



## **Section 1 - Brief History of the NAC**

1. In February 1918 an informal meeting was held by Canadian naval officers at H.M.S. Hermione, the depot ship at Southampton, at which it was decided that a Naval Officers' Association of Canada should be established, but formal action was to be postponed until after the war. In 1919, as naval officers returned to Canada, the project was frequently discussed, but it was only in Vancouver that the Naval Officers Association of British Columbia was formed. After World War II, a number of similar associations sprang up across Canada, with the objective of capturing and maintaining the spirit so essential to the wartime success of the Royal Canadian Navy (RCN). In 1950, the many associations banded together in a federation of branches, and a single "letters patent" incorporated the Naval Officers Association of Canada (NOAC). The Association served as a rallying opportunity for continued social interaction, plus as a means of providing coordinated advice to the government and Navy of the day.
2. In light of the way the modern Canadian Navy has vastly changed from the early days in terms of both personnel relationships and missions, the NOAC conducted an extensive re-think of its purpose and roles. As a direct result, in 2012 the organization and name were changed to the Naval Association of Canada (NAC). Membership was extended to all those who have an interest in seeing the RCN prosper and maintain its world-class capabilities. A special emphasis of the new NAC was to create a more inclusive association that extended beyond retired naval officers. As such the new NAC looked to attract more currently serving officers including naval cadets, and endeavoured to attract non-commissioned officers or Non-Commissioned Members (NCM), both serving and retired, and those with an affinity and interest in naval and marine matters even if they had never served in the RCN.
3. The modernized NAC seeks to educate the Canadian public on their Navy and what it needs if it is to continue to contribute effectively in the future to Canada's security, prosperity and interests, not only in home waters, but around the world.
4. NAC also supports Sea Cadets through an annual contribution to the Royal Canadian Sea Cadet Education Foundation for pursuit of an education in a Maritime Studies program. Pro-naval education, however, is not all that NAC does. Besides Public Education, two other pillars form NAC's three-part mission. These are Preservation and Promotion of Maritime Heritage in Canada and Facilitating an Environment for Camaraderie.
5. Under Maritime Heritage, NAC is undertaking to work with the fifty-or-so maritime museums and trusts across the country to both bring Canada's remarkable maritime

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Ottawa Branch,  
Box 505, Station "B",  
Ottawa, K1P 5P6



history and accomplishments to everyone's attention, at the same time as contributing to their preservation.

6. Under Camaraderie, NAC members enjoy the spirit and comradeship derived from either shared service to Canada or an affinity for the sea. Additionally, NAC member camaraderie extends to the active support of less-fortunate members and those suffering the loss of a loved one. NAC goes to bat for the naval family.

7. Fourteen NAC branches exist across Canada. The NAC-Ottawa Branch (short form NAC-O) is composed of members who are ready, willing and able to actively support NAC's three objectives: Educating Canadians on the need for a capable and effective Navy, preserving and promoting Canada's Maritime Heritage, and facilitating an expression of Camaraderie and mutual assistance.



## **Section 2 - Organization of NAC Ottawa Branch**

1. Branches may be formed in any centre across Canada where the demand exists. Branches are the focal point for the local members for all NAC affairs. All Branches work with appropriate local government, military and sea cadet leadership in their community and where appropriate in adjacent regions and communities on behalf of NAC. Each Branch determines its own membership qualifications and dues structure, and is also responsible for the membership qualifications and collection of National dues from NAC members and the timely remittance to National in accordance with the Guidance to Branch Treasurers issued by the National Treasurer. As independent organizations, Branches are to be self-supporting.

2. The Ottawa Branch (NAC-O) is independently registered in its own right federally (see federal Certificate of Continuance). NAC-O is managed by Directors who are elected annually at the Branch Annual General Meeting (AGM). Directors serve a one year term. Directors may be appointed, in special circumstances, by the Board to govern the NAC-O Branch on behalf of members. Candidates for the BOD are drawn from volunteers who are members of NAC-O. The BOD meets monthly in accordance with a schedule developed each summer. Directors are expected to attend meetings of the BOD and should they be unable, are required to inform the President and Secretary in advance. Additionally, if they are unable to attend and have an action to complete or a report to table, they should seek out a Director colleague to bring the information forward to the BOD on their behalf. Directors have two basic types of duties:

a. Duty of Care – namely to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances; and

b. a Fiduciary Duty – namely to act honestly and in good faith taking into account the best interests of the NAC-O Branch.

3. All Directors have the following general responsibilities:

a. Stewardship of monies donated to ensure that funds raised are spent in a way that is consistent with the intent of those making the donations;

b. Determining the strategic direction of the NAC-O Branch;

c. Risk management of the activities of the NAC-O Branch;



d. Assurance of effective internal controls; and

e. Basic duties of Directors including attendance at meetings and the diligent review of materials provided in the course of their work.

