

ISAO INFORMATION BULLETIN (ISAO IB)

Director's and Officer's Responsibilities

23 July 2019

References: [Canada Not-for-profit Corporations Act](#) Statutes of Canada (S.C.) 2009 Chapter (c.) 23

[Articles of Continuance](#) (of ISA Ontario)

[ISAO BY-LAW NO. 1](#) 30 April 2014, Revised 21 February 2019

[ISAO Policies and Procedures](#)

This ISAO IB is a compilation of quotes from ISAO governance documents. It is provided as a convenient way to reference these documents, including as it does specific sections that directly pertain to an officer's or director's responsibilities. For a complete and comprehensive understanding of an officer's or director's responsibilities under the Canada Not-for-profit Corporations Act, all referenced documents should be fully studied. Nevertheless, this ISAO IB does provide a good summary of responsibilities.

1. [Canada Not-for-profit Corporations Act](#)

[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.

Attendance at meeting

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

Meeting of directors

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.

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.

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.

2. Articles of Continuance

10. Additional Provisions

- a) The corporation shall be carried on without the purpose of gain for its members, and any profits or other accretions to the corporation shall be used in furtherance of its purposes.

- b) 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 performing his or her duties. A director shall not be prohibited from receiving compensation for services provided to the Corporation in another capacity.

3. [Statement of Purpose of the Corporation](#)

Form 4031 – Articles of Continuance (transition)

Schedule “A”

INTERNATIONAL SOCIETY OF ARBORICULTURE- ONTARIO Inc.

6) Statement of the purpose of the corporation:

The purposes of the Corporation are:

1. To promote and improve the quality practice of professional arboriculture.
2. To promote public awareness of and to develop a greater appreciation for trees; and to promote public interest and cooperation in the planting and preservation of trees and the beautification of the environment.
3. To initiate and support scientific research and investigation related to arboriculture; and to publish the results of such research and investigation.
4. To support arborists through educational activities, professional conferences, written publications, and other appropriate means.
5. To foster and maintain quality professional practice standards.
6. To facilitate the continuing education of arborists through sponsoring and delivering professional knowledge and skills credentialing programs established by the International Society of Arboriculture (ISA).
7. To recommend and foster appropriate professional ethical principles and standards.
8. To sponsor conferences devoted to the exchange and presentation of information of interest and value to professional arborists and others concerning the planting and preservation of trees.
9. To seek and foster provincial and national cooperation and collaboration with other organizations, both public and private, relating to arboriculture and to matters of common interest and benefit.
10. To afford the manufacturers of materials or equipment and providers of services of value and used in the practice of arboriculture opportunities to introduce and demonstrate their products and services to practising arborists.
11. To encourage and support a separate fund of funds established exclusively for educational and scientific purposes relating to the practice of arboriculture.

4. ISAO BY-LAW NO. 1

5.01 Directors Powers

The directors may exercise all such powers and do all such acts or things as may be exercised or done by the Corporation that are not by the Act, articles or by-laws expressly directed or required to be done in some other manner. Subject to the Act, articles and by-laws the board shall manage or supervise the management of the activities and affairs of the Corporation.

6.05 Votes to Govern

At all meetings of the board, every question shall be decided by a majority of the votes cast on the question. The chair of the meeting shall not exercise a vote except in the case of an equality of votes either on a show of hands or on a ballot or on the results of electronic voting.

SECTION 7 – OFFICERS

7.01 Appointment

The board may designate the offices of the Corporation, 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 Corporation. A director may be appointed to any office of the Corporation. 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.

7.02 Description of Offices

Unless otherwise specified by the board (which may, subject to the Act modify, restrict or supplement such duties and powers), the offices of the Corporation, if designated and if officers are appointed, shall have the following duties and powers associated with their positions:

- (a) President – If appointed, the president shall be a director. The president shall, when present, preside at all meetings of the board and the members.

The president shall appoint all standing committee chairs at the time the president takes office and may appoint temporary committees to act during the president's term of office or at the annual conference.

- (b) President-Elect – If appointed, the president-elect shall be a director. If the president is absent or is unable or refuses to act, the president-elect, if any, shall, when present, preside at all meetings of the board and of the members. The president-elect shall have such other duties and powers as the board may specify.
- (c) Vice-President– If appointed, the vice-president shall be a director. If the president and president-elect are absent or are unable or refuse to act, the vice-president, if any, shall, when present, preside at all meetings of the board and of the members. The vice-president shall have such other duties and powers as the board may specify.

