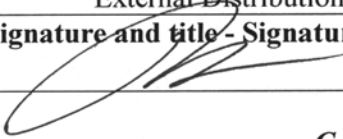
 Industry Canada Industrie Canada	POLICY STATEMENT ÉNONCÉ DE POLITIQUE 13.11
Corporations Canada	Date May 1, 2007
Reference or division - Référence ou division External Distribution – Diffusion externe	Cancels – Annule New
Signature and title - Signature et titre 	Page 1 of – de 10

**CANADA CORPORATIONS ACT PART II
CONTINUANCE OF A CORPORATION CREATED
UNDER AN ACT OF PARLIAMENT,
INCLUDING A SPECIAL ACT OF PARLIAMENT**

Why use this policy?

The purpose of this policy is to help you submit an application under either section 156 or 159 of the *Canada Corporations Act* (CCA) to continue a corporation without share capital created under an Act of Parliament or a Special Act of Parliament under Part II of the CCA. By ensuring that you provide all the required information with your initial application, you can help Corporations Canada process your application swiftly.

A Special Act of Parliament is a private member's bill that was passed by both the House of Commons and the Senate. Such Acts have been used to create not-for-profit corporations. Section 159 of the CCA allows these corporations to continue under Part II of the CCA, if the corporation meets the criteria of the CCA.

Section 156 of the CCA is similar to section 159 except that section 156 applies to corporations without share capital created by or under any Act of the Parliament of Canada whereas section 159 applies to corporations without share capital created by a Special Act of Parliament. This policy may be used by corporations using either section 156 or 159 to continue under Part II of the CCA.

Continuance is an alternative to having a statute passed by Parliament in order to amend the corporation's charter. To consider a Parliamentary amending statute, consult:

Law Clerk and Parliamentary Counsel
Senate of Canada
Parliament Buildings
Wellington Street
Ottawa, ON K1A 0A4
Tel: 613-992-2416

By continuing under Part II of the CCA, the normal CCA rules with respect to amending Letters Patent and by-laws would apply. Once continued under Part II, the Act of Parliament or Special Act of Parliament (as the case may be) would no longer apply to the corporation.

Caution: This policy is not intended to replace legal advice. Accordingly, you may wish to consult with legal counsel or other professional advisors prior to continuing your corporation under CCA Part II.

What does Corporations Canada do?

Corporations Canada will check that your documents comply with the CCA and other requirements, are in proper form, and that any proposed name is acceptable. If so, Corporations Canada will issue Letters Patent of Continuance showing the date of receipt of your application as the effective date. If you prefer, you may instead request a later effective date.

What happens when an application for continuance is deficient or incomplete?

Applications that are deficient or incomplete will be returned to the applicant with a notice stating the nature of the deficiency.

What documents must be filed in order to obtain Letters Patent of Continuance?

An application for Letters Patent of Continuance must include a covering letter (see sample in Annex 1) together with the following documents:

- 1) Two (2) executed copies of an application for Letters Patent of Continuance (see sample in Annex 2);
- 2) A statutory declaration of an authorized officer of the corporation, sworn before a commissioner for taking oaths, stating that: (see sample in Annex 3)
 - a) the facts in the application are true;
 - b) the corporation is presently carrying on its affairs; and
 - c) the resolution authorizing continuance was duly passed.
- 3) Two (2) copies of the directors' resolution which was duly approved by the members (2/3 vote) or a resolution originating with the members passed by a 2/3 vote. The copies must be certified by an authorized officer of the corporation (see sample in Annex 4);
- 4) The corporation's by-laws amended to comply with the requirements of subsection 155(2) or alternatively, a notice to the effect that the by-laws will be so amended at the next meeting of the members. For more information on by-laws, please see the "Model By-laws Policy";
- 5) A copy of the incorporating statute and any amending statutes;
- 6) A NUANS® report¹ not more than 90 days old as well as information pertinent to the name. If you requested prior approval of your name, attach a copy of the letter from Corporations Canada approving your name with the copy of the NUANS® report; and
- 7) Payment of the \$200 filing fee.

NUANS® Report

You must provide a search, that is, a NUANS® report under the federal rules for determining whether the name you are proposing is available. A NUANS® report is a five-page document setting out the business names (3 pages) and trade marks registered in Canada (2 pages) that sound or look similar to the name you are proposing. The list is drawn from a national data bank of existing and reserved trade names as well as trade marks that have been registered and applied for in Canada.

