



The Corporate Minute Book: More Important Than You May Think

Every Ontario corporation is required to keep a minute book. But just what exactly is a minute book and why is it so important?

Practically speaking, the corporate minute book is a binder that contains the documents and information pertinent to a corporation. It includes legal documents such as the Articles of Incorporation, the corporation's by-laws, and, where applicable, the Shareholders' Agreement. The minute book also holds the minutes of company meetings, and resolutions of both directors and shareholders. It contains registers: the shareholders register, the directors register and the officers register. Typically, share certificates for the corporation are also held in the minute book, although these certificates may be stored in a more secure location with copies of the originals in the book itself.

Often, we are asked about the importance of preparing and maintaining the corporate minute book. Under the *Ontario Business Corporations Act* (OBCA), corporations are required to keep up-to-date corporate records. Likewise, federal legislation also requires corporations governed by federal law to create and maintain a corporate record book. Further, the OBCA also requires that corporations permit access to the corporate minute book to shareholders upon request.

These documents are not only required by the OBCA, but they are generally required prior to receiving loans from financial institutions, or as part of the due diligence process for a share transaction, or investment by a third party into the corporation. Often, the cost to update the corporate

minute book retroactively is greater than the cost of regular maintenance.

Keeping an up-to-date corporate minute book also assists corporations with compliance with other provisions of the OBCA. For example, the OBCA requires corporations to have an annual meeting of shareholders within 15 months of the previous shareholder meeting. Resolutions passed by shareholders at this meeting are then inserted into the minute book.

The OBCA also requires corporations to file a Notice of Change to advise of changes to the corporation, including the register of directors or officers, or of the address of an existing officer or director, or the head office of the corporation. The Notice of Change can be prepared together with the updates necessary to the registers contained in the corporate minute book.

As most officers and directors will know, any payment of bonuses and/or dividends must be approved by resolution. Given the tax implications surrounding the date of the payment, having the resolution documented in the minute book can assist financial advisors in ensuring that the appropriate paperwork is available to support the financial plan.

Of course, the OBCA also provides for significant penalties for a failure to maintain the corporate records. Failure to comply with the Act can lead to fines of \$25,000, and the officers and directors of the corporation may be personally liable. Similarly, the *Corporations Information Act* provides



for penalties of up to \$25,000 for failing to comply with requirements to file corporate documents.

Should you require assistance in putting together or updating your corporate minute book, please feel free to contact a member of our corporate-commercial group for assistance.

About the Author

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Cynthia is an experienced courtroom advocate who achieves effective and practical solutions to her clients' legal disputes. Her clients include those within the construction industry including owners, contractors, sub-trades and material suppliers, commercial landlords and tenants, and private and public lenders. Cynthia is frequently retained in cases of serious medical malpractice

where clients seek compensation for negligence on the part of a physician or health care professional. In all cases, she is effective at understanding her clients' interests, both legal and practical, and developing a strategy that best achieves results for her clients in the most cost-efficient and timely manner.

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