

***Manual
for the
Directors
of the
Ontario Provincial
Trapshooting Association
(OPTA, Association)***

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1.0 Purpose of Manual

The purpose of this manual is to guide Directors of the OPTA in interpreting the Association's By-laws and to provide further background and information to facilitate fulfilling their obligations as Directors. It is a supplement to the By-laws but does not over-ride them. It is important to read the relevant By-laws when a decision is being made on behalf of the Association as every case will be somewhat unique and those characteristics must be considered.

A case study is presented in Schedule #3. The case study is factual and provides many insights into why the By-laws came into being earlier than would be required by the Act. It also demonstrates the importance of electing the right people as Officers and Board Members and establishing the appropriate oversight functions. The events leading to the case study could have been prevented entirely by the revised By-laws or, in any case, the extent of damage and duration of exposure would have been greatly reduced.

The manual is intended to ensure consistent application of the By-laws and management of the Association as Members of the Board change over time.

The terms used in this Manual are consistent with those in Section 1.01 "Definitions" included in the By-laws. A copy of the most recent By-laws is attached to this Manual.

The manual will require periodic updating as OPTA By-laws change to meet the needs of the Association and as the Ontario Not-for-Profit Act (ONCA) is amended.

2.0 Structure of the OPTA

The OPTA is a member organization of the Amateur Trapshooting Association (ATA) situated in Sparta, Illinois, USA.

The governing body of the ATA is its Board of Directors, composed of one delegate from each state and province. The delegate is elected annually by all ATA members at their respective state and provincial championship tournaments.

The ATA is the governing body for North American style trapshooting and sets all of the sport's rules and regulations. There are over 900 gun clubs affiliated with the ATA.

The OPTA's By-laws are consistent with the ATA's rules and regulations. The ATA allows for some flexibility to reflect jurisdictional requirements but its rules regarding field layouts and dimensions as well as scoring etc. are required to ensure all members are ranked fairly and consistently.

3.0 Not-for-Profit Status (NfP)

3.1 Act governing the OPTA

The OPTA is incorporated in Ontario and governed by ONCA. ONCA was rewritten in 2010 and provides a modern, legal framework for not-for-profit corporations and sets out how they are created, governed and dissolved. The Act is not expected to come into force before 2016 but it is highly unlikely any significant changes will be made to it. Once it comes into force, existing NfP corporations will have a 3-year transition period to comply. When the Act comes into force, the By-laws should be reviewed and the necessary amendments made to ensure continued compliance.

3.2 Current By-laws

The OPTA's By-laws were rewritten to comply with the new Act and were passed at the Annual General Meeting held at the Hamilton Gun Club on August 4, 2014. This was done because of a specific case that arose and because the existing By-laws were poorly drafted, inconsistent and so weak they enabled the actions the case study is based upon to take place. Diligent enforcement of the revised By-laws will go a long way towards preventing future cases and/or reducing their potential impact on the Association. However, By-laws alone are not a panacea and continued diligence by Board Members and the Membership at large is necessary.

3.3 Corporations covered by ONCA

ONCA governs Public Benefit Corporations (PBCs) and other NfPs as well as charitable versus non-charitable organizations. Charitable NfPs have more onerous requirements as they can issue tax-deductible receipts to donors. The OPTA cannot issue tax-deductible receipts and is currently identified as a non-charitable "other" NfP. However, it could become a PBC if certain requirements are fulfilled as specified below.

A non-charitable PBC is one that receives more than \$10,000 in a financial year either in the form of:

- Donations or gifts from persons who are not members, directors or employees of the corporation; or
- Grants or similar financial assistance from the federal government or a provincial or municipal government or an agency of any government.

The OPTA has received an annual grant from the Ontario Sport and Recreation Community Fund for just under \$10,000 and is borderline in meeting the PBC requirements. Being a PBC

requires a higher auditing standard than a non-PBC. Due to previous issues with respect to audits, the OPTA Membership passed a motion respecting audits that is stronger than required under ONCA for PBCs and hence would be in compliance in any case under the current Act.

The OPTA has received funding from the Ontario Government for many years and the bursary has been a significant help in managing expenses for the organization. The OPTA needs to acknowledge the fact that it is a benefactor of the Ontario Government in its literature. Furthermore, the OPTA should strive to increase the level of funding. This could be accomplished in the short run by establishing a junior level championship and this is being structured for 2015-16 shooting year. In the longer run, the OPTA needs to demonstrate it has a viable plan for growing its membership and increasing participation in its sport. The OPTA has established a Committee to find ways of achieving this objective.

3.4 Definition of an NfP

An NfP corporation is one that:

- is dedicated to purposes other than pursuing a profit;
- is a corporation without share capital (does not issue ownership shares);
- may not distribute profits to its members, directors, or officers;
- must use any profit exclusively for its NfP purposes; and,
- includes charitable and non-charitable organizations.

Though the By-laws comply with the Act at the time of writing, it is important to recognize that in the event of disagreement with the Act or an amendment to the Act, the Act overrides the OPTA's By-laws. However the remaining By-laws remain in effect provided they comply with the Act.

