

# **LABOUR RELATIONS BOARD**

## **RULES**

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*Ministry of Skills, Training and Labour*  
**GOVERNMENT OF BRITISH COLUMBIA**

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# **BRITISH COLUMBIA LABOUR RELATIONS BOARD RULES**

## **PART 1** **INTERPRETATION**

### Definitions and purpose

1. (1) In these Rules

"application" means any document made or used to commence a proceeding before the board and includes any document filed by facsimile transmission for that purpose;

"Code" means the *Labour Relations Code*;

"document" means an application, complaint, form, notice, order, reply, submission, statutory declaration or other paper or document that is or is required to be filed, served or delivered in connection with a proceeding before the board, or is required to be filed with the board under the Code or another enactment;

"party" means a person, applicant, respondent, complainant, employer, trade union, employee or group of employees, intervenor and any person added by the board as a party to any proceeding;

"proceeding" means any application, complaint, question, request, dispute, difference or matter that is before the board for hearing, determination or assistance in resolution pursuant to the Code, the Regulation, these Rules or any other enactment;

"registrar" means the vice-chair of the board designated as registrar and includes an employee of the board designated as a deputy registrar, who, subject to the direction of the chair, may exercise the administrative functions of the board for the purposes of these Rules;

"Regulation" means the Labour Relations Regulation;

"representative" means a person representing or acting for a party in a proceeding and includes legal counsel;

"working day" means any day other than a Saturday of a holiday.

- (2) The purpose of these Rules is to secure the just, speedy and inexpensive settlement or adjudication of every proceeding having regard to the real substance of the matters in dispute and the respective merit of the positions of the parties to the proceeding.

## **PART 2**

### **GENERAL RULES**

#### **Applications and commencement of proceedings**

2. (1) An applicant shall commence a proceeding before the board by filing a written application with the registrar within such time as may be prescribed by the Code or these Rules.
- (2) In addition to any other information required by the Code, these Rules or the board, an application shall contain

- (a) the full name, address, and telephone and facsimile numbers of both the party commencing the proceeding and any representative filing the application;
- (b) an address for delivery, where different from the address of the party or representative filing the application;
- (c) where known, the full name, address, and telephone and facsimile numbers of the respondent and any other person who will be affected by the application;
- (d) the number of employees in any bargaining unit or units which may be affected by the application;
- (e) the section or sections of the Code or other enactment under which the proceeding is commenced and a remedy is sought;
- (f) an outline of the facts and circumstances upon which the applicant intends to rely, including when and where the relevant facts occurred and, where known, by whom any actions alleged were taken;
- (g) the order, relief, interim relief, declaratory opinion or other remedy requested from the board, together with the basis for the request;

and shall also

- (h) state whether a hearing before the board is requested;
  - (i) if a hearing is requested, state the form of hearing considered appropriate and provide reasons for the request, together with an estimate of the time required and the proposed location of the hearing; and
  - (j) contain a statement as to the urgency of the matter and the reasons for any stated urgency.
- (3) A party commencing a proceeding shall forthwith serve a copy of the application on all persons referred to in sub-rule (2)(c) and shall indicate

to the board at the time of filing what provision has been or is being made to effect such service; except that this sub-rule shall not apply to applications under Section 12 of the Code, or to applications for certification or revocation of bargaining rights.

(4) Upon receiving an application, the registrar shall consider whether it complies sufficiently with the Code and these Rules, and is sufficiently particularized to inform the board and the affected persons of its substance. Where an application is insufficient, the registrar may

- (a) direct that any failure to comply with the Code or these Rules be rectified before the application can commence a proceeding;
- (b) direct that further facts or details of the relief sought be provided; and
- (c) prescribe time limits for compliance with any direction given under this sub-rule.

