

Share Capital Social Companies Dissolved for Failing to Continue by October 19, 2026

Non-Profit & Charities

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The deadline for social companies with share capital currently incorporated under the *Ontario Corporations Act* (the “OCA”) to continue under one of three other acts expires on October 18. A quick search suggests that there are still more than 60 such companies that have failed to do so. In addition, it appears that an additional 154 such companies are listed as “inactive” on the Ontario Business Registry. We are not able to determine the basis on which these companies are so categorized, and if any of them are still in operation and own property.

The result under section 2.1(2) of the OCA is that any of these companies that fails to continue will be automatically dissolved on October 19. In some cases, we understand that, despite having had five years to complete such a continuance, these companies are either not aware of the need to continue or do not understand the consequences of failing to do so. However, all is not lost, as the OCA provides a mechanism which will still allow for a continuance.

Once the company is dissolved under s.2.1(2), OCA s.2.1(3) deems the company to continue to exist after its dissolution only for the following purposes:

1. To hold a meeting of the shareholders in order to pass a special resolution to authorize the filing of articles of continuance under one of the Acts listed in subsection (1).
2. To apply to the court under subsection (7).

This ability to revive and continue will remain in effect under OCA s.2.1(9) until October 19, 2046.

If it is not possible to obtain a quorum for a meeting of shareholders to approve the continuance, OCA ss. 2(7) and (8) provide for an application to a court to waive the requirement for a special resolution. The court must be satisfied that the company has made reasonable efforts to locate its shareholders and to serve them with a notice of meeting. The order may contain terms and conditions that the court considers appropriate in the circumstances.

S.2.1(10) provides that, upon obtaining a certificate of continuance, the company will be deemed for all purposes to have never been dissolved, subject to any terms, conditions and limitations imposed under the Act under which the company is continued, and any rights acquired by any person during the period of dissolution.

The OCA does not set out procedures to be followed when a social company is dissolved. Instead the real and personal property owned by the company will become “forfeited corporate property” under the *Forfeited Corporate Property Act, 2015*. This means it becomes the property of the Crown (i.e., the Province of Ontario). This Act provides a process by which the property is disposed of. A receiver-manager is appointed to liquidate the assets of the company, pay all debts and distribute the proceeds. S.27 contains special provisions dealing with charitable property of a company and s.33 sets priorities and contains provisions for how the proceeds are to be distributed.

No doubt it will take some time for such a process to be implemented, during which time the former shareholders may take the necessary steps to revive and continue the company under one of the three applicable statutes. The Ministry of Public and Business Service Delivery and Procurement of Ontario will have a list of all companies that did not continue and we assume that notices will be sent to each company on the list to advise of their new status. However, we have not received any information from the Ministry on what they plan to do.

There may be other consequences of the dissolution, which will have to be dealt with during the interim period of time up to the date on which the articles of continuance are filed. These may include possible loss of charitable registration under the *Income Tax Act*. This is not automatic. CRA, when it becomes aware that a registered charity has lost its corporate status will send the (former) corporation a letter stating it must provide proof within 90 days that it is still a legal entity, failing which CRA will take steps to revoke its charitable registration. In order to provide this proof, the dissolved corporation will need to prove it has been revived. The dissolved corporation may also have to deal with loss of realty tax exemptions, difficulties with banking and other matters.

(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).

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