



Service New Brunswick
Services Nouveau-Brunswick

**CONTINUANCE INTO THE
COMPANIES ACT**

**PROROGATION EN VERTU DE LA
LOI SUR LES COMPAGNIES**

SERVICE NEW BRUNSWICK/SERVICES NOUVEAU-BRUNSWICK
**Corporate Affairs/
Affaires corporatives**

COMPANIES ACT

PROCEDURAL REQUIREMENTS TO CONTINUE INTO THE COMPANIES ACT

GENERAL PROCEDURE

The procedural requirements are set out in the attached document.

Please note the enclosed “[Additional Information Form](#)” must also accompany the continuance into the [Companies Act](#) documents that will be sent to Corporate Affairs.

OTHER

A company may wish to carry on its activities in New Brunswick under a designation other than its own name. In such cases, the provisions of the Partnerships and Business Names Registration Act should be referred to as to registration requirements when carrying on activities under a business name (e.g. s. 9.3(1) of the Act). This office can supply information on procedural requirements for such registration.

CERTAIN OBLIGATIONS FOLLOWING CONTINUANCE

Once continued into the [Companies Act](#), a company becomes subject of the provisions of the [Companies Act](#). A copy of the Act may be obtained by writing to the Queen's Printer, P.O. Box 6000, Fredericton, N.B., E3B 5H1 or by calling (506) 453-2520 or one may access the provisions of the Act at <http://www.gnb.ca/0062/acts/acts-e.asp>

1) The Company Name and Number

Upon continuance, the company will be assigned a number, which will be entered into a computerized database along with pertinent information. All future inquiries may be dealt with faster if the company name and number are set out on all documents forwarded to

LOI SUR LES COMPAGNIES

EXIGENCES RELATIVES À LA PROROGATION EN VERTU DE LA LOI SUR LES COMPAGNIES

PROCESSUS GÉNÉRAL

Les exigences procédurales sont exposées dans le document ci-annexé.

Le « [Formulaire de renseignements supplémentaires](#) » ci-joint doit être annexé aux documents de prorogation en vertu de la [Loi sur les compagnies](#) qui seront envoyés à la Direction des affaires corporatives.

AUTRE

Il se peut qu'une compagnie souhaite poursuivre ses activités au Nouveau-Brunswick sous une appellation autre que la sienne. Dans ce cas, il faut consulter les dispositions de la Loi sur l'enregistrement des sociétés en nom collectif et des appellations commerciales pour connaître les exigences relatives à la conduite des affaires sous une appellation commerciale (p. ex. l'article 9.3(1) de la Loi). Notre bureau peut vous donner des renseignements sur les modalités d'enregistrement.

CERTAINES OBLIGATIONS SUITE À LA PROROGATION

Une fois prorogée en vertu de la [Loi sur les compagnies](#), la compagnie est assujettie aux dispositions de la [Loi sur les compagnies](#). On peut obtenir un exemplaire de la Loi en s'adressant à l'Imprimeur de la Reine, C.P. 6000, Fredericton (Nouveau-Brunswick) E3B 5H1 ou en composant le (506) 453-2520 ou vous pouvez accéder les provisions de la loi au site suivant - <http://www.gnb.ca/0062/acts/acts-f.asp>

1) La raison sociale et le numéro de la compagnie

Lors de sa prorogation, la compagnie reçoit un numéro qui est entré dans une banque de données avec les renseignements pertinents. Notre bureau pourra répondre plus rapidement à toutes les demandes de renseignements si la raison sociale et le numéro de la

our Branch.

2) Annual Return

The Act requires that the company file an annual return each year. [Form 35.1, Annual Return of Company](#), will be mailed by this Branch each year to the company approximately 30 days prior to the anniversary month of the company. The anniversary month is the month the company was continued.

Please note that whether or not the company receives an annual return in the mail from this Branch, the company has an obligation to file a return prior to the end of the month following its anniversary month. The failure to file an annual return on time will subject the company to the possibility of dissolution pursuant to s. 35(1) of the Act.