(4.1) Regardless of any other provision of these Rules, where an application has been properly filed with the board, the registrar may determine whether one or more of the following is appropriate

- (a) a reply or other written submission should be requested from a person affected by that application;
- (b) a person should be assigned to investigate the matter and prepare a report;
- (c) a settlement conference should be scheduled;
- (d) the matter should be set down directly for hearing;
- (e) pre-hearing directions should be given; and
- (f) any other step which may be directed by the registrar and is designed to aid in the disposition of the proceeding in accordance with Rule 1(2).

- (5) Unless otherwise permitted by the board, a proceeding is only commenced on compliance with the applicable requirements of the Code and these Rules.

### **Forms for commencing proceedings**

3. (1) The board may establish forms it considers necessary or appropriate for use in proceedings before it and for all other matters within its jurisdiction. Copies of these forms may be obtained from the office of the board in Vancouver, British Columbia or from an office of the Employment Standards Branch of the Ministry of Skills, Training and Labour.
- (2) Without limiting sub-rule (1), the board may establish forms for
- (a) a complaint alleging a violation of Sections 5(2) or 6(3)(a), (b) or (c) of the Code;
  - (b) an application alleging that a trade union has acted in a manner that is arbitrary, discriminatory or in bad faith contrary to Section 12 of the Code;
  - (c) an application for exemption from union membership or payment of dues on the basis of religious objection under Section 17 of the Code;
  - (d) an application for certification pursuant to Sections 18, 19, 210 or 21 of the Code;
  - (e) an application for cancellation of certification or revocation of bargaining rights under Sections 33 or 34 of the Code;
  - (f) an application for successorship under Sections 35, 36 or 37 of the Code;

- (g) an application for the board to treat several businesses as one employer pursuant to Section 38 of the Code;
  - (h) an application for appointment of a mediator or a request for appointment of a mediation officer under Sections 55(1) or 74(1)(b) of the Code;
  - (I) an application for a final offer vote under Section 78(1) or (2) of the Code; and
  - (j) any other application, request or notice required by these Rules to be made by a specified form.
- (3) The forms listed in sub-rule (2), or a written application providing the same information in substantially the same order as sought on the form, shall be filed with the board in order to commence the specified proceedings. All other forms for commencing proceedings are provided by the board for convenience only and their use is not mandatory.

## **Replies**

4. (1) Subject to these Rules and except in the case of an application for certification, a party making a submission with respect to an application shall file with the board a reply to the application within seven (7) working days after receipt by that party of the application, or within such other time as the board may allow or direct.
- (2) A reply to an application shall contain
- (a) the full name, address, and telephone and facsimile numbers of both the party replying and any representative filing the reply;
  - (b) an address for delivery, where different from the address of the party or representative filing the reply;
  - (c) a clear identification of the proceeding to which the reply relates;

- (d) an admission or denial of each allegation of fact contained in the application;
- (e) the number of employees in any bargaining unit or units which may be affected by the application where such has not been contained in the application or is inaccurately stated in the application;
- (f) a concise statement of any additional facts upon which the party intends to rely;
- (g) an outline of the position which the party takes in response to the application;

and shall also

- (h) state whether a hearing before the board is requested;
- (i) if a hearing is requested, state the form of hearing considered appropriate and provide reasons for the request, together with an estimate of the time required and the proposed location of the hearing; and
- (j) contain a statement as to the urgency of the matter and the reasons for any stated urgency.

(2.1) Upon receiving a reply, the registrar shall consider whether it complies sufficiently with the Code and these Rules, and is sufficiently particularized to inform the board and other parties of its substance. Where a reply is insufficient, the registrar may

- (a) direct that any failure to comply with the Code or these Rules be rectified before the reply can be considered as filed with the board;
- (b) direct that further facts or details of the position which the party is taking be provided; and

- (c) prescribe time limits for compliance with any direction given under this sub-rule.
- (3) If a party affected by an application fails to comply with sub-rules (1), (2) or (2.1), the party may not make representations in respect of the application without the board's permission, and the board may dispose of the application without notice to that party.
- (4) Where a reply is filed, the board shall give notice of it to the applicant, and shall permit the applicant to make a response within such time as may be established by the board.