3.5 Limitations on the OPTA by ONCA

Being an NfP places restrictions on the OPTA. These restrictions include:

- Directors are not remunerated.
- Directors are prohibited from using their position for self-serving financial purposes.
- Directors must disclose conflicts of interest.
- Members cannot financially benefit on dissolution of the Association.

However, the OPTA can:

- Provide an honorarium to Directors or Members for the performance of certain functions such as Treasurer and/or Secretary.
- Raise additional funds to support the objectives of the Association provided such funds are exclusively used for that purpose.

The ability for the Association to raise funds in support of its purpose was not clear under the prior Act. The revised Act does not put a limit on such funds but requires that they be used solely to support the objectives of the Association. However, the Income Tax Act (ITA) may place limits on the amount of funds that can be raised and retained as identified in the Section entitled “Tax considerations”.

The revised Act also expands and clarifies and rights of Members. For example:

- Members have the right to call a special member meetings and remove Board Members for reason.
- Member rights in the event of a discipline action are more clearly defined and intended to provide a fair process.

It is important to recognize that ONCA is drafted for a broad range of NfPs and not specifically for the shooting sports. As a consequence, some of the requirements under ONCA may not appropriate for the shooting sports. For example, a shooting club might expel a Member for repeated careless and dangerous use of a firearm on the grounds that the club would be closed in the event of a personal injury caused by this individual. Under ONCA such an individual could appeal the expulsion and call for a member’s meeting to arbitrate the decision. In all likelihood, the special meeting would not be well attended by Members so the appellant could stack the attendance with his friends and have the decision overridden. This would be detrimental for the club when an accident occurs and is a continuing risk the club should not be forced to be exposed to. In the case of the OPTA, the By-laws allow for proxy votes. Hence, in the above example, it would be possible to cast the outcome before the formality of the meeting.

3.6 Tax considerations

The not-for-profit status exempts the OPTA from income tax but does not exempt the OPTA from charging HST on its Membership fee revenue. However, OPTA membership fees are currently exempt, as confirmed by an accounting tax professional, as its revenue is significantly less than \$25,000 per year minimum. Nonetheless, the OPTA could voluntarily elect to pay HST and would then be allowed to deduct qualified expenses from the tax paid in accordance with the ITA. At this time, it is financially advantageous not to pay HST. However, as fee income approaches the limit, the allowable expense deductions may make it financially advantageous to voluntarily elect to pay HST.

There is no limitation according to ONCA on the amount of funds a not-for-profit can build up to support future projects as long as the use is consistent with the OPTA's objectives. However, the amount of such funds may be subject to limitation under other legislation such as the *Income Tax Act* and a professional tax advisor should be consulted to ensure the Association complies.

4.0 Discussion of By-laws

The manual and the By-laws are evolving documents and will change over time as revisions are made to the Act and the needs of the Association change. The Act is written to include all nature of not-for-profit associations and corporate structures. Some not-for-profits are corporations with a paid staff of executives, managers, and employees. The OPTA is a volunteer organization and does not have paid staff designations. Hence, many requirements of the Act do not apply to the OPTA and are not stated as By-laws. It is also important to delineate between not-for-profit charitable corporations and non-charitable organizations. The OPTA is a non-charitable organization as explained in the Section "Corporations covered by ONCA".

The By-laws are consistent with the Act as of August 4, 2014 when the revised By-laws were ratified by the Membership and became the operating document for the Association. Consistency was confirmed by legal counsel prior to the vote to implement them. Other documents, such as the Articles of Incorporation, contain different information such as the Purpose of the Association. In order to reduce redundancy and the possibility of conflicting statements, only operational functions should appear in the By-laws.

The current ONCA is awaiting legislative approval. Once given, the organizations governed by the Act will have 3 years to re-write their By-laws. The previous OPTA By-laws were so badly written and maintained that the Board decided to re-write them to comply with the Act. Also, it is highly unlikely there will be any significant amendments required before enactment. Hence, the OPTA is now well positioned, both in terms of the effectiveness of its By-laws as well as compliance with future regulatory changes.

Routine amendments to the By-laws regarding the general affairs of the Association may be affected by the Board unilaterally under By-law 2. For example, the Board could unilaterally increase General or Associate Membership fees. Amendments affective the voting rights or other rights of Members must be approved by the Membership.

The process for accomplishing amendments is specified in the by-laws. Amendments to the By-laws must be recorded for future reference in the schedule of Amendments as well as identified in the By-laws proper. In the latter case, the amended By-law should be marked with an asterisk "*" and a footnote should be recorded in the By-laws that this is an amendment as well as the

place and timing of its approval. The Schedule of Amendments should state the prior as well as the amended By-law and briefly describe why the amendment was enacted.

4.1 General

The six (6) sub-sections under general provide an operating overview of the By-laws.

The first section simply defines terms that are used in the document. It is a useful glossary as multiple terms are used throughout the Manual and the By-laws. For example, the Ontario Provincial Trapshooting Association may also be referred to as the “Association” or the “OPTA”.

The next two sections address issues relative to the effect of the By-laws. Since the OPTA is a not-for-profit organization, the Bylaws must comply with ONCA. If there is a conflict, the Act overrides the By-law; however, the following section stipulates that the remaining By-laws remain in effect provided they comply with the Act. This is an important By-law in the event of a dispute. Conflict of a specific By-law with the Act does not negate the remaining By-laws.

