

# INFORMATION SHEET FOR LAWYERS FORMING A PROFESSIONAL CORPORATION

Under the *Law Society Act*, one or more persons who are licensed to practise law in Ontario as barristers and solicitors may establish a professional corporation for the purpose of practising law in Ontario. Lawyers intending to form a professional corporation must incorporate under the *Ontario Business Corporations Act*. For forms and instructions on how to incorporate, contact the Companies Branch of the Ministry of Government Services at [www.mgs.gov.on.ca](http://www.mgs.gov.on.ca) or (416) 314-8880.

Following incorporation, the corporation must apply to the Law Society for a Certificate of Authorization. Without this Certificate, the corporation is not permitted to practise. Information about professional corporations and the online application for a Certificate of Authorization are available on the Law Society's website at <http://rc.lsuc.on.ca/jsp/membershipServices/professionalCorporations.jsp>.

Lawyers applying for a Certificate of Authorization should refer to sections **3.1 to 3.4** of the *Business Corporations Act*, sections **61.0.1 to 61.0.9** of the *Law Society Act*, the Law Society's **By-Law 7 Part II**, and **Rules 3.01 & 3.02** of the Law Society's *Rules of Professional Conduct* to ensure all requirements are met.

Applicants are strongly encouraged to review section 3.4 of the *Business Corporations Act* entitled "**No limit on professional liability**".

Issuance of the Corporate Name Certificate does not guarantee that the professional corporation name will be authorized. For example:

Where plural terms such as 'partners' or 'and associates' are used in the name of the professional corporation, there must be the appropriate number of individuals forming the professional corporation prior to approval for a Certificate of Authorization to use the name.

**ARTICLES OF INCORPORATION MUST INCLUDE** a clause restricting the business of the professional corporation in accordance with section 3.2(2) 5 of the *Business Corporations Act* and section 61.0.1(5) of the *Law Society Act*. The following language appears to satisfy the requirements in the *Business Corporations Act* and the *Law Society Act*:

*The corporation may not carry on a business other than the practice of law, but this paragraph shall not be construed to prevent the corporation from carrying on activities related to or ancillary to the practice of law, including the investment of surplus funds earned by the corporation.*

**ARTICLES OF INCORPORATION MUST INCLUDE** a clause restricting the issuance of the shares of the professional corporation. Refer to Section 3.2(2) 1 of the *Business Corporations Act* and section 61.0.1(4) of the *Law Society Act*. The Law Society has found the following share restriction language acceptable:

All of the issued and outstanding shares of the Professional Corporation shall be legally and beneficially owned, directly or indirectly, by one or more persons who are licensed to practise law in Ontario (such person or persons being hereinafter individually and collectively referred to as a "shareholder"), but this paragraph shall not be construed to prevent such shares from being transferred to, or otherwise owned by the estate trustee (or by the estate trustees, if more than one) of any deceased shareholder in accordance with the Law Society Act R.S.O. 1990, c L.8, or the Business Corporations Act R.S.O. 1990, c. B.16, for the purposes of administering the shareholder's estate, but not for the practise of law.

Holding companies are permitted as shareholders. The ownership of shares in a holding company must be restricted to licensee(s). Shares in a holding company may not be owned by family members or non-licensees. In addition, the business of a holding company must be restricted to holding the shares of the professional corporation. Applicants who intend to use a holding company must submit the Articles of Incorporation for the holding company along with their Application for a Certificate of Authorization.

**All applicants are strongly encouraged to seek appropriate professional advice with respect to establishing a professional corporation suited to their specific circumstances.**