### **Filing with the board**

- 5. (1) Any document to be filed with the board may be sent by facsimile, mailed or delivered to the attention of the registrar at the office of the board in Vancouver, British Columbia.
- (2) Except where service is required under these Rules, a party filing a document with the board shall at the same time and in the same manner deliver a copy of the document to all other persons affected by the proceeding and shall indicate to the board at the time of filing what provision has been or is being made to effect such delivery.
- (3) Where any party files a document by facsimile
  - (a) verbal notice of the facsimile transmission shall be given forthwith by the party to the registrar where the proceeding is of an urgent nature; and
  - (b) the original copy of an application for certification, an application for revocation of bargaining rights, a revocation under Regulation

4 or any sworn document shall be delivered to the board within three (3) working days or by commencement of any hearing in the proceeding, whichever is earlier, and shall indicate it is the original copy of a document previously filed with the board by facsimile.

- (3.1) Except as set out in sub-rule (3)(b) or otherwise required by the board, it is not necessary for a party filing a document by facsimile to file the original copy of that document.
- (4) Where a document is received by the board, the board will stamp on it the date and time of receipt.
- (5) Any document to be filed with the board must be received during normal business hours established by the board. A document received after the close of business shall be deemed to be filed on the next working day unless otherwise accepted by the board.
- (6) Where other offices are designated by the chair under Section 127(2) of the Code for the purpose of filing documents with the board, a person filing a document at another office shall forthwith give verbal notice of the filing to the registrar at the board's office in Vancouver, British Columbia.

### **Service and delivery**

- 6. (1) Where any document is required by these Rules to be served upon any person, the document may be served
  - (a) where the person is an individual, by leaving the document or a copy of it with the person or at the person's residence;
  - (b) where the person is an employer or a trade union, by leaving the document or a copy of it at the person's place of business during

normal business hours, or in any manner provided by the *Company Act* or *Society Act* if applicable.

- (2) A document may be delivered to a party by
  - (a) serving the document or a copy of it upon the party;
  - (b) leaving the document or a copy of it at the party's address for delivery; or
  - (c) transmitting a facsimile copy of the document to the party where a facsimile number has been provided by the party on any application or reply filed with the board, provided that verbal notice of the facsimile transmission is given forthwith to the recipient by the party delivering the document.
- (3) Where the name and address of a representative of a party is endorsed or shown on a document filed with the board by or on behalf of the party, any document that is required to be served upon or delivered to that party in the same proceeding may be served upon or delivered to the representative.
- (4) Where the board is satisfied that ordinary methods of service have been or are likely to be ineffective or impractical, it may direct substitutional service by posting, advertisement or otherwise, and service according to that direction will be deemed to be effective service.

### **Applications involving groups of persons**

7. (1) Where persons would be parties to an application, but are distinguishable as a group with common interest, they may be named in the application as a group and the group will be one party to the application unless otherwise ordered by the board.

- (2) If all or some of the persons in a group are represented by a trade union, an organization of trade unions, or an employers' organization, the union or organization, as the case may be, may be named in the application as the agent for those persons it represents.
- (3) If all or some of the persons in the group are not represented by a trade union, organization of trade unions or an employer's organization, one or more of these persons not represented by a union or organization may be named in the application as a representative of these persons.

### **Intervenors and interested parties**

8. The board may determine the extent to which a person added as an intervenor or a party shall be permitted to participate in a proceeding.
9. (1) Any document filed with the board on behalf of a party shall be signed by a person duly authorized by the party to file the document and shall state the nature of the person's authorization.
  - (2) The board may at any time require any person filing a document or acting on behalf of a party to provide proof of the person's authorization to file the document or act in that capacity.

### **Statutory declarations**

10. (1) Where an application has been filed with the board, the board may require that some or all of the facts and circumstances alleged be verified by a statutory declaration and that a copy of the statutory declaration be delivered to any person who may be affected by the application.

