

FAQS

不列颠哥伦比亚省 | 建筑业

如何解散工会—部分解散

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雇员无论是否已经加入工会，如欲向更多人提供资料，应向同部门雇员推荐本网站，并且当然可以下载、打印、复制、转发和以任何方式向同部门雇员或任何感兴趣的团体散布这些资料。在此方面您无需联系我们获得许可。

雇主为达到进行管理培训和交流沟通的目的，不论是在本组织内或者与其他感兴趣的团体一起，亦可以同样的方式使用本网站所载资料。在某些情况下，雇主可能会向雇员提供这些材料。然而，我们强烈建议，您应先向了解您具体情况的劳工律师咨询。

工会为培训和沟通之目的，不论是在工会内部或与其他感兴趣的团体（例如其成员或者工会所代表的非成员），亦可以同样的方式使用本网站所载资料。

詳情請致電 LabourWatch. 免費熱線
1-888-652-2687

概述

解散工会的意思是撤销这个工会。如果大多数雇员不再希望由一个工会所代表，则他们可以申请撤销对这个工会的承认。不过，您必须仔细遵从《不列颠哥伦比亚省劳工关系法》所订立的规则，以及不列颠哥伦比亚省劳工关系委员会（简称“劳工委员会”）所订立的程序。

按照我们的分步骤指导进行操作，即可完成符合规则要求的申请。如果需要帮助，请转到“联络方式”页面，与该页面中所列的人员接洽。

在不列颠哥伦比亚省，解散工会通常称为“取消承认”或“收回谈判权”。有两种类型的解散方式，即“部分解散”和“完全解散”，分别适用不同的表格和规则。如果您希望在整个谈判单位解散工会，则使用此处的资料包，整个谈判单位是指加入工会的整个工作场所，或在《集体协议》管辖着多个工作场所的情况下，指所有工作场所。如果仅想在谈判单位的若干部分或加入工会的若干工作场所解散工会，则请使用“下载”部分的“部分解散”资料包。

有两种部分解散类型

第一类，

如果你的谈判单位包括了在不同地点范围工作的员工，你或许只能解散其中一个地点（或者某几个地点，但是不会是谈判单位）

你有更大的可能性取得部分解散的成功，如果你的地点是独立于其它地点，特别是如果工会将你的团体添加到一个现有的大谈判单位内，通常被称为“不一致”认证。如果真是如此，你只是要求将这个“不一致”的部分拿走，正如工会把它添加进去一样。

第二类，

如果你的谈判单位只有一个地方，但是包括不同的团体，例如办公室和销售的员工在一个谈判单位，同样仓库或工厂的员工同也在。这是非常困难去取得部分解散的。

例如，如果销售员工想脱离这个谈判单位，他们必须证明他们和这个谈判单位内其它员工独相对立的并且没有“功能集成”。

这种情况出现的机会很少，在进行“部分解散”前，你有可能需要借助专业的法律意

见。去劝说谈判单位里的大部分人进行“完全解散”可能会更容易

确定“部分”解散的时机

如果从工会最初得到您谈判单位的承认起还不满10个月，则不能申请“部分解散”。

如果因为您的雇主曾经制造过不公平劳工实务而使劳工委员会先前拒绝了“解散”请求，则您可能需要再等10个月。

取得表格

申请解散工会必须采用书面方式，所以必须提交劳工委员会的两种表格：一份“表格142”和若干份“表格142A”。

支持申请解散工会的每个雇员均须填写一份“表格142A”并签名，以此证明他们支持此项申请。请确保每份表格都填有日期，并正确地写明工会和雇主的全名。

您必须取得希望解散工会的范围内至少45%的雇员填写的“表格142A”。

解散申请的组织者填写一份“表格142”，与所有“表格142A”原件一并提交劳工委员会。也请保留每份表格的复印件作为记录。

您必须确定在希望解散工会的谈判单位内有多少名雇员。建议取得尽可能多的表格，因为针对一个机构的雇员数量经常发生争执，例如，休产假、病假或临时解雇的雇员都会计算在雇员总数之中。所以，努力取得45%以上雇员的表格，以备某些雇员的雇佣状态或“表格142A”发生问题。通过这种措施，将会降低因若干表格被拒而达不到45%比例，进而使申请被拒的风险。

