

Incorporation of a Non-Profit Organization in Quebec



COCO Legal Info-sheet

Published 03/09. Updated 08/18.

Please note: This info-sheet focuses on organizations incorporated provincially in Quebec. It also outlines some of the differences between incorporating federally and provincially in Quebec.

This info-sheet covers:

1 Incorporation: Do we really have to?.....	1
2 Difference between incorporation and charitable status.....	2
3 Why incorporate	2
4 What is incorporation.....	3
5 Incorporate federally VS provincially.....	4
6 Incorporating provincially in Quebec	5
7 Incorporating federally in Quebec.....	6

1 Incorporation: Do we really have to?!

At COCo, we see groups with all sorts of structures working for social change. Some organizations do exciting work, staffed entirely by volunteers, with no legal structure. They are not incorporated as non-profit organizations and see the paperwork involved as an unnecessary burden. For decision-making, these groups may run informally, or they may pick a more formal process and structure. Others team up with already existing non-profit organizations and avoid the infrastructure work required to set up and maintain a new organization.

Are you sure you need to incorporate your group as a non-profit? Are you aware of the other options available to achieve your goals? Before you take the steps to incorporate outlined in this info-sheet, you may want to look at another COCo document, "Key Questions to Think About Before Incorporating a Non-Profit Organization". It provides an overview of alternative ways to do your group's social change work without incorporating. It also reviews some reasons why your group may not want to incorporate. Please see:

COCO Document "Key Questions to Think About Before Incorporating a Non-Profit Organization"
<http://coco-net.org/wp-content/uploads/2012/07/Key-things-before-inc-EN-modified-20121.pdf>

2 What is the difference between incorporation and charitable status?

A non-profit organization is not necessarily a charity. Many non-profit organizations do not have charitable status.

Applying for charitable status is a separate process through the **Canada Revenue Agency**. Registered charities do not have to pay income tax and benefit from other preferential tax treatment, such as with the GST and QST.

Charities can also provide official tax receipts for donations, which entitle the donors to gain certain tax benefits in exchange for their donations. Registered charities are also eligible to apply for funding from public and private charitable foundations.

For more information on charitable status:

**COCo Info-Sheet
"Applying for Charitable Status"**

For more information on the differences between the rights and obligations of non-profit organizations and registered charities:

**Imagine Canada's Sector Source:
"What is the difference between a nonprofit, charity, and foundation?"
<http://sectorsource.ca/managing-organization/charity-tax-tools/charity-tax-faq>**

3 Why incorporate?

Some funders will only grant money to incorporated non-profit organizations. Although being an incorporated non-profit is sufficient for some funders to be eligible for grants, for others funders, charitable status is also required.

Incorporation can provide advantages for an organization. It provides a legal structure that stays in place even as the active members change over the years. An incorporated non-profit can enter into contracts and have its own bank accounts.



For example...

For a couple of years now, Sally has been running a soup kitchen in her local community centre with some generous volunteers. Sally incorporates in Quebec as “*Sally’s Soup Kitchen*”. After incorporation, *Sally’s Soup Kitchen* can sign its name on a contract for weekly deliveries of carrots, and it will have a separate bank account from Sally’s personal accounts.

4. What is incorporation?

You can incorporate an organization whose purpose is to make a profit (a business) and you can incorporate an organization whose purpose is not to make a profit (such as a community organization). When you incorporate, you are establishing a separate legal entity that is considered to be a legal person and is registered with a provincial and/or federal enterprise registrar.

In Quebec, the provincial enterprise registrar is called **Registraire des entreprises**. The federal enterprise registrar is run by **Corporations Canada**. Once your organization is incorporated, some information about it will be available in a register for the public to see (your address, your last submitted list board of directors, whether you filed your annual documents on time, etc.).

Registraire des entreprises

<http://www.registreentreprises.gouv.qc.ca/en/>

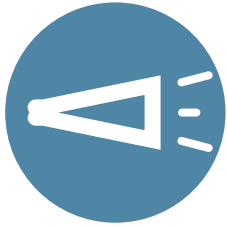
Corporations Canada

<https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/home>

An incorporated non-profit organization must follow certain requirements by law. **Note that this info-sheet focuses on organizations incorporated provincially in Quebec.**

Here are some examples of the legal obligations of non-profit organizations incorporated with the province of Quebec:

- The organization must have a governing board of directors with at least three directors who are duly elected by the members;
- The organization must create and follow its bylaws or “règlements généraux” which contain the general rules of how the organization should operate.