- (2) Unless the board directs otherwise, a person who is the deponent in a statutory declaration which contains the material facts upon which a party relies shall be present to testify at any hearing of the application.
- (3) A person who is the deponent in a statutory declaration filed with the board shall not act as counsel in the same proceeding unless permitted by the board.

### **Amendments and defects**

11. (1) Any document may be amended before, during or after a hearing by leave of the board upon such terms and conditions as the board considers appropriate.
- (2) The board may relieve against the failure of any person to comply with these Rules on such terms and conditions, if any, it considers appropriate.

### **Abridgement and enlargement**

12. Without limiting the right of the board to refuse to hear a party who fails to comply with a provision of these Rules, the board may, upon such terms as it considers advisable
  - (a) abridge or enlarge the time set by these Rules for doing any act, filing, serving or delivering any document, or taking any proceedings, and may do so although the application is not made until after the expiration of the time set by these Rules; or
  - (b) at the request of a party or on its own motion, permit a party to initiate or proceed with an application, or reply to an application, without fully complying with the requirements of these Rules.

### **Consolidation**

13. The board may direct, upon such terms as it considers appropriate, that a proceeding be consolidated or heard together with any other proceeding before the board.

### **Notice**

14. Subject to Section 13 and 141 of the Code, where a proceeding has been commenced, the board shall
  - (1) give notice, or direct that the applicant give notice, to all persons that the board considers to be affected in a direct and legally material way by the application; and
  - (2) except in the case of applications for certification or revocation of bargaining rights, ensure that a copy of the application is sent to all parties, and also to those persons that it considers to have sufficient interest in the application who request a copy for the purpose of making a submission.

### **Posting of notices**

15.
  - (1) The board may, in writing, require an employer to forthwith post notices of an application at places where they are most likely to come to the attention of the employees affected by the application, and to keep the notices posted for a period of five (5) consecutive working days.
  - (2) Regardless of sub-rule (1), the board may, in writing, require an employer to bring an application to the attention of those employees who may be affected by it in such other manner as the board may direct.

- (3) Where the board requires that an employer post and keep posted notices of an application or bring an application to the attention of employees in another manner, the board may require the employer to file a statutory declaration proving its compliance with the requirements of the board.

### **Evidence and information**

16. (1) The board may receive and accept such evidence and information on oath, affidavit, statutory declaration or otherwise as in its discretion it considers proper, whether or not the evidence is admissible in a court of law. Except as required by Section 124(2) of the Code, the board may disclose or not disclose such evidence and information to the parties in whole or in part, or in summary form, as it considers appropriate.
- (2) The board may require a party at any time to provide the board with documents, evidence or other information in such manner and within such time as the board may specify.
- (3) Without limiting sub-rule (2), a trade union, council of trade unions or employers' organization may be required at any time to provide to the board an up-to-date copy of its constitution and bylaws, and a statement of the names and addresses of each of its officers.
- (4) The board may require a trustee in bankruptcy under the *Bankruptcy Act (Canada)* to provide the board with information in such manner and within such time as the board may specify in relation to any proceeding before the board.

### **Notice of Hearings etc.**

17. (1) Where in any proceeding the board considers it necessary to hear oral evidence and/or argument, the board shall fix the time, date and place for a hearing and shall give notice of the hearing to all parties concerned.
  - (1.1) The board may give notice of any conference, meeting or oral hearing in writing, by facsimile, by telephone or by any other means of communication.
  - (2) Regardless of sub-rule (1), or Rules 17A(3) or 17B(2), the board may in any proceeding hold any conference or meeting, or hear oral evidence and/or argument by telephone conference, if all parties are given notice of and provided with an opportunity to be connected to the telephone conference.
  - (3) The board may postpone or adjourn the consideration of any proceeding or hearing for such time and upon such terms as it considers appropriate.
  - (4) Where a party who has been given notice of a hearing fails to attend before the board in accordance with the notice, the board may proceed with the hearing and dispose of the matter in the absence of that party.