The following two sections simply summarize identification details for the Association such as a Seal and the address. Though the OPTA has a seal, it is not necessary to use it.

The final section of this Bylaw makes it clear that the Board is solely accountable for approving financial activities of the Association. Two signatures are required and one of these must be an officer such as the Secretary, Treasurer, Vice-President, or President. However, the By-laws permit the Secretary/Treasurer to unilaterally sign checks for lower amounts to pay for supplies. Currently the amount is \$250 but should be reviewed periodically.

4.2 Election of Directors and Officers

The 8 sub-sections under Directors should be read and understood by all Directors.

The first section stipulates the basic requirements to become a director, their term of office and the election process. The Board is structured so that half the Board comes up for re-election each year. Board members can run for subsequent terms and there is no limit on the number of times a Director can be re-elected. It also stipulates that any individual who wishes to become a Director must be approved by the Nominating Committee. The specifics of the Nominating Committee are outlined in Schedule 1. The Nominating Committee is critical in ensuring;

- the Board is comprised of people with the broad cross section of knowledge and experience to enable the Board to fulfill its duties to the Members; and,
- that these individuals will work with the Board in a constructive and supportive manner.

Healthy and open discussion of issues is vital to effectively managing the Association. However, dysfunctional individuals are not needed or wanted on the Board.

Though Directors have a term of two years, Officers have a term of one year and are elected by the Board within 15 days following the AGM.

The Board, if deemed appropriate or if the Officer no longer wishes to fill the position, can replace an Officer with another Board member and the retiring Officer will remain on the Board. This process was applied to remove a Secretary/Treasurer who refused to follow Board Directives. A case study of this action is presented in Schedule 4.3.

Should the Board remove the Officer under Section 8.04 of the By-laws, the requirements of that Section must be observed.

Section 3 outlines the requirements, process, and term of office to be the Provincial Delegate for the OPTA. These are taken from the ATA rules and are not subject to change by the OPTA. The Provincial Delegate/Alternate can attend any Board meeting and has the right to one vote on any issue. Should the Delegate not be able to attend, the vote will go to the alternate delegate. The Provincial Delegate does not generally participate in Board meetings unless there is an issue specific to the ATA or the OPTA Board requests his/her participation.

The Amateur Trapshooting Association (ATA) is the parent body of the OPTA and the Provincial Delegate is the link between the OPTA and the ATA. The Provincial Delegate updates the OPTA Board and its Members about changes in ATA Rules and Regulations which must be applied at all registered shoots. Additionally, the Provincial Delegate is the person responsible for ensuring that new Associate Members (Clubs) have the required facilities and are able to launch qualifying registered targets. If the applying Associate Members meets the requirements, the Provincial Delegate will so state and it then will be the OPTA's responsibility to determine whether or not to accept the application.

Sections 4 and 5 speak to vacancies on the Board and the process for filling them. Note that vacancies created under Section 8.04 have a specified process. This process complies with the Act and is intended to be fair in dealing with the individual. It is also important to understand that Members can remove a Board member if they feel the individual is not performing his/her duty.

Section 6 specifies that the Board is responsible for the general affairs of the Association. This section gives the Board the right to make amendments to the By-laws to accommodate the Association's needs. However, changing voting rights or Member's rights are not considered "general affairs" of the organization and must be ratified by the Members.

Section 7 allows the Board to establish Committees to perform certain functions or achieve certain objectives. Important Committees are the Nominating Committee, the Audit Committee, and the Strategic Development Committee. Committees established by the Board should have a Chairperson, a clearly defined mandate, and a list of members so that their progress can be tracked. The Board can disband any committee upon fulfillment of its mandate or if it no longer considered necessary to the Association.

Section 8 deals with remuneration. Directors are not remunerated except for specific expenses incurred on behalf of the Association as approved by the Board. It also restricts Directors in dealing with projects undertaken by the Board to avoid a conflict of interest and ensure the Director does not influence the vote for his/her financial benefit.

4.3 Board Meetings

The six sections in this section are straight forward.

With regard to Section 6, the Board has routinely held meetings by phone to reduce the cost and inconvenience of face-to-face meetings. Additionally, conducting meetings by conference call makes it possible for members across the province to participate on the Board and has reduced absenteeism. Passing motions can be time consuming if each member is asked to vote in turn but is necessary for major By-law amendments or decisions. For more routine motions, the Chairperson simply asks whether there are any dissenting votes or abstentions and declares whether the motion is passed based on the results. A tally will be taken in the case of a close vote or if the issue is controversial and the Association deems it appropriate to disclose the results in the minutes.

The Board strives to have at least one face-to-face meeting during the year when the subject material necessitates and to build camaraderie among Board members. However, all Board members are active shooters so frequent contact is maintained.

Section 3.05 addresses voting. ONCA is clear that the President, or Chair of the Meeting, is entitled to one vote on any issue. There is no such thing as a casting vote; hence, in the event of a stalemate on a motion, a re-vote is performed. If this results in a tie, the motion is without affect.

