of its mediation facilities to attempt to resolve the dispute or difficulty which gave rise to the application.

### Effect of Partial Decertification

The effect of partial decertification, where granted, is to remove a group of employees from the bargaining unit. Those employees are no longer covered by the collective agreement or represented by the union (although the employees remaining in the bargaining unit continue to be so covered and so represented). The employees are generally not able to seek representation from a different union and instead carry on as non-unionized employees of their employer.