Some of the rules you will find in the bylaws include:

- who is eligible to be a member of the organization;
 - when the annual general meeting is held; and
 - how elections for board members occurs.
-
- An incorporated non-profit organization must have an annual general meeting where the members, among other items, elect board members and receive financial statements.
 - Incorporated non-profits organizations are required to file an annual declaration form with the enterprise registrar, as well as pay an annual registration fee.
 - If the organization changes its head office or its general mission, it must obtain the approval of its board and its members and apply to the enterprise registrar for supplementary letters patent
 - The non-profit organization will also have to meet other legal requirements, for example including filing tax returns, paying the provincial and federal government remittances and source deductions for any employees, registering volunteers and employees for **CSST** (the Quebec government's public insurance plan for work-related injuries) if required.

For more on the annual requirements of non-profits, you might want to look at another COCo document, "Annual Requirements Checklist for a Non-Profit Organization in Québec".

COCo Info-Sheet
"Annual Requirements Checklist for a Non-Profit Organization in Québec"
<http://coco-net.org/en/node/5176>

5. Should we incorporate federally or provincially?

You can incorporate through the federal government or with the Quebec provincial government.

Differences between federal and provincial incorporation:

- Provincial non-profit organizations must have their head office ("*siège social*") and keep their books and records in the province of Quebec.
- Federal non-soliciting corporations can have a sole director, and federal soliciting corporations must have at least three directors. Organizations incorporated provincially in Quebec need to have a minimum of three directors.

- If you incorporate federally but your office is in Quebec or you conduct activities in Quebec, your organization will also need to register with Quebec's *Registraire des entreprises*. Your organization will have to file annual and updating returns both with Corporations Canada and with the Quebec business registrar, and pay the annual fees.
- The constituting documents of a federally incorporated non-profit can provide for a range in the number of board members (for example, between 3 to 7 members), but non-profits incorporated provincially in Quebec need to have a fixed number of board members (for example 3 members).

For the definition of a federal soliciting corporation, please see:

Requirements for soliciting corporations under the Canada Not-for-profit Corporations Act (NFP Act)
<https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs05011.html>

- Federally incorporated non-profits need to follow specific financial requirements relating to financial review or audits, and appointment of an accountant. The applicable rules depend on the organization's size and revenue sources. Note that your funder may require you to follow certain financial review or audit requirements.

For more information about the financial statements and review requirements for federally incorporated non-profits, please see:

Financial Statements and Review
<https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs05010.html>

6. How do we incorporate provincially in Quebec?

In Quebec you incorporate your organization with the Registraire des entreprises (REQ). First you must first confirm that the name that you have chosen is available. Then, complete the application form (“Demande de constitution en personne morale sans but lucratif”) and provide the application fee.

To Apply to the Registraire des entreprises (REQ):
<http://www.registreentreprises.gouv.qc.ca/en/demarrer/constituerpmsbl.aspx>

The enterprise registrar provides a guide to the Quebec incorporation process for a non-profit organization at the following address:

Quebec Guide: Creating a Non-Profit Legal Person
[http://www.registreentreprises.gouv.qc.ca/documents/guides/le-50.c5.01.6v\(2007-04\).pdf](http://www.registreentreprises.gouv.qc.ca/documents/guides/le-50.c5.01.6v(2007-04).pdf)

How to Request a reservation of Name?
<http://www.registreentreprises.gouv.qc.ca/en/consulter/reservation/default.aspx>

7. How do we incorporate at the federal level?

Federal incorporation is done through *Corporations Canada*. For specific guidelines on the application process, see the following guide that provides a summary of all steps required to incorporate as a federal non-profit organization, as well as the required application forms.

Creating a not-for-profit corporation

<https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs04970.html>

More generally, note that Corporation Canada provides very comprehensive tools for non-profits, including a guide to incorporation and the steps to take following incorporation, sample bylaws and an interactive by-law builder, model resolutions, a summary of the roles and legal responsibilities of directors and members, corporate and filing obligations, and how to change the structure or nature of the organization.

For more information, see:

Not-for-Profit Corporations

https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h_cs03925.html



IMPORTANT NOTE: Consider the eligibility criteria for charitable status!

If your organization will be applying for charitable status, ensure that you learn about the eligibility requirements before incorporating, so that the requirements for charitable status are met in your incorporation documents. This includes ensuring that your organization's purposes are charitable, and that you include any other required statements for charitable status in the application incorporate your organization. Consult with a lawyer for more information.

If any of the links listed above are no longer functioning, you can contact the enterprise registrar of Quebec at 1 877 644-4545 and the federal enterprise registrar at 1 866 333-5556.

Because we are not lawyers at COCo, our info-sheets only present general information. COCo never provides legal advice. While we do our best to ensure that our information is accurate, please consult a lawyer if you want professional assurance that our information, and your interpretation of it, is appropriate to your particular situation. You can contact COCo for a list of lawyers with experience working with community groups. Please know that COCo cannot take responsibility for your use and interpretation of the information in our info-sheets.