4.4 Financial

Section 4.01 in this Bylaw is self-explanatory and crucial to proper financial management of the Association. The Association has encountered problems in the past regarding non-approved bank accounts and co-mingling of personal funds. Hence, it is a critical Board responsibility to approve and monitor the banks used by the Association and enforce the prohibition against co-

mingling. In the event of fraud, co-mingling makes it very difficult to ascertain responsibility. Furthermore, allowing the use of any OPTA funds, even temporarily, for personal use may lead to abuse even if the initial intent was to repay them.

Section 4.03 states the requirements for an audit. ONCA allows for different levels of audit in certain circumstances. A review engagement of a corporation's finances performed by a person permitted to do so under the *Public Accounting Act, 2004*, who must be independent, involves enquiry, discussion and analysis to make reasonably sure that the corporation's financial statements are in order. It is less extensive than an audit and less expensive. It is good business practice to cause an audit whenever Treasury duties are transferred from one person to another. Additionally, any suspicious financial activity is cause for an audit and should be done as soon as possible. The Association has structured an Audit Committee as outlined in Schedule 4.2 to provide oversight of the financial function in the OPTA. This is an important oversight function and its need becomes obvious from the Case Study in Schedule 4.03

Also, ONCA differentiates between PBCs and non-PBC regarding the income at which different levels of audit are required as explained in Section 3.3. The OPTA's requirements are more stringent than required by ONCA for any NFP. Though the OPTA could lower its audit standards, Canadian Sports Federation requires at least an independent review to qualify for the grant. Furthermore, the OPTA experienced fraudulent activity by a prior Treasurer due to weak and poorly managed audit requirements. The case study in 4.03 illustrates the need.

Section 4.04 allows the Association to make an assessment on all members if funds become exhausted or for extraordinary purposes provided such assessment is approved by a majority vote of Members at an Annual General Meeting or Special Meeting called for this purpose. Any such assessment would have to be clearly explained to all Members so they could make an informed vote. An example of such an assessment would be to obtain funds for Home Grounds for the OPTA. Clearly, Members must approve the assessment so this provision is highly unlikely to be used unless the Membership views it favourably. If the assessment is not viewed favourably, Members would lapse their Memberships and avoid the assessment.

4.5 Officers

This Section of the By-laws is largely self-explanatory.

Unlike Directors, Officers are appointed annually by the elected Directors who can remove an Officer for dereliction of duty without removing the individual from the Board.

Section 5.02 states that Officers are responsible for the duties assigned to them but may delegate the performance of those duties. Assigning performance of duties does not relieve the Officer from responsibility. For example, if the Officer were assigned the responsibility of

ensuring the property for the Ontario Championships was cleaned prior to the shoot, the Board would not expect the Officer to do the clean-up but would expect the individual to ensure the proper resources were in place to complete the work.

4.6 Protection of Directors and Others

This is a very important Section for Directors to read. It basically states that any Director who performs his/her duties in accordance with the By-laws of the Association and the Act is not liable for:

- the actions of other directors;
- loss of funds due to default of the borrower; or,
- any other loss, damage or misfortune that arises in discharging his/her duties.

Should a Director be sued for activities undertaken by the Association, other than for fraud or criminal activity committed by the Director, the Association will assume the legal fees. Further, this protection applies in the event of a suit in which the Director is named after his/her term has expired, again, provided it was not due to fraud or criminal activity.

The Association has the obligation to acquire appropriate insurance coverage for all Directors.

It is important to recognize that Directors, even though not remunerated, have responsibilities to the Association and can be held liable for decisions. Hence, it is important to ensure protection is maintained and Board Members are fully protected when making decisions for the Association provided they are made in good faith.

4.7 Conflict of Interest

This section states that any Director who directly or indirectly could financially benefit from a contract with the Association should disclose the conflict and will not be permitted to participate in any resolution to approve the contract or transaction.

4.8 Members

Most of the sections on Membership are straight forward and significantly expanded from the prior Act in order to give Members increased powers for dealing with dysfunctional Directors.

Section 8.04 is the most complex and it is important that all of the time frames are observed. The objective of the section is to provide Members with a fair hearing in the event that they violate any rules or By-laws.

The Board has terminated an individual's Membership in the OPTA. The framework worked well but it is an onerous task and time frames are tight. It is important to think ahead when a disciplinary action is taken. The case study for this action is presented in Schedule 4.03.

It is possible that the violation of an OPTA regulation, especially one relating to safety concerns, could result in disciplinary action by the Associate Member and the OPTA. This may be considered double jeopardy but safety concerns in the shooting sports are paramount.

Members who violate the safety rules at a registered shoot should be reported to the Associate Member's (host club) management as the violation occurred on the Club's property and exposes the club to liability. Though the individual may be prohibited from shooting at the Club where the offense took place, the individual could shoot at another Club. However, if that individual was also prohibited by the OPTA from shooting in registered events, that person could not participate in a registered shoot at any club.

In most instances, the violations are likely to arise from causes other than safety concerns. Such violations vary in importance and the penalty should vary according to the nature of the offense. Members who are aggressive or harass other shooters may be prohibited from shooting at registered events for a period of time. The following table provides a guideline for the disciplinary actions in certain circumstances. There will be a range of possible actions and the Board should keep track of all disciplinary actions so that it can ensure the penalties for similar breaches are consistent and it can provide a logical explanation why the penalties for two breaches, which appear similar on the surface, are different.

