



A Clause by Clause Overview of the Métis Nation of Ontario Secretariat Act, 2015

On December 9, 2015, the Ontario legislature passed the *Métis Nation of Ontario Secretariat Act, 2015* (the “MNO Act”). The MNO Act creates a number of exceptions to provincial corporate law as it applies to the MNO Secretariat, and establishes special rules for the Secretariat that recognize its unique status as a governance structure for Ontario Métis. This document, prepared for Métis Nation of Ontario (“MNO”) citizens and communities, reviews the Act section by section and explains what each clause means. A document entitled, *Understanding the MNO Act*, which provides additional background, context and a general overview of the MNO Act is available at www.metisnation.org.

The MNO Secretariat was originally incorporated in 1994 as a not-for-profit corporation under the *Ontario Corporations Act* (the “OCA”). Right now, the *OCA* continues to apply to the Secretariat—except as set out in the MNO Act. That means that for now, the MNO Act creates exceptions from the *OCA* and special rules for the MNO that are different from the rules that would apply under the *OCA*. Soon, however, there will be new legislation that applies to not-for-profit corporations in Ontario, including the MNO Secretariat. This new legislation, called the *Ontario Not-for-Profit Corporations Act, 2010* (the “ONCA”), was passed by the Ontario government in 2010. When that new legislation comes into force, it will be the law that applies to the MNO Secretariat. The MNO Act anticipates and prepares for that change by including a number of amendments. These amendments will automatically come into force when the *ONCA* comes into force, and will replace all of the references to and exemptions from the *OCA* with references to and exemptions from the *ONCA*. This ensures that the special recognition given to the MNO Secretariat and the exemptions that apply to it will continue to apply after the provincial legislation changes.

Sections 17 to 29 of the MNO Act set out the amendments that will apply when the *OCA* is replaced by the *ONCA*. Rather than addressing those separately, and requiring readers to flip back and forth between the sections of the MNO Act that apply now and the sections of the MNO Act that will apply in future, they are instead set out side-by-side. The first column of the table below sets out what the MNO Act says now, while the *OCA* continues to apply. The second column sets out what the Act will say after the *ONCA* comes into force. It also identifies in green font the section of the MNO Act that makes that amendment. The third column explains what each section means.

The table is generally divided according to the headings set out in the MNO Act. At the beginning of each heading is an overview describing the purpose of that set of provisions and how they will work—often in combination with other provisions found elsewhere in the MNO Act. The table then provides a detailed, section-by-section break down. Some sections identify specific provisions of the *OCA* or *ONCA* that either do not apply to or are modified for the MNO. Those provisions are set out in full in red font.

Preamble

The preamble to an Act explains what it is about and why the government is adopting it. It serves as an interpretive guide to the Act. If there are no other provisions of the Act that refer to its “purpose”—as there are in this case—then legislators and courts would look to the preamble to determine what the purpose of the Act is. No changes will be made to the preamble when the *ONCA* comes into force because the purpose of the Act will remain the same, namely to recognize the unique status of the MNO Secretariat as a governance structure for Ontario Métis, and to make changes to Ontario corporate law as it applies to the MNO Secretariat.

The preamble describes many of the reasons why the MNO Secretariat’s status as a corporate structure is unique and very different from other not-for-profit corporations. These include the nature of its “membership”, its purpose and activities, and its structure.

What the MNO Act Says	When the <i>ONCA</i> Comes Into Force	What this Means
The Métis Nation of Ontario Secretariat is a corporation without share capital incorporated under the <i>Corporations Act</i> .	No change.	The MNO Secretariat was already a not-for-profit corporation under Ontario law. It has been incorporated—as the MNO’s legal and administrative arm—since February 25, 1994. Being the corporate and administrative arm of the MNO means the Secretariat enters into contracts, receives and administers funding, and performs other functions on behalf of the MNO. Having the Secretariat as a legal corporate entity to fulfill these roles protects Métis individuals from becoming personally liable for activities advanced on behalf of Métis communities or the MNO collectively. It also means that the MNO has a legal entity to receive funding from government. This statement simply describes the existing reality of the Secretariat. Neither the Métis Nation—as an Indigenous people; nor the MNO—as the representative government of the Métis Nation within Ontario—could ever be “incorporated”; however, a corporate entity was needed in order to conduct the business of the MNO.
It is the corporate and administrative arm of the Métis Nation of Ontario, which was created to represent and advocate on behalf of its registered citizens, and the Métis communities comprised of those citizens, with respect to their collective rights, interests and aspirations, as well as to provide social, economic and cultural supports to Métis individuals, families and communities through a province-wide service delivery system.	No change.	This section confirms the MNO Secretariat is the corporate and administrative arm of the MNO—not that the Métis Nation is incorporated. The section also acknowledges that the MNO is authorized to represent its citizens and the communities with respect to collectively-held Métis rights, interests and aspirations as well as the MNO’s role in providing social, economic and cultural supports to Métis through a province-wide service delivery system. Importantly, in the future, no other groups can claim to represent MNO citizens or its communities. Nor can governments ignore the MNO’s program delivery systems for Ontario Métis. This is now the law in Ontario.

What the MNO Act Says	When the <i>ONCA</i> Comes Into Force	What this Means
<p>The Métis Nation of Ontario maintains a centralized registry of its citizens. The members of Métis Nation of Ontario Secretariat are citizens of the Métis Nation of Ontario, with defined rights and responsibilities, as set out in the Secretariat’s constituting documents and by-laws.</p>	<p>No change.</p>	<p>Other not-for-profit corporations have members, and in many cases becoming a member simply requires signing up. For example, many local sports leagues are not-for-profit corporations. Anyone who wishes to participate in the league can become a member. The MNO Secretariat is very different. The “members” of the MNO Secretariat are the citizens of the Métis Nation of Ontario. Being a citizen of the MNO—and therefore a member of the Secretariat—is very different from being a member of an ordinary not-for-profit corporation.</p> <p>In order to become MNO citizens, individuals have to: provide documentation to establish that they are Métis (they self-identify as Métis, are of historic Métis Nation ancestry, and are accepted by the Métis Nation); not be enrolled on any other Aboriginal registry; apply to and be approved by the MNO’s Registry; and commit to upholding and advancing the MNO’s Statement of Prime Purpose—the MNO’s foundational document that sets out its objects, principles, and aspirations.</p> <p>MNO citizens also have collective rights and responsibilities, which are set out in the Secretariat’s constituting documents and by-laws. These are the rights and responsibilities that MNO citizens have established for themselves, as part of the self-government structure they have chosen to put in place. It is always open to MNO citizens to make changes to the Secretariat’s constituting documents and by-laws through the same democratic processes that they have always used. By simply referring to those documents rather than setting out the rights and responsibilities that currently exist, the legislation preserves that flexibility within the MNO. The power to decide what the Secretariat’s constituting documents and by-laws should say continues to rest solely with MNO citizens as this part of the preamble confirms.</p>

What the MNO Act Says	When the <i>ONCA</i> Comes Into Force	What this Means
<p>The citizens of the Métis Nation of Ontario identify as descendants of the Métis people that emerged in west central North America with their own language (Michif), culture, traditions and way of life. These Métis people collectively refer to themselves as the Métis Nation, which includes Métis communities within Ontario.</p>	<p>No change.</p>	<p>This section acknowledges that MNO citizens and communities identify as being a part of a Métis people—the Métis Nation; and that this people has their own language (Michif), culture, traditions and way of life. It reaffirms statements that have been in the MNO-Ontario Framework Agreement since 2008, however, these are now confirmed in Ontario law. The section highlights another way in which MNO citizens—the “members” of the MNO Secretariat—are very different from the members of an ordinary not-for-profit corporation.</p>
<p>Through Métis Nation of Ontario Secretariat, the Métis Nation of Ontario has established various democratically elected governance structures at the local, regional and provincial levels to represent its citizens.</p>	<p>No change.</p>	<p>As set out in the MNO Secretariat’s Bylaws, the legislation acknowledges the democratically-elected governance structures of the MNO to represent its citizens. At the local level, MNO citizens are represented by Community Councils. At the regional level, Métis citizens are represented by Regional Councillors. Regional Councillors also sit on the Provisional Council of the Métis Nation of Ontario (“PCMNO”), along with provincially-elected representatives such as the MNO President. All three of those levels work together to represent MNO citizens and Métis communities across Ontario.</p>
<p>The Government of Ontario recognizes that the Secretariat’s status as a governance structure that represents its citizens at the local, regional and provincial levels creates operational realities that are distinct from other Ontario not-for-profit corporations.</p>	<p>No change.</p>	<p>This section confirms that the Government of Ontario recognizes the MNO Secretariat’s unique status as a governance structure for its citizens and communities across Ontario. It acknowledges that the Secretariat is no ordinary not-for-profit corporation and that its unique role—as the legal and corporate arm of the MNO—creates challenges for the Secretariat that are very different than other not-for-profit corporations. These differences set the context for the special recognition and treatment of the Secretariat as set out in the legislation.</p>
<p>Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:</p>	<p>No change.</p>	<p>Based on the factors set out above, the Legislative Assembly is changing the existing law in Ontario to recognize and accommodate the MNO Secretariat. The Legislative Assembly is giving its consent to the MNO Act and saying that it should be given Royal Assent. Royal Assent is given by the Queen, but that authority is delegated to the Lieutenant Governor. Although Royal Assent is the final stage in passing legislation, it is in practice never withheld after legislation is passed. That is because the Legislative Assembly is understood to represent the democratic will of the people of Ontario. Once an Act has been passed by the Legislative Assembly, it will be given Royal Assent.</p>

