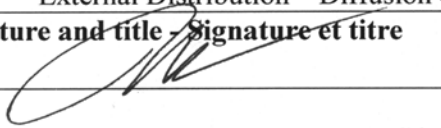
 Industry Canada Industrie Canada	POLICY STATEMENT ÉNONCÉ DE POLITIQUE 13.9
Corporations Canada	Date May 1, 2007
Reference or division - Référence ou division External Distribution – Diffusion externe	 Cancels – Annule New
Signature and title - Signature et titre 	Page 1 of – de 7

CANADA CORPORATIONS ACT PART II
SURRENDER OF CHARTER
PURSUANT TO SUBSECTION 32(1)

Why use this policy?

The purpose of this policy is to help you submit an application, pursuant to subsection 32(1), to surrender the charter of a not-for-profit corporation under Part II of the *Canada Corporations Act* (CCA). By ensuring that you provide all the required information with your initial application, you can help Corporations Canada process your application documents swiftly. This policy describes the information required for an application for surrender and for a request to withdraw an application for surrender.

Section 32 of the CCA allows a corporation to surrender its charter, which has the effect of dissolving the corporation. Subsection 32(1) applies to a corporation that has been operational. Subsection 32(2) applies to a corporation that has not gone into *bona fide* operation or has been inoperative for three or more consecutive years. In both situations, the corporation is required to have no debts, liabilities or other obligations or to have provided for all debts, liabilities or other obligations.

In the case of subsection 32(1), the corporation is required to publish notice of the intended surrender in the *Canada Gazette* and in a newspaper published at or near to the place of the corporation's head office. Creditors and other interested persons are entitled to object to the surrender the charter. The Minister will not accept the surrender of charter and issue the directive for dissolution until all objections have been resolved.

Caution: This policy is not intended to replace legal advice. Accordingly, you may want to consult with legal counsel or other professional advisors prior to submitting an application to surrender your charter.

What does Corporations Canada do?

Corporations Canada will check that your documents comply with the CCA and other requirements and are in proper form. In order to surrender its charter, the corporation must prove to the satisfaction of the Minister that:

- a) the corporation:
 - i) has no assets; or
 - ii) if the corporation had assets, they have been:
 - 1) distributed among other recognized charitable corporations in Canada;
 - 2) distributed among other corporations in Canada possibly having the same or similar objects, or
 - 3) rateably divided amongst the members; and

- b) the corporation:
 - i) has no debts, liabilities or other obligations; or
 - i) that the debts, liabilities or other obligations have been duly provided for.
- c) 120 days have passed since notice was given in the *Canada Gazette* and a newspaper published at or as near as may be to the place where the corporation has its head office.

If the application satisfies the Minister that the requirements of subsection 32(1) have been met and it has been more than 120 days since the publication in the *Canada Gazette* and the newspaper, Corporations Canada will issue the Directive of Dissolution and Cancellation of Charter with the effective date being the date of receipt of the application. The corporation is not dissolved until the Directive is issued.

If the application is received and satisfies the Minister that the corporation has dealt with its assets and liabilities, but the 120-day notice period has not started or has not finished, Corporations Canada will issue a letter stating that the Minister is satisfied that the conditions of subsection 32(1) have been met, subject to the notice period in the *Canada Gazette*. Once 120 days has elapsed after the publication date of the notice in the *Canada Gazette*, you can request Corporations Canada to issue the Directive of Dissolution and Cancellation of Charter. **The corporation is not dissolved until this Directive is issued.** The Directive will be dated as of the date Corporations Canada receives the request for the Directive or 120 days after the date of the publication, whichever is later. The corporation is not dissolved until the Directive is issued.

Please note that issuance of the Directive is always subject to any new information or objection being brought to Corporations Canada's attention during the notice period or before any decision is made that could affect the Minister being satisfied that the conditions of subsection 32(1) have been met.

After the Directive of Dissolution and Cancellation of Charter has been issued, Corporations Canada will publish a "Notice of Effective Dissolution" in the *Canada Gazette* for the purpose of updating federal and provincial corporate files. In addition, Corporations Canada will publish a notice of the date of dissolution of the corporation on its website in the section "Corporations Canada's Monthly Transactions".

What happens when an application for surrender of charter is deficient or incomplete?

Applications for surrender that are deficient or incomplete will be returned to the applicant with a notice stating the nature of the deficiency and indicating the Minister's further requirements.

A common error is for a corporation to publish a notice under subsection 32(1), but submit the actual application under subsection 32(2). In these cases, a new notice must appear in the *Canada Gazette* that will supersede the first.

What documents must be filed in order to surrender your charter?

An application for surrender of charter must include the following documents:

1. Two (2) original signed copies of an application for surrender of charter (see sample in Annex 1);
2. One (1) copy of the resolution or by-law of the members authorizing the surrender, including the date it was passed. The resolution or by-law is to be passed by a majority of members unless the Letters patent or by-laws say otherwise.
3. A statutory declaration of an officer, sworn before a commissioner for taking oaths, certifying that the facts mentioned in the application are true (see sample in Annex 2);
4. A statement of an officer certifying the following three (3) things:
 - a) the due passage of the resolution or by-law by the members;

- b) that the corporation:
 - i) has no assets; or
 - ii) if the corporation had assets, they have been:
 - 1) distributed among other recognized charitable corporations in Canada;
 - 2) distributed among other corporations in Canada, possibly having the same or similar objects, or
 - 3) rateably divided amongst the members; and
 - c) that the corporation:
 - i) has no debts, liabilities or other obligations; or
 - ii) that the debts, liabilities or other obligations have been duly provided for.
5. Original Letters Patent (and Supplementary Letters Patent if any). If those have been lost, a statutory declaration, sworn before a commissioner for taking oaths, attesting to that fact is required.
6. A copy of the *Canada Gazette* and newspaper publications, indicating the date of publication must also be attached (see sample in Annex 3);

No fee is required.