Offense	Significance	Range of Penalty
Un-sportsman like conduct	Less serious offense but must to dealt with to avoid escalation or potential retaliation.	Written warning and may include exclusion from registered competition for a period of time.
Harassment or aggressive behaviour	More serious offenses which may include physical contact such as pushing or fighting.	Written warning and possibly exclusion from registered competitions for some period.
Use of alcohol or drugs	Use of alcohol and non-prescription drugs are treated the same. The violations range from minor to major safety concerns. Minor would be a Member who has a drink and finds himself/herself in a shoot-off.	If the Member voluntarily acknowledges having an alcoholic drink after the competition but prior to a shoot-off and thus disqualifies himself/herself from the event, there is no other penalty.

	<p>Major would be clearly intoxicated.</p> <p>Prescription drugs are more difficult to deal with but if they affect the competitor's ability to control a firearm safely, the issue has to be dealt with. Prescription drugs may result in loss of balance, forgetfulness, delayed reactions etc. and may result in dangerous, though unintended situations.</p>	<p>A Member who has a minor amount of alcohol, shows no obvious signs of drinking, shoots in a shoot-off and is later reported to have been drinking will receive a warning letter, will have any winnings rescinded, and may face exclusion from registered events for a period of time.</p> <p>Obvious intoxication will result in a warning letter and exclusion from registered events for some time or permanently.</p> <p>Repeated offenses will result in permanent revocation of Membership.</p> <p>Prescription could lead to inadvertent accidents. Unless the individual has assistance during the competition, the person known to be on prescription drugs may not be allowed to compete while the drug is affecting him/her.</p>
Unsafe use of firearm	<p>Ranges from a minor inadvertent violation to a serious offense.</p>	<p>A minor violation may be failure to open the action of the gun that has been verified to be unloaded and will result in a warning letter and may carry a penalty.</p> <p>Major violations will result in a warning letter and a penalty ranging from immediate exclusion from registered events for a period of time to permanent revocation of Membership.</p>
Violating By-laws of the OPTA	<p>Ranges from minor to major offenses but many are covered above.</p>	<p>Whether or not the Police place charges or the individual is found not guilty of an offense, the breach of</p>

	If the violation includes criminal activity, such as theft or fraud, the Police should be involved.	By-Laws may be so egregious as to result in permanent revocation of Membership. An example is provided in Schedule 4.3
Violating rules of the ATA	Same as violating rules of OPTA.	ATA has its own set of sanctions and these will influence the OPTA's actions.
Failure to pay fees	Not significant.	The Member will be notified and afforded the opportunity to make good on the shortfall. Failure to do so will result in de-recognition of scores during the period and rescinding any trophies or other recognition for winnings. The OPTA will insert a section in the Newsletter confirming that fees were not paid by the reported winner and identify the new winner. A violator who refuses to pay outstanding fees or does not comply with OPTA requests for a refund of winnings, will be dealt with more severely and may face expulsion from all future registered events.
Prohibited from shooting in at a club for violating club rules	Such prohibition will prevent the OPTA member from entering a registered shoot at that club.	The prohibition applies as long the Member is prohibited from shooting at the Club. The Club has the right to prohibit any one from shooting on its property and the OPTA has no power to overturn the decision. Were the OPTA to do so, it would expose itself to liability in the event of an accident and may not have the appropriate insurance coverage.

Section 8.05 speaks specifically to Club Membership and clearly specifies the rights and obligations of the Club versus the OPTA. Affiliated Members do not have voting privileges regarding the affairs of the OPTA.

Section 4.9 – Member’s Meetings

One of the major changes in ONCA is to increase the rights of club members and give them the ability to remove Directors, or potentially the entire Board, for cause such as conflict of interest in using the organizations funds, violation of By-laws, or other actions that are not deemed to be in the organization’s and its Members’ best interests.

Section 9.01 requires an annual meeting of Members and specifies the business to be transacted. Members can add items to the agenda but must submit a proposal to the Secretary prior to the Secretary giving notice of the meeting. If the proposed agenda item is complex, there should be documentation provided to Members prior to the meeting so that they can make an informed decision about the issue.

Section 9.02 specifies the location of the Annual General Meeting (AGM) each year. The AGM is held on the last day of the Provincial Championships between the Championship Doubles and Championship Handicap events.

Section 9.03 enables the Board to call a special meeting of Members. It also requires the Board to convene a special meeting of members if asked to do so, in writing, by one tenth of one percent (1/10th %) of the Members. A Member required meeting must be called within twenty one (21) days of the Member request.

Section 9.04 specifies that written notice must be sent fifteen (15) days prior to a Special Member’s meeting with enough information to allow Members to form a reasoned judgement about the issues. No business other than that for which the meeting was called can be transacted and invitees must be notified of their right to vote by proxy.

Section 9.05 provides detail about the quorum required at such a meeting and states the requirement need only be present at the opening of the meeting. If Members leave prior to the end of the meeting, the remaining members can proceed with the business even though a quorum is no longer present.

Section 9.06 specifies who can chair the meeting which ranges from the President to a Member selected by those present. There is an order to selecting the Chair as specified in 3.04 before the attendees can select a Member as Chair.

