

I Missed the ONCA Deadline: Now What?

Consequences of Missing Deadline
What steps do nonprofits need to take?
How can ONN help?

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<https://theonn.ca/topics/onn-projects/nonprofit-law-ontario/>

Disclaimer

This presentation is...	This presentation is not...
General legal information	Tailored legal advice
High level overview of ONCA	Comprehensive
About law	About best practices
About law	About funder expectations

Key Terms

ONCA

Governing Documents

- Articles
- Bylaws/Constitution
- Policies

Key people

- Members
- Directors
- Officers

Consequences of Missing Deadline

No ONCA Police

Special Timing Considerations

What Changes

What Does Not Change

No ONCA Police

- There are no ONCA police.
- There are no fines.
- No one gets dragged off to jail.
- Your nonprofit does not dissolve.

Special Timing Considerations

Scenario 1: Nothing approved before Oct 19, 2024

- Deemed amendment completed (see next slide)

Scenario 2: Board approved before Oct 19, 2024.

Members meeting after

- Unless bylaws say otherwise, board has power to make changes effective until members meeting.
- **If members reject or fail to approve changes**, bylaws revert and deemed amendment completed (see next slide)
- **If members approve changes**, transition complete

What Does Change

Bylaws and articles deemed amended “to the extent necessary” to comply with ONCA. For example:

- **Member proposals:** 1 voting member right to submit
- **Conflict of interest:** Definition change
- **Public Benefit Corporation:** Max. $\frac{1}{3}$ emp. directors

Unclear whether default rules kick in or change made:

- **Notice:** 51+ days -> 10-50 days or 50 days?
- **Director terms:** 5+ years -> 1 year or 4 years?
- **Member discipline:** Non-compliant procedure->substitute allowable one or disallow?

What Does Not Change

These provisions which ONCA says must be in the articles do not change even if they are non-compliant:

- Number of directors
- Number of classes of members
- Voting rights of members
- Dissolution clauses
- Delegate voting rights

This list does not apply to AHOA corporations.

What steps do nonprofits need to take?

Step 1: Figure out whether ONCA applies to you

Step 2: Get your books in order

Step 3: Review your bylaws and constitution

Step 4: Approve changes to your bylaws and articles

Step 1: Figure out whether ONCA applies to you

ONCA applies	ONCA does not apply
<ul style="list-style-type: none">• Ontario's Corporations Act• Agricultural and Horticultural Organizations Act• Most special acts	<ul style="list-style-type: none">• Federal nonprofits (CNCA)• Co-ops (CCA)• Businesses (OBCA)• Unincorporated groups• Condos

Step 2: Get your books in order

Collect the following documents:

- Letters patent and supplementary letters patent
- Bylaws
- Minute books (can be virtual)
- Special resolutions
- Directors and officers register
- Members register (must have complete)
- Director consent forms
- Annual revenue

Make sure the government has your right address (NOT a PO box)

Step 3: Review your bylaws

Examples of what you might need or want to change:

- Appoint a **chair**
- **Corporations can be members**
- **If multiple member classes**
 - how to join the class
 - how membership ends
 - how to withdraw or transfer classes
- can set percentage of vote required to **demand members meeting** (max. 10%)
- Can allow **proxy voting**

Steps 4: Approve changes to bylaws and articles

Disclaimer: Procedure in bylaws may be amended by ONCA. Members must approve.

A **typical** process includes:

- 1) **Proposal to board:** from director, committee, lawyer, etc.
 - Check out Nonprofit Law Ontario's directory of lawyers
- 2) **Board approval:** effective as of that date unless otherwise stated
- 3) **Member approval:** AGM or special meeting
 - **Notice**
 - 1) default 14-50 days at AGM or 10-50 days at SMM in advance
 - 2) Sufficient detail to form reasoned opinion
 - 3) Sent individually to members
 - **Quorum** default 50%+1
 - **Vote** default 50%+1
- 4) **Registered charities only:** File bylaws with Canada Revenue Agency

How can ONN help?

Nonprofit Law Ontario website

Sample Bylaws With Options

Guide to Adjusting Existing Bylaws

Lawyer Directory

Glossary

Email us your questions: benjamin@theonn.ca

Thank you for joining us!

<https://nonprofitlaw.cleo.on.ca>

<https://theonn.ca/topics/onnn-projects/nonprofit-law-ontario/>