

# Memorandum

To: Pride Toronto  
From: Maggie Fleming  
Date: January 7, 2022  
Re: Amendments Made to Draft Corporate Bylaws

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As per your request, please find below a summary of the differences between Pride Toronto's By-Law Number 1 dated 21 January 2021 and our proposed By-law Number 1, revised for the purpose of bringing the constating documents of Pride Toronto (the **Corporation**) into compliance with Ontario's Not-for-Profit Corporations Act, 2010.

The following changes were made to the Corporation's Draft Bylaws:

## **Section 1 – General**

### **1.03 Severability and Precedence**

*The following was added:*

The invalidity or unenforceability of any provision of this By-law shall not affect the validity or enforceability of the remaining provisions of this By-law. If any of the provisions contained in the By-laws are inconsistent with those contained in the articles or the *Act*, the provisions contained in the articles or the *Act*, as the case may be, shall prevail.

### **1.05 Execution of Documents**

*The following was added:*

... All cheques, bills of exchange or other orders for the payment of money, notes or other evidence of indebtedness issued in the name of the Corporation shall be signed by the Co-Chair and the Treasurer, or, any two (2) Officers or persons authorized by the Board.

In addition, the Board may from time to time direct the manner in which and the person(s) by whom a particular document or type of document shall be executed. Any person authorized to sign any document may affix the corporate seal, if any, to the document. Any Director or Officer may certify a copy of any instrument, resolution, By-law or other document of the Corporation to be a true copy thereof.

## 1.06 Head Office and Registered Office

*The following was added:*

- a. The head office of the Corporation is the registered office of the corporation.
- b. The Corporation may change the location of its registered office within a municipality or geographic township by resolution of the Directors.
- c. The Corporation may change the municipality or geographic township in which its registered office is located to another place in Ontario by special resolution.
- d. The Corporation shall make best efforts while acting in a commercially reasonable manner to lease or otherwise obtain office space within reasonable proximity of the Corporation's annual cultural festival in the City of Toronto, in the Province of Ontario, for use as its head office, as the Directors may, from time to time, by resolution determine.
- e. The head office of Pride Toronto shall (i) be fully accessible, meeting the requirements of the *Accessibility for Ontarians with Disabilities Act, 2005* at a minimum, and shall have available gender-neutral washroom facilities and, (ii) be equipped with fire alarms with visual indicators. Notwithstanding, this clause shall not be enforceable prior to the expiry of the existing term of Corporation's lease for those lands municipally-known as 158 Sterling Road, Toronto, Ontario, or earlier, in the event of amendment to or cancellation of the said lease agreement.

## 1.07 Contractual Provisions

*The following was added:*

All contracts made between Pride Toronto and any location-based venue or business, for the purpose of hosting a live event sponsored by or otherwise affiliated with Pride Toronto, must contain a binding provision that requires as follows:

- a. Where any gender-segregated facilities are to be provided at the event (including but not limited to restrooms and change rooms), all possible action must be taken (up to and including the posting of temporary signage) to provide equivalent equitable gender-neutral facilities, for the duration of the event.
- b. Any *bona fide* exceptions to this requirement shall be on a case-by-case basis, and must be recorded and justified and the reasoning made available to Members' inquiry. Any venues or events found by attendees or Members to be in violation of this requirement will be subject to the Conflict Resolution Policy. the Board shall hold accountable those Directors, Officers and employees responsible for the inclusion of the contractual provision as laid out above.

## **Section 2 – Directors**

### **2.01.1 Qualification**

*The following was added:*

The following persons are disqualified from being a director of the Corporation:

- a. A person who is not an individual.
- b. A person who is under 18 years old.
- c. A person who has been found under the *Substitute Decisions Act, 1992* or under the *Mental Health Act* to be incapable of managing property, or, who is otherwise not legally competent to conduct business or to contract under the laws of Ontario and the laws of Canada applicable therein.
- d. A person who has been found to be incapable by any court in Canada or elsewhere.
- e. A person who has the status of bankrupt.
- f. A person who was not a member of the Corporation at the time of their election or appointment.
- g. A person who is an employee, independent contractor, or consultant of the Corporation.
- h. A person who has been employed by the Corporation within the six (6) months prior to election or appointment to the Board.
- i. A person who has rendered services to the Corporation as a paid contractor or a paid consultant within the twelve (12) months prior to election or appointment to the Board.
- j. A person who is not bondable.
- k. A person who fails to consent in writing to holding office as a Director before or within ten (10) days after election or appointment.
- l. Any person who previously served as a Director for a period including any six (6) consecutive annual meetings of the members, except where at least two (2) years have elapsed since such person ceased to be a Director.