4. The Board and Directors undertake the responsibilities listed below. This listing will change periodically based on Branch activities. A Director may be appointed to any office of the NAC-O. Directors may hold more than one responsibility.

President  
Past President  
Vice President(s)  
Treasurer  
Secretary  
Membership  
Battle of the Atlantic Gala \*  
Conferences \*  
Speaker's Program  
Member Support \*  
Communications \*  
Entertainment \*  
Editor Soundings \*  
Events Calendar \*  
History \*  
Endowment  
Salty Dips \*  
Ceremonies \*  
Outreach \*

(\* Responsibility may be filled by a non-Director of NAC-O)

5. As a general rule, Directors have a duty first to the association they are governing (the NAC-O Branch) and second to any other organization they are otherwise members of. This first duty to the association precedes obligations to the membership – it is the Branch and the Branch's interests that must come first.

6. At all meetings of the Board, every question shall be decided by a majority of the votes. In case of an equality of votes, the chair of the meeting in addition to an original vote shall have a second or casting vote.

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7. Executive Group - the Board may, by resolution, appoint from among its Directors an Executive Group, which shall have all the powers of the Board between meetings of the Board. Meetings of the Executive Group shall be held at such times and at such places and on such notice as the President may decide.



## **Section 3 - Understanding the Need for Governance**

### Fiduciary Duty

- A fiduciary duty is the highest standard of care at either equity or law. Fiduciaries are expected to be extremely loyal to the person – or corporate person – to whom they owe the duty and must not put their interests before the duty and must not profit from the duty. Loyalty must be undivided.
- Directors acting for a third person (NAC-O) in a manner that protects their interests in such a manner that your own interests – no matter the interest – are subordinate to the others. NAC-O's interests are paramount.
- No financial, personal or political advantage can be taken or realised by a Director.
- There are three legally defined Duties - Care, Loyalty and Responsibility.

#### 1. Duty of Care

- Act reasonably and be informed when making decisions
- Follow “prudent person” rule
- Attend Meetings
- Show independent judgement
- Know the organization
- Rely on trustworthy sources
- Ask about finances – be comfortable that you understand

#### 2. Duty of Loyalty

- Undivided loyalty when making decisions affecting the organization
- Personal interests are subordinate to the organization (Family, Business or other Organizations come second)
- Avoid conflict of interest



- Written Policy
  - Disclose and record
  - “Perception is reality”
- Review ambiguous situations at the Board level

### 3. Duty of Responsibility (Obedience)

- Also called Duty of Obedience
- Ensure the organization remains faithful to its central purpose – incorporation terms, letters patent, mission, vision, public statements
- Ensure those in authority act in concert and in the best interest of the organization
- Treat assets and operations of the organization with the same care as personal possessions – be aware of the financials
- Ensure laws and regulations are obeyed

### Summary

- Review and understand the governance structure
- Give NAC-O your best effort
- Develop written policies and review regularly
- Take an all encompassing approach to developing a financial plan
- Control costs
- Diversify and understand revenue streams
- Diversify your portfolio
- Stay abreast of regulatory changes

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## **Section 4 - Direction from the Certificate of Continuance for NAC-O**

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<http://navalassoc.ca/branches/ottawa/governance/>

1. Directors shall serve without remuneration, and no Director shall directly or indirectly receive any profit from his or her position as such, provided that a Director may be reimbursed for reasonable expenses incurred in the performance of his or her duties. A Director shall not be prohibited from receiving compensation for services provided to the corporation in another capacity.
2. The Directors may appoint one or more Directors, who shall hold office for a term expiring not later than the close of the next annual general meeting of members, but the total number of Directors so appointed may not exceed one-third of the number of Directors elected at the previous annual general meeting of members.



## **Section 5 - NAC Ottawa Bylaws Concerning Directors and Officers**

### **SECTION 5 - DIRECTORS**

#### **28. Number of Directors**

The board shall be comprised of the fixed number of Directors as determined from time to time by the members by ordinary resolution or, if the ordinary resolution empowers the Directors to determine the number, by resolution of the Board. In the case of a soliciting of NAC-O, the minimum number of Directors may not be fewer than three (3), at least two of whom are not officers or employees of the NAC-O or its affiliates.

#### **29. Term of Office of Directors**

The Directors shall be elected to hold office for a term expiring not later than the close of the next annual meeting of members following the election.

### **SECTION 6 – MEETINGS OF DIRECTORS**

#### **30. Calling of Meetings of Board of Directors**

Meetings of the Board may be called by the Chair of the Board, the Vice-Chair of the Board or any two (2) Directors at any time.

