



# STARTING A NOT-FOR-PROFIT ORGANIZATION

Booklet 1





# **STARTING A NOT-FOR-PROFIT ORGANIZATION**

## **INSTRUCTION BOOKLET**

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# Not-for-profit Guide

## Introduction

Not-for-profit corporations are organizations that provide products or services without making profit. They are generally dedicated to activities that improve or benefit a community. A not-for-profit may generate revenue, but only if the revenue goes back into the organization to further its aims and projects. For example, a social club may hold an art sale or craft fair in order to raise money for the services it provides to the community. The money made by a not-for-profit is not for the personal gain of its directors, members or officers.

There are several kinds of not-for-profit organizations such as:

- Professional or community organizations
- Sport or athletic
- Social clubs
- Service clubs (for example Kiwanis or Lions)
- Charities

This instruction booklet provides information on not-for-profit corporations. To set up a not-for-profit, you may wish to speak with a lawyer or a professional accountant.

### **Can not-for-profit organizations incorporate and are they required to do so?**

Not-for-profit organizations may incorporate if they wish, but there is no requirement to do so. An organization can be formal (incorporated) or informal (unincorporated). By incorporating, an organization must comply with the rules set out under it. This includes keeping records, having annual meetings, and filing annual returns. After considering the benefits and obligations of incorporation, an organization may decide against it. If an organization chooses not to incorporate, it is not called a corporation.

It is recommended that organizations get professional advice about the appropriate structure for the organization's purposes.

## Not-for-profit incorporation

You can structure your not-for-profit organization as a **federal** or **provincial** corporation. The process and requirements for setting up your corporation will vary based on the option you choose. Some not-for-profit corporations that are national in scope tend to incorporate federally. Federal not-for-profit corporations can operate in Ontario. It is recommended that not-for-profit corporations get professional legal and financial advice about the benefits of each.

## Federal incorporation

For information on creating a federal not-for-profit corporation, you can contact Corporations Canada at **1-866-333-5556** or **follow the instructions below**.

To set up a federal not-for-profit corporation, you can file online or submit the following documents to Corporations Canada.

- [Articles of Incorporation- Form 4001](#)
- [Initial Registered Office Address and First Board of Directors – Form 4002](#)
- A Canada-wide [NUANS](#) name search report that is not older than 90 days
- The filing fee

## Creating a Not-for-profit Corporation

Corporations under the *Canada not-for-profit Corporations Act* (NFP Act) can be created (i.e., incorporated) by filing a request through Corporations Canada's [Online Filing Centre](#). If you prefer to submit a non-online request to create a corporation (i.e., by email attachment, fax or mail) this document will help you to prepare the request.

### Note

The information provided is to assist you to complete the incorporation process quickly and accurately. It is not intended to replace legal advice. You may wish to consult a lawyer or other professional advisor to ensure that the specific needs of your not-for-profit corporation are met.

### Table of Contents

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### What documents must be filed to create a not-for-profit corporation?

An application for a certificate of incorporation must include:

1. a completed and signed copy of [Form 4001 – Articles of Incorporation](#) (See available instructions in Appendix A);

2. a completed and signed copy of [Form 4002 – Initial Registered Office Address and First Board of Directors](#) (See available instructions in appendix B);
3. a [NUANS Name Search Report](#) for the proposed name that is not more than 90 days old. If you have received prior approval of the name, attach a copy of the letter from Corporations Canada approving your name along with the copy of the NUANS Name Search Report. If the proposed name is a number name, a NUANS Name Search Report is not required;

A NUANS corporate name search report is required by the federal and most provincial/territorial governments when granting new corporate names for use. The reports list similar existing corporate names and trademarks; they are used to determine the availability of a new proposed name. Ensuring that new corporate names do not create confusion with others is intended to protect Canadian businesses and consumers.

To obtain your NUANS report you may create your own, or request assistance from a NUANS registered member who will create the report for you. For further assistance please click on the link [http://www.nuans.com/nuansinfo\\_en/home-accueil\\_en.cgi](http://www.nuans.com/nuansinfo_en/home-accueil_en.cgi)

4. [the filing fee](#).

Note: Fees may be paid by accepted credit card, accepted debit card, or by cheque payable to the Receiver General for Canada, depending on the method of filing an application (i.e., online, email, fax or mail). For services, fees, and turnaround times, please click on link below or copy and paste into your browser: <http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs04957.html>

**The articles of incorporation can be in the official language of your choice. This means they may be:**

- in a format that uses either official language (i.e., in French or in English);
- in a format that employs both English and French; or
- in a fully bilingual format, using both official languages equally.

### **Professional Associations**

Incorporation of a professional association (i.e., a corporation whose proposed name or purposes suggest that it considers itself to be an association of professionals) does not provide that corporation with the authority to practice, or to regulate the practice of, the profession. It is the corporation's responsibility to comply with provincial laws respecting professions.

### **Related Information**

- [How do I file my application?](#) See appendix C for details.



## **What do I need to do once the corporation has been created?**

Once the corporation has been created, a number of other items must be considered. Information on what needs to be done after a corporation has been created and on how to operate a not-for-profit corporation under the NFP Act is available on the Corporations Canada website.

### **By-laws**

At the first organizational meeting, the directors may make by-laws. This process can be simplified by referring to the [Model By-laws](#), which have been written to apply to a typical not-for-profit corporation. For more information, please click on link below or copy and paste into your browser: <http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs04999.html>

Corporations Canada has also developed an online interactive tool called a [By-law Builder](#) that allows you to generate the by-laws you want by choosing provisions that meet the specific needs of your corporation from a number of available options. This information can be found on [http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h\\_cs04734.html](http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h_cs04734.html)

### **Note**

By-laws do not have to be filed with the application to obtain a Certificate of Incorporation. However, the NFP Act requires that they be filed within 12 months after the members have confirmed them.

## **Where can I find information on registering as a charity under the *Income Tax Act*?**

To be able to issue official donation receipts and to be exempt from tax, the *Income Tax Act* requires that corporations created and operated exclusively for charitable purposes must register with the Canada Revenue Agency (CRA) as charities. The simple fact of being incorporated as a not-for-profit corporation under the NFP Act is not sufficient for a corporation to be considered either tax-exempt or a registered charity for the purposes of the *Income Tax Act*.