Definitions: Section 1

The definitions section of an Act explains how terms are defined and used **for the purpose of that Act**. Because the same terms often have different meanings in different contexts, the definitions section clarifies which meaning is intended in the Act. In order to understand an Act properly, it is essential to understand how the terms used in the Act are defined. The way an Act defines and uses a term is often narrower and more specific than the dictionary definition of that term or how that term might be used in other contexts. For example, the word “vehicle” can describe anything that is used to convey or transport people or goods. Using that broad definition, the word “vehicle” could apply to a space shuttle, a hot air balloon, an ocean liner, a canoe or any number of other things. Under the *Highway Traffic Act*, however, the word “vehicle” is defined and used in a much narrower and more specific way. Not surprisingly, the definition of “vehicle” used in the *Highway Traffic Act* only includes the kinds of vehicles that travel on roads. The *Highway Traffic Act* does not apply to a wide range of what we might think of as vehicles.

The definitions section of the MNO Act does two things. First, like the definitions section of any other Act, it explains how terms are defined and used for the purpose of the MNO Act. In some cases, it clarifies that the definition of a particular term under the MNO Act is more narrow and specific than its general meaning. For example, the MNO Act defines a “Métis Community Council” as a not-for-profit corporation with specific features, described in detail in the table. This means that the MNO Act only applies to Community Councils that choose to incorporate. Just as the *Highway Traffic Act* does not apply to a canoe, the MNO Act simply does not apply to any Community Council that is not incorporated. Second, the definitions section replaces terms used in provincial corporate law with terms that reflect the Secretariat’s status as a governance structure and the words the MNO has chosen to use to describe that structure. For example, rather than referring to the “board of directors” of the Secretariat—which would be the term used in the context of an ordinary not-for-profit corporation—the MNO Act refers to the Provisional Council of the Métis Nation of Ontario.

What the MNO Act Says	When the <i>ONCA</i> Comes Into Force	What this Means
1. In this Act, “by-laws” means the by-laws of the Secretariat; (“règlements administratifs”)	No change.	“By-laws” means the MNO Bylaws. The by-laws can only be changed by MNO citizens through the democratic processes they have established. The Ontario Government does not want or have any control over the bylaws of the Secretariat. The power to make and change those by-laws continues to rest solely with MNO citizens, as acknowledged in the preamble of the MNO Act.
“citizen” means a member of the Secretariat; (“citoyen”)	No change.	Ordinary not-for-profit corporations have “members”. The MNO Act instead uses the word “citizen” to be consistent with the MNO by-laws and to reflect the fact that the Secretariat is the corporate arm of a Métis government that represents an Indigenous people—not a mere club or association with membership.
“councillor” means, except as otherwise provided in section 9, a director of the Secretariat; (“conseiller”)	No change.	Ordinary not-for-profit corporations have “directors”. The MNO Act uses the word “councillor” to be consistent with the MNO Bylaws and to reflect the fact that these individuals are democratically elected representatives of the MNO—not mere directors of a corporation.

What the MNO Act Says	When the <i>ONCA</i> Comes Into Force	What this Means
<p>“Métis Community Council” means a corporation without share capital that,</p> <ul style="list-style-type: none"> (a) has the Secretariat as its sole member, (b) contains “Métis Community Council” or “Conseil communautaire métis” within its corporate name, and (c) is prescribed by regulations made under subsection 16 (2); (“conseil communautaire métis”) 	<p>No change</p>	<p>A Métis Community Council under the MNO Act is a not-for-profit corporation that:</p> <ul style="list-style-type: none"> (a) Has the Secretariat as its sole member. This does not mean that MNO citizens living in a local area are no longer “members” of each Community Council. The Secretariat is made up of all MNO citizens, so this could never happen. Making the Secretariat the sole member of a Community Council for corporate law purposes simply means that <i>all</i> MNO citizens have a collective say, though the Secretariat, in how individual Community Councils are structured and governed. This maintains consistency in how MNO citizens are represented at the local level throughout the province. Negotiated and mutually agreeable letters patent and by-laws for each incorporated Métis Community Council in the future (which would ultimately replace a Charter agreement) will explain these issues in greater detail and clearly indicate that decision-making at the local level continues to rest with the MNO citizens living within a Community Council’s area as represented by the Métis leadership elected by those MNO citizens. Importantly, only willing Chartered Community Councils will become Métis Community Councils under the MNO Act. If not, the status quo remains. (b) Has a name that includes the phrase “Métis Community Council” or “Conseil communautaire Métis” – for example, the “Northern Lights Métis Community Council” or the “Métis Community Council of the Niagara Region”. The Community Council could choose what to call itself, so long as its name included that phrase in either English or French. (c) Is named in a regulation made under the MNO Act. Section 16 of the MNO Act gives the Minister of Aboriginal Affairs the power to pass a regulation that makes a Métis Community Council come under the MNO Act. That would only be done at the request of the MNO Secretariat if a Community Council was agreeable and negotiated bylaws for the Community Council had been negotiated and finalized between the MNO, the Secretariat and the Community Council. Once a Community Council is added it would mean that the Community Council would become a separate corporate structure and benefit from all of the special rules and exemptions that the MNO Act creates.
<p>“Provisional Council” means the Provisional Council of the Métis Nation of Ontario, being the board of directors of the Secretariat; (“conseil provisoire”)</p>	<p>No change.</p>	<p>Ordinary not-for-profit corporations have boards of directors. The MNO Act instead uses the term “Provisional Council” to recognize and reflect the Secretariat’s unique status as a governance structure, and the words citizens have chosen to describe that structure.</p>
<p>“Secretariat” means the corporation without share capital incorporated on February 25, 1994 by letters patent under the <i>Corporations Act</i> under the name Métis Nation of Ontario Secretariat. (“Secrétariat”).</p>	<p>No change.</p>	<p>The Secretariat is the not-for-profit corporation that was incorporated in 1994 as the Métis Nation of Ontario Secretariat.</p>

Corporations Act: Section 2

This section affirms that the *OCA* continues to apply to the Secretariat—as it has since 1994—and that the *ONCA* will apply when it comes into force, except as set out in the *MNO Act*. Many of the rules that govern corporations are not inconsistent with the Secretariat’s unique role and special status. For example, all corporations are required to keep records such as minutes of meetings, and prepare audited financial statements. Corporations also have the power to borrow money and hold property. Those things are entirely consistent with the Secretariat’s status the corporate arm of a Métis governance structure. In fact, non-Aboriginal governments have similar responsibilities and powers. The *MNO Secretariat* has been exercising the powers and complying with the responsibilities set out in provincial corporate law for over two decades. The only change this section makes is to recognize that the *MNO Act* establishes special rules and exemptions for the Secretariat, and to make it clear that provincial corporate law will continue to apply to the Secretariat (as it has for 20+ years) with the exception of those special rules and exemptions.