#### **31. Notice of Meeting of Board of Directors**

Notice of the time and place for the holding of a meeting of the Board shall be given in the manner provided in the section on giving notice of meeting of Directors of this by-law to every Director of the NAC-O not less than five (5) days before the time when the meeting is to be held. Notice of a meeting shall not be necessary if all of the Directors are present, and none objects to the holding of the meeting, or if those absent have waived notice of or have otherwise signified their consent to the holding of such meeting. Notice of an adjourned meeting is not required if the time and place of the adjourned meeting is announced at the original meeting. Unless the by-law otherwise provides, no notice of meeting need specify the purpose or the business to be transacted at the meeting except that a notice of meeting of Directors shall specify any matter referred to in subsection 138(2) (Limits on Authority) of the Act that is to be dealt with at the meeting.

#### **32. Regular Meetings of the Board of Directors**



The Board may appoint a day or days in any month or months for regular meetings of the board at a place and hour to be named. A copy of any resolution of the Board fixing the place and time of such regular meetings of the Board shall be sent to each Director forthwith after being passed, but no other notice shall be required for any such regular meeting except if subsection 136(3) (Notice of Meeting) of the Act requires the purpose thereof or the business to be transacted to be specified in the notice.

### **33. Votes to Govern at Meetings of the Board of Directors**

At all meetings of the Board, every question shall be decided by a majority of the votes cast on the question. In case of an equality of votes, the Chair of the meeting in addition to an original vote shall have a second or casting vote.

### **34. Committees of the Board of Directors**

The Board may from time to time appoint any committee or other advisory body, as it deems necessary or appropriate for such purposes and, subject to the Act, with such powers as the Board shall see fit. Any such committee may formulate its own rules of procedure, subject to such regulations or directions as the board may from time to time make. Any committee member may be removed by resolution of the Board of Directors.

## **SECTION 7 - OFFICERS**

### **35. Appointment of Officers**

The Board may designate the offices of the NAC-O, appoint officers on an annual or more frequent basis, specify their duties and, subject to the Act, delegate to such officers the power to manage the affairs of the NAC-O. A Director may be appointed to any office of the NAC-O. An officer may, but need not be, a Director unless these by-laws otherwise provide. Two or more offices may be held by the same person.



## **Section 6 - Extract from Canada Not-for-profit Corporations Act**

The Not-for-profit Corporations Act came into force in 2009. The latest amendment took place in 2015. The NAC is incorporated under this act. It may be read in full at: <http://canlii.ca/t/8l9q>. New directors should particularly review Part 9 (Directors and Officers) and Part 10 (By-laws and Members). The following is an extract of Part 9.

### **Part 9 - Directors and Officers**

#### **Duty to manage or supervise management**

**124** Subject to this Act, the articles and any unanimous member agreement, the directors shall manage or supervise the management of the activities and affairs of a corporation.

#### **Number of directors**

**125** A corporation shall have one or more directors, but a soliciting corporation shall not have fewer than three directors, at least two of whom are not officers or employees of the corporation or its affiliates.

#### **Qualifications of directors**

- **126** (1) The following persons are disqualified from being a director of a corporation:
  - (a) anyone who is less than 18 years of age;
  - (b) anyone who has been declared incapable by a court in Canada or in another country;
  - (c) a person who is not an individual; and
  - (d) a person who has the status of a bankrupt.

- **Membership**

(2) Unless the by-laws otherwise provide, a director of a corporation is not required to be a member of the corporation.

- **No alternate directors**

(3) No person shall act for an absent director at a meeting of directors.

#### **Organization meeting**

- **127** (1) After the issue of the certificate of incorporation, the directors of a corporation shall hold a meeting at which the directors may



- (a) make by-laws;
  - (b) adopt forms of debt obligation certificates and corporate records;
  - (c) authorize the issue of debt obligations;
  - (d) appoint officers;
  - (e) appoint a public accountant to hold office until the first annual meeting of members;
  - (f) issue memberships;
  - (g) make banking arrangements; and
  - (h) transact any other business.
- **Exception**

(2) Subsection (1) does not apply to a body corporate to which a certificate of amalgamation has been issued under [subsection 208\(4\)](#) or to which a certificate of continuance has been issued under [subsection 211\(5\)](#).

- **Calling meeting**

(3) An incorporator or a director may call the meeting by giving notice of the time and place of the meeting to each director within the prescribed period.

- **Waiver of notice**

(4) A director may waive notice of the meeting, and attendance of a director at the meeting is a waiver of notice of the meeting, except if the director attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

- **Resolution in lieu of meeting**

(5) If all directors sign a resolution dealing with any matter referred to in paragraphs (1) (a) to (g), they are not required to hold the meeting referred to in subsection (1).

- **Filing resolution**

(6) A copy of the resolution shall be kept with the minutes of the meetings of directors.

#### Notice of directors

- **128** (1) At the time of sending articles of incorporation, a notice of directors in the form that the Director fixes shall be sent to the Director.



- **Term of office**

(2) Each director named in the notice holds office from the issue of the certificate of incorporation until the first meeting of members.