您可从我们的解散下载区或劳工委员会网站的“表格”链接中取得上列表格。

谨记：针对提交劳工委员会的所有资料，均保留复印件作为记录。

避免出错

用于解散工会的表格必须填写完整、准确。

- 工会名称必须填对写全
- 必须要求每一个填表雇员在表格142A上填写签字时的日期
- 如果劳工委员会认定解散工会的申请受到雇主的支持或协助，则此项申请将不会成功。工会几乎总是声称雇主参与了申请，即使没有任何证据。
- 不应在工作时间在雇主的设施内联络雇员同事——不过午餐或茶歇时间是可以的，当然上班之前或下班之后更没问题。
- 不可使用雇主的会议室或雇主的复印机，最好也不要使用雇主的电子邮件系统。
- 不允许雇主承诺在解散申请成功后给予奖励，或实际提供奖励。
- 雇主不得提出代您支付律师费用。
- 您应避免与管理层讨论您的申请，而应自行处理。

如需帮助，可咨询我们网站，或向不为您的雇主工作的其他人员寻求建议。必要时您可咨询律师获取法律建议，但律师应当知悉：在劳工委员会将会发生关于律师费是否系由您的雇主支付的争辩。我们希望，本网站为您提供全部需要的指导。

建立支持

不得使用威胁、承诺或胁迫等手段使雇员同事签署“表格142A”。您应想出一两个理由，说明您认为应当解散工会的原因。有条理的友好商讨往往事半功倍。记住：一旦单位中45%以上的雇员签署“表格142A”，而且您提交了申请，将很有可能进行由劳工委员会监督的无记名投票，单位中的每一名雇员都可秘密投票。并非签署过“表格142A”的人都会投票支持解散工会，而不曾签表的雇员也可能在秘密投票中支持解散工会。

检查一下您的集体协议，阅读关于“谈判单位”的内容或定义。这部分通常称为“识别”条款，一般载于集体协议的开头部分。您需要取得该定义中所提及的单位至少45%的雇员所签署的“表格142A”。

请您谨记：您很可能需要证明“表格142A”是在“自由”和“自愿”的基础上签署的。

如上所述，对您的申请提供支持的人员不应在上班期间签署“表格142A”——他们必须是在工间休息时或在上班之前或下班之后签署。其原因是那个时候您应该是在工作。如果雇主明知您是在工作期间办理这个事项而未采取措施，则工会可能会指责雇主支持解散工会，对您上班期间所从事的这项活动“视而不见”，暗示雇主希望所有人知道他们支持解散工会的活动。

编制表格

您的申请的雇员签署并注明签字日期。您必须使用工会的正确全名和本地号码。您可以使用集体协议，或劳工委员会正式批准文件中所载的工会名称。如有疑问，可致电劳工委员会索要正确的工会名称。

取得经过签字的“表格142A”后，您要填制“表格142”。您被问到的第一个问题是将您自己（或另一名支持解散工会的人员）列为寻求解散工会的雇员的“代表”。如果您希望自己的姓名保密，则可划销一个空格。

表格中会要求提供：

- 雇主和工会的名称、地址和联络资料。
- 签署“表格142A”的雇员数量。
- 申请解散的谈判单位的雇员数量。

您需要向劳工委员会付费\$100，收款人为财务部长。您的雇主不能支付这笔费用。

“表格142”会问及谈判单位的若干资料。如需帮助，可向劳工委员会索要您的集体协议或工会批准文件的复印件。一个节省时间的做法是在“空白的”“表格142A”中提前填入工会的正确全名和本地号码以及雇主正确全名（仅可提前填入此等信息），然后再找雇员同事签字。这种做法也有助于确保不会有人在填写“表格142A”时出错。切勿事先填入签字日期，否则在向劳工委员会提交表格时可能会遇到麻烦。