### **Pre-hearing conferences**

- 17A. (1) Without limiting Section 126 or any other provision of the Code, a pre-hearing conference may be scheduled by the board on its own motion or at the request of a party in any proceeding for one or more of the following purposes
  - (a) directing the pre-hearing disclosure of documents by a party or by any other person who may be called as a witness in the proceeding;

- (b) directing a party to provide further facts or details of the position it is taking in the proceeding;
  - (c) developing an agreed statement of facts, obtaining admissions which might facilitate the hearing, or preparing a sworn statement of the evidence which will be elicited from a witness in the proceeding;
  - (d) directing that an investigation be conducted and a report be prepared respecting any aspect of the proceeding;
  - (e) directing that a written submission be filed respecting a report prepared in the proceeding, or respecting any aspect of the proceeding;
  - (f) attempting to simplify the matters in dispute between the parties, including achieving the resolution of some or all of those matters;
  - (g) directing the parties to attend a settlement conference;
  - (h) discussing the conduct of the hearing, including the order in which the parties will proceed, the number and identity of witnesses, and the estimated length of time required; and
  - (i) directing any other pre-hearing step or initiative which is designed to aid in the disposition of the proceeding in accordance with Rule 1(2).
- (2) Where the board makes a direction under sub-rule (1), it may specify terms and conditions, including prescribing time limits, to be complied with by a party in respect of that direction.
- (3) All parties to a proceeding shall be notified of the time, date and place for a pre-hearing conference. Where a representative is acting for a party, the board may direct that the party (or a person with authority to instruct the representative) be present at the pre-hearing conference.

- (4) Where a panel of the board has been constituted and assigned to a proceeding, a pre-hearing conference may be conducted by one or more members of the panel, or by any other panel of the board.

### **Settlement conferences**

- 17B. (1) Without limiting Section 126 or any other provision of the Code, a settlement conference may be scheduled by the board or at the request of a party at any time in a proceeding.
- (2) All parties to a proceeding shall be notified of the time, date and place for a settlement conference. Where a representative is acting for a party, the board may direct that the party (or person with authority to settle) be present at the settlement conference.
- (3) A panel or a member of a panel who attends a settlement conference shall not be part of any panel subsequently making a decision or order in the proceeding, unless all parties consent in writing.

### **Alternate forms of hearings**

- 17C. (1) Without limiting Sections 124 and 126 or any other provision of the Code, the board may make a decision in any proceeding
  - (a) on the basis of written materials on file with the board, including any report received pursuant to an investigation directed by the board;
  - (b) on the basis of an oral hearing where the parties will be given a full opportunity to present evidence and make submissions, subject to directions made at any point in the proceeding by the board or the panel to which the proceeding has been referred;

- (c) after providing the parties with an opportunity to make oral submissions, which may include evidence and information relevant to the proceeding; or
  - (d) on the basis of an ADR hearing respecting which the parties may agree to one or more of the following
    - (i) the matter will be scheduled for an expedited hearing;
    - (ii) a brief written summary of each party's position will be exchanged in advance;
    - (iii) an agreed statement of facts will be prepared and/or limited *viva voce* evidence will be called at the hearing;
    - (iv) neither party will be represented by legal counsel at the hearing;
    - (v) a fixed time period will be established for the presentation of any evidence and argument;
    - (vi) limited reference will be made to legal or other authorities;
    - (vii) the panel to which the proceeding has been referred may in its discretion attempt to mediate a settlement of some or all of the matters in dispute;
    - (viii) a short decision without precedent will be issued as soon as possible if the matter cannot be settled;
    - (ix) any reconsideration of the decision will be limited to questions of natural justice; and
    - (x) any other step or procedure designed to facilitate an expedited decision in the proceeding.
- (2) The board shall ensure that all parties receive notice of the form of hearing where a decision is to be made in any proceeding under sub-rule (1)(c) or (d).