Section 9.07 talks to the voting process and what to do in certain circumstances such as a tie vote. The section is straight forward. It gives the Chair a vote but does not give the Chair a casting vote in the event of a tie. In the event of a tie, a written ballot is required and the results of that ballot are final. If there is a tie, the motion is lost.

Section 9.08 speaks to adjournment. This appears complex but basically says the majority of Members present at a meeting can vote to adjourn and that no notice of adjournment need be given to all of the organization's Members unless the adjournments had extended the meeting beyond 30 days. Also, the business dealt with at an adjourned meeting can be brought forward in accordance with the original notice within the 30 days.

Section 4.10 - Notices

Section 10 is process and specifies who should be notified of meetings. Note that an error or accidental omission in giving notice does not void the proceedings taken at the meeting.

Section 4.11 – Dissolution of the Association

ONCA specifically requires that the Assets of the Association cannot be distributed to Officers, Directors or Members on dissolution of the Association. Doing so would represent a gain to the recipients and effectively give them a financial interest in the Association which would invalidate the NFP status.

Were the OPTA to become insolvent, ONCA requires that existing creditors with a valid claim at the time of filing (for bankruptcy) be compensated first.

Any remaining funds would be distributed to other PBCs with a similar purpose.

If there is no other PBC, any remaining funds can be allocated by the Board of Directors of the OPTA to existing NfP trapshooting clubs to enhance their facilities.

ONCA does not address the Winding Up and Restructuring Act (WURA) which typically applies to insolvencies. WURA specifies and prioritizes the rights of all creditors of an insolvent organization. Should the OPTA approach insolvency, legal advice should be sought to ensure the relevant Acts are complied with. Failure to do so could result in an incorrect payment which may not be recoverable from the recipient. This could place the liability for the overpayment on the Directors responsible for the decision. Such an error may be recoverable under "Errors and Omissions" coverage but care should be taken to ensure the appropriate legal processes are followed.

4.12 Adoption and Amendment of By-laws

ONCA enables Members to amend the By-laws by a majority of votes cast. This can be accomplished at the AGM or a Special Meeting of Members. In either case, the specific changes should be relayed to Members in advance of the meeting so that an informed decision can be made.

ONCA also enables the Board to pass or amend By-laws, other than those By-laws that directly affect Membership rites such as voting privileges, as the need arises. Hence, not all amendments need to go to the Membership.

However, the OPTA has a history of seeking Member approval of all Amendments; hence, the Board may make an Amendment and seek ratification at the AGM to avoid calling a Special Meeting over a relatively routine matter. Amendments affect Member rights and privileges, however, must go before the Membership before they go into effect.

Members can request that certain items be put on the agenda or that a specific motion be made at the AGM. This request must be received prior to notice of the meeting and must have enough information to advise Members about the issue and enable them to make an informed decision. If the Board believes the motion or issue is trivial, it can refuse to put the item on the agenda.

5.0 Nominating Committee

Establishment

The Nominating Committee will be chaired by the Vice-President of the OPTA with the support of any other members of the Board as the Vice-President deems necessary. At a minimum, the Nominating Committee shall have 3 members.

Terms of Reference and Purpose

The Committee shall recommend or vouchsafe the names of individuals submitted by the membership who meet the criteria below to ensure the Board has the appropriate skill sets to manage the OPTA's affairs in an efficient and professional manner. The Nominating Committee shall approach the Membership for names of potential candidates for Board positions prior to the Annual General Meeting.

Criteria to be a Nominee

- 1.** Nominees put forth by the membership must have the endorsement of at least twenty percent (20 %) of the Members of the Association before being reviewed by the Nominating Committee.
- 2.** Nominees recommended by the Nominating Committee are automatically considered to be endorsed by twenty (20) members.
- 3.** Nominees must meet the qualifications specified in 2.01 of the Association's By-laws to become a Director.
- 4.** Nominees cannot have a criminal record or a questionable background with respect to managing finances. The Nominating committee may check publically available information to confirm the Nominee's background is clear of any such charges or allegations.
- 5.** At any given election, the list of nominees to be put forward for election should be selected so that:
 - a)** There is reasonable representation by geography, if possible;
 - b)** There is representation by gender and the Nominating Committee should strive to increase the number of female Board Members to be in the same

proportion as the Membership subject to a minimum of 2 female board members;

c) There is are appropriate skill sets on the Board, including some financial or accounting exposure, human resources exposure, writing skills etc., necessary to optimally manage the Association's business.

d) There is consensus among Board Members that they will be able to work with the Nominee on Board matters.

e) There is no reputational risk to the Association created by a Nominee who has a reputation for politically motivated activity which governmental bodies dealing with firearm legislation or the Chief Firearms Office for Ontario might view as negative and affect the Association's credibility or cause the general public to have a negative view of the Association's commitment to the safe use of firearms.

Brief Background

Nominating Committees are required for Boards but new for the OPTA. Though the Act requires a nominating committee, it should not be viewed as a regulatory requirement. This committee has a very important responsibility to the Membership in ensuring the appropriate representation on the Board of Directors.