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>2. (1) The <i>Corporations Act</i> applies to the Secretariat, except as otherwise provided under this Act.</p>	<p>2. (1) The <i>Not-for-Profit Corporations Act, 2010</i> applies to the Secretariat, except as otherwise provided under this Act.</p> <p style="color: green;">This amendment is made by section 17 of the <i>MNO Act</i>.</p>	<p>Provincial corporate law will continue to apply to the Secretariat—as it has since the Secretariat was incorporated in 1994—except to the extent that the <i>MNO Act</i> creates special rules and exemptions. For now, this means that the <i>Corporations Act</i> will continue to apply. When the <i>ONCA</i> comes into force, it will apply—but again, subject to the special rules and exemptions established by the <i>MNO Act</i>.</p>
<p>(2) The Secretariat’s name is changed to “Métis Nation of Ontario Secretariat” in English and “Secrétariat de la nation métisse de l’Ontario” in French, and the change is deemed to have been effected by supplementary letters patent under the <i>Corporations Act</i>.</p>		<p>This section simply makes the name of the Secretariat consistent in both English and French.</p>

Notice to Minister: Section 3

This section is connected to the definitions section and to section 16(2) of the Act. The definitions section says that a Métis Community Council is a corporation that is named in a regulation. Section 16(2) gives the Minister of Aboriginal Affairs (“Minister”) the power to pass regulations so that when the Secretariat gives notice that a Métis Community Council wishes to become incorporated pursuant to mutually agreeable letters patent, it can be named and be governed by the Act instead of having to be governed by the *OCA*. Notifying the Minister when letters patent are filed to create a Métis Community Council under the Act helps to ensure that the regulation will be put in place without delay. The Minister will only take steps to pass a regulation if and when the Minister is notified by the Secretariat that documents have been filed to incorporate a Métis Community Council and bring it under the Act.

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>3. The Secretariat shall notify the Minister responsible for the administration of this Act when an application to file letters patent or supplementary letters patent is made under the <i>Corporations Act</i> in relation to,</p> <ul style="list-style-type: none"> (a) the Secretariat; (b) a Métis Community Council; or (c) a body that, if incorporated, proposes, with the Secretariat’s written consent, to include within its corporate name the expression “Métis Community Council” or “Conseil communautaire métis”. 	<p>3. The Secretariat shall notify the Minister responsible for the administration of this Act when an application to file letters patent or supplementary letters patent is made under the <i>Not-for-Profit Corporations Act, 2010</i> in relation to,</p> <ul style="list-style-type: none"> (a) the Secretariat; (b) a Métis Community Council; or (c) a body that, if incorporated, proposes, with the Secretariat’s written consent, to include within its corporate name the expression “Métis Community Council” or “Conseil communautaire métis”. <p>This amendment is made by section 18 of the MNO Act.</p>	<p>Whenever documents are filed to either modify the Secretariat’s letter patent or to create an incorporated Métis Community Council through letters patent, the Secretariat has to let the Minister know. This process is driven by the Secretariat—not the Minister. This section is really about giving notice to the Minister when an incorporated Métis Community Council is created so the Minister can then ensure this incorporated entity is recognized under the MNO Act (see further explanation below). The Minister does not scrutinize the filed documents, he or she is simply making sure a Métis Community Council is properly recognized as being one under the MNO Act.</p> <p>Importantly, this notification does not apply to changes to the Secretariat’s by-laws. For example, the MNO does not need to seek the Minister’s approval or make him aware of changes the MNO Annual General Assembly may make to the Secretariat’s by-laws. The Secretariat’s by-laws continue to be in the sole control and discretion of the MNO.</p>

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
	<p>3.1 Despite subsection 23(2) of the <i>Not-for-Profit Corporations Act, 2010</i>, no person shall be a councillor unless he or she is a citizen.</p> <p>Section 23(2) of the <i>ONCA</i> states:</p> <p style="padding-left: 40px;">A director of a corporation is not required to be a member of the corporation unless the by-laws provide otherwise.</p> <p style="padding-left: 40px;">This amendment is made by section 19 of the <i>MNO Act</i>.</p>	<p>Under the <i>OCA</i> no one can be a director of a corporation unless he or she is a member. This means that right now, corporate law is consistent with the rules MNO citizens have established for their governance, namely that no one can be a councillor on the PCMNO or a Community Council unless he or she is a citizen of the MNO. When the <i>ONCA</i> comes into force, there will be a new rule governing ordinary not-for-profit corporations. For those corporations, directors will no longer have to be members. This would be inconsistent with the Secretariat's by-laws which make it clear that only MNO citizens can hold elected office in the MNO and sit on the PCMNO, Community Councils, etc., so a special rule is required when the <i>ONCA</i> comes into force. This special rule ensures that the <i>ONCA</i> will not interfere with how MNO citizens have chosen to govern themselves.</p>

Election of Councillors: Section 4

This section applies to the election of councillors on the PCMNO. For corporate law purposes, the councillors of the PCMNO serve as the board of directors of the Secretariat. Under provincial legislation, the board of directors of a corporation has to be elected once every year, at the annual general meeting. That is inconsistent with the MNO Electoral Code, which says that Councillors are to be elected once every four years, through province-wide ballot box elections that are held in May, separate from the MNO’s Annual General Assembly.

In order to recognize the MNO Electoral Code and the democratic process through which Ontario Métis have chosen to govern themselves, the Act creates an exemption for the MNO from the election provisions of provincial corporate law. This section only relates to corporate law requirements that apply to the Secretariat as a not-for-profit corporation. It does not have any impact on the right to or exercise of Métis self-government. All it does is change the rules that would otherwise apply to the Secretariat in order to ensure that provincial corporate law does not interfere with the governance processes and structure MNO citizens have established for themselves.

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>4. (1) Councillors shall be elected by citizens every four years, and the elections shall be by province-wide ballot.</p>	<p>No change.</p>	<p>Councillors of the PCMNO (with the exception of PCMNO Senators who are selected by Senators) will continue to be elected by MNO citizens once every four years in a province-wide ballot box election as set out in MNO Electoral Code.</p>
<p>(2) For the purposes of subsection (1), the requirement in subsection 287 (1) of the <i>Corporations Act</i> that the election take place in a general meeting does not apply.</p> <p style="color: #800000;">Section 287(1) of the <i>CA</i> states:</p> <p style="color: #800000;">The directors shall be elected by the shareholders or members in general meeting and the election shall be by ballot or in such other manner as the by-laws of the corporation prescribe.</p>	<p>4(2) For the purposes of subsection (1), the requirement in subsection 24(1) of the <i>Not-for-Profit Corporations Act, 2010</i> that the election take place in an annual meeting does not apply.</p> <p style="color: #800000;">Section 24(1) of the <i>ONCA</i> states:</p> <p style="color: #800000;">At the first meeting of the members and at each succeeding annual meeting at which an election of directors is required, the members shall, by ordinary resolution, elect directors to hold office for a term expiring not later than the close of the fourth annual meeting of the members after the election, as provided in the by-laws.</p> <p style="color: #008000;">This amendment is made by section 20 of the MNO Act.</p>	<p>These ballot box elections do not have to take place as part of MNO Annual General Assemblies. They can continue to be held separately as set out in MNO Electoral Code</p>

Removal of Councillors: Section 5

PCMNO councillors are very different from ordinary corporate directors. They are elected through ballot box elections, and are a key part of the self-government structure that MNO citizens have created. The role of an ordinary corporate director is far more limited, and does not include that essential self-governance aspect. It is relatively easy for the members of an ordinary corporation to remove a director. Under existing corporate law, a director can be removed by a resolution passed by two thirds of the votes cast at any general meeting. If that same rule applied to PCMNO councillors, it would be inconsistent with the MNO’s democratic processes. For example, imagine that 16,000 MNO citizens voted in a province-wide election. In an incredibly tight race, one of the PCMNO councillors was elected with 8,001 votes. Now imagine that 1200 MNO citizens attend the next Annual General Assembly. A resolution passed by a mere 800 votes—two thirds of the 1200 citizens in attendance—would be enough to remove that councillor. Eight hundred citizens could therefore frustrate the democratic will of the MNO as a whole, and in particular the 8,001 citizens who voted for that councillor. That would obviously be unfair and undemocratic—and the problem gets worse if you imagine a situation in which the councillor was elected by an overwhelming majority of voters. If those same 16,000 MNO citizens voted in a province-wide election but 15,200 of them voted for the councillor, it would be even more unfair to allow 800 citizens to remove that councillor by a resolution at an Annual General Assembly. In effect, what that would mean was that a small number of citizens who were dissatisfied with the results of a democratic, province-wide election could get together and force a new election to be held.