Information on charitable registration, along with the required application form, can be found on the [CRA website](#) or may be obtained by contacting:

Charities Directorate  
Canada Revenue Agency  
Ottawa, ON K1A 0L5  
Toll Free: 1-800-267-2384

Or on-line at <http://www.cra-arc.gc.ca/charities/>

If your corporation intends to become a registered charity, CRA recommends that you submit a draft copy of Form 4001- Articles of Incorporation with your application to register as a charity and that your application to CRA be submitted prior to the time you file your application for

incorporation. Otherwise, if CRA requires changes, the corporation may have to incur additional costs by applying to Corporations Canada for articles of amendment.

**Is an NFP Act corporation automatically considered a non-profit organization under the *Income Tax Act*?**

No. Incorporation under the NFP Act does not automatically mean that the corporation will be exempt from tax under the *Income Tax Act*. More information on non-profit organization under the *Income Tax Act* can be found on the [CRA website](http://www.cra-arc.gc.ca/E/pub/tp/it496r/), by contacting CRA at Toll Free: 1-800-267-2384 or on-line at <http://www.cra-arc.gc.ca/E/pub/tp/it496r/>

**Other Resources**

A number of other documents and tools are available to assist you in creating and operating a not-for-profit corporation:

- [Model Form 4001 – Articles of Incorporation](http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs05016.html), which provides examples of wording that a typical not-for-profit corporation can refer to when completing its articles. The information can be found on <http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs05016.html>
- [Model by-laws](http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs04999.html), which provide examples of wording that a typical not-for-profit corporation can refer to when creating its by-laws. The information can be found on <http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs04999.html>
- A [By-law Builder](http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h_cs04734.html), which is an online tool that will assist in creating by-laws. The information can be found at [http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h\\_cs04734.html](http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h_cs04734.html) and
- A pamphlet, "[Your Reporting Obligations under the \*Canada Not-for-profit Corporations Act\*](http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs04956.html)", which describes the documents you are required to file with Corporations Canada by clicking on <http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs04956.html> or see Appendix D for details.

You can also learn more about the specific rules for **operating** a federal not-for-profit corporation on the Corporations Canada website.

- Read online: [Operating a federal not-for-profit corporation](http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h_cs04953.html)
- Copy and paste the following link into your browser [http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h\\_cs04953.html](http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h_cs04953.html)

## Provincial incorporation

If you would like more information about the requirements for setting up and operating a provincial not-for-profit corporation in Ontario, refer to the not-for-profit incorporator's handbook.

Read online: [Not-for-profit incorporator's handbook](#)

or copy and paste the following link on your browser

<http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/nfpinc/>

To set up a provincial not-for-profit corporation, you will need to submit the following documents (hard copy) to the Ministry of Government and Consumer Services:

- [Application for Incorporation of a Corporation without Share Capital - Form 2](#) completed in duplicate with original signatures on both copies
- Ontario-biased [NUANS](#) Name Search Report
- Fee of \$155 (standard service – processing time 6-8 weeks) or a fee of \$255 (expedited service – processing time 7 business days)
- Supporting documents, if required
- Covering letter giving a contact name, return address and telephone number

Contact the Ministry of Government and Consumer Services: **1-800-361-3223** or download in MS Word or PDF file the application forms from the following link:

<http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/FormDetail?openform&ENV=WW&NO=007-07109>

There are new rules governing the incorporation and operation of Ontario not-for-profits. Find out how your not-for-profit corporation may be affected by the new laws.

Read online: [Modernizing the not-for-profit sector](#)

or copy and paste the following link on your browser:

[http://www.sse.gov.on.ca/mcs/en/Pages/Not\\_For\\_Profit.aspx](http://www.sse.gov.on.ca/mcs/en/Pages/Not_For_Profit.aspx)

## Managing the books

Once you've incorporated your not-for-profit, you will have ongoing responsibilities that are specific to not-for-profit corporations, including:

- Maintaining records and making them available to directors
- Proper filing and income reporting
- Making sure that any changes to the structure of the corporation conform to the articles of incorporation

## Federal

You can find out more about the financial record-keeping and reporting obligations of a federal not-for-profit from Corporations Canada.

Contact Corporations Canada: **1-866-333-5556** or click on: [Financial Statements and review](#)  
You can also cut and paste the following link on your browser: <http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs05010.html>

## Provincial

You can find out more about the financial record-keeping and reporting obligations of a provincial not-for-profit from the Ministry of the Attorney General website.

Read online: [Corporations Information Act Annual Returns](#)  
or copy and paste the following link on your browser:  
<http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/nfpinc/Default.asp>

## Charitable status

You may want charitable status for your not-for-profit corporation in order to issue tax receipts or be eligible for specific tax incentives. Although many not-for-profit corporations are registered as charities, charitable status is not automatically obtained when you set up a not-for-profit. Refer to our document on [charitable status](#) for more information or copy and paste the following link on your browser: <http://www.cbo-eco.ca/en/index.cfm/managing/taxes/charitable-status/>

## Taxation

If you sell goods and services in Ontario and make \$50,000 or more within any 12 month period, you must register for a business number to charge, collect and remit the Harmonized Sales Tax (HST).

Read online: [HST for businesses, charities, and public service bodies](#)  
or copy and paste the following link on your browser:  
<http://www.cra-arc.gc.ca/E/pub/gp/rc4082/README.html>

As a not-for-profit organization, you are generally exempt from paying income tax but may be required to file a [T1044 - Non-Profit Organization \(NPO\) Information Return](#) with the Canada Revenue Agency (CRA). The information return is filed annually and, depending on your organization's activities, you may also need to file additional forms. Speak with CRA for more information. Contact CRA: **1-800-959-5525**

## Funding

Canada Business can help you find government financing options for your business. There are programs that apply to businesses across Canada and others that apply only to businesses in Ontario. Use the Canada Business financing search tool or browse by type of financing.

You can also access Canada Business information through the ON e-Source online financing wizard. The wizard guides you through 3 easy steps to create a personalized list of results for Ontario business financing programs.

