

ServiceOntario

ServiceOntario

Companies and Personal Property
Security Branch

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INCORPORATION (NOT-FOR-PROFIT CORPORATIONS)

COMPANIES AND PERSONAL PROPERTY SECURITY BRANCH REQUIREMENTS

In order to incorporate a not-for-profit corporation in Ontario, the following documentation must be submitted to the Companies and Personal Property Security Branch. If you are incorporating a **charity**, see **CHARITABLE ORGANIZATIONS** below regarding filing options.

1. **Application for Incorporation of a Corporation without Share Capital** (Form 2 prescribed under the Regulations to the *Corporations Act*), completed in duplicate and bearing original signatures on both copies;
2. **Ontario-biased NUANS** Name Search Report;
3. **Fee of \$155** (standard service – processing time 6-8 weeks) or a **fee of \$255** (expedited service – processing time 7 business days);
4. **Covering letter** giving a contact name, return address and telephone number.

FORMS

Applications for Incorporation of a Corporation without Share Capital are available on the ServiceOntario website at www.ServiceOntario.ca.

Forms are also available in person at no cost from:

Ministry of Government and Consumer Services
Companies and Personal Property Security Branch
393 University Avenue, Suite 200
Toronto ON M5G 2M2

NAME SEARCH

NUANS is a computerized search system that compares a proposed corporate name or trade-mark with databases of existing corporate bodies and trade-marks. This comparison determines the similarity that exists between the proposed name or mark and existing names in the database, and produces a listing of names that are found to be most similar. A NUANS search is not required if incorporating a number company.

An original Ontario-biased NUANS name search report must be obtained from a private name search company and cannot be dated more than 90 days prior to the submission of the articles.

For example, articles submitted on November 28th could be accompanied by a NUANS name search report dated as early as August 30th, but not dated earlier.

Suppliers are listed in the Yellow Pages under the heading “Searchers of Records” or visit Industry Canada’s NUANS website at www.nuans.com for a list of registered search houses that can assist you with obtaining a NUANS search report and filing your corporate documents with the Ministry of Government and Consumer Services. The Companies and Personal Property Security Branch does not provide this search.

CHARITABLE ORGANIZATIONS

Effective October 1, 1999, charities have two options for incorporating.

1) **Incorporate using pre-approved standard objects and provisions (filed with the Companies and Personal Property Security Branch)**

Applicable objects and provisions must be used word for word. As there is no requirement to obtain approval from the Office of the Public Guardian and Trustee (OPGT), there is no OPGT fee. The Companies and Personal Property Security Branch fee is \$155 for standard service and \$255 for expedited service. You may obtain a copy of the preapproved standard objects and provisions from the Companies and Personal Property Security Branch or from the OPGT website. (see below).

2) **Incorporate using non-standard objects and provisions (filed with the Office of the Public Guardian and Trustee)**

If you do not use the preapproved standard objects and provisions, you must submit your application to the OPGT for review and approval. The OPGT fee of \$150, plus the applicable Companies and Personal Property Security Branch fee of \$155 or \$255 must be included.

(Note: Expedited service applies only to the service provided by the Companies and Personal Property Security Branch after OPGT approval.) Once approved, the OPGT will forward the documents to the Companies and Personal Property Security Branch. The proposed objects for a not-for-profit charitable corporation must meet the criteria set out by the Charitable Property Program of the Office of the Public Guardian and Trustee.

Ministry of the Attorney General
Office of the Public Guardian and Trustee
Charitable Property Program
595 Bay Street, Suite 800
Toronto ON M5G 2M6

Telephone: (416) 326-1963 or toll free in Ontario 1-800-366-0335
Website: <http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/>

GENERAL INFORMATION

Please be advised that the Branch **CANNOT GIVE LEGAL ADVICE**. This information is intended as a general guide only. For further assistance or legal information, please consult private legal counsel.

If you need a lawyer, you may wish to contact the Lawyer Referral Service of the Law Society of Upper Canada. You will be referred to a lawyer for up to a half-hour free legal consultation,

either in person or over the phone. Please note that this is a toll service and phoning the Lawyer Referral Service line will automatically generate a \$6.00 charge on your phone bill, in the month following your call. You must be 18 years of age to access this service. The number is 1-900-565-4577 (1-900-565-4LRS).