Historically, this has been a problem for the OPTA. There have been examples of individuals who never attended Board meetings or participated in the Association's affairs or activities. There have also been Directors who applied bullying tactics to get their way with the rest of the Board or undermined Board decisions by rallying some of the Membership to their view, without presenting the balanced view considered by the Board. Often this resulted in acrimonious meetings that ran well beyond the time necessary to arrive at a sound decision. This nature of activity is not conducive to successfully operating the Board. Though many issues are unanimously accepted, there will be contentious issues for which there is not a perfect or unique solution. Directors are expected to present their view and argue their point, but when the final decision is made by the Board, all Directors should respect the decision.

6.0 Audit Committee

Establishment

The Board will nominate a Chairman and two Board Members every year to form an Audit Committee. The members of this committee must be independent from the Treasurer and have no direct control over the OPTA's financial expenditures.

Objective

The Audit Committee will independently oversee the Association's financial activities and confirm, or have compliance confirmed, with respect to:

- Membership fees continuing to be HST exempt provided revenue is less than \$25,000 per year;
- The performance of audit procedures under By-law 4.03 being followed and continuing to comply with the Act; and,
- Apply the appropriate level of oversight to the OPTA's financial affairs.

Powers

The Audit Committee has the power to recommend to the Board:

- Changing the external auditor;
- Conducting an audit for special purposes;
- Recommending an extraordinary assessment with reason;
- Recommending replacement the Treasurer with reason;
- Confirming the qualifications and past record of individual's to be designated as Treasurer prior to that person's appointment; and,
- Recommending improvements to the Association's financial reporting.

7.0 Strategic Planning Committee

8.0 Case Study

The following example is the most significant violation of OPTA By-Laws. It resulted in many changes to the Association's By-laws, removal of the individual as an officer for violating multiple By-laws, police charges because of fraudulent activity, and a civil case to recover funds not recovered in the police charges.

Background

A former Secretary/Treasurer (S/T) of the OPTA had held the office for over 20 years. The individual had a sketchy background and there were rumours about financial malfeasance before his going on the Board. During his tenure, he had developed a reputation for bullying Board Members and many Presidents had relinquished substantial control to him because of his experience and apparent knowledge of the By-laws. They essentially acted as Chairman for the meetings and deferred most issues to him.

In 2010, a new Board assumed responsibility and did not relinquish authority. At the time, the retiring President pointed out that the S/T only planned to remain on the Board for another year so the new Board and President should find a replacement. The new Board did in fact have a potential replacement and the objective was to have the incumbent S/T transfer knowledge.

The knowledge transfer was insignificant and the incumbent S/T reversed his decision to leave the Board. A major disagreement arose between the Board and the S/T over a trivial amount of expenses claimed by a Board Member which the Board had pre-approved. The S/T, notwithstanding multiple demands by the President and a Board Motion, refused to follow the Board's directives though required to do so by the existing By-laws.

By-laws in effect at the time of the S/T's removal and issues

The By-laws in effect at the time of S/T's removal were poorly constructed, incomplete, internally conflicting, and liberally interpreted.

The By-law regarding audits simply stated that an annual audit comply with the Ontario Corporations Act. This Act would have required the audit be conducted by an independent person with the appropriate skills and designations which is more rigid than would have been required under the existing ONCA. However, the By-law was misinterpreted to allow any member to perform the audit; hence, the requirements of skill and independence were ignored. Furthermore, the audit consisted of confirming the entries in the S/T's ledger matched "copies" of bank statements. The person performing the audit was not allowed to request

original statements directly from the bank. This would not be considered a financial statement review. It subsequently became obvious that the S/T had fraudulently altered some bank statements and illegally withdrawn a total \$15,000 from 2 maturing GIC's. Finally, the S/T had not had an audit conducted for at least 2 Board years before the new Board assumed office.

The By-laws clearly made it the Board's responsibility to manage the affairs of the OPTA. However, the S/T questioned and refused to follow directives from the directors.

The By-laws contained a provision that the S/T could unilaterally write a check on behalf of the OPTA for up to \$1,000. Given the OPTA's revenue and expense needs, this was unnecessary and prone to lead to abuse.

The By-laws required that the Board approve all bank accounts on behalf of the OPTA, that all expenditures be by OPTA check, and that receipts be maintained. The S/T had set up a US account on behalf of the OPTA without the appropriate approval, co-mingled personal and Association funds, and failed to maintain receipts.

The By-laws allowed reimbursement for expenses with Board approval. The S/T refused to recognize the By-law and claimed there was some arcane process that had to be followed. Such process was not specified in the By-laws.

The By-laws allowed the Board to remove an officer for dereliction of duty. However, if it removed that person from membership, the individual could appeal and a special meeting of Members would be called to hear both sides and adjudicate on the decision of the Board.

Schedule of Events

1. Board meetings had been held in the basement of the S/T's home for many years regardless of where the President or other Board Members were located.
2. A Board Member had incurred about \$30 in mailing expenses for a Newsletter that had been approved by the Board. The OPTA also needed to update its internet and the same Director offered to get quotes. The best quote was about \$120 for 3 years, which the Board Approved. The quote stipulated prices could change and the final receipt was about \$30 higher (\$10 per year).
3. The S/T refused to pay the expense, though the Board had actually passed a motion approving them. Acrimonious arguments arose over the issue and the Board moved the meetings to a local Club. The last meeting where any Board Members attended his home was November 19, 2010.
4. The battle over immaterial expense continued through January and February of 2011. In January the Board decided to remove him but first to get legal opinion regarding any potential liability of the OPTA.