Search online:

[Canada Business: Government grants and financing](#)

[ONe-Source Ontario business financing guide](#)

or copy and paste the following links in your browser:

<http://www.canadabusiness.ca/eng/page/2848/>

[https://www.appmybizaccount.gov.on.ca/sodp/portal/osb!/lut/p/b0/JcoxDslwDEDRs\\_QC9orYOAEDAySbE1xj4TpWGlqJ0wNi\\_E8fM94wO20qNLQ52bdTkLCpP49tLRcTdzKIVzGt4M3hvxdjWJl6fcAsu76p3\\_GKGTPVgWmWy-A4O\\_EyAUTO8ayHPbTNH0AUbWDCA!!/](https://www.appmybizaccount.gov.on.ca/sodp/portal/osb!/lut/p/b0/JcoxDslwDEDRs_QC9orYOAEDAySbE1xj4TpWGlqJ0wNi_E8fM94wO20qNLQ52bdTkLCpP49tLRcTdzKIVzGt4M3hvxdjWJl6fcAsu76p3_GKGTPVgWmWy-A4O_EyAUTO8ayHPbTNH0AUbWDCA!!/)

The following financing program also applies specifically to not-for-profit organizations.

### The Trillium Foundation

The Trillium Foundation offers a variety of funding programs in support of organizations that give back to the community. Charitable or not-for-profit businesses are eligible for funding.

Contact the Trillium Foundation: **1-800-263-2887**

[Ontario Trillium Foundation](#)

Or copy and paste the following link in your browser: <http://www.otf.ca/>

## Other resources

### Managing

From day-to-day operations to long-term planning, learn how to [manage your business](#) efficiently by going on the [www.canadabusiness.ca](http://www.canadabusiness.ca) web page

## Governance

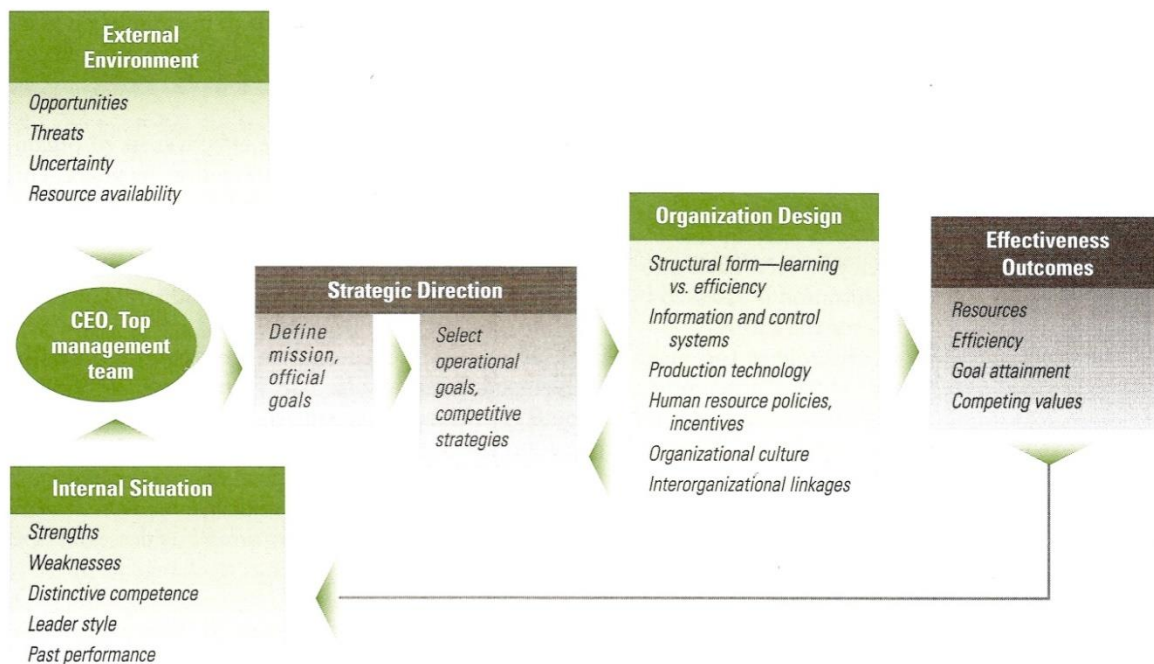
To be able to discharge the responsibility of being a board member on a not-for-profit organization requires some basic understanding of governance. Unfortunately, few directors are fully prepared or have the financial background and experience necessary to discharge their duty of care effectively. This section will provide a conceptual framework of an organizational structure and the role of the directors and management within it.

### Organizational Structure and the Role of Directors/Management

The key issues affecting a not-for-profit organization do not stand in isolation and the extent by which the organization can address them is tied in with its ability to link together the policy decision-making process of its Board of Directors and its strategic planning process at the Executive Director or CEO level.

The chart below provides a schematic model of organizational design that matches the internal and external environment within the context of strategic directions and effective outcomes, and the strategic role that top management under the direction of a Board of Directors has in its development and implementation.

**Figure 1 - Top Management Role in Organization Direction, Design, and Effectiveness**



Source: Daft & Armstrong, 2009

What the figure 1 above shows is that there are always opportunities and threats from the external environment that need to be matched with the internal resources. The Board of Directors has a key role to play in guiding the policy and strategic direction of the organization, which leads to an appropriate structure designed to optimize results (outcomes). The loop is closed when performance measures are used to ensure that the organization is meeting its objective, and that corrective action is taken when it is not.

## **Understanding the Roles and Responsibilities and the Use of Policy by Directors**

The board member of an established organization with a senior staff and support staff is in a very different position from the board member of an organization without staff. A board without senior staff assumes the administrative and managerial responsibilities of the senior staff. To help with the understanding of financial responsibilities, there needs to be a distinction made between those responsibilities of the board and those of management. These distinctions will help with the establishment of policies within which the board operates, and by which you are assured responsible financial management is in place.

There are four different bodies that can be involved in financial management. These are the Board, the Finance Committee, the Treasurer and the senior staff. The existence of each depends on the size of your organization. If your organization is small, then it may only have the first and most important entity – the board.

