

Industry Canada

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Corporations Canada

Changing By-Laws

1. [Rule for General By-law Amendments](#)
2. [Rule for "Special" By-law Amendments](#)

Soon after incorporation, by-laws stating the rules for governing and operating the corporation should be passed (see [Next Steps Following Incorporation](#)). There are two ways of amending by-laws, depending on the subject matter of the changes:

1. Rule for General By-law Amendments

By-laws will be changed and updated over time as the needs and the organization of the corporation change. The following are the default steps for approving by-law changes that do not require special member approval (see [Rule for Special By-law Amendments](#) below). If you prefer a different process, these steps can be changed by your corporation's articles, by-laws or [unanimous member agreement](#).

Step 1 – The Board of Directors initiates a change to a general by-law. The effective date of this change is the date it is approved by the directors.

Step 2 – The by-law change is placed on the agenda for the next meeting of members.

Step 3 – Members confirm the by-law change – or they amend it and then confirm it – by ordinary resolution.

Step 4 – If the members reject the by-law adopted by the directors, the by-law change ceases to have effect on the date it is rejected by the members. Alternatively, if the directors fail to submit the by-law change to the members at the next members meeting, the by-law change ceases to have effect on the date of the members meeting at which it should have been submitted to the members. In such cases, future by-law changes that have substantially the same effect as the one rejected or not submitted will not become effective on approval of the directors. They only become come into effect when approved by the members.

Step 5 – Within 12 months of the confirmation of the by-law changes by the members, a copy of the amended by-laws must be sent to Corporations Canada.

2. Rule for "Special" By-law Amendments

The following are the steps for approving by-law changes that address certain matters relating to membership in the corporation^{[1](#)} which require special approval by members:

Step 1 – Initiate a change to a special by-law by a member proposal or by the board of directors.

Step 2 – Members approve the change – or they amend it and then confirm it – by special resolution. If the subject matter of the special by-law amendment addresses exchanging, reclassifying or cancelling all or part of the memberships of a particular class, approval of the special by-law amendment will require a separate class vote.^{[2](#)} In a separate class vote, members of a class who do not otherwise have the right to vote are permitted to vote separately as a class. See also [Rights and Responsibilities of Members](#).

Step 3 – The by-law change takes effect, as approved, on the date of the member approval.

Step 4 – Within 12 months of the confirmation of the by-law changes by the members, a copy of the amended by-laws must be sent to Corporations Canada.

By-laws that do not clearly make the distinction between General and "Special" By-law Amendments, may mislead the board of directors and create a situation in which the membership adopts ordinary resolutions for all by-law amendments, resulting in by-laws that may not be properly in force with respect to all provisions.

This means that any by-laws drafted under the NFP Act should be very clear regarding the amending formula that applies to the various by-law provisions. Here are some options that may be considered to provide clarity:

- place all by-law provisions that can only be changed by special resolution into one, separate by-law and leave the remaining provisions in another by-law that requires only an ordinary resolution to amend;
- include all provisions in one general operating by-law but group the matters requiring a special resolution into one section, so that it is clear that these matters can only be changed by special resolution;
- throughout the by-laws indicate those that require special approval; or
- include a requirement in the articles that all by-law changes require a special resolution of members in order to come into effect.³

Copies of any new by-laws, amendments or repeal of by-laws must be sent to Corporations Canada within 12 months of such changes being confirmed or approved by members. Corporations Canada will not review or approve the new by-laws, but copies will be provided to interested parties upon request.

¹ The subject matter of special by-law amendments relates to (a) conditions required for being a member, (b) the designation of any class or group of members or adding, changing or removing any rights and conditions of any such class or group, (c) dividing any class or group of members into two or more classes or groups and fixing the rights and conditions of each class or group, (d) transfer of memberships, (e) manner of giving notice to members entitled to vote at a meeting of members, (f) method of voting by members not in attendance at a meeting of members (i.e., proxy voting) and (g) related definitions and interpretive provisions.

² NFP Act s. 199(1).

³ Subsection 7(4) allows the articles to require a greater number of votes of directors or members than are required by the NFP Act to effect any action, in which case the articles shall prevail.