### 2.01.2 Nomination for Election

*The following was added:*

- A. The Board shall:
  1. Establish a process, including the manner and method, for selecting from all candidates the person(s) to be nominated by the Board to stand for election as a Director;
  2. Ensure that its process for selecting such nominee(s) is transparent;
  3. Apply such process consistently to each nomination by the Board;
  4. Approve candidate(s) as nominee(s) for election as a Director according to its process; and
  5. Disclose in the notice provided to Members prior to a Membership Meeting at which Directors are to be elected the process by which the Board selected the nominee(s).

### 2.01.3 Composition of the Board

*The following was added:*

- A. The Executive Director of the Corporation shall be a non-voting *ex officio* member of the Board of Directors.

*The following was removed:*

The affairs of the Corporation shall be managed by the Board of Directors, which shall consist of a minimum of five (5) members and a maximum of twelve (12) members.

Subject to section 18.1, the Board shall determine the number of Directors to be elected at each Membership Meeting at which Directors are to be elected.

Officers of the Corporation shall be elected annually by and from the members of the Board of Directors.

### **2.02.1 Removal of a Director**

*The following was removed:*

A director shall not have their membership revoked unless they have been removed as a Director by the membership.

### **2.02 Vacancies**

*The following was added:*

The office of a Director shall be vacated immediately:

1. if the Director resigns office by written notice to the Corporation, which resignation shall be effective at the time it is received by the Corporation or at the time specified in the notice, whichever is later;
2. if the Director dies or becomes bankrupt;
3. if the Director is found to be incapable by a court or incapable of managing property under Ontario law; or
4. if, at a meeting of the Members, the Members by ordinary resolution removes the Director before the expiration of the Director's term of office.

*The following was removed:*

“ceasing to be a member” as a grounds for vacancy.

### **2.03 Filling vacancies:**

*The following was added:*

if the vacancy occurs as a result of the Members removing a Director, the Members may fill the vacancy by an **ordinary resolution**.

A vacancy on the Board shall be filled as follows, and the Director appointed or elected to fill the vacancy holds office for the remainder of the unexpired term of the Director's predecessor.

*The following was removed:*

Any person appointed to fill a Vacancy, shall serve until the next AGM.

## 2.04 Committees

*The following was added:*

Committees may be established by the Board as follows:

1. The Board may appoint from their number a managing Director or a committee of Directors and may delegate to the managing Director or committee any of the powers of the Directors except those powers set out in the *Act* that are not permitted to be delegated; and
2. Subject to the limitations on delegation set out in the *Act*, the Board may establish any committee it determines necessary for the execution of the Board's responsibilities. The Board shall determine the composition and terms of reference for any such committee. The Board may dissolve any committee by resolution at any time.
3. Each committee shall:
  - a. have the power to establish their own procedures in conformance with the Corporation's letters patent, supplementary letters patent, articles, By-laws and the Act;
  - b. sit at the pleasure of the Board;
  - c. have such powers and authority as delegated to them by the Board; and
  - d. report to the Board.

## 2.05 Remuneration of Directors

*The following was added:*

The Directors shall serve as such without remuneration and no Director shall directly or indirectly receive any profit from occupying the position of Director; subject to the following:

1. Directors may be reimbursed for reasonable expenses they incur in the performance of their Directors' duties;
2. Directors may be paid remuneration and reimbursed for expenses incurred in connection with services they provide to the Corporation in their capacity other than as Directors, provided that the amount of any such remuneration or reimbursement is:
  - i. considered reasonable by the Board;
  - ii. approved by the Board for payment by resolution passed before such payment is made; and
  - iii. in compliance with the conflict of interest provisions of the *Act*; and
3. Notwithstanding the foregoing, no Director shall be entitled to any remuneration for services as a Director or in other capacity if the Corporation is a charitable corporation, unless the provisions of the *Act* and the law applicable to charitable

corporations are complied with, including Ontario Regulation 4/01 made under the Charities Accounting Act.

## **2.06 Authority of Individual Director**

*The following was added:*

No individual Director shall have any authority to act on behalf of the Board with respect to agents or employees of the Corporation except as provided in the By-laws or by resolution of the Board.

No individual Director shall have any authority to act on behalf of the Corporation with respect to the transaction of the affairs of the Corporation except as provided for in the By-laws or by resolution of the Board.

## **2.07 Power to Appoint and Retain Agents, Employees, Advisors**

*The following was added:*

The Board of Directors may appoint and retain any agents, employees and advisors that it reasonably considers necessary at the expense of the Corporation. The persons appointed or retained shall have the authority and shall perform the duties prescribed by the Board of Directors.

No Director shall be employed by the Corporation.

A former Director may only be employed by the Corporation after at least six (6) months beyond the end of their term.