### **Global Duties**

As a board there are global duties to be fulfilled. These duties are:

**Purpose:** establishing the organization's purpose or mission.

**Continuity:** providing continuity for the management and the implementation of organization's affairs.

**Progress:** setting the rate of progress that the organization takes in reaching its mission.

**Identity:** securing community support and appreciation for the organization's objects, beliefs, vision, mission, and long-term direction.

Each member of the board of directors shares equally in the carrying out the mandate of the organization, as well as the responsibility of prudent management of the organization's finances.

### **Financial Management**

Financial management in a not-for-profit organization can be described as the managing and accounting of funds to ensure these funds are spent in accordance with board objectives. The effective acquisition, allocation and use of funds, determines the extent to which goals and objectives of the board are realized.



Board members are responsible for the overall management of the organization's resources. The responsibility does not simply fall to the Treasurer of the organization. Board members can, in some instances, be held individually liable for debts of the organization in the event of non-performance. These responsibilities cover many areas of operation. For example, as a board member you will be required to approve the budget. This means asking sufficient questions so that the budget is understood.

**Does the budget reflect the organization's priorities?**

**What are the fundamental assumptions upon which the budget has been prepared (e.g. inflation rates)?**

**Who is responsible for monitoring and controlling budget expenditures?**

**What are the board's budget policies that govern the preparation and control of the budget?**

By asking these types of questions, the discussion at the board level focuses on the core issues of the organization. What are our risks to our organization? What are the strategies for handling these risks?

### **Focusing on Core Issues**

These questions help to avoid the type of discussion that centers on operational expenses like the price of photocopying paper. A way to focus on the core issues is for the board to set written financial policies that keep board members focused on their role in the financial management function of an organization.

An added benefit of focusing the discussion on the core issues is that all members are placed on an equal footing. A board member without financial training can contribute to the discussion on an equal level to that of the financially trained board member. Keeping to the core issues will be helpful whether you are discussing the budget, the financial statements, the capital reserves or any other aspect of financial management.

### **Individual Responsibilities as a Board Member**

It is the individual board member's responsibility to understand the financial information that is being presented. If they don't understand the information and how it relates to their organization, they will be unable to make informed decisions.

Board members should not be afraid to ask for clarification on the financial information presented. Board members may be liable if they are not fulfilling their individual responsibilities as board members. Individual responsibilities include:

- attending board or committee meetings



- reading and understanding financial reports
- understanding the board's financial policies
- participating in approving the annual budget, audit, annual financial report and financial statements

These individual responsibilities, if carried out, minimize the situations where financial affairs are being conducted poorly or dishonestly.

### **Conflict of Interest**

Board members must not allow personal interests or those of a third party to conflict with those of the organization. When appropriate, the board member should declare to the board that they have a conflict or a potential conflict. They should withdraw from discussion on the issue and should not take part in a vote regarding the issue.

Funds must be used by an organization for the purpose intended. If they are not spent in accordance with funders' criteria, there is potential liability for the board.

### **Liability for Remittances**

Individual board members may be liable for payroll deductions for staff that are payable to Canada Revenue Agency and not remitted in a timely fashion. These include income taxes, Canada Pension Plan, and Employment Insurance deductions. There is also a liability for Goods and Services Tax remittances to Canada Revenue Agency. Organizations should have procedures in place to ensure these deductions are being remitted when required.

### **Separation of Duties and Signing Authority**

Authorized cheque signers in an organization assume a responsibility to ensure that they are signing cheques that have been prepared following board policy. The expenditures should be approved through a process such as the budget process. They do not assume any greater personal liability than other board members do, unless negligence or fraud has been identified. There should be no signing of blank cheques. The signing officers should not live in the same household, nor should they be related.

### **Greater Responsibility of Professional Accountants Sitting on Boards**

Professional accountants who sit on boards of directors do assume a greater legal responsibility for financial management than do other non-financial board members. They are assumed to have a greater level of skill in the financial area that they must apply to their responsibilities as board members.

## **Measures for a Director to Take at Board Meetings With a View to Reducing Personal Liability**

### **Before the Meeting**

- Be familiar with and understand the nature and extent of the organization's objects, bylaws and policies.
- Know if the organization is trustee of property and if so the nature of the trust.
- Make sure you receive and read all documents and reports on which voting will be required.

### **At the Meeting**

- Keep personal notes of your views of the various matters discussed at meetings.
- Insist on written professional opinions from those on whose advice the Board is expected to act
- Insist on the minutes recording any disclosure, dissent or abstention by you or any other member of the Board.
- Vote against any expenditure which in your opinion puts the organization into an insolvent position.
- Avoid a conflict of interest. Disclose any personal interests in contracts with the organization. Don't vote when the contract is considered by the Board. For extra assurance, don't participate in the board discussion and leave the room when the vote is taken. Have these steps recorded in the minutes.

### **After the Meeting**

- Carefully review the minutes of the meetings and bring to the attention of the secretary and the other directors at the next meeting any errors or omissions.
- Keep a notebook of all the minutes and the other important documents you receive while you serve on the board.
- Send a letter by registered mail to the mailing address of the organization if the Secretary or Chairperson refuses on notice at the meeting to record your disclosure, dissent, or abstention from voting.
- Keep the society's information confidential, unless the Board or the members in meeting authorize its release.

## **Conclusion**

This instruction booklet provides a balance between the detail requirements of establishing a not-for-profit organization and the responsibilities and duties of the board of directors from a governance perspective. Besides the step-by-step directions that can be found in the appendices, direct links to various resources have also been provided throughout the booklet.

Ultimately it is the responsibility of each individual board member to understand their fiduciary responsibility of board representation, and it is hoped that this booklet will provide a strong foundation and a renewed sense of confidence to the countless volunteers, whom in a variety of roles, concerns themselves about whether they are doing the right thing and making the voluntary sector work.