递交表格

取得单位中45%以上的雇员签署的“表格142A”，并且您已填制“表格142”后，您需持全部原件，连同集体协议（前提是工会和雇主已经谈定集体协议）的一份复印件，递交到：

British Columbia Labour Relations Board
Suite 600, Oceanic Plaza
1066 West Hastings Street
Vancouver, British Columbia
V6E 3X1

虽然可以采用平信或快递，但最好是面呈。面呈的好处是劳工委员会的官员可以检查一下表格，如果有错可以及时更正。

申请必须在“表格142A”签字后90天内提交。劳工关系委员会将会核对相关日期。过期的“表格142A”不能计数，您需要让签署人重新签字。

结果

劳工委员会收到您的申请后将检查是否有错。如果一切妥当，他们将接受您的申请，并向工会和您的雇主发送通知，告知他们有“若干雇员”已经申请解散工会。工会和雇主将需在限定期限内书面表示反对或支持本项申请。

劳工委员会发出的通知中将包括一次听证会，于提交申请后10日内在劳工委员会的办公室举行。劳工委员会亦将安排一次由全体雇员参加的无记名投票，时间亦在提交申请后10日内。

一个重要事项是，您自己或单位的一名代表，在听证会之日到劳工委员会参加会议。如果您不能前往，则须致电劳工委员会，说明不能参加的合理理由。如果在听证会上对您的申请未予反对，则劳工委员会将安排投票如期举行，并予以计票。

如果对您的申请提出反对（例如，工会表示您的雇主以不合适的方式对您的申请提供了支持），则劳工委员会将安排投票，但投票箱密封，直至相关争议已经解决为止。这种情况下，劳工委员会将要求工会、雇主和您提交书面材料，甚至可以举行另外一次听证会，要求证人出席，进行相关争辩。劳工委员会将审议反对的理由——如果劳工委员会对反对的理由予以采信，则您的申请很可能被撤销；如果不予采信，则将进行计票。如果投票的雇员大多数支持解散工会，则将按《劳工关系法》第33条“变更”对工会的批准文件。如果

大多数支持保留工会，或者出现平局，则工会批文不会变更。

最后一个重要事项：您必须仔细阅读投票纸上的“问题”，并相应通知您的支持者。投票纸不会询问您是否支持解散工会。相反，询问的问题是您是否希望继续保留工会作为您的核定谈判代理人。因此，如果您支持解散工会，应该选择“否”。

**EMPLOYEE APPLICATION FOR PARTIAL DECERTIFICATION
(SECTION 142)**

There are two parts to this form. 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 the employer).

- **TO ENSURE TIMELY PROCESSING OF THE APPLICATION PLEASE PROVIDE COMPLETE DETAILS AND SUPPORTING DOCUMENTS WHEN AVAILABLE.**
 - **EMPLOYEES WISHING TO HAVE THEIR UNION PARTIALLY DECERTIFIED SHOULD SELECT A PERSON TO ACT AS THEIR AUTHORIZED REPRESENTATIVE (CONTACT PERSON) 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
(THIS PART IS CONFIDENTIAL)**

TO BE COMPLETED BY THE APPLICANT

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

Home Address: _____ City: _____

Postal Code: _____ E-mail: _____

Work Telephone: _____ Home Telephone: _____

Home Fax: _____ Cell: _____

Name of other Authorized Representative: _____

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

Yes No

Address: _____
(if different from above)

City: _____ Postal Code: _____

Work Telephone: _____ Home Telephone: _____

Home Fax: _____ Cell: _____

E-mail: _____

TRADE UNION INFORMATION

Full Name and Local of trade union:	_____	Local Number:	_____
Address:	_____		City: _____
Postal Code:	_____	Telephone:	_____
Fax:	_____	Cell:	_____
Name of Union Contact Person:	_____		
E-mail:	_____		

EMPLOYER INFORMATION

Company Name:	_____		
Address:	_____		City: _____
Postal Code:	_____	Telephone:	_____
Fax:	_____	Cell:	_____
Name of Employer Contact Person:	_____	Position:	_____
E-mail:	_____		

