



ANNUAL MEMBERS MEETINGS

The Ins and Outs of Annual Meetings of Members

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Each year, non-profit corporations incorporated under *The Non-profit Corporations Act, 1995* (Saskatchewan) ("**Act**") must hold an annual meeting of members ("**Annual Meeting**").¹ Such a meeting is often referred to as the "annual general meeting" or "AGM". Below we provide information about the purpose of such meeting and legal requirements to consider when preparing for your corporation's Annual Meeting. When organizing any meeting of the members, including an Annual Meeting, it is essential to consult the Act and the corporation's Articles and Bylaws to ensure that all requirements are followed.

What is the Purpose of an Annual Meeting?

The purpose of an Annual Meeting is to gather the members of a corporation to report on the corporation's activities over the previous year and make decisions regarding the corporation.

Who Is Required to Receive Notice?

Notice of an Annual Meeting must be given to the members² entitled to vote on matters before the meeting, the directors, and the auditor. This notice must be sent no more than 50 days and not less than 15 days before the date of the Annual Meeting.

¹ Subject to the exception set out at Section 123(2) of the Act.

² Members of a non-profit corporation are similar to shareholders in a for-profit corporation. Members and directors are not necessarily the same.

What Legally Needs to Occur at an Annual Meeting?

Three pieces of business must occur at each Annual Meeting:

1. Consideration of Financial Statements and Auditor's Report

At each Annual Meeting the financial statements and, if applicable, any auditor's reports, must be brought forward and considered by the members. While the financial statements must be put before the members, there is no legal requirement for the financial statements to be voted on by the members.

Note: While the financial statements do not need to be approved by the members, they must be approved by the board of directors in advance of being provided to the members.

2. Election of Directors

Where there is a vacancy on the board (either through a resignation or the expiration of a term), the members should be given the opportunity to elect (or re-elect) directors at an Annual Meeting.

Members can nominate persons to serve as directors at the Annual Meeting, or in advance by giving notice to the organization. It is important that each corporation review its governing documents (e.g. Articles and Bylaws) to determine whether there are restrictions on the nomination procedure and to determine the term that directors are entitled to serve. If a corporation wishes to require nominations take place prior to the Annual Meeting, an appropriate process can be specified in the corporation's Bylaws.

Note: The Act states that three years is the maximum term limit for any director. Directors may be eligible for re-election at the end of such term. The Act does not set a maximum number of allowable terms, but a corporation's Articles or Bylaws may.

3. Appointing or Dispensing with the Appointment of an Auditor

At each Annual Meeting the members must appoint an auditor for the upcoming year. Under certain circumstances, a non-profit corporation may resolve not to appoint an auditor; sections 149 to 151 of the Act should be consulted prior to deciding to take this step. A corporation's governing documents may also set certain requirements regarding an auditor.

Note: The reappointment of an incumbent auditor is considered normal Annual Meeting business for which no special notice is required. However, the appointment of a new auditor is considered special business for which special notice must be given (details on what notice is required when considering special business is set out below).

What Else Can Occur at an Annual Meeting?

In addition to the matters referenced above, an Annual Meeting can be used to amend Articles or Bylaws, or to consult the members regarding other issues the corporation is facing, including significant changes the corporation wishes (or is required by law) to have the members approve.

What if "Special Business" is being considered at an Annual Meeting?

Special business is any matter put before the Annual Meeting other than the following:

- a) consideration of financial statements;
- b) consideration of auditor's report (if any);
- c) the election of directors (if necessary);
- d) the reappointment of an incumbent auditor;
- e) the consideration of Bylaws submitted by the directors (if any).

Examples of special business include amending a corporation's Articles or a resolution to dissolve the corporation.

If any special business is put before the Annual Meeting, the Annual Meeting becomes an Annual and Special Meeting of the Members and notice must be given of the special business. Notice of special business must (i) state the nature of the business in sufficient detail to permit the member to form a reasoned judgement concerning that business, and (ii) include the text of any special resolution to be submitted to the meeting. Notice of special business can be included as part of the notice for the typical business conducted at an Annual Meeting.

Who Is Entitled to Vote?

Generally, at any meeting of the members, including Annual Meetings and Annual and Special Meetings, only the voting members of the corporation are entitled to vote.³ Each corporation should consult its governing documents (in particular its Articles) to determine which classes of members are entitled to vote. Consider providing coloured voting cards to members who attend a meeting of members to avoid any confusion as to who is entitled to vote.

The directors are not entitled to vote at meetings of members, unless they are also members of the corporation.

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³ The Act sets out certain circumstances under which non-voting members do have the right to vote. For example, in the event a corporation desires to dispense with an auditor or a corporation desires to dissolve.