

Governance
By-Laws Leadership Evaluations
Decisions
Roles Strategic Planning
Conflict of interest



Not-for-Profit Corporations Act

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Governance – Confluence of Factors

- *Not-for-Profit Corporations Act* (replaces the *Canada Corporations Act*) – affects all NSOs
- *Sport Canada Governance Principles* - will affect future funding
- Amendments to the *Income Tax Act* – affects all RCAAAs
- Overall trends to improve Canadian sport governance



Not-for-Profit Corporations Act

- Current *Canada Corporations Act* covers about 20,000 not-for-profit corporations (including MSOs and NSOs)
- CCA has not changed in many decades
- NFP Act received Royal Assent in June 2009
- Regulations finalized February 2011, Act and Regulations came into force October 17, 2011
- All corporations must complete transition by October 17, 2014



Rationale for New Legislation

- Modeled on *Canada Business Corporations Act*
- Strengthen member rights as in a shareholder model
- Decrease paperwork and administration
- Embrace new technologies
- Other provinces will follow (Ontario, B.C.)

“Arguably, organization and system mismanagement costs us more medals and more lifelong participants [in sport] than the culprits we prefer to blame, such as limited facilities and funding, or insufficient school sport and activity programs”

- Paul Jurbala





Glass ½ Empty or Glass ½ Full?

- You can approach this issue as one of **compliance** and do the minimum to meet the legal requirements
- You can approach this issue as an **opportunity** to review and improve your entire governance model
- Steps you take now will change your organization forever – let's get it right!



Some Features

- NFP Act contains **mandatory** rules, **default** rules and **alternate** rules
- Bylaws can be minimal as all the rules are in the Act
- Directors may change bylaws without approval of members, except for fundamental changes (Sec. 197)
- Industry Canada will be a storehouse, not a clearing house, for bylaws
- Changes to bylaws will take immediate effect



Two Documents You Must File

- **Articles of Incorporation** must contain name, location, # of directors, statement of purpose, classes of members, restrictions on activities, distribution of assets after dissolution
- **Bylaws** must contain conditions of membership, method of giving notice for meetings
- If an **RCAAA**, Canada Revenue Agency has to approve the Articles of Incorporation
- Transition must be completed by **October 2014**



Focus on Member Rights

- Members may pursue more ‘judicial’ remedies
- Easier for members to ‘requisition’ a meeting
- Members may remove any director by ordinary resolution
- Members without voting rights may vote on certain ‘fundamental changes’ related to membership
- In some instances, member classes must vote separately



Membership Classes

- Some NSOs have **one** category of members with as few as **ten** members
- Many MSOs have **no members** at all
- Rowing Canada Aviron (for e.g.) has **four** categories of voting members and **eight** categories of non-voting members
- Synchro Canada (for e.g.) has **thousands** of individual members, but they designate a **single delegate** from each PTSO to vote



Membership Structures (51 NSOs – 2012)

- PTSOs vote → **92%**
- Clubs vote → **14%**
- Athlete reps vote → **16%**
- Directors/Officers vote → **37%**
- Where PTSOs have vote, **38%** have equal vote, **62%** have proportional vote
- **2** NSOs (*Equine, Bobsleigh - Skeleton*) have individuals vote



Board Composition

- The Act contemplates that members will **elect** directors ... therefore:
 - 'Ex-officio' directors are prohibited
 - Appointed directors are restricted
- Most NSOs will have to change their Board structure to some degree



Board Composition (58 NSOs – 2011)

- Elected 'Competency' Board → **53%**
- 'Constituency' Board → **36%**
- Hybrid Board → **10%**
- Board size 12 or less → **57%**
- Board size 13 to 18 → **28%**
- Board size 19 or more → **16%**





What All NSOs Need to Do

- Move to a **fully elected** Board structure
- Simplify and streamline membership classes

“Organizations may wish to collapse voting member classes into one category, and eliminate non-voting members”



Thoughts on Timing

- You have until **October 2014** (or be dissolved!)
- Some NSOs may take advantage of the opportunity to change their legal name and update objects
- CRA needs to be consulted for approval of Articles of Incorporation (add minimum six months)
- Strongly recommend that new member classes be introduced under the CCA first, then transition to the new NFP Act later
- Consultation with members will take time!

Not the best approach!

Get started now!





Make a Plan

- Create a time-line
- Strong education/knowledge component
- Engage your members
- Phased approach strongly recommended (make changes to member classes first under CCA)
- Process needs 'champion(s)'
- Learn from what others are doing
- May need some expert guidance but you can do a lot of this on your own



Thank you

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Next webinars

June 5th

Loi canadienne sur les organisations à but non lucratif

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June 27th

Board Evaluation

Judy Sutcliffe, The Sutcliffe Group Incorporated