## References

- Board Development Program Fundamentals*, Alberta Culture and Community Spirit and Grant MacEwan College. Sixth edition. Edmonton, Alberta: Government of Alberta, 2008.
- Born, Paul (2012). *Community Conversations: Mobilizing the Ideas, Skills and Passion of Community Organizations, Government, Businesses, and People*. Second Edition. Toronto & New York, BPS Books
- Daft, Richard L. and Armstrong, Ann (2009). *Organizational Theory and Design, First Canadian Edition*. Toronto, Nelson
- Hitt, M. A., Miller, C. C., and Colella, A. (2009). *Organizational Behaviour: A Strategic Approach, 2<sup>nd</sup> ed.* Hoboken, NJ: John Wiley & Sons, Inc.
- Industry Canada. Government of Canada. Canada Not-for-Profit Corporations Act. [http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h\\_cs04953.html](http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h_cs04953.html)
- McDonell, L. (2015). *Top Governance Issues and Trends in Not-for-Profits*. Canadian Society of Association Executives. Retrieved on Sept. 30, 2015  
<http://www.csae.com/Resources/Articles-Tools/View/ArticleId/65/Top-Governance-Issues-and-Trends-in-Not-for-Profits>
- Ontario Ministry of Government and Consumer Services. ONCA: Ontario's Not-for-Profit Corporations Act. [http://www.sse.gov.on.ca/mcs/en/Pages/Not\\_For\\_Profit.aspx](http://www.sse.gov.on.ca/mcs/en/Pages/Not_For_Profit.aspx)
- Osler, Hoskin & Harcourt llp. (Oct. 2014). *Directors' Responsibilities in Canada. 6<sup>th</sup> ed.* Institute of Corporate Directors.
- Pullia F. (2005). *Accountability Model - An Integrated Conceptual Framework*. April 12, 2005.
- White, B. Joseph (2014). *Boards that Excel: Candid Insight and Practical Advice for Directors. First Edition*. San Francisco: Berrett-Koehler Publishers, Inc.

## **APPENDICES**

Appendix A – Instructions for Form 4001 - Articles of Incorporation

Appendix B - Instructions for Form 4002: Initial Registered Office Address and First Board of Directors

Appendix C - Instructions on how to file the application under the Canada Not-for-profit Corporations Act (NFP Act)

Appendix D - Your Reporting Obligations under the Canada Not-for-profit Corporations Act (NFP Act)

## Appendix A

### Instructions

## Form 4001 - Articles of Incorporation

Pay a lower incorporation [fee](#) by using the [Online Filing Centre](#).

[Form 4001 - Articles of Incorporation](#) (PDF Version, 678 KB)

You are providing information required by the NFP Act. Note that both the NFP Act and the *Privacy Act* allow this information to be disclosed to the public. It will be stored in [personal information bank](#) number IC/PPU-049.

If the corporation is or intends to become a [registered charity](#) under the *Income Tax Act*, it is strongly recommended that the Charities Directorate of the Canada Revenue Agency (CRA) be consulted at [www.cra-arc.gc.ca/charities](http://www.cra-arc.gc.ca/charities) or by contacting CRA at: 1-800-267-2384, prior to making a request to Corporations Canada for incorporation.

If the space available at items 4, 5, 6, 7, 8 and 9 is insufficient, please attach a schedule.

### Item 1: Corporate Name

Indicate your proposed corporate name.

The proposed name must be distinctive, i.e., it must not be misleading or likely to be confused with names used by other organizations and businesses. In general, a corporate name is distinctive if it does not make those who encounter it think of another organization or business. You must include a valid NUANS Name Search Report unless you would like a number name (e.g., 123456 Canada Foundation). Corporations Canada will use the NUANS Name Search Report to determine whether the name is distinctive and otherwise meets the requirements of the NFP Act.

The NUANS Name Search Report must be dated not more than ninety (90) days prior to the receipt of the articles by Corporations Canada. More information about choosing a name is available on the Corporations Canada website.

If your corporate name has been pre-approved by Corporations Canada, attach a copy of the letter of approval to your application for incorporation. If the pre-approval letter is not included or the name has not been pre-approved, the name will be considered for approval when the application for incorporation is processed.

The NFP Act allows you to choose a number name as your legal name (e.g., "1234567 Canada Centre"). To obtain a number name, leave a blank space (in which Corporations Canada will insert an assigned number), followed by the word Canada and one of the following prescribed terms: Association, Center, Centre, Fondation, Foundation, Institut, Institute or Society.

Example: \_\_\_\_\_ Canada Center

If you are incorporating under a combined bilingual name, or separate English and French forms of the name, the corporate name is indicated here.

Examples:

- combined name – Centre récréatif Miramichi Recreational Center
- separate English and French forms
  - Ottawa Community Hockey Association
  - Association de hockey communautaire d'Ottawa

## **Item 2: The province or territory in Canada where the registered office is situated**

Indicate the province or territory in Canada where your registered office is to be situated.

**Note:** Do not include the street address here. The street address will be indicated on Form 4002 – Initial Registered Office Address and First Board of Directors.

## **Item 3: Minimum and maximum number of directors**

Indicate the minimum and maximum number of directors. If the number is fixed, indicate the same number in both boxes.

Every corporation must have at least one director, except a soliciting corporation (i.e., one that receives public donations and/or government grants in excess of \$10,000 in a single financial year). A soliciting corporation must have no fewer than three directors, at least two of whom are not officers or employees of the corporation or its affiliates.

## **Item 4: Statement of the purpose of the corporation**

Include a statement that describes the purpose(s) of the corporation.

**Note:** If your corporation intends to become a [registered charity](#), it is strongly recommended that the Charities Directorate of the CRA be consulted on this statement before submitting your application for incorporation.

## **Item 5: Restrictions on the activities that the corporation may carry on, if any**

Set out any restrictions on activities that the corporation may carry on. If there are no restrictions required, indicate "none" or leave this item blank.

**Note:** If your corporation intends to become a [registered charity](#), it is strongly recommended that the Charities Directorate of the CRA be consulted on this statement before submitting your application for incorporation.

## **Item 6: The classes, or regional or other groups, of members that the corporation is authorized to establish**

The articles must set out how the members will be organized into classes or groups and set out the voting rights for each class or group. Members with voting rights are entitled to vote at members meetings (e.g., elect directors and the public accountant).

A corporation must have at least one class or group of members, in which case, all members are voting members. A corporation may have two or more classes or groups of members and not all classes or groups have to be given the right to vote. If there is more than one class or group of members, the articles must give the right to vote to at least one class or group.

