



THE NON-PROFIT CORPORATIONS ACT, 1995 GENERAL INFORMATION

The provisions below are for the general guidance of the directors of non-profit corporations and should be of assistance to them in the performance of their duties as directors. These provisions do not necessarily cover all requirements, but are provided for information and guidance only.

DIRECTORS

The directors are charged with the responsibility to manage the activities and affairs of the corporation in accordance with the Act and with the articles and bylaws of the corporation.

Every director and officer of the corporation is required:

- (a) to act honestly and in good faith with a view to the best interests of the corporation; and
- (b) to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Every director and officer is reminded that he is a servant of the corporation and should not only comply with the Act but should ensure that the corporation meets the requirements of the Act and, in particular, those requirements set out in this information guide. More information is contained in a document entitled "Directors' and Officers' Liability Non-profit Corporations" which was contained in the "Non-profit Incorporation Kit".

BYLAWS

Bylaws are not required by law but are desirable to provide rules under which a corporation may operate. Bylaws are used to supplement the Articles of Incorporation and must not contradict the Act or the Articles of the corporation. In summary, the rules relating to the adoption of bylaws are:

1. Except where the articles or bylaws of the corporation otherwise provide, the directors may, by resolution, make, amend or repeal any bylaws that regulate the activities or affairs of the corporation.
2. The bylaws, amendment or repeal are effective from the day of the resolution of the directors but the directors must submit the bylaws, amendment or repeal to the next meeting of members who may, by ordinary resolution, confirm, reject or amend the bylaws.
3. If not submitted to the members at their next meeting or if submitted and rejected by the members, the bylaws cease to be effective and any subsequent resolution of the directors to make, amend or repeal bylaws having subsequently the same purpose do not become effective until confirmed by the members.

GENERAL ADMINISTRATIVE REQUIREMENTS

* The bolded sections refer to sections of **The Non-profit Corporations Act, 1995**

Every non-profit corporation shall:

- (1) have a registered office within Saskatchewan; **Section 19**
- (2) file a Notice of Directors (Form 6) within 15 days after any change is made among its directors; **Section 93**
- (3) file a Notice of Registered Office (Form 3) within 15 days after any change is made in the address of its registered office; **Section 19**
- (4) set out its name in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued or made by or on behalf of the corporation; **Section 10**
- (5) Subject to The Business Names Registration Act and subsections (5) and 12(1) of this Act, a corporation may carry on its activities under or identify itself by a name other than its corporate name; **Section 10**
- (6) prepare and maintain records containing:
 - (i) articles and bylaws and any amendments thereto;
 - (ii) minutes of meetings and resolutions of members, and of the directors and any committee thereof;
 - (iii) copies of all Notice of Directors and change of directors;
 - (iv) a register of all securities issued by it;
 - (v) a register of members containing the names and latest known addresses of each person who is or who, during the previous year, has been a member and the date on which each became or ceased to be a member;
 - (vi) adequate accounting information. **Section 20**
- (7) hold an annual meeting of members not later than 18 months after incorporation and subsequently not later than 15 months after the previous annual meeting; **Section 123**
- (8) place before the members at an annual meeting, the annual financial statement for the period ended not more than 4 months before the annual meeting; **Section 142**
- (9) send to the Director, Corporations Branch, no less than 15 days before each annual meeting a copy of its annual financial statement; **Section 147**
- (10) at each annual meeting, appoint an auditor or a person to review the financial statement unless, under certain circumstances, the members waive this requirement. See the attached Audit Requirements for further information. **Sections 149, 150 and 151**
- (11) send to each member a copy of the annual financial statement of the corporation at least 15 days before the annual meeting or, where the articles or bylaws so permit, send notice that a copy of the financial statement may be obtained from the corporation without charge. **Section 146**

MEETINGS

- (1) Notice of the time and place of a meeting of the members shall be not less than 15 days or more than 50 days before the annual meeting. **Section 125**
- (2) A majority of the voting members personally present at the opening of a meeting of members constitutes a quorum unless the bylaws provide otherwise. **Section 129**

- (3) The directors may meet at any place, and upon such notice as the bylaws require. **Section 101**
- (4) A majority of directors, or the minimum number of directors required by the articles, constitutes a quorum at any meeting of directors unless the articles or bylaws provide otherwise. **Section 101**

RETURNS TO BE SENT TO THE CORPORATIONS BRANCH

1. Annual Return (Sections 245 and 263)

- Every corporation must, each year, send to the Corporations Branch an annual return. The annual return must be accompanied by a fee of \$10.00.
- The annual return form will be sent to the corporation at the mailing address of its registered office at least one month before the due date.