- **Election of directors**

(3) Members shall, by ordinary resolution at each annual meeting at which an election of directors is required, elect directors to hold office for a term expiring within the prescribed period.

- **Staggered terms**

(4) It is not necessary that all directors elected at a meeting of members hold office for the same term.

- **No stated terms**

(5) A director not elected for an expressly stated term ceases to hold office at the close of the first annual meeting of members following the director's election.

- **Incumbent directors**

(6) Despite subsections (2), (3) and (5), if directors are not elected at a meeting of members, the incumbent directors continue in office until their successors are elected.

- **Vacancy among candidates**

(7) If a meeting of members fails to elect the number or the minimum number of directors required by the articles by reason of the lack of consent, the disqualification, the incapacity or the death of any candidate, the directors elected at that meeting may exercise all the powers of the directors if the number of directors so elected constitutes a quorum.

- **Appointment of directors**

(8) The directors may, if the articles of the corporation so provide, appoint one or more additional directors, who shall hold office for a term expiring not later than the close of the next annual meeting of members, but the total number of



directors so appointed may not exceed one third of the number of directors elected at the previous annual meeting of members.

- **Election or appointment as director**

(9) An individual who is elected or appointed to hold office as a director is not a director, and is deemed not to have been elected or appointed to hold office as a director, unless

- (a) the individual was present at the meeting when the election or appointment took place and did not refuse to hold office as a director; or
- (b) the individual was not present at the meeting when the election or appointment took place and
  - (i) consented to hold office as a director in writing before the election or appointment or within the prescribed period, or
  - (ii) has acted as a director after the election or appointment.

**Ceasing to hold office**

- **129** (1) A director of a corporation ceases to hold office when the director dies, resigns, is removed in accordance with [section 130](#) or becomes disqualified under [section 126](#).

**Effective date of resignation**

(2) A resignation of a director becomes effective at the time a written resignation is sent to the corporation or at the time specified in the resignation, whichever is later.

**Removal of directors**

- **130** (1) The members of a corporation may by ordinary resolution at a special meeting remove any director or directors from office.
- **Exception**

(2) A director elected by a class or group of members that has an exclusive right to elect the director may only be removed by an ordinary resolution of those members.

**Vacancy**

(3) A vacancy created by the removal of a director may be filled at the meeting of the members at which the director is removed or, if not so filled, may be filled under [section 132](#).



#### Resignation or removal

(4) If all of the directors have resigned or have been removed without replacement, a person who manages or supervises the management of the activities or affairs of the corporation is deemed to be a director for the purposes of this Act.

#### Exception

(5) Subsection (4) does not apply to

- (a) an officer who manages the activities or affairs of the corporation under the direction or control of a member or other person;
- (b) a lawyer, a notary, an accountant or other professional who participates in the management of the corporation solely by providing professional services; or
- (c) a trustee in bankruptcy, receiver, receiver-manager, sequestrator or secured creditor who participates in the management of the corporation or exercises control over its property solely for the purpose of the realization of security or, in the case of bankruptcy, the administration of a bankrupt's estate.

#### Statement of director

- **131 (1)** Subject to the by-laws, a director is entitled to submit to the corporation a written statement giving reasons for resigning or for opposing the removal or replacement of the director if a meeting is called for that purpose.
- **Circulating statement**

(2) A corporation shall immediately give notice to the members of the statement in the manner referred to in [section 162](#).

- **Statement to Director**

(3) A corporation shall immediately send a copy of the statement to the Director.

- **Immunity**

(4) No corporation or person acting on its behalf incurs any liability by reason only of complying with this section.

#### Filling vacancy



- **132 (1)** Subject to subsections (4) and (5), a quorum of directors may fill a vacancy among the directors, except a vacancy resulting from an increase in the number or the minimum or maximum number of directors provided for in the articles or a failure to elect the number or minimum number of directors provided for in the articles.
- **Calling meeting**

(2) If there is not a quorum of directors or if there has been a failure to elect the number or minimum number of directors provided for in the articles, the directors then in office shall without delay call a special meeting of members to fill the vacancy and, if they fail to call a meeting or if there are no directors then in office, the meeting may be called by any member.
- **Order of appointment**

(3) If a corporation has neither directors nor members, the court may, on the application of an interested party, make an order appointing the required number or minimum number of directors provided for in the articles.
- **Director elected by class or group**

(4) If any class or group of members has an exclusive right to elect one or more directors and a vacancy occurs among those directors,

  - (a) subject to subsection (5), the remaining directors elected by the class or group may fill the vacancy, except a vacancy resulting from an increase in the number or the minimum or maximum number of directors provided for in the articles for that class or group or from a failure to elect the number or minimum number of directors provided for in the articles for the class or group; or
  - (b) if there are no remaining directors, any member of the class or group may call a meeting of the class or group to fill the vacancy.
- **Member filling vacancy**

(5) The by-laws may provide that a vacancy among the directors shall be filled only by a vote of the members, or by a vote of the members of any class or group having an exclusive right to elect one or more directors if the vacancy occurs among the directors elected by that class or group.
- **Unexpired term**

(6) A director appointed or elected to fill a vacancy holds office for the unexpired term of their predecessor.