There is a reason that Canadian law does not allow for the recall of elected representatives, and that even the small number of jurisdictions that do so have very stringent rules governing that process. There will almost always be “losers” in any electoral process—citizens whose preferred candidates did not get elected and who would like a “do over.” But it is very difficult if not impossible for elected officials to govern effectively if they have to be constantly campaigning to keep their seats. By exempting the PCMNO councillors from the rules that apply to ordinary corporations, the MNO Act recognizes that the Secretariat is a governance structure—a body that operates like the provincial or federal government rather than an ordinary corporation. At the same time, it recognizes that there may be extraordinary circumstances in which removal is appropriate, and strikes a balance between ensuring that the PCMNO can govern effectively, and ensuring that MNO citizens have effective recourse if necessary. This section set out a number of special rules that are required to remove an elected PCMNO councillor at a “special meeting.” It must be read in conjunction with Section 7 of the MNO Act, which deals with how such a “special meeting” can be requisitioned.

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>5. (1) The citizens may, by ordinary resolution at a special meeting, remove from office any councillor, except a person who is a councillor by virtue of his or her office.</p>	<p>Repealed. Section 26(1) of the <i>ONCA</i> will apply.</p> <p><i>Section 26(1) of the ONCA states:</i></p> <p><i>The members of a corporation may, by ordinary resolution at a special meeting, remove from office any director or directors, except persons who are directors by virtue of their office.</i></p> <p><i>This amendment is made by section 21 of the MNO Act.</i></p>	<p>Currently, MNO citizens can remove any elected PCMNO councillor by ordinary resolution at a MNO AGA. It is not democratic that a PCMNO councillor could be elected a thousand MNO citizens in their given region, however, a few hundred different MNO citizens (many of which may not even live in an elected councillor’s region) could remove them. Under the MNO Act, in order to remove a councillor, MNO citizens would have to pass an “ordinary resolution” at a “special meeting”. The requirements for such an “ordinary resolution” and a “special meeting” are defined and discussed in more detail in section 5(3) and section 7 of the MNO Act. In brief, an ordinary resolution is one that does not have to be circulated in advance. A special meeting has to be requisitioned by at least 20 percent of the citizens who would be entitled to vote at the meeting.</p>

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>(2) A councillor elected by a group of citizens that has an exclusive right to elect the councillor may only be removed by an ordinary resolution of the members of that group.</p>	<p>Repealed. Section 26(2) of the <i>ONCA</i> will apply.</p> <p><i>Section 26(2) of the ONCA states:</i></p> <p style="padding-left: 40px;">A director elected by a class or group of members that has an exclusive right to elect the director may only be removed by an ordinary resolution of members of that class or group.</p> <p style="padding-left: 40px;">This amendment is made by section 21 of the MNO Act.</p>	<p>Some PCMNO councillors are elected by specific groups of MNO citizens. For example, Regional Councillors are elected by the MNO citizens living in that region. No one who lives outside that region has the right to vote for that Regional Councillor. This section means that only the citizens who are part of the group that elects a councillor can remove that councillor.</p>
<p>(3) For the purposes of subsections (1) and (2), an ordinary resolution is a resolution that,</p> <ul style="list-style-type: none"> (a) is submitted to and passed at a meeting of the citizens, with or without amendment, by at least a majority of the votes cast; or (b) is consented to by each citizen entitled to vote at a meeting of the citizens, or by the citizen’s attorney. 	<p>Repealed. Section 1 of the <i>ONCA</i> will apply.</p> <p><i>Section 1 of the ONCA defines an “ordinary resolution” as a resolution that</i></p> <ul style="list-style-type: none"> (a) is submitted to and passed at a meeting of the members, with or without amendment, by at least a majority of the votes cast; or (b) is consented to by each member entitled to vote at a meeting of the members, or by the member’s attorney. <p style="padding-left: 40px;">This amendment is made by section 21 of the MNO Act.</p>	<p>Subject to the special meeting rules set out in this section as a whole, an ordinary resolution to remove an elected councillor does not have to be circulated in advance but can simply be submitted at the meeting. It can also be amended at the meeting. However, the process for calling this special meeting must be followed. Further, an ordinary resolution can either be passed by a majority vote at the special meeting or by consensus of all of the citizens entitled to vote at the meeting.</p>
<p>(4) The quorum for a special meeting to remove a councillor is a majority of the citizens entitled to vote to remove the councillor.</p>	<p>No change.</p>	<p>This is the special rule created for the MNO. It means that in order for the meeting to remove a councillor to go ahead, it has to be attended by at least 50% of the citizens who would be entitled to vote to remove that councillor. In other words, half of the citizens who are entitled to vote in an election for that councillor must attend. For a Regional Councillor, for example, this would require half of the citizens of that region. For a councillor like the Secretary-Treasurer, who is elected by province-wide ballot, this would require half of all of the citizens of the MNO.</p>

Youth Representatives: Section 6

The MNO Secretariat—and the MNO as a whole—has always recognized and benefitted from the contributions of youth in Métis self-government. The MNO has adopted a number of measures to help ensure that Métis youth are meaningfully engaged in the MNO’s governance structure at the local, regional and provincial levels. This is reflected in the fact that Métis citizens who are at least 16 years old can vote in elections and at MNO Annual General Assemblies in accordance with Métis traditions and self-government. It is also reflected in the fact that PCMNO includes both youth and post-secondary representatives. At the same time, the MNO also needs to ensure that youth who are still minors are not exposed to corporate and legal liabilities that may affect their futures. In order to balance these needs, the MNO respects and accepts the votes of young people between the ages of 16 and 18, but does not expose them to potential debt or other liabilities. For that reason, since its creation, the MNO’s by-laws have always stated that voting councillors must be individuals who are bondable, at least 18 years of age, and have the power under law to enter into contracts. This enables and facilitates the participation of young people while also protecting their interests.

Under provincial corporate law, youth simply do not play any role in corporations. The MNO Act creates a special rule to recognize that the unique role the MNO has created for Métis youth so they can be elected to and fully participate in PCMNO meetings without becoming full corporate directors with liabilities. This special rule continues to apply once a youth representative turns 18, because it would be unfair to expect a 16-year-old to decide to bind their future self to taking on the liabilities of a director. It remains open to the MNO to develop internal policies that would allow for a youth or post-secondary representative who turned 18 and wanted to assume the full rights and liabilities of a Councillor to do so. One possibility would be for that person to resign their position. Under the MNO by-laws and Charter agreements, if a position becomes vacant within an elected term, the PCMNO or Community Council can appoint someone to fill it. The MNO could create a rule that says that once a youth or post-secondary representative turns 18 they can choose to resign and then automatically be reappointed to that position with the full rights, powers, duties and liabilities of a councillor/corporate director.

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>6. (1) A person who, while under the age of 18, is elected by the citizens in accordance with the by-laws to represent, on the Provisional Council, the interests of young people for a specified term is not a councillor, does not hold any of the rights, powers, duties or liabilities of a councillor, and is not entitled to exercise a binding vote on any matter before the Provisional Council or any of its committees.</p>	No change.	<p>The MNO Act recognizes that the Secretariat’s by-laws provide for a youth to be elected to PCMNO as a Youth or Post-Secondary Councillor. At the same time, it protects youth who are elected while under 18. A youth representative who is under 18 when elected does not acquire the liabilities of a corporate director—for example, he or she cannot be sued. A youth representative who is under 18 when elected also does not hold the rights that a director has to exercise a binding vote—but that youth representative can still speak to any matter, move and second motions, and otherwise participate.</p>
<p>(2) Subsection (1) applies for the duration of the person’s term, even if he or she reaches the age of 18 during the term.</p>	No change.	<p>If a youth representative turns 18 during their term, they will not automatically acquire the rights and liabilities of a director. However, as noted above, the MNO could develop a policy to enable this a youth or post-secondary representative to assume these corporate responsibilities once they turn 18.</p>

Requisition for Meeting: Section 7

As noted above, section 7 works together with section 5. Section 5 describes how MNO citizens can remove a PCMNO councillor at a “special meeting”. Section 7 describes in detail what is required to requisition a special meeting.

