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The ONCA Is Finally Here!

By Linda J. Godel and Alexandra Zavalunov

Today, October 19, 2021 (**proclamation date**), marks the long awaited proclamation of the Ontario *Not-for-Profit Corporations Act* (**ONCA**). It has been eleven years since the ONCA received Royal Assent on October 25, 2010. There were times during that period when those in the not-for-profit sector wondered if it would ever come to fruition. But now, it is finally here. So what next?

ONCA

As of today, the ONCA applies automatically to Ontario not-for-profit corporations. According to a news release issued by the Ontario government earlier today, the ONCA “modernizes governance for Ontario’s not-for-profit corporations and significantly reduces the bureaucratic burden on them, moving from paper-based filings to digital services and providing enhanced flexibility.”

Unlike the *Canada Not-for-profit Corporations Act*, there are no formal requirements to transition under the ONCA. However, Ontario not-for-profits now have a three year transition period to become compliant with the ONCA (**transition period**) after which any provisions in their governing documents (that is, their letters patent, supplementary letters patent, and by-laws) that conflict with the ONCA will be deemed to be amended to comply with the ONCA, subject to certain exceptions. (See our August 24, 2021 article for further details.) Ontario not-for-profits should undertake a review of their governing documents during the transition period and make any changes to them that are required to ensure compliance with the ONCA. This review provides a great opportunity to consider whether any other governance changes are desirable or needed.

New Ontario Business Registry

Today also marks the launch of the new Ontario Business Registry (**OBR**). The OBR replaces the Ontario Business Information System and will be available to all corporations in Ontario, including not-for-profits. It is anticipated that the OBR will be a more time effective and cost-saving means for Ontario corporations to access government services. Through the OBR, Ontario corporations now have direct access to

government services 24 hours a day, 365 days a year, allowing corporations to complete a multitude of transactions online and consolidating all important filings and filing notices into one central repository.

To access the OBR and begin using its services, all not-for-profit (and other) corporations incorporated, registered or licensed to carry on activities in Ontario will need a Company Key, which can be obtained through Service Ontario.

Annual Corporate Returns

As of the proclamation date, Ontario not-for-profit corporations will need to begin filing their annual corporate returns again. Prior to May 15, 2021, Ontario not-for-profit corporations were required to file their annual corporate returns directly with the Ministry of Government and Consumer Services or through the Canada Revenue Agency (**CRA**). In anticipation of the launch of the OBR, not-for-profit corporations were exempt from filing their annual corporate returns which were due between the period of May 15, 2021 to October 18, 2021. As of the proclamation date, the exemption from filing annual returns has been lifted. All Ontario corporations which have an annual corporate return due on or after the proclamation date must now file them directly in the OBR. Annual corporate returns can no longer be filed with the CRA.

We will continue to monitor new developments surrounding the proclamation of the ONCA and the launch of the OBR. We would be happy to answer any questions that you may have about the ONCA, the OBR, the transition process and any governance matters that may affect your organization.

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