3) Change of Directors or Head Office

If there is a change among the directors of the company or with the address of its head office, our office must be notified within fifteen days of the effective date of the change by filing [Form 47, Notice of Change of Directors](#) or [Form 46, Notice of Change of Head Office](#). The forms are available upon request from this office.

IMPORTANT

You may wish to consult with a legal advisor as to legal aspects of a continuance. Please also note that the procedural requirements for continuance may change from time to time.

The Canada-New Brunswick Business Service Centre is a joint initiative of the federal and provincial governments to support business start up, modernization and growth. The Centre is a valuable resource for business information on registration and other requirements of various federal and provincial departments and agencies. Their address is:

compagnie sont inscrits sur tous les documents envoyés à notre Direction.

2) Rapport annuel

La Loi exige que la compagnie dépose chaque année un rapport annuel. La Direction expédie chaque année à la compagnie la formule [35.1 intitulée Rapport annuel de la compagnie](#), environ 30 jours avant le mois anniversaire de la compagnie. Le mois anniversaire est celui au cours duquel la compagnie a été prorogée.

Il faut se souvenir que, même si la compagnie ne reçoit pas la formule de rapport annuel de notre Direction, elle est obligée d'en produire un avant la fin du mois suivant le mois anniversaire de sa constitution. Si elle omet de déposer son rapport annuel avant l'échéance prévue, elle pourrait être dissoute en vertu de l'article 35(1) de la Loi.

3) Modification de la liste des administrateurs ou de l'adresse du bureau enregistré

Si on procède à une modification de la liste des administrateurs ou de l'adresse du bureau enregistré de la compagnie, celle-ci doit en aviser notre bureau dans les 15 jours suivant la date d'entrée en vigueur des changements en question, en produisant [la formule 47, intitulée Avis de changement d'administrateurs](#), ou la [formule 46, intitulée Avis de changement de siège social](#). On peut se procurer ces formules en s'adressant à notre bureau.

IMPORTANT

Vous auriez peut-être intérêt à consulter un conseiller juridique concernant les détails légaux d'une prorogation. Veuillez aussi noter que les exigences relatives à la prorogation pourraient être modifiées de temps à autre.

Le Centre de services aux entreprises Canada Nouveau-Brunswick est une initiative conjointe du gouvernement fédéral et du gouvernement provincial mise sur pied dans le but d'offrir du soutien pour le démarrage, la modernisation et l'expansion des entreprises. Le Centre constitue une source utile de renseignements sur les formalités relatives à l'enregistrement des entreprises et sur les exigences

des différents ministères et organismes
gouvernementaux à l'endroit de celles-ci.

Canada-New Brunswick Business
Service Centre
570 Queen Street
Fredericton, NB
E3B 6Z6

Tel. #: 1-506-444-6140
Toll Free #: 1-800-668-1010
Fax #: 1-506-444-6172

Centre de services aux entreprises Canada
Nouveau-Brunswick
570, rue Queen
Fredericton (Nouveau-Brunswick)
E3B 6Z6

Téléphone : (506) 444-6140
Sans frais : 1 800 668-1010
Télécopieur : (506) 444-6172

PLEASE SEND APPLICATION TO:

**SERVICE NEW BRUNSWICK
CORPORATE AFFAIRS
P. O. BOX 1998,
432 QUEEN STREET
FREDERICTON, NB
E3B 5G4
Tel. : (506) 453-2703
Fax #: (506) 453-2613**

ENVOYER VOTRE APPLICATION À :

**SERVICES NOUVEAU-BRUNSWICK
AFFAIRES CORPORATIVES
CASE POSTALE 1998
432, RUE QUEEN
FREDERICTON (N.-B.)
E3B 5G4
Téléphone : (506) 453-2703
Télécopieur : (506) 453-2613**

**NEW BRUNSWICK
COMPANIES ACT**

**APPLICATION PROCESS FOR
CONTINUANCE INTO THE
COMPANIES ACT**

SECTION 26

- 1) The attached application must be completed, in duplicate.
- 2) Fee of \$112 is attached, payable to Service New Brunswick (\$100 fee plus \$12 for publication).
- 3) A proper NUANS name search must be done (except where the company is registered as an extra-provincial corporation under the Act). See the attached pamphlet entitled 'Selecting a Proposed Name' which details the steps that should be followed.
- 4) Copy of its incorporation documents that sets out the purposes or objects for which the company is presently incorporated for.
- 5) Approval in writing from Director/Registrar of the jurisdiction.