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>7. (1) The application of subsection 295 (1) of the <i>Corporations Act</i> to the Secretariat is modified as follows:</p> <ol style="list-style-type: none"> 1. A requisition that the councillors hold a meeting requires that the citizens who hold at least 20 per cent of votes that may be cast at the meeting sought to be held make the request. 2. In addition to the requirement that the purpose of the meeting not be inconsistent with that Act, the purpose must not be inconsistent with this Act. <p>Section 295(1) of the <i>CA</i> states:</p> <p style="padding-left: 20px;">Shareholders of a company holding not less than one-tenth of the issued shares of the company that carry the right to vote at the meeting proposed to be held, or not less than one-tenth of the members of a corporation without share capital entitled to vote at the meeting proposed to be held, as the case may be, may request the directors to call a general meeting of the shareholders or members for any purpose connected with the affairs of the corporation that is not inconsistent with this Act.</p>	<p>7. Despite subsection 60(1) of the <i>Not-for-Profit Corporations Act, 2010</i>, a requisition that the councillors hold a meeting requires that the citizens who hold at least 20 per cent of votes that may be cast at the meeting sought to be held make the request.</p> <p>Section 60(1) of the <i>ONCA</i> states:</p> <p style="padding-left: 20px;">The members of a corporation who hold at least 10 percent of the votes that may be cast at a meeting of the members sought to be held, or a lower percentage that is set out in the by-laws, may requisition the directors to call the meeting for the purposes stated in the requisition.</p> <p style="padding-left: 20px;">This amendment is made by section 22 of the <i>MNO Act</i>.</p>	<p>Under both the <i>OCA</i> and the <i>ONCA</i>, a special meeting can be requisitioned by members holding just 10 percent of the votes that may be cast at that meeting. The <i>MNO Act</i> creates a special rule that raises the threshold to 20 percent of the citizens who would be entitled to vote at that meeting. This reflects the Secretariat’s status as a Métis governance structure rather than an ordinary not-for-profit corporation.</p> <p>Who is entitled to vote at the meeting depends on the purpose of the meeting. If the meeting is held for the purpose of removing an elected councillor who is elected on a province-wide basis, the requisition would have to be made by 20 percent of all MNO citizens who are 16 or over and entitled to vote in provincial elections. If the meeting is held for the purpose of removing a councillor who is elected by a specific group of citizens—for example, youth or citizens who live in a certain region—then the requisition would have to be made by 20 percent of that group of MNO citizens.</p> <p>For now, while the <i>OCA</i> applies, the purpose of a special meeting has to be consistent with both the <i>OCA</i> and the <i>MNO Act</i>. Once the <i>ONCA</i> comes into force, the purpose of a special meeting will have to be stated in the requisition.</p>

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>(2) If the councillors do not call a meeting within 21 days after receiving a requisition that meets the requirements of subsection 295 (2) of the <i>Corporations Act</i>, any citizen who signed the requisition may call the meeting, and subsection 295 (4) of that Act does not apply.</p> <p>Section 295(2) of the <i>CA</i> states:</p> <p>The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the corporation and may consist of several documents in like form signed by one or more requisitionists.</p> <p>Section 295(4) of the <i>CA</i> states:</p> <p>If the directors do not within twenty-one days from the date of the deposit of the requisition call and hold such meeting, any of the requisitionists may call such meeting which shall be held within sixty days from the date of the deposit of the requisition.</p>	<p>Repealed.</p> <p>This amendment is made by section 22 of the <i>MNO Act</i>.</p> <p>Section 60(1) and 60(4) of the <i>ONCA</i> will apply.</p> <p>Section 60(1) of the <i>ONCA</i> states:</p> <p>The requisition, which may consist of several documents of similar form each signed by one or more members, must state the business to be transacted at the meeting and must be sent to each director and to the registered office of the corporation.</p> <p>Section 60(4) of the <i>ONCA</i> states:</p> <p>If the directors do not call a meeting within 21 days after receiving the requisition, any member who signed the requisition may call the meeting.</p>	<p>If a meeting is not called within 21 days after a proper requisition is submitted, any member who signed the requisition may call the meeting.</p> <p>A requisition does not have to be one single document. Multiple documents, each of which states the business to be dealt with at the meeting, can be used to collect signatures. For now, the requisition has to be sent to the MNO’s head office. When the <i>ONCA</i> comes into force, it will also have to be sent to each director (i.e. councillor).</p> <p>Under the <i>OCA</i>, a meeting called by one of the requisitioners has to be held within 60 days of the date the requisition was submitted. The <i>MNO Act</i> exempts the MNO from that requirement.</p> <p>That exemption will no longer be necessary after the <i>ONCA</i> comes into force because the <i>ONCA</i> does not impose any time limit on when the meeting can be held.</p>

The Process and Requirements for Removing a PCMNO Councillor: Sections 5 and 7

The table below shows the process for removing a councillor, and the minimum number of MNO citizens who would be required to act at each stage to remove a provincially-elected councillor (based on 18,000 MNO citizens eligible to vote) and a regionally-elected councillor (based on 5,000 MNO citizens who are eligible to vote in that region).

	Step One: Requisitioning a Special Meeting	Step Two: Holding the Meeting	Step Three: Passing an Ordinary Resolution
General requirement	20 percent of the MNO citizens eligible to vote for that councillor must sign a requisition.	In order to have quorum and go ahead with the meeting, the meeting must be attended by a majority of the MNO citizens eligible to vote to remove that councillor. Only citizens who are eligible to vote to elect a councillor are eligible to vote to remove that councillor.	An ordinary resolution has to be passed by at least a majority of those attending the meeting.
Provincially Elected Councillor (Total eligible voters for position which is currently around 18,000 MNO citizens in registry)	Approx. 3,600 MNO citizens (20 percent of 18,000)	9,001 MNO citizens (50 percent plus 1 of 18,000)	4,501 MNO citizens (A majority of the 9,001 citizens who must be in attendance for the meeting to be held)
Regionally Elected Councillor (Total MNO citizens in a given MNO region who are also the eligible voters for a Regional Councillor position, for example, 5,000 voters)	1,000 MNO citizens from that region (20 percent of 5,000)	2,501 MNO citizens from that region (50 percent plus 1 of 5,000)	1,251 MNO citizens from that region (A majority of the 2,501 citizens who must be in attendance for the meeting to be held)

Section 8: List of Citizens

The MNO Act creates special rules that reflect the significance of MNO citizenship (versus mere membership) and imposes strict controls on access to the list of MNO citizens.

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>8. (1) Section 306 of the <i>Corporations Act</i> does not apply to the Secretariat.</p> <p>Section 306 of the <i>CA</i> states:</p> <p style="padding-left: 20px;">No shareholder or member or creditor or the agent or legal representative of any of them shall make or cause to be made a list of all or any of the shareholders or members of the corporation, unless the person has filed with the corporation or its agent an affidavit of such shareholder, member or creditor in the following form in English or French, and, where the shareholder, member or creditor is a corporation, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of such corporation:</p> <p style="text-align: center;">Form of Affidavit</p> <p>I, [name] of the [city/town, etc.] of [name of municipality] in the [county/region] of [name of county/region] make oath and say (<i>or affirm</i>):</p> <ol style="list-style-type: none"> 1. I am a shareholder (<i>or member or creditor</i>) of the above-named corporation 2. I am applying to make a list of the shareholders (<i>or members</i>) of the above-named corporation. 3. I require the list of shareholders (<i>or members</i>) only for purposes connected with the above-named corporation. 4. The list of shareholders (<i>or members</i>) and the information contained therein will be used only for purposes connected with the above-named corporation. 	<p>Repealed.</p> <p style="padding-left: 20px;">This amendment is made by section 22 of the MNO Act.</p> <p>Section 96 of the <i>ONCA</i> will apply.</p> <p>Section 96 of the <i>ONCA</i> states:</p> <ol style="list-style-type: none"> (2) Any person described in subsection (1) [a member or member’s attorney or legal representative] on payment of a reasonable fee and on giving a corporation or its agent the statutory declaration described in subsection (3), may on application require the corporation or its agent to give the person a current list of members setting out the names and addresses of each member and such additional information as is required by the by-laws as soon as is practical. 2010, c. 15, s. 96 (2). (3) The statutory declaration required under subsection (1) or (2) must, <ol style="list-style-type: none"> (a) state the name and address of the applicant and, if the applicant is a body corporate, its address for service; and (b) state that the list of members or the information contained in the register of members obtained under subsection (1) will not be used except as permitted under subsection (5).(5) A member or a member’s attorney or legal representative who obtains a list of members or information from a register of members under this section shall not use the list or information except in connection with, <ol style="list-style-type: none"> (a) an effort to influence the voting of members; (b) requisitioning a meeting of the members; or (c) another matter relating to the affairs of the corporation. 	<p>Section 306 of the <i>OCA</i> states that any member or creditor of a corporation can get a list of all members of the corporation so long as they swear an affidavit that they need and will use the list only for purposes connected to the corporation.</p> <p>If that section applied to the MNO, it would mean that anyone who loaned money to the MNO—such as a bank— could get a list of all MNO citizens by swearing an affidavit saying that they needed and would use the list only for purposes connected with the MNO.</p> <p>While the <i>OCA</i> applies, the MNO Act exempts the MNO from that section.</p> <p>When the <i>ONCA</i> comes into force, that exemption is no longer required. That is because the <i>ONCA</i> limits access to the list to “members”—that is, MNO citizens—and their legal representatives.</p>