## **Section 3 – Board Meetings**

### **3.03 Notice**

*The following was added:*

Notice of the time and place for the holding of a meeting of the Board shall be given in the manner provided in Section 10 of this By-law to every Director of the Corporation not less than three (3) days before the date that the meeting is to be held. Notice of a meeting is not necessary if all of the Directors are present, and none objects to the holding of the meeting, or if those absent have waived notice or have otherwise signified their consent to the holding of such meeting. If a quorum of Directors is present, each newly elected or appointed Board may, without notice, hold its first meeting immediately following the annual meeting of the Corporation.

### **3.04 Chair**

*The following was added:*

A Chair shall preside at Board meetings. In the absence of a Chair, the Directors present shall choose one of their number to act as the Chair.

### **3.05 Voting**

*The following was added:*

Each Director has one vote. Questions arising at any Board meeting shall be decided by a majority of votes. In case of an equality of votes the item shall be deemed defeated, and no Chair shall have a second or casting vote. A Director may not participate in a Board meeting by proxy.

### **Section 4 – Financial**

Moved Sections 2.1 and 40.2 from Original Bylaws into this section.

### **Section 5 – Officers**

#### **5.01 Officers**

*The following was added:*

The office of treasurer and secretary may be held by the same person and may be known as the secretary-treasurer. The Board may appoint such other Officers and agents as it deems necessary, and who shall have such authority and shall perform such duties as the Board may prescribe from time to time.

#### **5.02 Office Held at Board's Discretion**

*The following was added:*

Any Officer shall cease to hold office upon resolution of the Board. Unless so removed, an Officer shall hold office until the earlier of:

- a. the Officer's successor being appointed,
- b. the Officer's resignation, or
- c. such Officer's death.

#### **5.04 – 5.07 Duties**

The duties of officers (Co-chair, executive director, treasurer, secretary, all moved to schedules at end of bylaws)

### **Section 6 – Protection of Directors and Others**

#### **6 – Protection of Directors and Others**

*The following was added:*

Subject to the *Act*:

- A. No Director, Officer or committee member of the Corporation is liable for the acts, neglects or defaults of any other Director, Officer, committee member or employee of the Corporation or for joining in any receipt or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by resolution of the Board or for or on behalf of the Corporation or for the insufficiency or deficiency of any security in or upon which any of the money of or belonging to the Corporation shall be placed out or invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or Corporation with whom or which any moneys, securities or effects shall be lodged or deposited or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of his or her respective office or trust provided that they have:
  1. complied with the *Act* and the Corporation's articles and By-laws; and
  2. exercised their powers and discharged their duties in accordance with the *Act*
- B. The Corporation shall indemnify and save harmless the Directors, their heirs, successors, executors and administrators, and estates and effects, respectively from time to time and at all times from and against:
  1. all costs, charges, and expenses whatsoever that they sustain or incur in or about any action, suit or proceeding that is brought, commenced, or prosecuted against them, for or in respect of any act, deed, matter, or thing whatsoever made, done or permitted by them in the execution of the duties of their office; and
  2. all other costs, charges, and expenses that they sustain or incur in or about or arising from or in relation to the affairs except costs, charges or expenses thereof as are occasioned by their own gross negligence, wilful misconduct, or bad faith.

### **Section 7 – Conflict of Interest**

The Conflict of Interest section was expanded upon in the new draft of the Corporate Bylaws:

#### **7.01 Conflict of Interest**

- A. A Director who is a party to a material contract or transaction or proposed material contract or transaction with the Corporation or is a director or officer of, or has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the Corporation shall:
  1. make the disclosure required by the *Act*, at the earlier of the time required by the *Act* and the first meeting of the Directors after which they became interested or aware of any such material interest;
  2. request that their declaration be recorded in the minutes of the meeting; and



3. except as provided by the *Act*, not attend any part of a meeting of Directors during which the contract or transaction is discussed or vote on any resolution to approve any such contract or transaction.
- B. Every declaration of interest and the general nature thereof shall be recorded in the minutes of the Board meeting at which such declaration is made.
- C. The Executive Director shall not participate in discussion topics about the Executive Director or other topics that would be deemed a conflict of interest.

## **7.02 Charitable Corporations**

No Director shall, directly or through an associate, receive a financial benefit, through a contract or otherwise, from the Corporation unless the provisions of the *Act* and the law applicable to charitable corporations are complied with.

## **Section 8 – Members**

### **8.02 Membership**

*The following was added:*

A Director shall not have their membership revoked unless they have been removed as a Director by the membership.

Upon ceasing to be a Director of the Corporation, a Director ceases to be a member of the Corporation unless otherwise qualified to be a member pursuant to the By-laws.