## **Summons**

18. (1) The board may issue a summons to require a person to appear before the board to give evidence and produce any documents which are within the person's possession or control relating to any matter in question in the proceeding.
- (2) A summons shall be in a form set by the board and shall be prepared by the party wishing to summon a person in a proceeding. A completed summons must be delivered to the board for authorization and, where authorized, served by the party on the person to be summoned.
- (3) A summons shall be served in accordance with Rule 6(1) and accompanied by such witness fees and conduct money as may be prescribed by the board.
- (4) A summons authorized by the board may be filed in Supreme Court under Section 135 of the Code and made subject to the *Subpoena (Interprovincial) Act*.

### **Court reporters**

19. The board may permit a party to have evidence or argument taken down by an Official Reporter. Where permitted, it shall be the duty of that party, at its own cost, to provide the board and all other parties to the proceeding with a copy of the transcript.

### **Adverse party called as witness**

20. (1) A party who wishes to call an adverse party as a witness at a hearing, or any director, officer, partner, employee or agent of an adverse party, may either summons the person or give the person or the person's legal or other

representative at least seven (7) calendar days' notice of an intention to call the person as a witness. A party may call as a witness a person referred to in this sub-rule without summons or previous notice if the person is in attendance at the hearing.

- (2) For the purpose of sub-rule (1), "adverse party" means a party who is adverse in interest.
- (3) If a person required to testify under sub-rule (1) refuses or neglects to attend at the hearing, or to remain in attendance at the hearing, or refuses to be sworn or to answer a proper question asked of the person or produce a document which the person is required to produce, the board may determine the matter in favour of the party calling that witness or may adjourn the proceeding.
- (4) A party calling a witness under sub-rule (1) is entitled to treat the witness as hostile. Cross-examination of the witness by the adverse party shall be confined to an explanation of matters brought out in the examination-in-chief. Cross-examination of the witness by other parties may be general or limited, as directed by the board. Re-examination shall be confined to new matters brought out in cross-examination.

### **Adjournment and withdrawal**

21. Where a proceeding has been adjourned by agreement, without setting a date for a hearing or continuation of a hearing, the board shall give notice to all parties to the proceeding upon the expiry of six (6) months from the date of the adjournment, at their addresses on file, that the proceeding may be treated as withdrawn. Unless a party requests within fifteen (15) working days of the notice that the proceeding be scheduled for hearing, or the board otherwise orders, the proceeding shall be treated as withdrawn.

## **Decisions**

22. (1) All decisions and orders of the board in proceedings under the Code shall be in writing and in such form as the board determines.
- (2) A decision or order of the board shall state its date of publication, which shall be the date it becomes effective, unless the decision or order, or a part of it, is stated to be effective on another date.
- (3) The board shall notify all parties to a proceeding of its decision or order, and shall make all of them available for publication.

## **Non-compliance**

- 22A. (1) Where a party refuses or fails without reasonable excuse to comply with these Rules or a direction made under them, the board may make any decision, order or further direction it considers appropriate in the circumstances. Without limiting the board's discretion, where the non-complying party is an applicant the board may dismiss the application, and where a respondent the board may make a decision in the proceeding as if no reply were filed.
- (2) Unless the board otherwise determines, a refusal or failure to comply with these Rules or a direction made under them shall be treated as an irregularity and does not nullify a proceeding, a step taken or any decision, order or direction made in the proceeding.

## **PART 3**

### **RULES FOR SPECIFIC APPLICATIONS**

## **Unfair labour practice and other complaints**

23. Complaints filed with the board under Sections 14 and 133 of the Code alleging violations of Sections 5, 6, 7, 9, 10, 11, 12, 32 or 45 of the Code (including a complaint alleging that an employee has been discharged, suspended, transferred or laid off from employment or otherwise disciplined in contravention of the Code) shall comply with Rules 2(2), 2(3) and 3(3) in particular, and shall state particulars of any monetary compensation being sought.