### **One Class of Members**

If there is only one class of members, the example below can be set out in the articles so that the corporation is authorized to establish one class of members. Note that if only one class is set out in the articles, that class automatically has the right to vote, whether or not it is specified in the articles.

#### **Example**

"The corporation is authorized to establish one class of members. Each member shall be entitled to receive notice of, attend and vote at all meetings of the members of the Corporation."

### **Two or More Classes of Members**

For two or more classes or groups of members, the name of each class or group and the voting rights associated with each must be set out. The example below illustrates articles for a corporation with two classes of members, Class A and Class B, with only Class A having voting rights.

#### **Example**

"The corporation is authorized to establish Class A members and Class B members as follows:

1. The Class A members shall be entitled to receive notice of and to attend all meetings of the members of the Corporation and each Class A member shall have one (1) vote at each such



meeting, except for meetings at which only members of another class are entitled to vote separately as a class.

2. Except as otherwise provided by the *Canada Not-for-profit Corporations Act*, S.C. 2009, c.23 the Class B members shall not be entitled to receive notice of, attend or vote at meetings of the members of the Corporation."

## **Item 7: Statement regarding the distribution of property remaining on liquidation**

Every corporation must include a statement to deal with any property that may remain upon liquidation.

When your corporation stops operating, you will need to [dissolve](#) it. Before a corporation can be dissolved, it must dispose of its property. This involves:

- returning property to another person if the property was originally given to the corporation on the condition that it be returned when the corporation is to be dissolved
- paying any debt or other liabilities of the corporation
- distributing any remaining property according to the statement set out in this item of the articles.

Property includes fixed property (e.g., land and buildings), movable property (e.g., office equipment, tools and cars) and other assets such as cash, bonds and shares.

[Registered charities](#) and [soliciting corporations](#) must provide that any property remaining upon liquidation be distributed to one or more qualified donees, within the meaning of the *Income Tax Act*. However, if a [registered charity](#) has its registration revoked, there is a further restriction that the assets may only be distributed to qualified donees that also meet the definition of eligible donees under the *Income Tax Act*. For more information, see the [Canada Revenue Agency](#) website.

## **Item 8: Additional provisions, if any**

Include any other provisions your corporation would like to have in its articles (e.g., any provisions required to satisfy the requirements of other legislation). If there are no other provisions, indicate "none" or leave this item blank.

While there is no limit to the provisions that could be part of this section of the articles, the following illustrates suggested wording for some possible topics. The suggested provisions are merely examples i.e., the list is not definitive and the wording is not mandatory. If you want to use other provisions, you may wish to consult a lawyer or other business professional to be sure that they are permitted under the NFP Act.

## A. Non-profit clause for registered charities

CRA requires charities to operate on a non-profit basis and recommends that a corporation that intends to become a [registered charity](#) should include a statement in its articles that the corporation will be operated on a non-profit basis, although such a statement will not be mandatory. The CRA's suggested wording is:

"The corporation shall be carried on without the purpose of gain for its members, and any profits or other accretions to the corporation shall be used in furtherance of its purposes."

## B. Remuneration of directors clause for registered charities

CRA does not permit the remuneration of directors merely for acting as directors and recommends that a corporation that intends to become a [registered charity](#) should include a statement in its articles that directors may not be remunerated merely for acting as directors, although such a statement will not be mandatory. The CRA's suggested wording is:

"Directors shall serve without remuneration, and no director shall directly or indirectly receive any profit from his or her position as such, provided that a director may be reimbursed for reasonable expenses incurred in performing his or her duties. A director shall not be prohibited from receiving compensation for services provided to the corporation in another capacity."

## C. Borrowing powers

The NFP Act allows directors to borrow and grant security on property without the authorization of members (see section 28 of the NFP Act). However, your corporation can restrict this power by including a provision in the articles or by-laws or in any [unanimous members' agreement](#). A provision regarding directors' borrowing powers and the delegation of those powers is sometimes used to limit the authority of directors and/or to satisfy lending institutions. The following wording could be used in the articles:

"If authorized by a by-law which is duly adopted by the directors and confirmed by ordinary resolution of the members, the directors of the corporation may from time to time:

- i. borrow money on the credit of the corporation;
- ii. issue, reissue, sell, pledge or hypothecate debt obligations of the corporation; and
- iii. mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the corporation, owned or subsequently acquired, to secure any debt obligation of the corporation.

Any such by-law may provide for the delegation of such powers by the directors to such officers or directors of the corporation to such extent and in such manner as may be set out in the by-law.

Nothing herein limits or restricts the borrowing of money by the corporation on bills of exchange or promissory notes made, drawn, accepted or endorsed by or on behalf of the corporation."

## **D. Increase the majority vote by members:**

The NFP Act specifies that an ordinary resolution is a simple majority and a special resolution is a two-thirds majority (see subsection 2(1) of the NFP Act). Your corporation can set out a different majority in its articles, which must be greater than the statutory majorities. The requirements for passage of a resolution to remove a director cannot be increased (see subsection 7(5) of the NFP Act). The following wording could be used:

"In order to effect any (ordinary and/or special) resolution passed at a meeting of members, a majority of not less than \_per cent of the votes cast by the members who voted in respect of that resolution shall be required."

## **E. Foreign corporate name**

You may want to specify the foreign form of your corporate name. This form of the name may only be used outside Canada (see subsection 11(2) of the NFP Act). The following wording could be used:

"It is hereby provided that the corporation may use and may be equally designated by the following form outside Canada: ...."

**Note:** Item 8 of Form 4001 is not to be used to state the English or French form of your corporate name for use inside Canada. The English and/or French forms of your corporate name are set out in Item 1 of Form 4001 – Articles of Incorporation.

## **F. Fill a vacancy on the board of directors**

The NFP Act allows a quorum of directors to fill a vacancy on the board of directors, but not a vacancy created by an increase in the number of directors or a failure to elect the minimum number of directors specified in the articles (see section 132 of the NFP Act). Alternatively, the articles could specify that only the members can fill a vacancy on the board of directors. If you want to restrict the ability of the board of directors to fill a vacancy, the following wording could be used in the articles:

"Any vacancy on the board of directors shall be filled by a vote of the members."