5. The legal review was accomplished and there was no case law as the S/T was a volunteer. Though he received an honorarium of \$6,000 per year this was not considered compensation and did lead to obligations on the Association as an employer.
6. The Board voted to remove the individual as S/T and the President sent him a letter informing him of the decision and arranging a time to pick up all OPTA property.
7. The new S/T and President immediately changed bank authorizations so the past S/T could not access the accounts or write any checks on behalf of the OPTA.
8. The S/T refused to turn any property over to the OPTA until two Board Members audited his ledger.
9. This was done but merely consisted of reviewing available statements and his ledger entries. Nothing was uncovered.
10. In late March, the President and 2 OPTA Board Members went to his house to collect the OPTA property. At that time, he handed his resignation from the Board to the President.
11. All of the financial materials were separated the day they were picked up and forwarded to a forensic auditor for review.
12. In April, the President received a complaint from the Labour Relations Board for Ontario, made by the ex-S/T demanding severance pay and holiday pay.
13. The President had very little time to respond so reviewed the Act and recognized it was not applicable to the OPTA. His response said so and including supporting documentation. The Labour Relations Board closed the file.
14. By the early summer of 2011, the accountant had discovered some very disturbing adjustments to some of the financial statements that were used in the ledger and asked the OPTA for approval to obtain the statements. Approval was granted.
15. The accountant discovered that the maturity values for two OPTA GICs had been changed. The changes reduced the reinvestment amount for the two GICs by \$15,000 in total. Due to the amount and the fact the money was taken in cash, the bank required a signed statement. The ex-S/T signed the statement and the cash never again appeared in the OPTA's revenue.
16. The accountant also discovered that the ex-S/T had set up a US dollar account under the OPTA's name and asked who had authorized it. The Board was unaware the account existed, no financial records supported its existence, there were no records in the minutes of the approval of such account, there was no ledger for the account, there were no expense statements for the account or any receipts, and it appeared personal funds may have been comingled.
17. Further investigation revealed that the US dollar account had been used to siphon funds from the OPTA. The OPTA received an annual refund from the ATA in US currency. This was deposited in the account and the same amount in Canadian currency was

transferred to the OPTA account. Note, this was not the equivalent amount in Canadian currency. The currency exchange, which was as much as 40% at the time, disappeared from the account and never re-appeared. There were other transactions were less than the deposited amount was transferred to the OPTA operating account.

18. By the August 2011 AGM, the Board was aware of the issues but was not far enough along to lay charges. At the 2011 ATM, the ex-S/T and ex-President expressed concerns about maturing GICs. It was not clear what the issue was but astounding it would be raised in the circumstances.
19. In September, the President received a complaint through the ATA Delegate, raised by the ex-S/T alleging that the President had not followed protocol in electing the Delegate and should be expelled from the ATA. Several OPTA Members in the audience confirmed protocol had been followed and the charge was dropped.
20. Late in 2011, the accountant was convinced the ex-S/T had committed fraud and that there was significant theft from the US dollar account but difficult to prove due to lack of receipts.
21. The information was turned over to the Milton Police Fraud Department.
22. By the 2012 AGM, the accountant had completed a review of the books up to August of 2010. A discrepancy was noted and it was indicated \$10,000 could not be accounted for. At the AGM, the past President and the ex-S/T again raised questions at the end of the meeting suggesting that the accountant was incompetent and that the \$10,000 was put in operating revenue. At the time, the Board had seen the ex-S/T's signed withdrawal for the cash but could not say anything due to the investigation.
23. Many members became aware of the issues and wanted the S/T prohibited from OPTA shoots. Though the S/T had not been charged by the Police, he had clearly violated a number of important By-laws. The By-laws themselves enabled revocation of his Membership.
24. The S/T had also been elected to the Hall of Fame. In view of the extent of the violations, the Board decided to revoke this election.
25. The membership was notified and a Special Member's meeting was added to the AGM in August of 2013. The S/T initially asked for the Meeting but failed to show up.
26. The hearing was chaired by a lawyer and the President presented the case on behalf of the OPTA.
27. The membership voted overwhelmingly to revoked both the S/T's membership and Hall of Fame recognition.
28. In 2013, the Police arrested the S/T formally charged him with fraud.
29. By September 2013, the individual plead guilty and refunded \$15,000 to the OPTA in respect of the GICs.

30. The OPTA then initiated a civil action against the S/T for the amount that disappeared from the US account, minus any receipts he might have that evidenced his having used the funds for OPTA business.
31. The S/T claimed the missing funds were used to acquire OPTA championship trophies from the US. The new S/T had confirmed there were OPTA checks for all trophies and that the amounts balanced against the trophy budget. The explanation seemed unlikely.
32. A receipt for \$22,000 US was provided by the S/T in respect of trophies acquired from Shamrock Leather.
33. Shamrock Leather confirmed the receipt was fraudulent.
34. The case is yet to be decided, four years after its commencement.

9.0 Ontario Provincial Trapshooting Association By- laws

Revised August 3, 2015