Please refer to the **Corporations Act** for details governing not-for-profit corporations in Ontario. The *Corporations Act* is available on the Internet at www.e-laws.gov.on.ca or can be purchased through Publications Ontario at (416) 326-5200 or toll-free at 1-800-668-9938. The website for Publications Ontario is www.publications.gov.on.ca.

CORPORATION NAME

General – The proposed name for a not-for-profit corporation in Ontario must meet specific criteria before it can be granted. A name that is identical to the name of another corporation, or that contravenes the *Corporations Act* or Regulations, will not be approved for use. If the proposed name is confusingly similar to an existing corporate name, or the name contains the name of an individual, the consent of the existing corporation or the individual may be required before the name can be approved.

The proposed name must reflect the objects of the corporation and must not infer that it could be a business corporation.

Legal Ending – The name of a not-for-profit corporation may have the word “Incorporated”, “Incorporée”, “Corporation” or the corresponding abbreviation as a legal ending, but a legal ending is not necessary. A not-for-profit corporation **CANNOT** have the word “Limited”, “Limitée” or the corresponding abbreviations as part of its corporate name.

Foreign Words in the Name – Names containing foreign words may be granted to not-for-profit corporations, provided that only letters from the alphabet of the English language are used in the name (S.8 (1) of the Regulations).

Corporations wishing to separately use a foreign version of an approved corporation name, may do so by including in the Application for Incorporation (or, after incorporation, in an Application for Supplementary Letters Patent), a provision for the use of the name in such form and in such language (S.22).

For more detailed information on the requirements for the name of a not-for-profit corporation in Ontario, please refer to the Not-For-Profit Incorporator’s Handbook. (For sale at Publications Ontario at (416) 326-5300 or toll-free in Ontario 1-800-668-9938. The website for Publications Ontario is www.publications.gov.on.ca. The cost is \$8.00 + G.S.T.)

DIRECTORS

A board of directors manages the affairs of a not-for-profit corporation. The board must consist of a fixed number of directors, not fewer than three and each director must be at least eighteen years of age (S.283 (1), S.283 (2), S286 (4)).

Election of Directors – The directors are elected by the members and each director must also be a member of the corporation (S.286 (1), S287 (1)).

BY-LAWS

The by-laws of a not-for-profit corporation are passed by the directors and govern the conduct of affairs of the corporation (e.g. the qualification and the conditions of membership, the time for and the manner of elections, the procedures involved in the holding of meetings, etc. (S.129, S.130)).

The by-laws are considered to be an internal document and should not be included in the application for incorporation of a not-for-profit corporation.

SOCIAL CLUBS

As of March 1, 1995, a corporation with objects that are in whole or in part of a social nature is no longer required to include ten applicants in their application for incorporation.

AMALGAMATION

Two or more active Ontario not-for-profit corporations having the same or similar objects may amalgamate and continue as one corporation (S.113). In this case, an Application for Letters Patent of Amalgamation, Form 11 prescribed under the Regulations to the *Corporations Act*, must be completed and filed with the Companies and Personal Property Security Branch. Where two or more corporations amalgamate, the name of the amalgamated corporation may be the same as the name of one of the amalgamating corporations (S.4 of the Regulations).

PRECEDENTS

Precedents for by-laws and amalgamation clauses may be found in the Ontario Corporations Manual.

REPORTING REQUIREMENTS FOR CHARITABLE CORPORATIONS

Upon incorporation, not-for-profit charitable corporations are regulated by the Office of the Public Guardian and Trustee as well as by the Companies and Personal Property Security Branch. As such, they are subject to certain reporting requirements with both.

EFFECTIVE DATE

A not-for-profit corporation comes into existence on the date of the letters patent incorporating it (S.12 (1)). The Letters Patent take effect on the date set forth therein (S.12 (2)) and are dated when all the required documents are received and complete.

CORRECTIONS TO DOCUMENTS

Any minor changes or corrections made to documents prior to submission to the Companies and Personal Property Security Branch may be crossed out and/or added bearing the initials of the appropriate officer of the corporation authorized to do so. However, no visible corrections are permitted on page 1 of the application. Liquid paper corrections are not acceptable; however, corrected pages can be photocopied as long as they bear original signatures.

Documents must be clearly legible at all times.

December 31, 2007
(aussi disponible en français)