## **G. Additional Directors**

The NFP Act permits the articles to provide the board of directors with the authority to appoint one or more additional directors between annual meetings, for a term expiring not later than the close of the next annual meeting of members (see subsection 128(8) of the NFP Act). This authority does not apply to filling a vacancy on the board. The number of appointed directors cannot exceed one-third (1/3) of all directors elected at the last annual meeting of members. The following wording can be used in the articles to allow directors to appoint additional directors:

"The directors may appoint one or more directors, who shall hold office for a term expiring not later than the close of the next annual general meeting of members, but the total number of directors so appointed may not exceed one-third of the number of directors elected at the previous annual general meeting of members."

## **H. Class or group voting by members on amendments to articles**

When there is an amendment to the articles, the NFP Act requires members to vote separately as a class or group in cases where the consequences of the amendment would affect the class or group differently from other classes or groups of members. The list of possible consequences is included in subsection 199(1) of the NFP Act. The Act provides an exception to this rule in two specific situations: an exchange, reclassification or cancellation of all or part of the memberships of the class or group; or the creation of a new class or group with rights equal to or superior to the class or group. If your corporation wishes to use this exception, a provision must be included in the articles. The following wording could be used:

"The non-voting members shall not be entitled to vote separately as a class or group on an amendment, or proposal to make an amendment, to:

- a. effect an exchange, reclassification or cancellation of all or part of the memberships of such class; or
- b. create a new class or group of members having rights equal or superior to those of the non-voting members."

## **Item 9: Declaration**

These articles must be signed by the incorporator(s). If an incorporator is a company or other incorporated body, the articles must be signed by an individual authorized by that body.

## **Also Include**

- [Form 4002 - Initial Registered Office Address and First Board of Directors](#)
- [NUANS Name Search](#) Report, if applicable
- [Fee](#)

## **By-Laws**

Within 12 months of the by-laws being confirmed by the members, the corporation must send a copy to Corporations Canada.

## More Information

For more information, consult: [Creating a Not-for-profit Corporation](#) or call toll-free (within Canada) 1-866-333-5556 or (from outside Canada) 613-941-9042.

## Send Documents

**By mail:**

Corporations Canada  
235 Queen Street  
Ottawa, Ontario K1A 0H5  
**By facsimile:** 343-291-3409

**By e-mail:** [corporationscanada@ic.gc.ca](mailto:corporationscanada@ic.gc.ca)

## Appendix B

# Instructions for Form 4002 - Initial Registered Office Address and First Board of Directors

[Form 4002 - Initial Registered Office Address and First Board of Directors](#) (PDF Version, 763 KB)

You are providing information required by the NFP Act. Note that both the NFP Act and the *Privacy Act* allow this information to be disclosed to the public. It will be stored in [personal information bank](#) number IC/PPU-049.

In accordance with sections 20 and 128 of the NFP Act, this form must be filed with articles of incorporation, continuance (transition), amalgamation, or continuance (import).

**Note:** For a continuance (transition), the corporation must complete this form with the registered office address and the board of directors at the time of the continuance.

If the space available in item 3 is insufficient, attach a schedule.

## Item 1: Corporate Name

Provide the name of your corporation as indicated in the articles of the corporation.

## Item 2: Complete address of the registered office

The registered office address is the legal address of the corporation. All official documents that are sent by registered mail to, or that are served on, a corporation at the registered office address are deemed to be received by the corporation.

Indicate the street name and number, city, province/ territory and postal code of the registered office.

**Note:** The registered office address cannot be a post-office box and the address must be within the province or territory as indicated in the articles of the corporation.

## Item 3: Directors of the corporation

Indicate the first and last name as well as the residential [address](#) or other address for service of each member of the board of directors.

**Note:** The [address](#) cannot be a post-office box. The number of directors must correspond with the minimum and maximum or fixed number of directors indicated in the articles of the corporation.

## Item 4: Declaration

In the case of an incorporation, this form must be signed by an incorporator. If an incorporator is a company or other incorporated body, the articles must be signed by an individual authorized by that body. In the case of a continuance (transition), amalgamation or continuance (import), this form must be signed by a director or an officer of the corporation continuing into or amalgamating under the NFP Act.

## Reporting Obligations

For information on a corporation's ongoing reporting obligations, consult: [Your Reporting Obligations under the \*Canada Not-for-profit Corporations Act\*](#).

## More Information

For more information, consult: [www.corporationscanada.ic.gc.ca](http://www.corporationscanada.ic.gc.ca) or call toll-free (within Canada) 1-866-333-5556 or (from outside Canada) 613-941-9042.

## Send Documents

### By mail:

Corporations Canada  
235 Queen Street  
Ottawa, Ontario K1A 0H5  
By facsimile: 343-291-3409

By e-mail: [corporationscanada@ic.gc.ca](mailto:corporationscanada@ic.gc.ca)

## Appendix C

# How do I file my application under the *Canada Not-for-profit Corporations Act* (NFP Act)?

### Contact us

	Address	Method of Paying <u>Filing Fees</u>
<b>Online</b> N/A for all applications	Click on <a href="#">Online Filing Center</a> . Choose the application you wish to file from the menu. Follow the instructions	Pay by <a href="#">accepted credit card</a> or <a href="#">accepted debit card</a> .
<b>By email</b>	<a href="mailto:corporationscanada@ic.gc.ca">corporationscanada@ic.gc.ca</a>	Pay by <a href="#">accepted credit card</a> only.
<b>By fax</b>	Toll-free (within Canada): 1-877-568-9922 Fax (National Capital Region and outside Canada): 343-291-3409	Pay by <a href="#">accepted credit card</a> only.
<b>By mail</b>	Corporations Canada 235 Queen Street Ottawa, Ontario K1A 0H5	Pay by <a href="#">accepted credit card</a> or by cheque payable to the Receiver General for Canada.

### Note

1. If you are filing by email, fax or mail, and paying by credit card, please add the following information in your cover letter:
  - Type of credit card – American Express, MasterCard or Visa
  - Name on the credit card
  - Credit card number
  - Credit card expiry date.