#### Change in number of directors

- **133 (1)** The members of a corporation may amend the articles to increase or decrease the number of directors, or the minimum or maximum number of directors, but no decrease shall shorten the term of an incumbent director.
- **Election of directors where articles amended**

(2) If the members at a meeting adopt an amendment to the articles of a corporation to increase or decrease the number or minimum or maximum number of directors, the members may, at the meeting, elect the number of directors authorized by the amendment, and for that purpose, despite [subsections 202\(1\)](#) and [276\(3\)](#), on the issue of a certificate of amendment the articles are deemed to be amended as of the date the members adopt the amendment.

- **Fixing the number of directors**

(3) If a minimum and maximum number of directors are provided for in the articles, the members may, from time to time by ordinary resolution, fix the number of directors of the corporation and the number of directors to be elected at annual meetings of the members or delegate those powers to the directors. No decrease in the number of directors shall shorten the term of an incumbent director.

#### Notice of change of director or director's address

- **134 (1)** A corporation shall send to the Director a notice, within the prescribed period and in the form that the Director fixes, setting out any change among its directors or of the address of a director.
- **Director's change of address**

(2) A director shall, within the prescribed period, send the corporation a notice of any change in his or her address.

- **Application to court**

(3) The court may, on the application of an interested person or the Director, make an order requiring a corporation to comply with subsection (1) and make any further order that it thinks fit.

#### Attendance at meeting

**135** A director is entitled to attend and be heard at every meeting of members.



#### Meeting of directors

- **136 (1)** Unless the articles or by-laws otherwise provide, the directors may meet at any place and on any notice that the by-laws require.
- **Quorum**

(2) Subject to the articles or by-laws, a majority of the number of directors or minimum number of directors required by the articles constitutes a quorum at any meeting of directors, and, despite any vacancy among the directors, a quorum of directors may exercise all the powers of the directors.

- **Notice of meeting**

(3) A notice of a meeting of directors shall specify any matter referred to in [subsection 138\(2\)](#) that is to be dealt with at the meeting but, unless the by-laws otherwise provide, need not specify the purpose of or the business to be transacted at the meeting.

- **Waiver of notice**

(4) A director may waive notice of a meeting of directors, and attendance of a director at a meeting of directors is a waiver of notice of the meeting, except if the director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

- **Adjournment**

(5) Notice of an adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting.

- **One director meeting**

(6) If a corporation has only one director, that director may constitute a meeting.

- **Participation**

(7) Subject to the by-laws, a director may, in accordance with the regulations, if any, and if all the directors of the corporation consent, participate in a meeting of directors or of a committee of directors by means of a telephonic, an electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting. A director so participating in a meeting is deemed for the purposes of this Act to be present at that meeting.



#### Decisions made by consensus

- **137 (1)** The by-laws may provide that the directors or members shall make any decision by consensus, including a decision required to be made by a vote, except a decision taken
  - (a) by a resolution referred to in [subsection 182\(1\)](#);
  - (b) by special resolution; or
  - (c) by a vote if consensus cannot be reached.
- **Meaning of consensus, etc.**

(2) By-laws that provide for consensus decision-making shall define the meaning of consensus, provide for how to determine when consensus cannot be reached and establish the manner of referring any matter on which consensus cannot be reached to a vote.

- **Voting requirements satisfied**

(3) A decision made by consensus in accordance with this section is deemed to satisfy any requirement under this Act for the taking of a vote.

#### Delegation

- **138 (1)** Directors of a corporation may appoint from their number a managing director or a committee of directors and delegate to the managing director or committee any of the powers of the directors.
- **Limits on authority**

(2) Despite subsection (1), no managing director and no committee of directors has authority to

- (a) submit to the members any question or matter requiring the approval of members;
- (b) fill a vacancy among the directors or in the office of public accountant or appoint additional directors;
- (c) issue debt obligations except as authorized by the directors;
- (d) approve any financial statements referred to in [section 172](#);
- (e) adopt, amend or repeal by-laws; or
- (f) establish contributions to be made, or dues to be paid, by members under [section 30](#).

#### Validity of acts of directors and officers



**139** An act of a director or an officer is valid despite an irregularity in their election or appointment or a defect in their qualification.

#### Validity of signed resolutions

- **140** (1) A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of directors or of a committee of directors, is as valid as if it had been passed at a meeting of directors or committee of directors.

- **Filing resolution**

(2) A copy of every resolution referred to in subsection (1) shall be kept with the minutes of the meetings of directors.