A NUANS® report may be obtained in three ways:

1. A NUANS® report may be requested from a private company known as a search house. You can find a list of these firms on Corporations Canada's website (www.corporationscanada.ic.gc.ca) by following the links "Choosing A Name" and "NUANS® Registered Search Houses" or in the Yellow Pages of your telephone directory under "incorporating companies, incorporation name search, searchers of records or trade mark agents – registered". There is a fee for this service.

¹ The NUANS® report is required whether or not the corporation is changing its name because the statutory name has not previously been reviewed and approved by Corporations Canada.

2. A NUANS® report may be ordered online at Corporations Canada's website (www.corporationscanada.ic.gc.ca) by following the links "Choosing A Name" and "NUANS® Real Time System (RTS)". The fee is \$20 payable by credit card (American Express®, MasterCard® or Visa®). The system provides direct access to the NUANS® search service. Applicants should note that a NUANS® report that is generated may be rejected if the proposed name does not meet the requirements of the CCA.
3. The applicant may request Corporations Canada to obtain the necessary NUANS® reports for the proposed name. The fee for this service is \$15 a search. Bilingual names normally require two (2) searches.

When you order a NUANS® report, that report has a life of 90 days from the date it is requested. A search house can advise you whether your proposed name is likely to be accepted by the Director. The final decision, however, always rests with the Director.

Bilingual Name

If your corporation intends to carry on business in a region or regions where both English and French are spoken, you may wish to consider adopting a bilingual corporate name.

The procedure is the same as for a unilingual name, except that one NUANS® report is required for each name or variation requested. For example, two NUANS® reports must be filed in order to verify that the phonetically dissimilar English and French forms of a name are both distinctive.

Registered Charity Status under the *Income Tax Act*

The *Income Tax Act* requires that corporations whose objectives are charitable to be registered with the Canada Revenue Agency (CRA) as charities. Registration as a charitable organization allows a not-for-profit corporation to issue tax-deductible receipts to those who contribute to their cause and to avoid having to pay income tax on their income. Being incorporated as a not-for-profit corporation under the *Canada Corporations Act* is not sufficient by itself to be considered a registered charity for the purposes of the *Income Tax Act*.

Information on, and the application form for, charitable registration on the CRA website at www.cra.gc.ca/charities or may be obtained by contacting:

Charities Directorate
Canada Revenue Agency
320 Queen Street, Place de Ville, Tower A
Ottawa, ON K1A 0L5
Tel.: 613-954-0410
Toll Free: 1-800-267-2384

If your corporation is already a registered charity, it will be necessary for CRA to review and approve the objects in the Letters Patent of Continuance, even if there is no change in the wording of the objects. It is suggested that you apply for approval prior to or at the same time as you file your application for continuance.

If your corporation is not a registered charity, but intends to apply to become a registered charity, it is suggested that you make your application to become a registered charity prior to or at the same time as you file your application for continuance. Otherwise, the corporation may have to make an application for Supplementary Letters Patent.

Additional Information and how to reach Corporations Canada

For additional information on Corporations Canada's products and services, please visit the Corporations Canada website www.corporationscanada.ic.gc.ca or call 1-866-333-5556.

You can also contact Corporations Canada at:

Client Services Section
Corporations Canada
Industry Canada
9th floor, Jean Edmonds Tower South
365 Laurier Avenue West
Ottawa, Ontario K1A 0C8
Toll free: 1-866-333-5556
Fax: 613-941-0601
www.corporationscanada.ic.gc.ca

ANNEX 1
Sample Letter to Corporations Canada for Continuance

Date:

Current Corporate Number:

To: Corporations Canada
Industry Canada
9th Floor, Jean Edmonds Towers South
365 Laurier Avenue West
Ottawa, Ontario K1A 0C8

Enclosed are:

1. Application for Incorporation (2 copies) in the name _____.
2. By-laws (1 copy) (please indicate which situation applies to the by-laws):
 - Corporations Canada model by-laws.
 - OR**
 - previously approved by Corporations Canada standard by-laws with identifier no. _____.
 - OR**
 - unique by-laws (i.e., not Corporations Canada model by-laws and not previously approved by Corporations Canada with an identifier number).
3. Statutory Declaration of one applicant sworn before a commissioner for taking oaths.
4. Two (2) certified copies of the directors' resolution which was duly approved by the members [two certified copies of the members' resolution, duly passed]
5. NUANS® name search report not more than 90 days old (please indicate which situation applies to the NUANS® report):
 - If you requested prior approval of your name: the letter from Corporations Canada approving your name _____.
 - OR**
 - If you did not request prior approval of your name: a NUANS® report not more than 90 days old as well as information pertinent to the name _____.
 - OR**
 - A cheque payable to the Receiver General for Canada in the amount of \$15.00 being the filing fee for searching one proposed name. Bilingual names normally require 2 searches.
6. Cheque for \$200 payable to the Receiver General for Canada.

The street address of the head office is:

SIGNED:

NAME:

ADDRESS:

TELEPHONE NUMBER:

ANNEX 2
APPLICATION FOR CONTINUANCE OF A CORPORATION WITHOUT SHARE
CAPITAL UNDER PART II OF THE CANADA CORPORATIONS ACT

* When drafting, please insert only applicable wording where choices are provided for in this form.

To the Minister of Industry:

I

The application of _____:
(corporate name)

SHOWS THAT:

The applicant requests Letters Patent under the provisions of section 159 of the *Canada Corporations Act* continuing it as if it had been incorporated under Part II of the *Canada Corporations Act* as a body corporate and politic without share capital and is presently carrying on its affairs under the name of _____.
(corporate name)

The applicant is now constituted a corporation by an Act of the Parliament of Canada, being _____.
(name of Act and cite)

[* The applicant requests that as part of the issuance of Letters Patent the name of the corporation be changed to

(INDICATE THE NAME OF THE CORPORATION)

The undersigned has satisfied itself and is assured that the proposed name under which continuance is sought is not the same or similar to the name under which any other company, society, association or firm, in existence is carrying on business in Canada or is incorporated under the laws of Canada or any province thereof or so nearly resembles the same as to be calculated to deceive (* and, if required by the circumstances: “except that of _____ which has signified its consent to the use of this name”) and that it is not a name which is otherwise on public grounds objectionable.

II

The name, the place of residence and the occupation of each of the directors is as follows:

JOHN DOE,
100 Dominic Street, Bytown, Ontario K1A 0C9 - Barrister

JAMES SMITH,
200 Dominic Street, Bytown, Ontario K1A 0C9 - Office Manager

ANN JONES,
300 Dominic Street, Bytown, Ontario K1A 0C9 - Secretary

III

The objects of the Corporation are:

(The objects should be set forth in the infinitive form, in general terms (unless the corporation is or is to be a registered charity under the *Income Tax Act*) and be as brief as possible; they should also be compatible with the type of business implied by any descriptive word which may form part of the corporate name).

(If the corporation is, or is to be, a charity registered under the *Income Tax Act*, it is suggested that you request Canada Revenue Agency's approval the objects).

IV

The operations of the corporation may be carried on throughout Canada and elsewhere.

V

The place within Canada where the head office of the corporation is to be situated is: (Please specify only municipality/city and province here. The complete street address should be indicated in the covering letter)

VI (OPTIONAL)

(The following clause is recommended if the corporation is to be registered as a Canadian charitable organization under the *Income Tax Act*):

It is specially provided that in the event of liquidation, dissolution or winding-up of the corporation, all its remaining assets after payment of its liabilities shall be distributed to one or more qualified donees as defined under the provisions of the *Income Tax Act* (or, "registered charitable organizations in Canada").

(If the corporation is charitable in nature but not intending to be registered as a Canadian charitable organization, the following wording is recommended):

It is specially provided that in the event of liquidation, dissolution or winding-up of the corporation, all its remaining assets after payment of its liabilities shall be distributed to one or more organizations in Canada carrying on similar activities.

(If the corporation is not to be charitable in nature but only a membership corporation, you may wish to specify one of the following):

It is specially provided that in the event of liquidation, dissolution or winding-up of the corporation, all its remaining assets after payment of its liabilities shall be distributed rateably amongst the members.

It is specially provided that in the event of liquidation, dissolution or winding-up of the corporation, all its remaining assets after payment of its liabilities shall be distributed to _____.