Please include a phone number where we can reach you in case there is any difficulty. Note that if you fail to include your method of payment, the request will be returned to you for non-payment of the fee.

2. Corporations Canada does not acknowledge receipt of applications, except for online applications, or send you back a copy of the forms you filed.



## Appendix D

# Your Reporting Obligations under the *Canada Not-for-profit Corporations Act* (NFP Act)

**As a federal not-for-profit corporation you must...**

## Table of Contents

- [File an Annual Return every year](#)
- [File Any Change of Registered Office Address](#)
- [Report Changes Regarding Directors](#)
- [File Financial Statements and Public Accountant's Report](#)
- [Keep Your Articles Up-to-Date](#)
- [Send Copies of By-Laws](#)

### File an Annual Return every year

**Please note that this is not your income tax return.** This is your corporate Annual Return, and it provides up-to-date information about your not-for-profit corporation. This information is then made available to the public through the Corporations Canada website. Members of the public, financial institutions and many other interested parties rely on this information. **You are required to file an Annual Return every year.**

## Obligations

**What** Filing an Annual Return

**When** Within the 60 days following the corporation's anniversary date

**How** File through the [Online Filing Centre](#) or send your completed [Form 4022 - Annual Return](#) to Corporations Canada by [email](#), fax or mail

**Fee** \$20 if you file [online](#) or \$40 if not filed online

On your Annual Return form, you must provide the date of the corporation's last annual meeting of members.

## Helpful tip

It may be more practical for not-for-profit corporations with only a few members to prepare a written resolution rather than to hold a formal meeting. A written resolution is a written record of decisions that is signed by all of the members who are entitled to vote.

## File Any Change of Registered Office Address

Your registered office address is the official address for communicating with your not-for-profit corporation. Many people rely on this address. Corporations Canada also uses this address to remind you to file your Annual Returns. **A change of registered office address is only effective once it has been accepted by Corporations Canada.**

### Obligations

**What** Filing a change of registered office address

**When** Immediately to effect the change

**How** File through the [Online Filing Centre](#) or send your completed [Form 4003 – Change of Registered Office Address](#) to Corporations Canada by [email](#), fax or mail

**Fee** No fee

## Remember

- Your registered office address cannot consist solely of a post office box;
- Your registered office address must be within the province or territory that is set out in the articles of your not-for-profit corporation. If your registered office address changes to a place outside of that province or territory, you must first update your articles (see [Keep Your Articles Up-to-Date](#)).
- If you prefer that unofficial documentation be sent somewhere else, you may provide an additional address (e.g., a law firm). If an additional address is needed, please submit the information in writing.

## Report Changes Regarding Directors

The directors of your not-for-profit corporation have the power and the duty to manage the activities of the corporation. As a result, interested members of the public have a right to know

who the current directors are and where they can be reached. **You are required to report any changes regarding directors.**

These changes include:

- the election or appointment of a new director;
- the resignation or removal of a director; and
- any change in the address of a current director.

## Obligations

<b>What</b>	Reporting changes regarding directors
<b>When</b>	Within 15 days of the change or, in the case of a change to a director's address, within 15 days of being notified of the change
<b>How</b>	File through the <a href="#">Online Filing Centre</a> or send your completed <a href="#">Form 4006 – Changes Regarding Directors</a> to Corporations Canada by <a href="#">email</a> , fax or mail
<b>Fee</b>	No fee

## Remember

The number of directors must be the same as the fixed number or within the minimum/maximum number of directors that is set out in the articles of your not-for-profit corporation. If the number of directors differs from the fixed number or is not within the minimum/maximum number in the articles, you must first update your articles (see [Keep Your Articles Up-to-Date](#)).

## File Financial Statements and Public Accountant's Report

This applies only to "soliciting" not-for-profit corporations, which are generally those that receive public donations and/or government grants in excess of \$10,000 in a single financial year. Corporations Canada makes the financial documents of soliciting not-for-profit corporations available to the public. **You are required to send financial documents every year.**

## Obligations

<b>Who</b>	Soliciting not-for-profit corporations
<b>What</b>	Filing copies of financial statements and reports of a public accountant, if any

**When** Not less than 21 days before each annual meeting of members or as soon as possible after a written resolution is signed

**How** Mail, fax or [email](#) financial documents to Corporations Canada

**Fee** No fee

## Keep Your Articles Up-to-Date

Your articles set out basic information about your not-for-profit corporation which is then made available to the public through the Corporations Canada website. **You are required to amend your articles if you make changes to the following:**

- the corporation's name;
- the province or territory in which your registered office is located;
- the fixed, minimum or maximum number of directors;
- the classes, or regional or other groups, of members;
- the restrictions on the activities the not-for-profit corporation may carry on;
- the statement of the purpose of the not-for-profit corporation;
- the statement regarding the distribution of property remaining on liquidation; and
- any other provision included in your articles.

## Obligations

**What** Filing Articles of Amendment

**When** As soon as the amendment has been adopted by members

**How** Mail, fax or [email](#) your completed [Form 4004 - Articles of Amendment](#) to Corporations Canada

**Fee** \$200

## Remember

Amendments to articles become effective on the date shown on the Certificate of Amendment that you receive from Corporations Canada.

## Send Copies of By-Laws

By-laws set out valuable information about your not-for-profit corporation. Corporations Canada does not review your by-laws but does make them available to the public. In most cases, a by-law is created, changed or repealed by the directors of the corporation and then submitted to the members for confirmation. **You are required to send copies of:**

- all new by-laws;
- any changes to by-laws; and
- any repeal of by-laws.

### Obligations

**What** Sending copies of by-laws and by-law amendments

**When** Within 12 months of confirmation by members

**How** Mail, fax or [email](#) copies of by-laws to Corporations Canada

**Fee** No fee

#### Note

These obligations are all required by the NFP Act. Any not-for-profit corporation that defaults for a period of one year in sending any fee, notice or document required by the NFP Act could be dissolved. Dissolution terminates the existence of a corporation and can have serious legal repercussions, particularly if the corporation is a [registered charity](#) under the *Income Tax Act*.