- **Evidence**

(3) Unless a ballot is demanded, an entry in the minutes of a meeting to the effect that the chairperson of the meeting declared a resolution to be carried or defeated is, in the absence of evidence to the contrary, proof of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

#### Disclosure of interest

- **141** (1) A director or an officer of a corporation shall disclose to the corporation, in writing or by requesting to have it entered in the minutes of meetings of directors or of committees of directors, the nature and extent of any interest that the director or officer has in a material contract or material transaction, whether made or proposed, with the corporation, if the director or officer
  - (a) is a party to the contract or transaction;
  - (b) is a director or an officer, or an individual acting in a similar capacity, of a party to the contract or transaction; or
  - (c) has a material interest in a party to the contract or transaction.

- **Time of disclosure for director**

(2) The disclosure required by subsection (1) shall be made, in the case of a director,

- (a) at the meeting at which a proposed contract or transaction is first considered;
- (b) if the director was not, at the time of the meeting referred to in paragraph (a), interested in the proposed contract or transaction, at the first meeting after the director becomes so interested;



- (c) if the director becomes interested after a contract or transaction is made, at the first meeting after the director becomes so interested; or
  - (d) if an individual who is interested in a contract or transaction later becomes a director, at the first meeting after the individual becomes a director.
- **Time of disclosure for officer**
- (3) The disclosure required by subsection (1) shall be made, in the case of an officer who is not a director,
- (a) immediately after the officer becomes aware that the contract, transaction, proposed contract or proposed transaction is to be considered or has been considered at a meeting;
  - (b) if the officer becomes interested after a contract or transaction is made, immediately after the officer becomes so interested; or
  - (c) if an individual who is interested in a contract or transaction later becomes an officer, immediately after the individual becomes an officer.
- **Time of disclosure for director or officer**
- (4) If a material contract or material transaction, whether entered into or proposed, is one that, in the ordinary course of the corporation's activities, would not require approval by the directors or members, a director or an officer shall, immediately after they become aware of the contract or transaction, disclose in writing to the corporation, or request to have entered in the minutes of meetings of directors or of committees of directors, the nature and extent of their interest.
- **Voting**
- (5) A director required to make a disclosure under subsection (1) shall not vote on any resolution to approve the contract or transaction unless the contract or transaction
- (a) relates primarily to the director's remuneration as a director, an officer, an employee, an agent or a mandatary of the corporation or an affiliate;
  - (b) is for indemnity or insurance under [section 151](#); or
  - (c) is with an affiliate.
- **Continuing disclosure**
- (6) For the purposes of this section, a general notice to the directors declaring that a director or an officer is to be regarded as interested, for any of the following reasons, in a contract or transaction made with a party, is a sufficient declaration of interest in relation to the contract or transaction:



- (a) the director or officer is a director or an officer, or acting in a similar capacity, of a party referred to in paragraph (1)(b) or (c);
  - (b) the director or officer has a material interest in the party; or
  - (c) there has been a material change in the nature of the director's or the officer's interest in the party.
- **Access to disclosures**

(7) The members of the corporation may examine the portions of any minutes of meetings of directors or of committees of directors that contain disclosures under this section, and of any other documents that contain those disclosures, during the corporation's usual business hours.
- **Avoidance standards**

(8) A contract or transaction for which disclosure is required under subsection (1) is not invalid, and the director or officer is not accountable to the corporation or its members for any profit realized from the contract or transaction, because of the director's or officer's interest in the contract or transaction or because the director was present or was counted to determine whether a quorum existed at the meeting of directors or of the committee of directors that considered the contract or transaction, if

  - (a) disclosure of the interest was made in accordance with this section;
  - (b) the directors approved the contract or transaction; and
  - (c) the contract or transaction was reasonable and fair to the corporation when it was approved.
- **Confirmation by members**

(9) Even if the conditions of subsection (8) are not met, a director or an officer, acting honestly and in good faith, is not accountable to the corporation or to its members for any profit realized from a contract or transaction for which disclosure is required under subsection (1), and the contract or transaction is not invalid by reason only of the interest of the director or officer in the contract or transaction, if

  - (a) the contract or transaction is approved or confirmed by special resolution at a meeting of the members;
  - (b) disclosure of the interest was made to the members in a manner sufficient to indicate its nature and extent before the contract or transaction was approved or confirmed; and
  - (c) the contract or transaction was reasonable and fair to the corporation when it was approved or confirmed.
- **Application to court**



(10) If a director or an officer of a corporation fails to comply with this section, a court may, on the application of the corporation or any of its members, set aside or annul the contract or transaction on any terms that it thinks fit, require the director or officer to account to the corporation for any profit or gain realized on the contract or transaction or make any other order that the court thinks fit.

#### Officers

**142** Subject to the articles, the by-laws and any unanimous member agreement,

- (a) the directors may designate the offices of the corporation, appoint as officers persons of full capacity, specify their duties and delegate to them powers to manage the activities and affairs of the corporation, except powers to do anything referred to in [subsection 138\(2\)](#);
- (b) a director may be appointed to any office of the corporation; and
- (c) two or more offices of the corporation may be held by the same person.