- (d) Immediate Past-President – If appointed, the immediate past-president shall be a director. The immediate past-president shall assist the president as requested. The immediate past-president shall have such other duties and powers as the board may specify.
- (e) Executive Director – If appointed, the executive director shall be the chief executive officer of the Corporation and shall be responsible for implementing the strategic plans and policies of the Corporation. The executive director shall, subject to the authority of the board, have general supervision of the affairs of the Corporation.
- (f) Secretary – If appointed, the secretary shall attend and be the secretary of all meetings of the board, members and committees of the board. The secretary shall enter or cause to be entered in the Corporation's minute book, minutes of all proceedings at such meetings; the secretary shall give, or cause to be given, as and when instructed, notices to members, directors, the public accountant and members of committees; the secretary, or such other officer or employee as designated by the secretary, shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation.
- (g) Treasurer – If appointed, the treasurer shall keep, or cause to be kept, proper accounting records as required by the Act. The treasurer shall deposit, or cause to be deposited, all monies received by the Corporation in the Corporation's bank account; the treasurer shall, under the direction of the board, supervise the safekeeping of securities and the disbursement of the funds of the Corporation; the treasurer shall render to the board, whenever required, an account of all his or her transactions as treasurer and of the financial position of the Corporation; and the treasurer shall perform such other duties as may from time to time be prescribed by the board.

The powers and duties of all other officers of the Corporation shall be such as the terms of their engagement call for or the board or president requires of them. The board may from time to time and subject to the Act, vary, add to or limit the powers and duties of any officer. In the event that any of the officers above are not appointed, to the extent that such officers have any responsibilities pursuant to any other provisions of this by-law, the board may assign those responsibilities to another officer or employee of the Corporation.

SECTION 8 – COMMITTEES

8.01 Committees

The board may from time to time establish 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, or terminate any committee or other advisory body, as it deems necessary or appropriate. The size, composition, structure and election process for members of any such committee shall be established by the board. Any such committee shall operate within the rules and directions as the board may from time to time make. Any committee member may be removed by resolution of the board.

5. Policies and Procedures

0. AUTHORITY and REQUIREMENTS

The Board of Directors may not make, amend or repeal any Policies or Procedures in this document without having the Policies and Procedures, amendment or repeal confirmed by the members by ordinary resolution

at a Meeting of Members. The Policies and Procedures, amendment or repeal is only effective on the confirmation of the members and in the form in which it was confirmed.

The current, up-to-date Policies and Procedures must be available to members either continuously, such as on an accessible web page; or upon a member's request shall be made available within one week electronically, by mail or in person where a person so requests in person at the office of the ISAO.

The Canada Not-for-profit Act and By-law No.1 of the ISAO are senior to these Policies and Procedures. The Policies and Procedures serve to provide specific instruction to the Board of Directors in carrying out their responsibilities under the Act and the By-law.

A. Executive Committee

The Executive Committee shall consist of the officers of ISAO appointed by the Board of Directors with the exception of the President Elect who shall be elected by the membership simultaneously as a Director (3-year term) and President Elect at the Annual Meeting of Members and then, in accordance with the ISAO By-law, shall be appointed as President Elect by the Board of Directors. The President Elect shall succeed to the positions of President and then Past President respectively in the second and third year of their elected term and shall be so appointed by the Board of Directors. The Executive Director is a non-voting member of the Executive Committee.

Duties and Powers of Executive Committee

1. Through the Executive-Director and/or Administrative contract, the Executive Committee shall administer the affairs of ISAO as directed by the Board of Directors.
2. The Executive Committee shall recommend to the Board of Directors for review and action:
 - a) ISAO objectives for the coming year
 - b) Budget proposals
 - c) Original and updated changes to the Articles of Continuance of Incorporation Statement of Purpose; Bylaws, Policy and Procedures, Operational Policy and employee job descriptions.
 - d) Future conference sites.
 - e) Committee recommendations.
 - f) ISAO employee evaluations and salary recommendations.
 - g) Other appropriate matters.
3. The Executive Committee is empowered to authorize a mail or e-mail ballot of the Board of Directors provided that the provisions of the By-law are followed.
4. The Executive Committee shall review with the Executive Director, establish and implement action on, and inform the Board of Directors on:
 - a) Investment of special reserves.
 - b) Agenda for the Board of Directors meeting.
 - c) ISAO employee evaluation criteria.
 - d) Employee salary scales and personnel matters.
 - e) Status of office, equipment, etc.
 - f) Status of publication number and relevance.
6. Implementation of other directives of the Board of Directors.