



# Nova Scotia Labour Board

## APPLICATION FOR CERTIFICATION

*Trade Union Act, Section 23*

### INFORMATION BULLETIN

#### **Employer's Role when served a Notice of Application for Certification**

This Information Bulletin provides important information to an employer who has just been served with a Notice of Application for Certification and associated documents, informing an employer that a trade union has applied to be the certified bargaining agent of a group of employees at the employer's workplace. The *Trade Union Act* and the Board's practices impose certain responsibilities on employers in such situations. As this application is time sensitive, an employer must comply with some of the responsibilities immediately. Others can be dealt with within the next days following service. This Information Bulletin consists of some commonly asked questions and responses and is intended to help employers understand what their responsibilities are and how to meet them.

#### **What must I do when I am served a Notice of Application for Certification Notice?**

**IMMEDIATELY upon receipt of the Notice, you must:**

- Discuss with the Board representative a time and location for the certification vote. This vote is typically held within 3 business days following the receipt of the Notice. It may take place in-person at the workplace, or it could be done via electronic voting.
- Post a copy of **Form 3 (NOTICE TO EMPLOYEES OF APPLICATION FOR CERTIFICATION/NOTICE OF ELECTION)**, together with a copy of the **SECRET BALLOT VOTING PROCEDURE/E-VOTING PROCEDURE** memo – this must be posted where it is most likely to come to the attention of the employees who may be affected by the application. This may include electronic posting.

- Complete a copy of **Form 4 (Return of Posting)**, confirming that you have posted the **Form 3**, and return Form 4 to the Board via email at [labourboard@novascotia.ca](mailto:labourboard@novascotia.ca) immediately as this is a time sensitive matter.
- Provide the Board representative with a list of employees. This list may be used to create the voters' list.

### What other timelines do I need to be aware of?

#### Within 5 business days of receipt of the Notice (Form 2), you must:

- Complete **Schedules A and B** and file an original copy of each Schedule with the Board. The Schedules must be verified by statutory declaration. (*A sample statutory declaration form is provided for your convenience.*) Identify all employees (including first name and last name, job titles and hours normally worked).
- Notify the Board of the name and address of any other trade union that you understand is already claiming to be the bargaining agent of any of the employees who may be affected by the application.
- File a copy of any collective agreement that presently binds, or recently bound, you or any of the employees in the bargaining unit the Applicant is attempting to certify in a bargaining unit considered by you to be appropriate.

#### Within 10 business days of receipt of the Notice, you must:

- Advise the Board in writing whether you agree with the description of the proposed bargaining unit, and if not, provide a description that you feel is appropriate.
- Identify the name and classification of every person you feel should be excluded from the proposed bargaining unit, and your reason(s) for having them excluded.
- File your reply with the Board if you intend to contest the application. Sections 6 and 7 of **Form 2** provide you with detailed information on what your reply should contain.

### What other Information Should I be aware of?

You should be aware of the following provisions under the *Trade Union Act*:

- Section 13(1) and (2) – This section of the Act provides information about the rights of employees and employers.



- Section 23(7) – This section of the Act provides information about the requirement to get consent from the Board before altering rates of wages or any other term or condition of any employees affected by the Certification Application, until the matter is decided by the Board.
- Sections 53 and 54 – These sections of the Act provide important information about prohibited activities of employees, unions and employer. Failure to comply with these activities could result in an Unfair Labour Practice Complaint to the Board.

## Where can I get more information about the Certification process?

### Contact the Board at:

**1601 Lower Water Street, Suite 304  
P.O. Box 202  
Halifax, Nova Scotia B3J 2M4**

**Email:** [Labourboard@novascotia.ca](mailto:Labourboard@novascotia.ca)  
**Phone:** (902) 424-6730  
**website:** <http://novascotia.ca/lae/labourboard/>

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The Board is a neutral body and unable to provide you with any legal advice. The Board encourages parties to become informed of their rights and obligations, which may mean getting independent legal advice from qualified legal counsel. This Information Bulletin is not intended to be legal advice. Where any of this information conflicts with any statute or regulation, the provisions of the statute or regulation shall be followed.