#### Remuneration

- **143** (1) Subject to the articles, the by-laws and any unanimous member agreement, the directors of a corporation may fix the reasonable remuneration of the directors, officers and employees of the corporation.
- **Services performed in other capacity**

(2) Subject to the by-laws, a director, an officer or a member may receive reasonable remuneration and expenses for any services to the corporation that are performed in any other capacity.

#### Indemnification

**144** Unless the by-laws of the corporation otherwise provide, a director, an officer or an employee may receive indemnification for their expenses incurred on behalf of the corporation as a director, an officer or an employee.

#### Directors' liability

- **145** (1) Directors of a corporation who vote for or consent to a resolution authorizing any of the following are jointly and severally, or solidarily, liable to restore to the corporation any money or other property so paid or distributed and not otherwise recovered by the corporation:
  - (a) a payment or distribution to a member, a director or an officer contrary to this Act; or
  - (b) a payment of an indemnity contrary to this Act.
- **Recovery of shares**



(2) A director who has satisfied a judgment rendered under this section is entitled to recover from the other directors who voted for or consented to the unlawful act on which the judgment was founded their respective shares.

- **Recovery**

(3) A director liable under subsection (1) is entitled to apply to a court for an order compelling a member or other recipient to pay or deliver to the director any money or other property that was paid or distributed to the member or other recipient contrary to this Act.

- **Order of court**

(4) On an application under subsection (3), a court may, if it is satisfied that it is equitable to do so, order a member or other recipient to pay or deliver to a director any money or other property that was paid or distributed to the member or other recipient contrary to this Act and make any further order that it thinks fit.

- **Limitation**

(5) An action to enforce a liability imposed by this section may not be commenced after two years from the date of the resolution authorizing the action complained of.

#### Liability of directors for wages

- **146** (1) Directors of a corporation are jointly and severally, or solidarily, liable to employees of the corporation for all debts not exceeding six months' wages payable to each employee for services performed for the corporation while they are directors.
- **Conditions precedent to liability**

(2) A director is not liable under subsection (1) unless

- (a) the corporation has been sued for the debt within six months after it has become due and execution has been returned unsatisfied in whole or in part;
- (b) the corporation has commenced liquidation and dissolution proceedings or has been dissolved and a claim for the debt has been proved within six months after the earlier of the date of commencement of the liquidation and dissolution proceedings and the date of dissolution; or
- (c) the corporation has made an assignment or a receiving order has been made against it under the [Bankruptcy and Insolvency Act](#) and a claim for



the debt has been proved within six months after the date of the assignment or receiving order.

- **Limitation**

(3) A director, unless sued for a debt referred to in subsection (1) while a director or within two years after ceasing to be a director, is not liable under this section.

- **Amount due after execution**

(4) If execution referred to in paragraph (2)(a) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

- **Subrogation of director**

(5) A director who pays a debt referred to in subsection (1) that is proved in liquidation and dissolution or bankruptcy proceedings is subrogated to any priority that the employee would have been entitled to and, if a judgment has been obtained, the director is

- (a) in Quebec, subrogated to the employee's rights as declared in the judgment; and
- (b) elsewhere in Canada, entitled to an assignment of the judgment.

- **Recovery of shares**

(6) A director who has satisfied a claim under this section is entitled to recover from the other directors who were liable for the claim their respective shares.

#### Dissent

- **147 (1)** A director who is present at a meeting of directors or of a committee of directors is deemed to have consented to any resolution passed or action taken at the meeting unless
  - (a) the director requests a dissent to be entered in the minutes of the meeting;
  - (b) the director sends a written dissent to the secretary of the meeting before the meeting is adjourned; or
  - (c) the director sends a dissent by registered mail or delivers it to the registered office of the corporation immediately after the meeting is adjourned.

- **Loss of right to dissent**

(2) A director who votes for or consents to a resolution is not entitled to dissent under subsection (1).



- **Dissent of absent director**

(3) A director who was not present at a meeting at which a resolution was passed or action taken is deemed to have consented to the resolution or action unless, within the prescribed period after becoming aware of the resolution or action, the director

- (a) causes a dissent to be placed with the minutes of the meeting; or
- (b) sends a dissent by registered mail or delivers it to the registered office of the corporation.

**Duties of directors and officers**

- **148 (1)** Every director and officer of a corporation in exercising their powers and discharging their duties shall
  - (a) act honestly and in good faith with a view to the best interests of the corporation; and
  - (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

- **Duty to comply**

(2) Every director and officer of a corporation shall comply with

- (a) this Act and the regulations; and
- (b) the articles, the by-laws and any unanimous member agreement.

- **Lawfulness of articles and purpose**

(3) Every director of a corporation shall verify the lawfulness of the articles and the purpose of the corporation.

