

TRANSITIONING TO THE NEW SOCIETIES ACT

By Steven Carey

On November 28, 2016 (the “Effective Date”), the existing *Society Act* (BC) will be repealed and replaced by the new *Societies Act* (BC) (the “New Act”). A new electronic filing system will be established. Between the Effective Date and November 28, 2018 over 25,000 societies incorporated in British Columbia will need to perform certain “onboarding” and “transition” activity in respect of the New Act. This newsletter provides an overview of the process and highlights certain issues of interest.

GETTING READY

Societies will need to make certain adjustments to their constitution and bylaws as part of the transition process. One challenge will be to verify the current text of those governance documents. The BC Corporate Registry is offering a transition package service. For a fee of \$40, a society can obtain copies of a society's original constitution, bylaws, and any filed special resolutions amending the constitution and bylaws on the registry records. As part of transition, societies must consolidate their bylaws and have them in an electronic format. Ordering a transition package from the Registry is an opportunity to understand what the bylaws on file with the Registry actually are, and may be useful for those societies who do not currently work off of an up-to-date electronic copy.

On transition, societies may elect to make additional contemporaneous substantive changes to their bylaws. Some organizations may need to proceed through a process of governance review and membership consultation and approval, prior to transition, in order to be prepared to implement such additional governance changes.

HELPFUL GUIDANCE

The best source of information on transition is the Registry's Transition Guide, available online at <http://www.bcregistryservices.gov.bc.ca/bcreg/societiesact/index.page>. FAQs and other resources are also available on the Registry website.

ONBOARDING - NOVEMBER

Prior to transition, each society must “onboard” into the new electronic filing system. As part of this, they must ensure all annual reports are filed. They should also ensure their address in their Statement of Directors and Registered Office is current and up to date with the Registry.

In mid-November, each society will receive a letter from the Registry containing a PIN which will allow them to log in to the new website after the Effective Date and create a BCeID, an online account for using BC government services. They can then reset the PIN and distribute it to others in their organization as appropriate. Each BCeID account will be tied to an individual, and individuals can be associated with multiple society PINs.

Societies should choose one member of the society to onboard. This person will create a BCeID, an electronic account, specific to that individual. This person will then link the personal BCeID with the PIN

and be asked to change it. The PIN may then be distributed to other key society directors and managers, as well as service providers of the society (such as accountants, paralegals, or lawyers). Each person will be able to link that person's own BCeID with multiple societies, if appropriate.

NEW ONLINE SYSTEM

The new system will be used for the majority of filings. There will be a revision history, showing which BCeID changed what information, and an ever-green copy of the bylaws. Payments can be made either by pre-authorized debit or credit cards. Certified copies of documents are available by logging in to the system and downloading specific PDFs.

The online filing system appears straight-forward and relatively simple. The Registry will not be checking the constitution or the bylaws -- it expects applicants to comply with the New Act without the Registry's involvement. The constitution alteration will be done on a separate screen with a fillable box to cut-and-paste or type in the constitution, minus any unalterable provisions. A checkbox will exist on this screen for societies wishing to be member-funded. Bylaws will be uploaded as a .doc or other file formats (for those that do not use Word). This will be done on a separate screen.

WHAT NEEDS TO BE DONE ON TRANSITION

Transition applications will be completed online, after onboarding, at a date and time selected by the society. The process for transitioning for most societies will include altering the constitution and bylaws to comply with the New Act. The New Act does not allow the constitution to contain anything other than the society's purposes, and the New Act may make existing bylaw provisions unenforceable or unnecessary, depending on the circumstances.

Until a society completes its transition, it is prevented from making any substantive alterations to its constitution or bylaws. This and other factors, such as status as a member-funded society (see article below) may impact the decision on transition timing.

Before transition:

- All annual reports must be up to date and filed with the Registry; if not, the society cannot transition.
- The Statement of Directors and Registered Office should be the most up to date and accurate as possible.

On basic transition:

- Anything other than a society's name and purposes (word for word) must be moved from the constitution into the bylaws.
- If reusing the prior bylaws, the bylaws must be a complete set (i.e. the original set of bylaws, updated to include any amendments to the original set filed with the Registry) and must be word-for-word what appears in the Registry.
- The bylaws must identify any unalterable provision inserted from the constitution as being "previously unalterable".
- For societies having status as "reporting societies" under the current act, some special wording must also be inserted into the bylaws.

There is no need to obtain member approval of these mandatory changes required for basic transition. However, as noted above, a society may choose to make additional substantive changes to its bylaws upon transition (or perhaps completely repeal and replace its bylaws with a new version). This must be approved by special resolution of the members. If approved before the Effective Date, the special resolution requires a 3/4 vote; if it is approved on or after the Effective Date, a 2/3 vote is required (unless the bylaws specifically require a higher than 2/3 vote).

If a society does not transition by November 28, 2018, it may be dissolved by the Registry.

For more information and assistance in preparing for and performing transitions, please contact one of the following members:

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