*There were also some changes made to the language regarding termination, below:*

### **8.03 Disciplinary Act or Termination of Membership for Cause**

1. Upon 15 days' written notice to a Member, the Board may pass a resolution authorizing disciplinary action or the termination of membership for violating any provision of the articles or By-laws.
2. The notice shall set out the reasons for the disciplinary action or termination of membership. The Member receiving the notice shall be entitled to give the Board a written submission opposing the disciplinary action or termination not less than 5 days before the end of the 15-day period. The Board shall consider the written submission of the Member before making a final decision regarding disciplinary action or termination of membership.

### **8.04 Administrative Termination of Membership –**

Membership shall cease:

- (a) upon the death or incapacity of that member;
- (b) when the member resigns by written notice given to the Secretary of the Corporation; or

- (c) when the member is expelled or the person's membership is otherwise terminated in accordance with the articles or by-laws;
- (d) when the member's term of membership expires; or
- (e) when the Corporation is liquidated or dissolved.

## **Section 9 Members' Meetings**

### **9.01 Annual Meeting**

*The following was added:*

The annual meeting shall be held on a day and at a place within Ontario fixed by the Board. Any Member, upon request, shall be provided, not less than five business days before the annual meeting, with a copy of the approved financial statements, auditor's report or review engagement report and other financial information required by the By-laws or articles.

- a. The business transacted at the annual meeting shall include receipt of the agenda;
- b. receipt of the minutes of the previous annual and subsequent special meetings;
- c. presentation and consideration of the Required Financial Statements;
- d. report of the auditor or person who has been appointed to conduct a review engagement;
- e. reappointment or new appointment of the auditor or a person to conduct a review engagement for the coming year;
- f. election of Directors; and
- g. such other or special business as may be set out in the notice of meeting, and
- h. any other business properly brought before the annual meeting of the members in accordance with s. 56 of the *Act*.

No other item of business shall be included on the agenda for annual meeting unless a Member has given notice to the Corporation of any matter that the Member proposes to raise at the meeting in accordance with the *Act*, so that such item of new business can be included in the notice of annual meeting.

### **9.03 Notice**

*The following was added:* and where special business will be transacted must contain sufficient information to permit the Members to form a reasoned judgment on the decision to be taken, and state the text of any special resolution to be submitted to the meeting.

### **9.04 Quorum**

*The following was added:* If a quorum is present at the opening of a meeting of the Members, the Members present may proceed with the business of the meeting, even if a quorum is not present throughout the meeting.

## 9.06 Voting of Members

*The following was added:*

Business arising at any Members' meeting shall be decided by a majority of votes unless otherwise required by the *Act* or the By-law provided that:

- a. each Member shall be entitled to one vote at any meeting;
- b. an abstention shall not be considered a vote cast;
- c. before or after a show of hands has been taken on any question, the chair of the meeting may require, or any Member may demand, a written ballot. A written ballot so required or demanded shall be taken in such manner as the chair of the meeting shall direct;

## 9.07 Adjournments

*The following was added:*

... unless the meeting is adjourned by one or more adjournments for an aggregate of 30 days or more. Any business may be brought before or dealt with at any adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

If a quorum is not present at the opening of a meeting of the members, the members present may adjourn the meeting to a fixed time and place, but may not transact any other business.

## **Section 10 – Notices**

Section added, which deals generally with notice given to members and directors. As such, the following was added:

### **10.01 Service**

Any notice required to be sent to any Member or Director or to the auditor or person who has been appointed to conduct a review engagement of the Corporation shall be delivered personally, or sent by prepaid mail, facsimile, email or other electronic means to any such Member at the Member's latest address as shown in the records of the Corporation; and to such Director at his or her latest address as shown in the records of the Corporation or in the most recent notice or return filed under the *Corporations Information Act*, whichever is the more current; and to the auditor or the person who has been appointed to conduct a review engagement at its business address; provided always that notice may be waived or the time for giving the notice may be abridged at any time with the consent in writing of the person entitled thereto.

### **10.02 Error or Omission in Giving Notice**

The accidental omission to give any notice to any Member, Director, Officer, member of a committee of the Board or auditor or person conducting a review engagement, if any, or the non-receipt of any notice by any such person where the Corporation has provided notice in accordance

with the By-laws or any error in any notice not affecting its substance shall not invalidate any action taken at any meeting to which the notice pertained or otherwise founded on such notice.

**Section 11 – Adoption and Amendment of Bylaws**

**11.01 Amendments to By-laws**

*The following was added:* This By-law revokes, repeals and replaces the existing By-law number 1 of the Corporation.

This concludes our summary.

ILER CAMPBELL LLP

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