- **No exculpation**

(4) Subject to [subsection 170\(5\)](#), no provision in a contract, the articles, the by-laws or a resolution relieves a director or an officer from the duty to act in accordance with this Act or the regulations or relieves them from liability for a breach of this Act or the regulations.

**Director — reasonable diligence**

- **149 (1)** A director is not liable under [section 145](#) or [146](#), and has complied with his or her duties under [subsection 148\(2\)](#) and [\(3\)](#), if the director exercised the care, diligence and skill that a reasonably prudent person would have exercised in comparable circumstances, including reliance in good faith on



- (a) financial statements of the corporation represented to the director by an officer of the corporation or in a written report of the public accountant of the corporation fairly to reflect the financial condition of the corporation;  
or
  - (b) a report of a person whose profession lends credibility to a statement made by that person.
- **Director — good faith**

(2) A director has complied with his or her duties under [subsection 148\(1\)](#) if the director relied in good faith on

- (a) financial statements of the corporation represented to the director by an officer of the corporation or in a written report of the public accountant of the corporation fairly to reflect the financial condition of the corporation;  
or
- (b) a report of a person whose profession lends credibility to a statement made by that person.

**Officer — reasonable diligence**

- **150 (1)** An officer has complied with his or her duties under [subsection 148\(2\)](#) if the officer exercised the care, diligence and skill that a reasonably prudent person would have exercised in comparable circumstances, including reliance in good faith on a report of a person whose profession lends credibility to a statement made by that person.
- **Officer — good faith**

(2) An officer has complied with his or her duties under [subsection 148\(1\)](#) if the officer relied in good faith on a report of a person whose profession lends credibility to a statement made by that person.

**Indemnification**

- **151 (1)** A corporation may indemnify a present or former director or officer of the corporation, or another individual who acts or acted at the corporation's request as a director or an officer or in a similar capacity of another entity, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other proceeding in which the individual is involved because of that association with the corporation or other entity.
- **Advance of costs**



(2) A corporation may advance money to a director, an officer or other individual for the costs, charges and expenses of a proceeding referred to in subsection (1). The individual shall repay the money if the individual does not fulfil the conditions of subsection (3).

- **Limitation**

(3) A corporation may not indemnify an individual under subsection (1) unless the individual

- (a) acted honestly and in good faith with a view to the best interests of the corporation or, as the case may be, to the best interests of the other entity for which the individual acted as director or officer or in a similar capacity at the corporation's request; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, had reasonable grounds for believing that their conduct was lawful.

- **Indemnification**

(4) A corporation may, with the approval of a court, indemnify an individual referred to in subsection (1), or advance money under subsection (2), in respect of an action by or on behalf of the corporation or other entity to procure a judgment in its favour to which the individual is made a party because of the individual's association with the corporation or other entity as described in subsection (1), against all costs, charges and expenses reasonably incurred by the individual in connection with the action, if the individual fulfils the conditions set out in subsection (3).

- **Right to indemnity**

(5) Despite subsection (1), an individual referred to in that subsection is entitled to indemnity from the corporation in respect of all costs, charges and expenses reasonably incurred by the individual in connection with the defence of any civil, criminal, administrative, investigative or other proceeding to which the individual is subject because of the individual's association with the corporation or other entity as described in that subsection, if the individual seeking indemnity

- (a) was not judged by the court or other competent authority to have committed any fault or to have omitted to do anything that the individual ought to have done; and
- (b) fulfils the conditions set out in subsection (3).

- **Insurance**



(6) A corporation may purchase and maintain insurance for the benefit of an individual referred to in subsection (1) against any liability incurred by the individual

- (a) in the individual's capacity as a director or an officer of the corporation;  
or
  - (b) in the individual's capacity as a director or an officer, or in a similar capacity, of another entity, if the individual acts or acted in that capacity at the corporation's request.
- **Application to court**

(7) On the application of a corporation or an individual or entity referred to in subsection (1), a court may approve an indemnity under this section and make any further order that it thinks fit.

- **Other notice**

(8) On an application under subsection (7), the court may order notice to be given to any interested person and the person is entitled to appear and be heard in person or by counsel.



## **Section 7 - Checklist of Questions for Directors and Officers of NAC-O**

- Have you read the references and this Training Indoctrination Package?
- Do you understand your obligations as a NAC-O Director?
- Can you attend a majority of the Board of Directors meetings?
- Can you devote the required time to duties that will be assigned to you?
- Do you have any conflict of interests that would prevent you from full participation in discussions at the Board of Directors meetings?
- Will you give your undivided loyalty when making decisions affecting the organization?
- Will you exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances?
- Do you understand the purpose of the corporation and the applicable articles emanating from the Not-for-Profit Corporations Act?
- Can you comply with the Not-for-Profit Corporations Act and the regulations; and the articles, by-laws and any unanimous member agreement?