VII (OPTIONAL)

In accordance with Section 65 of the *Canada Corporations Act*, it is provided that, when authorized by by-law, duly passed by the directors and sanctioned by at least two-thirds of the votes cast at a special general meeting of the members duly called for considering the by-law, the directors of the corporation may from time to time:

1. borrow money upon the credit of the corporation;
2. limit or increase the amount to be borrowed;
3. issue or cause to be issued bonds, debentures or other securities of the corporation and pledge or sell the same for such sums, upon such terms, covenants and conditions and at such prices as may be deemed expedient;
4. secure any such bond, debentures or other securities, or any other present or future borrowing or liability of the company, by mortgage, hypothec, charge or pledge of all or any currently owned or subsequently acquired real and personal, movable and immovable, property of the corporation, and the undertaking and rights of the corporation.

Any such by-law may provide for the delegation of such powers by the directors to such officers or directors of the corporation to such extent and in such manner as may be set out in the by-law.

Nothing herein limits or restricts the borrowing of money by the corporation on bills of exchange or promissory notes made, drawn, accepted or endorsed by or on behalf of the corporation.

VIII

The by-laws of the corporation shall be those filed with the application for Letters Patent until repealed, amended, altered or added to. (Please ensure that by-laws deal with each matter set out in subsection 155(2) of the *Canada Corporations Act*).

IX

The corporation is to carry on its operations without pecuniary gain to its members and any profits or other accretions to the corporation are to be used in promoting its objects.

The applicant therefore requests that Letters Patent be granted continuing it as if it had been incorporated under Part II of the *Canada Corporations Act* as a body corporate and politic without share capital for the purposes above set forth.

I hereby certify that I have the relevant knowledge of the corporation and that I am authorized to sign and submit this application.

Dated at the City of _____, in the Province of _____, this __ day of _____, 20__.

(Corporate Seal)

Authorized officer (e.g., President)

ANNEX 3

IN THE MATTER OF THE
CANADA CORPORATIONS ACT

AND

IN THE MATTER OF AN APPLICATION
PURSUANT TO PART II

(Name of Applicant Corporation)

STATUTORY DECLARATION OF OFFICER

I, _____, of the City of _____ in the Province of _____,

DO SOLEMNLY DECLARE that:

1. I am _____ of _____ and have personal knowledge of the matters
(title) (corporation name)
herein deposited to.
2. I have knowledge of the matter, and that the statements in the annexed application contained are, to the best of my knowledge and belief, true in substance and in fact.
3. At a meeting of the directors of this corporation held at the City of _____ on the
____ day of _____, 20____, the special resolution, two certified copies of which are hereto
annexed, was duly passed.
4. On the ___ day of _____, 20__ , this resolution was sanctioned by at least 2/3 of the votes cast at a
special general meeting of the members of this corporation duly called for the purpose of considering
the same and held at the City of _____.
5. The statements in the annexed application are true in substance and in fact and the proposed
continuance of the corporation under Part II of the *Canada Corporations Act* is *bona fide* and is
considered to be in the best interest of the corporation.

AND I make this solemn declaration conscientiously believing it to be true, and knowing that it is
of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED before me at the
City of _____,
in the Province of _____,
this ____ day of _____, 20__.

Authorized officer (e.g., President)

A Commissioner, etc.

**ANNEX 4
SPECIAL RESOLUTION**

A special resolution authorizing an application under section [156 or 159] of the *Canada Corporations Act* for Letters Patent of Continuance continuing the corporation created by a Special Act of Parliament under Part II of the *Canada Corporations Act*.

Be it enacted and it is hereby enacted as a special resolution of _____ (herein called "the corporation") that: (corporate name)

1. The corporation be and is hereby authorized to make application to the Minister of Industry for the issue of Letters Patent of continuance continuing the corporation under Part II of the *Canada Corporations Act* with the name of _____.
2. The directors and officers are hereby authorized and directed to do, sign and execute all things, deeds and documents necessary or desirable for the due carrying out of the foregoing.

Enacted this ____ day of _____, 20__.

Authorized officer (e.g., President)

Authorized officer (e.g., Secretary)

(Corporate Seal)

Certified a true copy of the special resolution of _____ (corporate name) enacted by the directors the _____, 20__ and sanctioned by a vote of not less than 2/3 of the members present at a special general meeting of the corporation held _____.

Authorized officer (e.g., Secretary)

(Corporate Seal)