2015

**ONCA By-Laws Review Summary**

**No expertise required!**

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**Introduction**

**Outcomes**: A list of necessary and suggested changes and discussion points needed to bring your By-Laws into compliance with the Ontario Not for Profit Corporations Act and a well-structured consultation process.

**Advantages**: This method will organize and direct your upfront review efforts in such a way as to identify all By-Law issues for which a legal professional is not required. This method is also expressly designed for clarity, precision, and brevity so as to improve the efficiency of consultations and discussions across your organization.

**Limitations**: This method is not a replacement for certified legal advice and verification, or for genuinely collaborative discussion and consultation across your organization. It is meant to lay the groundwork for both.

**Requirements**: Minimum one dedicated volunteer capable of careful reading (no prior legal knowledge required); step 2 requires approximately 40 volunteer hours (depending on how robust By-Laws are) step 4 is highly variable; access to copy of latest Ontario not for Profit Corporations Act (ONCA); Microsoft Word an asset.

**The Method**

|  |  |  |
| --- | --- | --- |
| 1 | **Develop a work plan** (~4-6 hours) | 1. Divide your by-laws by theme (e.g. member rights, meetings, directors, finances, etc.).
 |
| 1. Based on a cursory examination of ONCA table of contents, identify articles corresponding to each chapter.
 |
| 1. Set target date for analysis of each chapter
 |
| 1. Set target dates for consultation with (1) Board and (2) senior members, and/or (3) general members
 |
| 2 | **Line-by-line analysis** (7-8 weeks) (~5hours/week) | A side-by-side line-byline analysis between chapters of your By-Laws and those provisions of the ONCA identified in your work plan. See tables below for categories, structure and approach of analysis.  |
| 3 | **Report Outcomes** (2-3 hours) | See template below for example of how to report findings to Board, stressing priority changes, and possible models of consultations as next steps. |
| 4 | **Consultations**(highly variable) | 1. Meet with senior (by years not by rank) members of the organization who may have special insight into or memory of the particular construction of current provisions. Discuss and seek approval for changes in light of original rationale.
 |
| 1. Present these changes for review, debate, and tentative approval to Board.
 |
| 1. Present proposed changes to interested members. Solicit feedback and reactions in areas where some discretion remains.
 |
| 5 | **Completion** | Incorporate insights from final discussions into proposal. Bring final product to individual with legal competence for review, amendment, and approval. |

NOTE: see ONCA By-Laws Review Guide for complete explanation of samples below.

**SAMPLE WORK PLAN**

Each row requires the comparison of the current By-law to the sections deemed relevant in the “Section of Act” column. Once read, a document will be developed for each (or where applicable By-laws will be grouped by theme denoted by purple heading) that contains a list of what must be changed, and what questions must be asked.

Once the review is complete, a new draft By-laws will be drawn up that will reflect both these required changes and the gaps that must be resolved.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| By-Laws | Section of Act | Lead | Timeframe  | Senior Discussion | Board Approval | Member Discussion |
| Prior Reading | [Part III](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10n15_e.htm#BK16)-Capacity and Powers[Checklist](http://www.sse.gov.on.ca/mcs/en/Pages/onca4.aspx)[FAQ](http://www.sse.gov.on.ca/mcs/en/Pages/onca3.aspx) | All | Week 1 | N/A | N/A | N/A |
| Interpretation |
| 1.1-Interpretation | [Part 1](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10n15_e.htm#BK0)-Interpretation, Application, and Administration | Benjamin | Week 1 | May 5th, 2015 |  |  |
| Business of the Corporation |
| Title | [Part 2 Sec.11](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10n15_e.htm#BK12)- Rules re. name of Corporation | Benjamin | Week 1 | May 5th, 2015 |  |  |
| 1.2-Business of the Corporation | Part 2 [Sec. 13-14](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10n15_e.htm#BK14)-Corporate Seal and Offices | Benjamin | May 5th, 2015 |  |  |
| Membership |
| 1.3-Membership | [Part 5](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10n15_e.htm#BK51)-Members | Benjamin | Week 2-3 | TBD |  |  |
| 1.4-Authorized Representatives | [Part 5](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10n15_e.htm#BK51)-Members 48.7 | Benjamin | May 5th, 2015 |  |  |
| 1.5-Meetings of Members | [Part 5](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10n15_e.htm#BK51) Sec. 52-61-Calling Meetings of Members, etc.  | Benjamin | TBD |  |  |
| 1.12-Notices | [Part 5 Sec. 55](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10n15_e.htm#BK59)-Notice of Members’ Meetings | Benjamin | May 5th, 2015 |  |  |
| 2.13-Transparency | N/A | N/A | N/A |  |  |
| 2.1-Rights and Powers of Membership | Part 5 Sec. [48](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10n15_e.htm#BK52), [56](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10n15_e.htm#BK60), [60](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10n15_e.htm#BK64), [62](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10n15_e.htm#BK66)-Membership, etc.  | Benjamin | May 5th, 2015 |  |  |

