

## NEW LEGISLATION SIMPLIFIES INCORPORATION AND REPORTING Attention all Members of Not-for-Profit Organizations!

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Many of our clients are active in organizations that are run for a specific purpose other than profit. These organizations, many of which are incorporated, range from registered charities, to trade associations, to sports and social clubs. In a previous article (*The Lawrences Letter*, Summer 2007) we outlined the legal responsibilities of directors in not-for-profit organizations, noting that such directors were held to a higher standard than were directors in for-profit corporations. With the proclamation into force of the *Canada Not-for-Profit Corporations Act* on October 17, 2011, all that has changed.

Under the new Act, the rules are clearer, procedures for the approval of by-laws and articles of incorporation are simpler and faster, and boards will be able to make fundamental changes, such as amalgamation.

Also, directors will be subject to a more objective standard for carrying out their duties and responsibilities and will therefore assume less liability. A new *Not-for-Profit Corporations Act* (Ontario), which is awaiting proclamation into force, is expected to convey similar benefits on not-for-profits incorporated in Ontario.

A soliciting corporation is one that receives public donations or government grants totalling over \$10,000 in a single financial year. These corporations will be subject to more rigorous financial audit and reporting requirements and will be required to have at least three directors. A corporation that does not receive at least that amount of funds need have only one director and will be subject to far less scrutiny for financial and reporting requirements.

To enhance and protect members' rights, the new legislation requires that not-for-profit corporations make financial statements available to members on request. Soliciting corporations will also be required to file their financial statements with the Director or Registrar, who will then make them available to the public.

Existing not-for-profit corporations will be required to become compliant with the new Act over the next three years. Corporations that don't comply by October 17, 2014, will be dissolved. Directors



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and officers are responsible for ensuring that their organizations comply with the new legislation. They can also use the opportunity to amend their corporations to better reflect the way in which they conduct their affairs today.

If you are involved in a not-for-profit corporation incorporated under the *Canada Corporations Act*, you must insure that the corporation takes the following five steps within the next three years:

1. Review the existing letters patent and by-laws.
2. Prepare articles of continuance.
3. Prepare by-laws that comply with the new Act.
4. Obtain approval of the members.
5. File the required documents with Corporations Canada.

Lawrences' Business Law Group has extensive experience assisting not-for-profit and charitable organizations and can help you determine which changes your organization needs to make.



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