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>(2) The application of subsection 307 (1) of the <i>Corporations Act</i> to the Secretariat is modified as follows:</p> <ol style="list-style-type: none"> 1. Only a citizen or his or her attorney or legal representative may require the Secretariat to provide the information described in that subsection. 2. A statutory declaration shall be used instead of the affidavit, and shall contain, <ol style="list-style-type: none"> i. the applicant’s name and address, and ii. a statement that the information described in that subsection will not be used except as permitted under section 307 of that Act. <p>Subsection 307(1) of the <i>CA</i> states:</p> <p>Any person, upon payment of a reasonable charge therefor and upon filing with the corporation or its agent the affidavit referred to in subsection (2), may require a corporation, other than a private company, or its transfer agent to furnish within ten days from the filing of such affidavit a list setting out the names alphabetically arranged of all persons who are shareholders or members of the corporation, the number of shares owned by each such person and the address of each such person as shown on the books of the corporation made up to a date not more than ten days prior to the date of filing the affidavit.</p> <p>[The affidavit referred to in subsection 307(2) is in the same form as the affidavit set out in subsection 306]</p>	<p>Repealed.</p> <p>This amendment is made by section 22 of the <i>MNO Act</i>.</p> <p>Section 96 of the <i>ONCA</i> will apply as set out above. Subsection 96(5) is repealed for ease of reference.</p> <p>Subsection 96(5) of the <i>ONCA</i> states:</p> <p>(5) A member or a member’s attorney or legal representative who obtains a list of members or information from a register of members under this section shall not use the list or information except in connection with,</p> <ol style="list-style-type: none"> (a) an effort to influence the voting of members; (b) requisitioning a meeting of the members; or (c) another matter relating to the affairs of the corporation. 	<p>Subsection 307(1) of the <i>OCA</i> goes even further than section 306, and would give access to the list of MNO citizens to anyone who files an affidavit and pays a reasonable fee. The <i>MNO Act</i> modifies subsection 307(1) of the <i>OCA</i> to say that only MNO citizens or their attorneys or legal representatives can have access to the list of MNO citizens. It also says that a statutory declaration should be filed instead of an affidavit. This simply reflects the more modern approach, which is also reflected in the <i>ONCA</i>.</p> <p>This special rule will be repealed when the <i>ONCA</i> comes into force because it will no longer be needed. The <i>ONCA</i> already limits access to members—that is, MNO citizens—and their attorneys. No one else has any power to get the list of MNO citizens.</p> <p>The <i>ONCA</i> also says that the list can only be used for specific purposes, set out in subsection 96(5). The first purpose is to try to influence voting. This reflects existing MNO practice. Any MNO citizen who is nominated and runs for election has access to the list so that he or she can campaign effectively. The second purpose is to requisition a meeting of the members. This facilitates special meetings as described in section 7 of the <i>MNO Act</i>.</p> <p>The third purpose—for another matter relating to the affairs of the Secretariat—will be subject to special rules for the MNO once the <i>ONCA</i> comes into force. Those special rules are described in detail in the next section.</p>

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>(3) For the purposes of clause 307 (4) (b) of the <i>Corporations Act</i>, purposes not connected with the Secretariat include,</p> <ul style="list-style-type: none"> (a) forming a body with objects similar to those of the Secretariat or establishing a registry of Aboriginal persons; (b) challenging the eligibility of any person to be a citizen; and (c) soliciting citizens on behalf of another body. <p>Clause 307(4)(b) of the <i>CA</i> states:</p> <p>Every person who uses a list of shareholders or members of a corporation obtained under this section ...</p> <ul style="list-style-type: none"> (b) for any purpose not connected with the corporation, <p>is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.</p>	<p>8. For the purposes of clause 96(5) (c) of the <i>Not-for-Profit Corporations Act, 2010</i>, matters that do not relate to the affairs of the Secretariat include</p> <ul style="list-style-type: none"> (a) forming a body with objects similar to those of the Secretariat or establishing a registry of Aboriginal persons; (b) challenging the eligibility of any person to be a citizen; and (c) soliciting citizens on behalf of another body. <p>Clause 96(5)(c) of the <i>ONCA</i> states:</p> <p>(5) A member or a member’s attorney or legal representative who obtains a list of members or information from a register of members under this section shall not use the list or information except in connection with...</p> <ul style="list-style-type: none"> (c) another matter relating to the affairs of the corporation. <p>This amendment is made by section 22 of the <i>MNO Act</i>.</p>	<p>Under both the <i>OCA</i> and the <i>ONCA</i> the list can only be used for things connected or relating to the corporation. The <i>MNO Act</i> creates special rules that include specific purposes that would not be related to or connected with the Secretariat. Using the list of <i>MNO</i> citizens for one of these purposes is not permitted. The list of <i>MNO</i> citizens cannot be used to:</p> <ul style="list-style-type: none"> (a) create another body with purposes similar to those of the Secretariat or another registry of Aboriginal persons; (b) challenge the eligibility of anyone to be an <i>MNO</i> citizen; (c) ask for things from <i>MNO</i> citizens on behalf of another body—for example, using the list of <i>MNO</i> citizens to try to fundraise. <p>While the <i>OCA</i> continues to apply, it is an offence to use the list of <i>MNO</i> citizens for one of those purposes.</p> <p>Anyone who commits that offence and is found guilty is liable to a fine of up to \$1,000.</p>
	<p>8.1 Subsection 84(2) of the <i>Not-for-Profit Corporations Act, 2010</i> applies to the Secretariat, except that the copies of the documents shall be provided not less than five days, excluding Saturdays and holidays, before the annual general meeting or signing of a resolution.</p> <p>Subsection 84(1) of the <i>ONCA</i> states:</p> <p>Not less than 21 days before each annual meeting of the members or before the signing of a resolution under section 59 in lieu of the annual meeting, a corporation shall give a copy of the documents referred to in subsection (1) [the financial statements, auditor’s report, and any other financial information that may be required under the articles or by-laws] to all members who have informed the corporation that they wish to receive a copy of those documents.</p> <p>This amendment is made by section 22 of the <i>MNO Act</i>.</p>	<p>The <i>MNO</i> Secretariat has to provide financial statements and the auditors report to citizens who wish to receive those documents before the <i>MNO</i> Annual General Assembly. The documents only have to be provided five days in advance of the assembly, rather than 21 days in advance.</p>

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
	<p>8.2 The by-laws may provide that a notice or other document may or shall be given by the Secretariat to a citizen or councillor in a manner other than a manner specified in subsection 196(1) of the <i>Not-for-Profit Corporations Act, 2010</i>.</p> <p>Subsection 196(1) of the <i>ONCA</i> states:</p> <p style="padding-left: 20px;">A notice or other document required or permitted by this Act, the regulations, the articles or the by-laws to be given to a member or director of a corporation may be given to,</p> <p style="padding-left: 20px;">(a) a member at the member’s latest address as shown in the records of the corporation;</p> <p style="padding-left: 20px;">b) a 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 <i>Corporations Information Act</i>, whichever is the more current.</p> <p style="color: green;">This amendment is made by section 22 of the MNO Act.</p>	<p>Rather than having to send notices and documents out by mail to a citizen or councillor’s last known address, the MNO can instead decide to deliver documents by another method—for example, by email or fax.</p>

Métis Community Councils: Sections 9-14

Currently, MNO Community Councils operate under executed Community Charter Agreements with the MNO and the Secretariat. Using a Charter Agreement system to create Métis Community Councils helps to ensure consistency in MNO citizenship across the province; consistency in how Community Councils operate; fairness and transparency in the election of local representatives, and equitable sharing and use of resources to benefit all MNO citizens, including, effective and accountable program and service delivery. At the same time, the Charter Agreement system requires that the MNO Secretariat is the only entity that is incorporated. So, presently, Community Councils are not separately incorporated from the MNO. Some Community Councils are perfectly happy with this arrangement, however, others want to incorporate so they can assume more authority and responsibility at the local level. Until now, there was no mechanism that would allow Community Councils to incorporate while also making sure that they operated in a manner consistent with the MNO's overall self-government goals and nation-building. In corporate law, separate legal corporations become “masters of their own domain” and can set their own membership requirements, rules, etc. This would fundamentally undermine the MNO's nation-building agenda.