This will be a letter of satisfaction, certificate of discontinuance or other document issued by the proper officer of the incorporating jurisdiction that indicates that the body corporate is authorized under the laws of the jurisdiction in which it was incorporated or continued to apply for continuance into the [Companies Act](#) (New Brunswick).

The mailing address and fax # of the Director/Registrar should be provided where such approval is from a non-Canadian jurisdiction.

**NOUVEAU-BRUNSWICK
LOI SUR LES COMPAGNIES**

**MARCHE À SUIVRE POUR DEMANDER LA
PROROGATION
LOI SUR LES COMPAGNIES**

ALINÉA 26

- 1) La demande ci-jointe doit être soumise en double exemplaire.
- 2) Acquitter les droits requis de 112 \$ mandaté au nom de Services Nouveau-Brunswick (100 \$ de frais de dépôt plus 12 \$ pour publication).
- 3) Faire effectuer une recherche sur le système NUANS en vue d'approuver la raison sociale (sauf lorsque la compagnie est enregistrée à titre de corporation extraprovinciale en vertu de la Loi). Voir la brochure ci-annexée intitulée *Choix d'une raison sociale* qui donne une description détaillée du processus à suivre.
- 4) Une copies des documents de constitution en corporation qui visent les buts ou les objets pour lesquels la compagnie est actuellement incorporée.
- 5) Obtenir l'approbation écrite du Directeur/Registraire de l'autorité législative.

Celle-ci sera une lettre attestant de sa satisfaction, un certificat de cessation on autre document délivré par le fonctionnaire compétent de l'autorité législative où la corporation a été constituée, indiquant que la corporation est autorisée, en vertu des lois de l'autorité législative où le corps a été constitué en corporation ou prorogé, à demander y prorogation en vertu de la [Loi sur les compagnies](#) (Nouveau-Brunswick).

Si l'approbation provient d'une autorité législative non canadienne, l'adresse postale et le numéro de télécopieur du Directeur/Registraire doivent être fournis.

- 6) If a company is registered or exempted as an extra-provincial corporation under the [Business Corporations Act](#), a written request for cancellation as an extra-provincial corporation under section 201 should accompany the above.

If continuing in from outside Canada, additional requirements are as follows:

- 1) Directors' and shareholders' (members') resolutions authorizing the continuance of the company into the [Companies Act](#) (New Brunswick) and approving the application for letters patent of continuance.
- 2) Directors' resolution stating no changes to the charter will be done until the application for continuance is proceeded with.
- 3) Legal opinion to Director (Companies Act) from outside counsel that company may continue out of the jurisdiction to New Brunswick (enclosed copy of relevant legislation/section of).
- 4) Certified copy of its incorporation documents.
- 5) Certificate of good standing.
- 6) Authentication procedure for documents signed by the proper official in the exporting jurisdiction.

From the United States

An affidavit duly notarized should be attached to the Approval in writing from the Director/Registrar of the exporting jurisdiction setting out such approval is the approval of the Director/Registrar, who has authority to so issue the approval.

- 6) Si la compagnie est enregistrée ou exempte à titre de corporation extraprovinciale en vertu de la [Loi sur les corporations commerciales](#), une demande écrite d'annulation de l'enregistrement de la corporation extraprovinciale en vertu de l'article 201, doit accompagner les documents susmentionnés.