## **Certification**

24. (1) Where a trade union applies for certification under the Code, the trade union shall file its application in a form set by the board and may at the same time present for verification membership cards signed in support of the application.
- (2) Where an application for certification is made, the board shall
- (a) notify the employer and employees concerned by sending the employer a notice in a form set by the board;
  - (b) notify any other trade union which may have a collective bargaining relationship with the employer; and
  - (c) upon deciding to hold a hearing respecting the application, notify the parties of the date, time and place that the hearing will be held.
- (3) On receipt of the notification under sub-rule (2)(a), the employer shall immediately post and keep posted a copy of the notice at its business premises for five (5) consecutive working days, or at such other place that

allows all employees affected by the application an opportunity to see and examine the notice.

- (4) Information relating to membership in good standing of a trade union (including the number of employees who have signed membership cards and any revocations of membership received by the board under Regulation 4) shall be for the confidential use of the board and shall not be made public except in accordance with Section 124(4) of the Code.
- (5) Where the board orders that a representation vote be conducted, the vote shall be conducted in accordance with the Code and the Labour Relations Regulation.
- (6) A certification issued to a trade union certified under the Code shall be in a form set by the board.

#### **Certification of council of trade unions and revocation of bargaining rights**

- 25. (1) Rule 24 applies with the necessary changes and so far as applicable to
  - (a) applications for certification of councils of trade unions under section 41 of the Code; and
  - (b) applications for revocation of bargaining rights under Sections 33 and 34 of the Code, but notice of the application shall be sent by the board to the trade union as well as to the employer and employees.
- (2) Information relating to the identity of employees making an application under Sections 33 or 34 of the Code (including the number of employees making the application) shall be for the confidential use of the board and shall not be made public except in accordance with Section 124(4) of the Code.

## **Accreditation**

26. (1) An application for accreditation under Section 43 of the Code shall be in a form set by the board.
- (2) The applicant shall at the time of application file evidence to satisfy the board that the provisions of Section 43(4) of the Code have been met.
- (3) An accreditation issued to an employers' organization accredited under the Code shall be in a form set by the board.

## **Part 5 complaints**

27. (1) A complaint under Section 133 or an application under Section 143 of the Code alleging that a provision of Part 5 of the Code has been or will be contravened shall comply with Rules 2(2) and 2(3) in particular, and shall
  - (a) state the date, time and location that the applicant wishes to appear before the board to apply for the order it seeks, which shall be at least twenty-four (24) hours after a copy of the complaint and a copy of this Rule have been served upon the respondent and any other interested party; and
  - (b) where a hearing is requested earlier than is provided in paragraph (a), state that an expedited hearing of the complaint is requested and the reasons for the request, specifying the nature of any harm anticipated or resulting from the violations complained of.
- (2) A hearing of the complaint shall be held at the board's Vancouver office and at the date and time at which the applicant gave notice under sub-rule

- (1)(a) unless, at the request of any party, or by the board on its own motion, another date, time or location is designated by the board.
- (3) When the board designates a date, time or location other than the date, time and location of which the applicant has given notice, the board shall notify or cause to be notified all interested parties.
- (4) For purposes of notice under sub-rules (1) or (3), notice to a trade union or employers' organization is deemed to be notice to those persons against whom the complaint is made and it has authority to act as bargaining agent.
- (5) A respondent or other party proposing to contest a complaint under this Rule shall, where required by the board, before commencement of any hearing into the complaint, file a reply with the board in accordance with Rule 4(2) and deliver a copy of the complainant and any other interested party.
- (6) For purposes of this Rule, a complaint includes a complaint alleging a violation of Section 68 of the Code, an application for a declaratory opinion under Section 70 of the Code, and an application for permission to picket under Section 65(4)(a) or (b) of the Code.