Publication of Notice in the *Canada Gazette*

One of the requirements for surrendering a corporation's charter is providing creditors and other interested parties with notice of the intention to surrender the charter of the corporation. Such notice is the only official notice necessary to warn creditors and other interested parties of the intended dissolution of a corporation. If a corporation intends to surrender its charter under subsection 32(1), the corporation is responsible for publishing a bilingual notice in the *Canada Gazette*. This must be done by the corporation before submitting the application to Corporations Canada. A sample notice is in Annex 3. Failure to submit a bilingual notice will result in the *Canada Gazette* translating your notice and billing you for its services. Further, a "Request for insertion form for non-federal clients" (i.e., a request for insertion from the private sector) must be completed and accompany the notice when sent to the *Canada Gazette*. A copy of the form is available at <http://canadagazette.gc.ca/publication-e.html>.

Contact Information:

Canada Gazette
Canada Gazette Directorate
Government Information Services Branch
Public Works and Government Services Canada
350 Albert Street, 5th Floor
Ottawa, Ontario K1A 0S5
Tel.: 613-996-1268
Toll free: 1-866-429-3885
Fax: 613-991-3540
www.canadagazette.gc.ca

Objections to Dissolution

If an objection is raised, Corporations Canada will advise the applicants that an objection has been raised and by whom. The Directive of Dissolution and Cancellation of Charter will not be issued until the objection is cleared or withdrawn. Proof of such clearance must be in the form of written approval to proceed with the application from the interested party or parties who initially raised the objection.

An objection will be considered if it is made by:

- a) the Canada Revenue Agency or a provincial revenue department if it states that an assessment

or a reassessment has been or will be raised; or

- b) a creditor or other interested party if it is accompanied by proof of the claim.

Withdrawal of Applications

A corporation may choose to withdraw its application for surrender of charter prior to the issuance of the Directive of Dissolution and Cancellation of Charter. After the Directive has been issued, the corporation is dissolved and it is no longer possible to withdraw the application for surrender of charter.

The following material should be submitted when withdrawing an application for surrender of charter:

- a) a statement that there still are members of the corporation;
- b) a copy of the members' special resolution or by-law withdrawing the application, sanctioned in the same manner as the members' special resolution or by-law authorizing the surrender; and
- c) proof of a notice published in the *Canada Gazette* and in a daily newspaper of the corporation's intention to withdraw the application.

If these conditions are met, the application will be withdrawn and the application documents, including the Letters Patent and Supplementary Letters Patent, if any, will be returned to the applicant. Corporations Canada will publish a Notice of Withdrawal of the application in the *Canada Gazette*. In addition, Corporations Canada will publish a notice setting out the withdrawal of the application on its website in the section "Corporations Canada's Monthly Transactions".

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

CANADA CORPORATIONS ACT
APPLICATION FOR SURRENDER OF CHARTER
Subsection 32(1)

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

1. Name of Corporation:
2. Date of Incorporation:
3. Date of Supplementary Letters Patent, if any:
4. The following documents are attached as part of the application:
 - Resolution or by-law of the members authorizing the surrender, including the date it was passed.
 - Statutory declaration, sworn before a commissioner for taking oaths, certifying that the facts mentioned in the application are true.
 - Statement of an officer certifying the following three (3) items:
 - (a) the due passage of the resolution by the members;
 - (b) a statement indicating that the corporation:
 - i) has no assets; or
 - ii) if the corporation had assets, they have been:
 - 1) distributed among other recognized charitable corporations in Canada;
 - 2) distributed among other corporations in Canada, possibly having the same or similar objects, or
 - 3) rateably divided amongst the members; and
 - (c) a statement indication that the corporation:
 - i) has no debts, liabilities or other obligations; or
 - ii) that the debts, liabilities or other obligations have been duly provided for.
 - Original Letters Patent (and Supplementary Letters Patent if any). If those have been lost, a statutory declaration, sworn before a commissioner for taking oaths, attesting to that fact is required.
 - A copy of the *Canada Gazette* and newspaper publications, indicating the date of publication.

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

SIGNED: _____
Authorized officer (e.g., President)

NAME:

(Corporate Seal)

ADDRESS:

TELEPHONE NUMBER:

ANNEX 2

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 deposed 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. I have satisfied myself and am assured that no public or private interest will be prejudicially affected by surrendering the charter of this company.

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 3
SAMPLE NOTICE

Notice is hereby given that (corporate name) intends to apply to the Minister of Industry for leave to surrender its charter pursuant to subsection 32(1) of the *Canada Corporations Act*.

Avis est par les présentes donné que (dénomination de la corporation) demandera au ministre de l'Industrie la permission d'abandonner sa charte en vertu du paragraphe 32(1) de la *Loi sur les corporations canadiennes*.

Dated _____.

John Doe
President

Daté le _____.

John Doe
Président