Under the MNO Act, Chartered Community Councils can now be incorporated as separate corporations, with the Secretariat as the sole “member” of the corporation. The word “member” here is used only in the corporate law sense. This does not mean that local MNO citizens will no longer be members of Community Councils. The Secretariat is made up of all MNO citizens and represents their collective will. Making the Secretariat—the collective representative of all MNO citizens—the only “member” of an incorporated Community Council, simply means that MNO citizens and the MNO as a whole will continue to have a voice in how Community Councils are run—just as they do now through the Charter Agreement system. This new approach—Community Councils as individual corporations with the Secretariat as their sole member—accomplishes and balances two goals. First, making Community Councils separate corporations means that they will have more autonomy and independence and be responsible for their own debts and liabilities. This increases Community Councils' capacity while also preventing situations in which a decision made by a single Community Council ends up having significant consequences for all MNO citizens and the MNO as a whole. Second, making the Secretariat the sole member of each Community Council corporation means that the Secretariat will still have the power to ensure consistency, fairness, and accountability across the province, just as it does under the current Charter Agreement system. As the sole member of a Community Council, the Secretariat can issue a “written declaration” that directs how a particular activity is to be managed by the Métis Community Council. This effectively gives the Secretariat the power to create province-wide policies that apply equally to all incorporated Métis Community Councils. If a Métis Community Council runs into difficulty, the Secretariat can also use written declarations to suspend or wind up the Métis Community Council based on the rules set out in each Métis Community Council's by-laws (i.e., following dispute resolution processes).

These may seem like significant changes, but in fact they simply recognize the powers the Secretariat already has under the Charter system. The Charter agreements do exactly what written declarations would do—set province-wide policy that governs how all Community Councils are run—and the Charter Agreements also give the Secretariat the power to suspend or revoke a Charter, subject to the terms set out in those agreements. When reading the part of the MNO Act that applies to Métis Community Councils, it is important to keep in mind the definition set out in section 1. When the Act refers to a Métis Community Council it is only referring to Community Councils that have incorporated as not-for-profit corporations with the MNO as their sole member, include the phrase “Métis Community Council” (or the French equivalent) in their names, and that have been named in regulations made under the MNO Act. The sections set out in this part of the MNO Act therefore do not apply to any Community Council that does not meet that definition. That means that any Community Council that chooses not to incorporate is not affected at all by the MNO Act and simply continues to function under the Charter Agreement system as it always has.

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>9. For the purposes of sections 10 to 14, “councillor” means a director of a Métis Community Council.</p>	<p>9. For the purposes of section 10 to 14.1, “councillor” means a director of a Métis Community Council.</p> <p><i>This amendment is made by section 23 of the MNO Act.</i></p>	<p>In other parts of the Act, the term “councillor” refers to a councillor on the PCMNO. This section says that for this part of the Act, “councillor” means a councillor on a Métis Community Council.</p>
<p>10. The <i>Corporations Act</i> applies to Métis Community Councils, except as otherwise provided under this Act.</p>	<p>10. The <i>Not-for-Profit Corporations Act, 2010</i> applies to Métis Community Councils, except as otherwise provided under this Act.</p> <p><i>This amendment is made by section 24 of the MNO Act</i></p>	<p>Incorporated Métis Community Councils are governed by provincial corporate law, except where the MNO Act creates special rules or exemptions to recognize and reflect the MNO’s unique status.</p>
<p>11. (1) Despite subsection 4 (1) and section 121 of the <i>Corporations Act</i>, upon incorporation of a corporation without share capital that, with the Secretariat’s written consent, includes within its corporate name the expression “Métis Community Council” or “Conseil communautaire métis”, the Secretariat becomes the sole member of the corporation.</p> <p><i>Subsection 4(1) of the CA states:</i></p> <p><i>The Lieutenant Governor may in his or her discretion, by letters patent, issue a charter to any number of persons, not fewer than three, of eighteen or more years of age, who apply therefor, constituting them and any others who become shareholders or members of the corporation thereby created a corporation for any of the objects to which the authority of the Legislature extends, except those of railway and incline railway and street railway corporations and corporations within the meaning of the <i>Loan and Trust Corporations Act</i>.</i></p> <p><i>Section 121 of the CA states:</i></p> <p><i>Upon incorporation of a corporation, each applicant becomes a member thereof.</i></p>	<p>Repealed.</p> <p><i>This amendment is made by section 25 of the MNO Act.</i></p>	<p>The MNO Act creates a special rule that allows Métis Community Councils to be incorporated with the Secretariat as their sole “member” for corporate law purposes. As set out in detail above, this ensures MNO citizens and the MNO as a whole will continue to have a voice in how Community Councils operate and maintains consistency across the province.</p> <p>Now, while the <i>OCA</i> continues to apply, that would not be possible because of two provisions. Subsection 4(1) says that corporations have to be established by at least three persons. Section 121 says that every applicant for incorporation becomes a member of the corporation when it is incorporated.</p> <p>This section says that Métis Community Councils can be incorporated with the Secretariat as their sole member despite those provisions.</p> <p>Once the <i>ONCA</i> comes into force that special rule will no longer be required because the <i>ONCA</i> does not contain the same provisions.</p>

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<p>(2) Section 311 of the <i>Corporations Act</i> does not apply to Métis Community Councils.</p> <p>Section 311 of the <i>CA</i> states:</p> <p>If a corporation exercises its corporate powers when its shareholders or members are fewer than three for a period of more than six months after the number has been so reduced, every person who was a shareholder or member of the corporation during the time that it so exercised its corporate powers after such period of six months and is aware of the fact that it so exercised its corporate powers is severally liable for the payment of the whole of the debts of the corporation contracted during such time and may be sued for the debts without the joinder in the action of the corporation or of any other shareholder or member.</p>	<p>Repealed.</p> <p>This amendment is made by section 25 of the <i>MNO Act</i>.</p>	<p>The MNO is exempted from section 311 of the <i>OCA</i>. That section says that if a corporation exercises its powers for more than six months with fewer than three members, each member becomes individually liable and can be sued for all of the debts of the corporation.</p> <p>If that applied to the MNO, it would mean that the Secretariat—the sole member of each Community Council—would be liable for all the debts of each Métis Community Council. That is part of what the <i>MNO Act</i> is intended to avoid. If a Métis Community Council incorporates, it is liable for its own debts—just as it agrees to be responsible for its own debts under the current Charter Agreement system. This protects the MNO as a whole.</p>
<p>12. Subsections 286 (1) and (2) of the <i>Corporations Act</i> do not apply to Métis Community Councils, but no person shall be a councillor unless he or she is a citizen.</p> <p>Subsections 286(1) and (2) of the <i>CA</i> state:</p> <p>(1) Subject to subsections (2) and (3), no person shall be a director of a corporation unless he or she is a shareholder or member of the corporation, and, if the person ceases to be a shareholder or member, he or she thereupon ceases to be a director.</p> <p>(2) A person may be a director of a corporation if he or she becomes a shareholder or member of the corporation within ten days after his or her election or appointment as a director, but, if the person fails to become a shareholder or member within such ten days, the person thereupon ceases to be a director and shall not be re-elected or reappointed unless he or she is a shareholder or member of the corporation.</p>	<p>12. No person shall be a councillor unless he or she is a citizen.</p> <p>This amendment is made by section 26 of the <i>MNO Act</i>.</p>	<p>Section 286(1) and 286(2) of the <i>OCA</i> say that a director of a corporation must be a member of that corporation. That does not apply to Métis Community Councils because the Secretariat is their only member. The <i>MNO Act</i> creates an exemption from those provisions for Métis Community Councils.</p> <p>A special rule is created that requires that a Métis Community Council director to be a citizen of the MNO. This reflects the MNO’s unique status as a representative governance structure.</p> <p>The exemption is no longer necessary when the <i>ONCA</i> comes into force because the <i>ONCA</i> does not contain the same provision. The special rule will remain in place when the <i>ONCA</i> comes into force</p>

