



# *NCSAC SERVICES:* Let's talk legal with Bill Reid

**Topic: Starting your own business**



# BUSINESS LAW: Types of Business Enterprises

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There are various ways in which a business enterprise may be undertaken in Canada.

- An individual may operate a business individually, as a sole proprietor
- Two or more people may form a partnership
- One or more people may incorporate a for-profit business corporation
- One or more may incorporate a not-for-profit corporation, although they will need at least three individuals to be directors of a not-for-profit corporation.

# BUSINESS LAW: Sole Proprietorship

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- If an individual wants to operate a business without incorporating a corporation, they are required to register with the Ontario government as a sole proprietorship.
- By doing so, they do not create a separate legal entity, or acquire any protection against personal liability, for example liability to suppliers or liability for damage caused by defective goods or services.

# BUSINESS LAW: Partnership

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- If two or more individuals want to operate a business without incorporating, they are likewise required to register with the government.
- However, what they register is a partnership. As with a sole proprietorship, they do not thereby create a separate legal entity, or acquire protection against personal liability.
- However, they have the option of creating a limited partnership, in which at least one partner, but not all, has unlimited liability while the others are protected.

# BUSINESS LAW: Incorporating a Corporation

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- To create a separate legal entity that provides protection from individual liability, it is necessary to incorporate a corporation.
- A business corporation may be incorporated by a single individual, who would then be sole shareholder of the corporation.
- That individual may also be the sole director and officer, or may choose to appoint other individuals to be directors and/or officers, and may or may not also hold those positions, but will remain the only shareholder.

# BUSINESS LAW: Business Corporation

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- A business corporation may also be incorporated by two or more individuals.
- Such individuals will likewise be the shareholders, and likewise may be the directors and officers, appoint other individuals into those roles, or both.
- In any business corporation, officers make day-to-day decisions, and may be paid for their work; directors provide broad oversight and may also be paid; however shareholders are the owners of the corporation, and receive its ultimate profit or loss.

# BUSINESS LAW: Not-for-Profit Corporation

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- One or more individuals may carry out activities for the good of others rather than for their own profit, without incorporating.
- However, if they intend to achieve objectives on a significant scale, they probably should incorporate a not-for-profit corporation, also referred to as a corporation without share capital.
- As the name suggests, a corporation without share capital does not have shareholders.

# BUSINESS LAW: Members of a Corporation

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- The individuals who control a corporation without share capital are called members.
- A corporation without share capital must have at least three directors, but is allowed to have as little as one member, and as little as one officer.
- However, neither the members nor any other individuals are allowed to directly receive any profits that the corporation makes – those profits must be retained by the corporation, and applied toward its objectives.



# BUSINESS LAW: Benefits of Incorporation

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- The main benefit of incorporating is that a corporation is a separate legal entity, so the individuals who own it are not generally liable for its debts.
- Another benefit is that the public often perceives a corporation to be more sophisticated and permanent than an unincorporated business.
- A corporation may be incorporated either in a province or in the federal jurisdiction, and if someone forms a sole proprietorship or partnership, they may later incorporate a corporation and transfer their business activities into the corporation.

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