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**SAMPLE CHAPTER ANALYSIS WORK SHEET**

Required Changes

|  |  |
| --- | --- |
| **By-Law Article**: | **Act Text**: |
|  |  |
| **Issue**: |   |
| **Suggestion**: |  |

|  |  |
| --- | --- |
| **By-Law Article**: | **Act Text**: |
|  |  |
| **Issue**: |   |
| **Suggestion**: |  |

Required Discussions

|  |  |
| --- | --- |
| **By-Law Article**: | **Act Text**: |
|  |  |
| **Issue**: |   |
| **Suggestion**: |  |

|  |  |
| --- | --- |
| **By-Law Article**: | **Act Text**: |
|  |  |
| **Issue**: |   |
| **Suggestion**: |  |

Suggested Changes

|  |  |
| --- | --- |
| **By-Law Article**: | **Act Text**: |
|  |  |
| **Issue**: |   |
| **Suggestion**: |  |

Suggested Discussions

|  |  |
| --- | --- |
| **By-Law Article**: | **Act Text**: |
|  |  |
| **Issue**: |   |
| **Suggestion**: |  |

**SAMPLE REPORT OF RESULTS**

**By The Numbers**

**14** chapters will be affected by the update. **1** chapter will likely need to be added.

**27** required changes. **14** required discussions. **22** suggested changes. **5** suggested discussions.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Chapter** | **Required Change** | **Required Discussion** | **Suggested Change** | **Suggested Discussion** |
| 1.1-Interpretation | 1 | 0 | 2 | 0 |
| 1.2-Business of the Corporation | 0 | 0 | 0 | 0 |
| 1.3-Membership | 4 | 2 | 1 | 0 |
| 1.4-Authorized Representatives | 0 | 0 | 1 | 0 |
| 1.5-Meetings of Members | 9 | 1 | 3 | 2 |
| 1.12-Notices | 1 | 1 | 0 | 0 |
| 2.13-Transparency | 0 | 0 | 0 | 0 |
| 2.1-Rights and Powers of Membership | 1 | 0 | 2 | 2 |
| Records Management🡨NEW | 0 | 0 | 6 | 0 |

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**Major Changes & Discussions**

|  |  |
| --- | --- |
| **Major Changes** | Major Discussion |
| Director liability must be profoundly re-written | Member initiated proposals for AGMs |
| Redefining membership | How and when a member can be removed  |
| The auditor must be appointed by the members  | Whether to include special provision measures to decline the need for an annual audit |
| Adding a Records Management Section | A minimum number of directors must be established |
| Board powers to approve AGM proposals and tentative By-Laws changes reduced |  |
| Removal of Board proxies |  |
|  |  |

**Choosing a Consultation Process**

1. Meeting proposal with senior Board members and employees (especially those that may be leaving)
2. Timeline for Board debate and approval process
3. Organization-wide discussions