2. Financial Statement (Sections 142, 145, 146 and 147)

- Every corporation must, each year, send to the Corporations Branch a financial statement showing the assets, liabilities, revenue and expenditures of the corporation, together with a report of the auditor or of the review, if required. For further details on audit and review requirements, please consult the attached Audit Requirements.
- The financial statement must be made up to a date not more than 4 months before the annual meeting of members. The statement must be signed by one or more directors indicating it has been approved by the directors.
- The financial statement and report of the auditor or of the reviewer, if required, is to be sent to the Corporations Branch at least 15 days before the annual meeting at which it will be presented.

3. Notice of Registered Office (Form 3) (Section 19)

- Whenever there is a change in the location or address of the registered office of the corporation, Notice of Registered Office (Form 3) must be completed and sent to the Corporations Branch, in duplicate.

4. Notice of Directors (Form 6) (Section 93)

- Whenever there is a change among directors, notice of the change must be given to the Corporations Branch by completing and sending Form 6, in duplicate, to the Director.

5. Articles of Amendment (Form 4) (Sections 161, 163 and 164)

- Articles may be amended only by special resolution.
- A special resolution is a resolution passed by a majority of not less than two-thirds of the votes cast at a general meeting of members of which not less than 15 days notice specifying the intention to propose the resolution has been given.
- A membership corporation may become a charitable corporation without an amendment to its articles. However, a charitable corporation cannot become a membership corporation, except where wrongly designated initially. A charitable corporation that solicits money from the public may only, with the prior approval of the Court, amend its articles to add, change or remove any restriction upon the activities that the corporation may carry on.
- No amendment to the articles is effective until the corporation has completed and sent to the Corporations Branch, Articles of Amendment (Form 4), in duplicate, together with the prescribed fee of \$20.00, and the Director has issued a Certificate of Amendment.

INVESTMENTS

- A charitable corporation may invest its funds in shares, debentures, bonds, mortgages or other financial instruments (including mutual funds) in which trustees are by law permitted to invest. Contact your legal advisor or refer to *The Trustee Amendment Act, 1998*.

GENERAL

- Blank Forms 3, 4, and 6 are available from Corporations Branch upon request.
- Any deficiency or variation between the contents of this information guide and the contents of The Non-profit Corporations Act, 1995 shall be determined or resolved by reference to the Act.

A copy of the Act and Regulations may be obtained by writing to, or picked up in person at:

Queen's Printer
B19 – 3085 Albert Street
Regina, Sask.
S4S 0B1
1-800-226-7302(within Saskatchewan) or (306)787-6894
e-mail: qprinter@justice.gov.sk.ca
internet: www.qp.gov.sk.ca

AUDIT REQUIREMENTS

There are two types of non-profit corporations - the **charitable** non-profit corporation and the **membership** non-profit corporation. For the purpose of filing financial statements with the Corporations Branch and to know whether they must be audited, it is important to note whether your corporation is a charitable or membership one.

A **membership** non-profit corporation is one that is formed primarily for the benefit of its members and is supported by its members through membership fees, loans or donations, or combinations of these. It does not solicit donations from the public or receive Government grants. Any non-profit corporation which is not a charitable corporation is a membership corporation.

Membership non-profit corporations are required to file “audited” financial statements unless a resolution not to appoint an auditor has been passed **by two-thirds** of the members voting on the resolution.

A **charitable** non-profit corporation is one formed primarily for the benefit of the public and includes:

- 1) a non-profit corporation which designated itself as a charitable corporation on its Articles of Incorporation or Continuance; and
- 2) a non-profit corporation, which although it originally designated itself as a membership corporation, is **deemed** to be a charitable corporation because it:
 - a) solicits or receives money or property (real or personal) from the public;
 - b) receives a grant of money or property from a Government or one of its agencies; or
 - c) is a **registered charity** as designated by Canada Revenue Agency.

The audit and review requirements for **charitable** corporations are as follows:

- 1) where revenues exceed \$250,000 in the previous fiscal year, an audit is required;
- 2) where revenues are between \$25,000 and \$250,000 in the previous fiscal year, the requirement for an audit may be waived, but a “review” is required;
- 3) where revenues are less than \$25,000 in the previous fiscal year, the requirement for both an audit or a review may be waived by the members.

The waiver of an audit, or a review, or both, as the case may be, must be passed **by 80%** of the members voting on the resolution.

QUALIFICATIONS OF AUDITOR/REVIEWER

The prescribed qualifications that a person must meet to be an auditor are that:

the person must:

- (a) be a member of a recognized accounting profession that is regulated by an Act; or
- (b) the person must be approved by the Director to act as an auditor.

The prescribed qualifications that a person must meet to be appointed to conduct a review of the financial statements of a corporation are that:

the person must:

- (a) be a member of a recognized accounting profession that is regulated by an Act; or
- (b) the person must be approved by the Director to conduct the review.

If any further information or clarification is required, please call or write us as indicated below:

Write: Saskatchewan Justice
Corporations Branch
200, 1871 Smith Street
Regina, Saskatchewan
S4P 4W5

or call: (306)787-2900

or fax: (306)787-8999

or email: corporations@justice.gov.sk.ca