### **Review of arbitration awards**

28. (1) An application under section 99 of the Code must
- (a) be made in writing within fifteen (15) calendar days after the date of publication of the decision or award of an arbitration board;
  - (b) comply with Rules 2(2) and 2(3) in particular;
  - (c) be accompanied by a copy of the decision or award; and

- (d) be supported by a copy of the relevant collective agreement if subsequently requested by the board.
- (1.1) If an application is made under Section 99 of the Code, another party affected by the decision or award of the arbitration board may also apply under Section 99 of the Code within the later of
- (a) the period referred to in sub-rule (1)(a); or
  - (b) five (5) days of receiving the initial application.
- (2) Where the application or any reply to it is founded upon material facts which are not evident on the face of a decision or award of an arbitration board, a statement of those material facts verified by statutory declaration must accompany the application or reply.
- (2.1) Regardless of Rule 4, a party shall not be required to file a reply to an application under Section 99 of the Code until directed by the board.
- (2.2) Where the board receives an application under Section 99 of the Code, it may
- (a) direct any party affected by the application to file a written summary of its position, in which case the board shall schedule a hearing where all parties are given a reasonable opportunity to make oral submissions; or
  - (b) direct any party affected by the application to file a reply in accordance with Rule 4, in which case the board may either schedule a hearing for oral submissions or make a decision based on the written submissions of the parties.

### **Reconsideration of decisions**

29. (1) Subject to Section 141 of the Code, any person directly affected by a decision or order of the board may make application to the board for leave to apply for reconsideration of the decision or order, if that person
- (a) applies for leave in writing within fifteen (15) calendar days after the date of publication of reasons for the decision or order;
  - (b) complies with Rules 2(2) and 2(3) in particular; and
  - (c) sets out the grounds for seeking leave to apply for reconsideration.
- (2) Where an application for leave or a reply to it is founded upon material facts which are not evident on the face of the board's original decision or order, a statement of those facts verified by statutory declaration must accompany the application or reply.
- (3) The board shall determine its own practice and procedure for the hearing of applications seeking leave for reconsideration. Without limiting the foregoing, the board may determine whether submissions should be sought from other affected parties before considering the leave application, and whether a hearing should be conducted.
- (4) Where leave to apply for reconsideration is granted, the board may permit or require the filing of submissions on the merits of the reconsideration in accordance with time limits set by the board.

### **Trusteeship over local unions**

30. A statement required to be filed with the board pursuant to Section 150(1) of the Code by a provincial, national or international trade union that assumes supervision or control over a subordinate trade union shall be in a form set by the board.

## **PART 4**

### **VOTES**

#### **Strike and lockout votes**

31. (1) Votes directed by the board under the Code, strike votes under Section 60 of the Code and lockout votes under Section 61 of the Code shall be held in accordance with the Code and Part 3 of the Regulation.
- (2) Applications to the board under Section 60(2) or 61(2) of the Code shall
- (a) comply with Rules 2(2) and 2(3) in particular; and
  - (b) be made within five (5) working days after the date on which the return of poll is filed with the board, or such longer period as the board may permit.

## **PART 5**

### **MEDIATION DIVISION**

#### **Applications to associate chair of mediation division**

32. (1) Regardless of Rules 2(1) and 5(1), the following requests, applications and notices to the board shall be sent to the attention of the associate chair of the mediation division in Vancouver, British Columbia:
- (a) a joint request for appointment of a facilitator under Section 53(5) of the Code;
  - (b) an application for appointment of a mediator under Section 55(1) of the Code;

- (c) an application for appointment of a mediation officer under Section 74(1) of the Code;
  - (d) written notice of a strike under Section 60(3)(b)(ii) of the Code;
  - (e) written notice of a lockout under Section 61(3)(b)(ii) of the Code;
  - (f) a request for appointment of a fact finder under Section 77(1) of the Code; and
  - (g) a request for a final offer vote under Section 78(1) or (2) of the Code.
- (2) For purposes of any application referred to in sub-rule (1), the provisions of Part 2 of these Rules apply with any necessary changes.