Si la corporation a été prorogée en vertu d'une loi à l'extérieur du Canada, les exigences suivantes s'appliquent également :

- 1) Les résolutions des administrateurs et des actionnaires (membres) autorisant la prorogation en vertu de la [Loi sur les compagnies](#) (Nouveau-Brunswick) et approuvant l'application pour lettres patentes de prorogation.
- 2) La résolution des administrateurs affirmant qu'aucune modification ne sera apportée à la charte avant que l'on ait donné suite à la demande de prorogation.
- 3) Fournir au Directeur (en vertu de la Loi sur les compagnies) l'opinion juridique d'un avocat de l'autre autorité législative attestant que la compagnie peut être prorogée sous le régime des lois du Nouveau-Brunswick (annexer une copie des dispositions législative pertinentes).
- 4) Copie certifiée des documents relatifs à l'incorporation.
- 5) Un certificat de régularité.
- 6) L'authentification des documents signés par le fonctionnaire compétent de l'autorité législative où le corps a été constitué en corporation.

Pour les États-Unis

Un affidavit dûment certifié par un notaire doit joindre l'approbation par écrit du Directeur/Registraire où le corps a été constitué en corporation indiquant que l'approbation est celle du Directeur/Registraire ayant l'autorité nécessaire d'émettre cette approbation.

Elsewhere

Signature should be authenticated through External Affairs Canada or embassy official in Canada of that exporting jurisdiction.

Please check with the Branch the extent such process is required for any particular jurisdiction.

Autres juridictions

La signature doit être authentifiée soit par le ministère des Affaires extérieures du Canada ou par un fonctionnaire de l'ambassade au Canada de l'autorité législative où le corps a été constitué en corporation.

Veillez vérifier avec notre Direction l'étendue du processus pour toute juridiction particulière.

APPLICATION FOR LETTERS PATENT OF CONTINUATION

TO:

The Director under the Companies Act

The Application of _____
(Name of Company)

1. That your applicant, _____, (hereinafter called "the company") was incorporated on the _____ day of _____, ____ under the following Act: _____.

2. That your applicant is a valid and subsisting company under the laws of _____
(jurisdiction)

3. That the company has satisfied itself and is assured that the name "_____" is not the corporate name of any other known company incorporated or unincorporated in New Brunswick or any name liable to be confounded therewith or otherwise on public grounds objectionable.

4. That your applicant hereby applies for letters patent under the provisions of section 26(1) of the Companies Act and for the purposes, objects and powers for which letters patent may be issued under the said Act set forth hereunder.

(state purposes, objects, and powers for the company- see example)

- 1) for the relief of poverty, etc. (e.g. children's aid society, food banks' etc.)
- 2) to operate a boys and girls club [etc.]
- 3) to operate a church [etc.]

5. That for the further attainment of the above objects

- i) to acquire, accept, solicit or receive by purchase, lease, contract, donation, legacy, gift, grant, bequest or otherwise any real or personal property solely for the above objects;
- ii) to enter in to and carry out arrangements, contracts and undertakings incidental thereto;
- iii) to hold, manage, sell or convert any of the real or personal property from time to time owned by the company, and to invest and re-invest any principal in such manner as may from time to time be determined;

- iv) to acquire by purchase, lease, devise, gift or other title and to hold any real property necessary for the carrying on of its undertaking for the purpose of drawing a revenue therefrom and to sell, lease, mortgage and dispose of and convey the same or any part thereof as may be considered advisable, provided that the said property shall be used solely for the above objects, and no part of the income derived from such real property shall be payable to or otherwise available for the personal benefit of any member of the said company.
- v) to demand, receive, sue for and recover and compel the payment of all sums of money that may become due and payable to the company, to apply the said sums for the charitable objects and purposes of the company and generally to sue and be sued;
- vi) to employ and pay such assistants, clerks, agents, representatives or employees; and to procure, equip and maintain such offices and other facilities, and to incur such reasonable expenses as may be necessary to achieve these charitable purposes;
- vii) to do all such other things as are incidental or conducive to the attainment of the above objects;
- viii) to do all other such things as a company is empowered to do by Section 18(2) (a to j inclusive) of the Companies Act, as long as these powers are not inconsistent with the objects and purposes of the company;

6. That the company shall be carried on without the purpose of gain for its members and any profits or other accretions to the company shall be used in promoting its objects and that no part of the income of the company shall be payable to or otherwise available for the personal benefit of any member thereof;

7. That the company shall hold all property, both real and personal, and the profits and income arising therefrom, or gained by it by purchase, gift, bequest or otherwise in trust for the objects or purposes for which the company may be incorporated, and that no dividends shall be declared or paid on any capital stock of the company.