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 (Form 142A):	_____
Number of employees in the group for which application is being made:	_____
Total number of employees in the whole bargaining unit:	_____

Signature of Authorized Representative:	_____
(omit if filing electronically)	
Print name:	_____
Position:	_____
Date of signing:	_____

LABOUR RELATIONS BOARD FEES

NOTE:

APPLICATION/COMPLAINT MUST INCLUDE FEE OF \$100.00

PAYMENT (CHECK ONE)

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

METHOD OF PAYMENT (CHECK ONE)

- CHEQUE
- DEBIT CARD
- CHARGE TO PRE-APPROVED ACCOUNT
- CREDIT CARD - **Information required as follows;**

Name as it appears on credit card: _____

Phone Number of where the card holder can be reached: _____

E-Mail Address: _____

Organization Name (if applicable): _____

Please bill my **VISA** **MASTERCARD**

Fee \$ _____



Signature: _____

Card Number: _____

Expiry Date - Month: ____ Year: _____

Please note: The credit card information provided on this form will not be retained. Upon authorization of the payment request all credit card information will be destroyed.

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 under "Decisions".

BARGAINING UNIT INFORMATION

Is your bargaining unit certified? Yes No Unknown

If no or unknown, is there a collective agreement? Yes No

Please enclose/attach 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? Yes No

If yes, please provide details:

Please state the bargaining unit description (see certification *).

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

* 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 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.

2. Describe the employee classifications in the bargaining unit not covered by this application.

3. Is there an overlap between the work performed by the employees covered by this application and those employees not covered by this application? Yes No

4. If yes, describe how.

COMPLETE AND DELIVER TO: Registrar
Labour Relations Board
600 - 1066 West Hastings Street
Vancouver, BC
V6E 3X1
Tel: 604-660-1300 / Fax: 604-660-1892

IF THESE FORMS HAVE BEEN FAXED, THE ORIGINAL SIGNED COPIES MUST ALSO BE FORWARDED TO THE BOARD (LRB RULES).

If you require further information please call the Board's Information Officer at 660 - 1304.

**EMPLOYEE APPLICATION FOR PARTIAL DECERTIFICATION
(SECTION 142)**

I HEREBY APPLY FOR REVOCATION OF BARGAINING RIGHTS HELD BY MY TRADE UNION:

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 (COMPANY)

(The Employer's name must be filled out)

IF THE APPLICATION SUCCEEDS, I UNDERSTAND THAT THE TRADE 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 AS MY AUTHORIZED REPRESENTATIVE 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 home address.

Street: _____ City: _____

Province: _____ Postal Code: _____ Home telephone: _____

Cell number: _____ E-mail: _____

THIS FORM WILL NOT BE ACCEPTED UNLESS FULLY COMPLETED AND IS SIGNED AND DATED WITHIN 90 CALENDAR DAYS IMMEDIATELY BEFORE THE DATE ON WHICH THE REVOCATION APPLICATION IS RECEIVED BY THE LABOUR RELATIONS BOARD.

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.

**EMPLOYEE APPLICATION FOR PARTIAL DECERTIFICATION
(SECTION 142)**

I HEREBY APPLY FOR REVOCATION OF BARGAINING RIGHTS HELD BY MY TRADE UNION:

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 (COMPANY)

(The Employer's name must be filled out)

IF THE APPLICATION SUCCEEDS, I UNDERSTAND THAT THE TRADE 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 AS MY AUTHORIZED REPRESENTATIVE 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 home address.

Street: _____ City: _____

Province: _____ Postal Code: _____ Home telephone: _____

Cell number: _____ E-mail: _____

THIS FORM WILL NOT BE ACCEPTED UNLESS FULLY COMPLETED AND IS SIGNED AND DATED WITHIN 90 CALENDAR DAYS IMMEDIATELY BEFORE THE DATE ON WHICH THE REVOCATION APPLICATION IS RECEIVED BY THE LABOUR RELATIONS BOARD.