Blaney McMurtry LLP

PUBLICATION

Ontario's Not-for-profit Corporations Act in Force on October 19, 2021

Date: September 02, 2021
Author: Mona Taylor

Individuals involved with an Ontario non-share capital corporation, should be aware that, after over 10 years in the making, the Ontario government has announced the proclamation date for the *Not-for-profit Corporations Act, 2010* ("*ONCA*").

The proclamation date and, therefore, the in-force date was announced to be October 19, 2021 (the "Proclamation Date"). Once it is in effect, *ONCA* will automatically apply to all Ontario non-share capital corporations. However, existing non-share capital corporations will have three years to review and amend their documents to conform with the *ONCA* requirements.

Existing Ontario non-share capital corporations are encouraged to begin reviewing their incorporation documents and their by-laws now to identify the changes that will be required to bring their corporation in line with the new rules and regulations under *ONCA*. It is also important for corporations to begin to outline a schedule for securing the necessary member approvals.

More specifically, existing Ontario non-share capital corporations should begin to consider the following:

1. Whether the current objects of the corporation still adequately reflect the current purposes and corporate activities;

2. whether the current by-laws comply with the requirements of *ONCA*;

3. whether the current member structure meets the current needs of the organization;

4. whether the current structure of the board of directors reflects the actual governance practices of the organization; and

5. whether changes are required to the current officers.

One should also consider whether the corporation will qualify as a “public benefit corporation” and, if so, whether it will satisfy the related requirements.

It is important to recognize that Ontario non-share capital corporations can amend their documents in stages rather than all at once. Corporations should, therefore, consider whether certain amendments may be more controversial than others. If some are, consideration should be given to separating and dealing with the less-controversial amendments first, while beginning an open dialogue about the more controversial amendments.

The Proclamation Date for *ONCA* is aligning with the launch of a new Ontario Business Registry system. The new on-line registry system will simplify the way Ontario businesses and not-for-profit corporations interact with the provincial government.

The government has said that the new online registry will replace current outdated technology and will provide people across the province with direct access to government services 24 hours a day, 365 days a year.

The government further noted that registrations or filings that were previously submitted by mail or fax – often taking four to six weeks to complete – will be completed instantly through the online registry. When online transactions are completed, users will receive automatic email notices with electronic attachments instead of paper documents. The migration of annual return filings that were previously completed through the Canada Revenue Agency will be available through the Ontario Business Registry, allowing businesses to keep all their important filings in one place.

Please do not hesitate to contact us should you have any question with respect to your organization’s transition to *ONCA*.

The information contained in this article is intended to provide information and comment, in a general fashion, about recent developments in the law and related practice points of interest. The information and views expressed are not intended to provide legal advice. For specific legal advice, please contact us.