8. The head office of the Company is to be at the (City, Town or Village) in the County (state name of County) in the Province of New Brunswick;

The company's head office street address is:

The company's head office mailing address is:

9. That the names and places of residence of the directors of the Company are as follows:

Name	Residence
Name	Residence
Name	Residence

all of whom are of the age of majority. (All directors must be listed and there must be a minimum of 3 directors).

10. Structure of the Company.

The company may be organized with or without a share structure. Likewise, upon continuance into the Companies Act, it may have or not have a share structure. Most companies under the Companies Act do not have a share structure, but have only members.

Set out below are precedent provisions. Please insert the applicable provisions in your application for continuance.

- (1) The company shall not have any capital stock or issue any share certificates but may acquire real and personal property of an unlimited cost value (unless otherwise stated).

[see s. 18(2)]

- (2) that the capital stock of the company be reduced by cancellation of all the authorized shares (issued and unissued shares) so that the company shall not have any capital stock or issue any share certificates, but may acquire real and personal property to a cost value of an unlimited cost value (unless otherwise stated).

[see s. 18(2)]

- (3) that the company have an authorized capital of _____ Dollars (\$ _____), divided into _____ (_____) common shares with a par value of _____ Dollars (\$ _____) each, and that the shares of the capital stock of the company are not transferable to a person not then being a member of, and shareholder in, the company until the name of the proposed transferee or member has been first submitted for the approval of the existing shareholders or members, and approved in such manner as may in such petition be set forth or as may be prescribed by the by-laws of the club or association when incorporated: and if such provision is embodied in the letter patent, it is not, unless otherwise provided in the letter patent, subject to repeal or alteration by by-law.

[see s.16(1)]

- (4) that the company have an authorized capital of _____ (Dollars (\$ _____)), divided into _____ (_____) common shares with a par value of _____ Dollars (\$ _____) each, but that no dividends shall be declared or paid on any capital stock of the company.

[see s. 18(1)]

11. That upon dissolution of the company and after payment of all debts due and liabilities, its remaining property shall be distributed or disposed of to registered charities recognized by the Canada Customs and Revenue Agency having objects the same as or similar to the objects of the company which carry on their

work solely in Canada; and no part of any property of the company shall be available to its members upon such dissolution.

YOUR APPLICANT THEREFORE PRAYS that Letters Patent be issued continuing it as a body corporate and politic under the Companies Act in accordance with the foregoing and as provided in section 26(1) of the said Act.

DATED at _____, New Brunswick, this _____ day of _____, 20__.

WITNESS the corporate seal of the company.

(Name of Company)

President

Secretary

Province of New Brunswick

COUNTY OF YORK

AFFIDAVIT

I, _____, of _____, in the County of _____, in the Province of New Brunswick, make oath and say as follows:

1. That I am the secretary of _____ (hereinafter called "the company") and have personal knowledge of the facts herein deposed to.
2. That the seal affixed to the foregoing application purporting to be the corporate seal of the company is in fact the corporate seal of the company and was affixed by the order of the board of the directors of the company.
3. That the signature " _____ " subscribed to the foregoing application as president is the signature of _____ who is the president of the company and the signature " _____ " is the signature of this deponent.
4. That the president and the secretary were duly authorized by the company to execute the foregoing application on its behalf.
5. The allegations in the annexed Application for Continuance are to the best of my knowledge and belief true.

SWORN TO BEFORE ME at _____,)
 in the County of _____,)
 in the Province of New Brunswick,)
 this ____ day of _____, 20__)
)
)
)
)
)
)
)
)

_____)
A Commissioner of Oaths

_____ Being a Solicitor

_____ or, set out appointment details
of the Commissioner