

## Society Incorporation: Overview and Instructions

### PRELIMINARY

The incorporation of a non-profit organization is purely voluntary and it is not mandatory that the members apply for incorporation.

The Societies Act was proclaimed in 1953 as a vehicle under which any five or more persons wishing to incorporate a society may do so by submitting certain documentation to the Registrar of Joint Stock Companies. A society under this Act is a body corporate, the same as a corporate body created under the Companies Act, that is to say, a society is a corporate entity separate and apart from the members with the power to hold property and carry out the objects as set forth in the Memorandum.

The purpose for which a society may be incorporated is restricted to the items set out in Section 3 cited as follows:

“A society may be incorporated under this Act to promote benevolent, philanthropic, patriotic, religious, charitable, artistic, literary, educational, social, professional, recreational, sporting or any other useful object, but not for the purpose of carrying on any trade, industry or business.”

### ADVANTAGES

The reasons or advantages for incorporation may be divided into several categories:

- 1. Protection of Name** - prior to incorporating, the name must be reserved by our office to ensure that it is not currently being used by any other organization, be it a body corporate or a partnership, in this Province.
- 2. Public Record** - through incorporation, the objects and By-laws of the organization are placed on public record so that any individual may ascertain the purposes of the society and the regulations of management by simply checking the records at the Registry of Joint Stock Companies.
- 3. By-laws** - one of the most common frailties of non-profit organizations is the continual transfer on an annual basis of the books and records from one secretary to another. In many cases, the original Bylaws of the association are misplaced and consequently time may be wasted at the annual or special meetings determining the correct method of conducting meetings, powers of directors, appointment of officers, etc. The secretary may request a photocopy of same from the Registry of Joint Stock Companies to ensure that the method of transacting business is done so according to the regulations established by the society.
- 4. Personal Liability - Under Section 27** - “No member of a society shall, in his individual capacity, be liable for any debt or liability of the society beyond the amount of any subscription, dues or fees payable by him to the society.” Note that directors are potentially personally liable for the debts of the Society. Please see an insurance company for information on Directors Liability Insurance. The society may sue or be sued under its legal name.

- 5. Becoming a Registered Charity** - incorporation under the Societies Act does not automatically give a society the right to issue official donation receipts for income tax purposes. Should a society wish to become a registered charity with the ability to issue official donation receipts for income tax purposes application must be made to Canada Revenue Agency. Further information is available at [www.cra-arc.gc.ca/tax/charities](http://www.cra-arc.gc.ca/tax/charities) or 1-888-892-5667.
- 6. Grants** - in many cases, organizations which provide grants often insist on the group incorporating as a non-profit organization.

#### HOW TO INCORPORATE

In order to incorporate under the Societies Act, certain documentation must be filed with the Registrar as follows:

- 1. Name Reservation** - prior to incorporation, the proposed name of the society must be reserved by the office of the Registrar of Joint Stock Companies. Name reservation is free for societies. Contact us at 902-424-7770 or [www.rjsc.ca](http://www.rjsc.ca).
- 2. Memorandum of Association** - the Memorandum of Association must state:
  - a. The objectives or purposes for which the society is to be incorporated. Please provide sufficient information regarding the purposes of the organization to allow Registry staff to determine whether your group fits within the general purposes under the Act as noted above. The line: "on a volunteer and non-profit basis" has been added to the sample Memorandum to emphasize that the purposes of the organization must be non-profit in nature;
  - b. A statement that the Society will not carry on a business, including a non-profit business, and that no profits will accrue to the members; and
  - c. A minimum of five individuals must subscribe to the Memorandum. The names, addresses and occupations of the subscribers should be typed on the last page of the Memorandum, however all subscribers must sign their names in their own handwriting. All signatures are to be witnessed by an individual who is not one of the subscribers.
- 3. Society Classification** - check which non-profit classification best describes your organization. This information will assist staff in evaluating the application and will also aid government in better understanding the role and significance of volunteerism and non-profit activities in Nova Scotia.
- 4. By-laws** are the rules of management with respect to membership, appointment of directors, duties of directors, appointment of officers, duties of officers, financial reporting, method of calling and conducting meetings, etc. Note that by-law #2 emphasizes that even though a board of directors is responsible for management of the organization, ultimately they are accountable to the members.
- 5. Notice of Directors and Officers** - this list must contain the names, addresses and occupations of the first directors of the society, and must be signed by one of the directors.

6. **Appointment of Recognized Agent** - every incorporated society must appoint a recognized agent. The recognized agent must be an individual residing in the Province upon whom a notice or document may be served. The appointment of a recognized agent provides the Registry and the public with a consistent contact person.
7. **Notice of Registered Office** - every incorporated society must provide notice of its registered office address within Nova Scotia.
8. **Fees** - the incorporation fee is currently \$43.30. The Annual renewal fee is currently \$31.15.

#### OTHER REQUIREMENTS

1. **Annual Requirements** - subject to Sections 19 and 20 of the Act, every society must file annually:
  - a. a list of directors as appointed at the last annual meeting. The list **must be signed by one director** and must list all directors names, addresses, occupations and dates of appointment. A list should be also filed any time during the year in which a change of directors has occurred, either through vacating of office, dismissal, etc; and
  - b. a financial statement must be filed annually. The financial statement **must be signed by the auditor or by two directors**. This statement is to be in the form of a balance sheet and income statement and a copy of the report filed at the annual meeting for examination by the members is sufficient for filing.
2. **Special Resolutions** must be passed for such items as
  - a. name change;
  - b. alteration of the objects and purposes of the society;
  - c. amending the By-laws; Certain fundamental changes under the Societies Act may only be done by special resolution. A special resolution is a resolution passed by a minimum of three-fourths of the members present, either in person or by proxy, where proxies are allowed, at a meeting duly called and convened for the purpose of passing said resolution, and must be approved by the Registrar before taking effect. The directors have no power to alter the By-laws or the Memorandum of Association; and
  - d. borrowing money.

Documents required to incorporate or to update information may be obtained by using the contact information below. Although these documents are templates and are provided for your convenience, the general format should be followed to ensure prompt service.

Contact information:	Registry of Joint Stock Companies	or:	9 North, Maritime Centre
	PO Box 1529		F505 Barrington Street
	Halifax, Nova Scotia		Halifax, Nova Scotia
	B3J 2Y4		B3J 3K5

[www.rjsc.ca](http://www.rjsc.ca)