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<p>13. (1) The Secretariat may, in its capacity as the sole member of a Métis Community Council, make a written declaration that restricts, in whole or in part, the powers of the councillors of the Métis Community Council to manage or supervise the management of its activities and affairs.</p>	<p>No change.</p>	<p>The Secretariat can issue a written declaration that provides general direction on how Community Councils should run or manage their affairs. This is effectively the same power that the Secretariat has under the current Charter Agreement system. This provision allows the Secretariat to continue to set province-wide rules that apply consistently to all Community Councils. For example, the Secretariat—the collective representative of all MNO citizens—says that all Community Councils have to abide by the MNO’s Electoral Code. Now, the Secretariat makes that a condition of the Charter Agreement. Under this section, it can do so in future for any Community Council that chooses to incorporate by issuing a written declaration as long as those are consistent with any terms set out in the Métis Community Council’s by-laws.</p>
<p>(2) If the Secretariat makes a written declaration under subsection (1) in relation to a Métis Community Council,</p> <p>(a) the Secretariat has all the rights, powers, duties and liabilities of a councillor under the <i>Corporations Act</i>, this Act or otherwise, including any defences available to the councillors, to the extent that the declaration restricts the powers of the councillors to manage or supervise the management of the Métis Community Council’s activities and affairs and gives the Secretariat such powers; and</p> <p>(b) the councillors of the Métis Community Council are relieved of their duties and liabilities, including any liabilities under section 81 of the <i>Corporations Act</i>, to the same extent.</p> <p>Section 81 of the <i>CA</i> states:</p> <p>(1) The directors of a company are jointly and severally liable to the employees, apprentices and other wage earners thereof for all debts due while they are directors for services performed for the company, not exceeding six months wages, and for the vacation pay accrued for not</p>	<p>(2) If the Secretariat makes a written declaration under subsection (1) in relation to a Métis Community Council,</p> <p>(a) the Secretariat has all the rights, powers, duties and liabilities of a councillor under the <i>Not-for-Profit Corporations Act, 2010</i>, this Act or otherwise, including any defences available to the councillors, to the extent that the declaration restricts the powers of the councillors to manage or supervise the management of the Métis Community Council’s activities and affairs and gives the Secretariat such powers; and</p> <p>(b) the councillors of the Métis Community Council are relieved of their duties and liabilities, including any liabilities under section 40 of the <i>Not-for-Profit Corporations Act, 2010</i>, to the same extent.</p> <p>Section 40 of the <i>ONCA</i> states:</p> <p>(1) The directors are jointly and severally liable to the employees of the corporation for all debts not exceeding,</p> <p>(a) six months’ wages for services performed for the corporation that become payable while they are directors;</p>	<p>If the Secretariat makes a written declaration, it takes on the liabilities of a Métis Community Council councillor to the extent that the written declaration affects the Métis Community Council. At the same time, Community Council councillors are relieved of those liabilities to the same extent. Section (b) clarifies that this can include liabilities to employees for their wages and vacation pay. This means that if the Secretariat issues a written declaration that says that the Métis Community Council has to abide by the MNO Electoral Code, and someone wants to sue the Métis Community Council for some reason connected to the election, the Secretariat would be liable instead of the Métis Community Council.</p> <p>This section ensures that power and responsibility go hand-in-hand. If the Secretariat wants to exercise power over some aspect of Métis Community Council affairs, it also assumes responsibility for how that aspect is managed. If, on the other hand, Métis Community Councils have full control and discretion in managing certain aspects of their affairs, they also bear all of the responsibility.</p>

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<p>more than twelve months under the <i>Employment Standards Act</i> or any predecessor thereof and the regulations thereunder or under any collective agreement made by the company.</p> <p>(2) A director is liable under subsection (1) only if,</p> <p>(a) the corporation is sued in the action against the director and execution against the corporation is returned unsatisfied in whole or in part; or</p> <p>(b) before or after the action is commenced, the corporation goes into liquidation, is ordered to be wound up or makes an authorized assignment under the <i>Bankruptcy and Insolvency Act</i> (Canada), or a receiving order under that Act is made against it, and, in any such case, the claim for the debt has been proved.</p> <p>(3) After execution has been so returned against the company, the amount recoverable against the director is the amount remaining unsatisfied on the execution.</p> <p>(4) If the claim for the debt has been proved in liquidation or winding-up proceedings or under the <i>Bankruptcy Act</i> (Canada), a director who pays the debt is entitled to any preference that the creditor paid would have been entitled to or, if a judgment has been recovered for the debt, the director is entitled to an assignment of the judgment.</p> <p>(5) No director holding shares as executor, administrator, guardian or trustee who is registered on the books of the company as a shareholder and therein described as representing in any such capacity a named estate, person or trust is personally liable under this section, but the estate, person or trust is subject to all the liabilities imposed by this section.</p>	<p>(b) the vacation pay for not more than 12 months under the <i>Employment Standards Act, 2000</i> or under any collective agreement entered into by the corporation accrued while they are directors.</p> <p>(2) A director is liable under subsection (1) only if,</p> <p>(a) the corporation is sued in the action against the director and execution against the corporation is returned unsatisfied in whole or in part; or</p> <p>(b) before or after the action is commenced, the corporation goes into liquidation, is ordered to be wound up or makes an authorized assignment under the <i>Bankruptcy and Insolvency Act</i> (Canada), or a receiving order under that Act is made against it, and, in any such case, the claim for the debt has been proved.</p> <p>(3) If execution referred to in clause (2) (a) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.</p> <p>(4) If a director pays a debt under subsection (1) that is proved in liquidation and dissolution or bankruptcy proceedings, the director is entitled to any preference that the employee would have been entitled to, and if a judgment has been obtained, the director is entitled to an assignment of the judgment.</p> <p>(5) A director who has satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim.</p> <p>This amendment is made by subsection 27(1) of the MNO Act.</p>	
<p>(3) Nothing in this section prevents the Secretariat from fettering its discretion when exercising the powers of councillors under a written declaration.</p>	<p>No change.</p>	<p>If the Secretariat issues a written declaration and takes on the power to deal with a specific aspect of a Métis Community Council’s affairs, it can still decide not to exercise the full scope of its power.</p>

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<p>(4) If a written declaration does not provide for its termination, the Secretariat may terminate it by a resolution.</p>	<p>No change.</p>	<p>There are two ways a written declaration can end. Either the declaration itself can say when it ends—either at a specific date or time or when something specific has occurred—or, if it does not specify an end, the Secretariat can pass a resolution terminating it.</p>
<p>(5) A Métis Community Council may, in addition to the circumstances set out in section 243 of the <i>Corporations Act</i>, be wound up by order of a court, if the court is satisfied that a written declaration made in relation to that Métis Community Council entitled the Secretariat to demand the dissolution of the Métis Community Council after the occurrence of a specified event and that event has occurred.</p> <p>Section 243 of the <i>CA</i> states:</p> <p>A corporation may be wound up by order of the court,</p> <p>(a) where the shareholders or members by a majority of the votes cast at a general meeting called for that purpose pass a resolution authorizing an application to be made to the court to wind up the corporation;</p> <p>(b) where proceedings have been begun to wind up voluntarily and it appears to the court that it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;</p> <p>(c) where it is proved to the satisfaction of the court that the corporation, though it may be solvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or</p> <p>(d) where in the opinion of the court it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up.</p>	<p>(5) A Métis Community Council may, in addition to the circumstances set out in clause 136(b) of the <i>Not-for-Profit Corporations Act, 2010</i>, be wound up by order of a court, if the court is satisfied that a written declaration made in relation to that Métis Community Council entitled the Secretariat to demand the dissolution of the Métis Community Council after the occurrence of a specified event and that event has occurred.</p> <p>Clause 136(b) of the <i>ONCA</i> states:</p> <p>A corporation may be wound up by order of the court if...</p> <p>(b) the court is satisfied that,</p> <p>(i) proceedings to wind up voluntarily have begun and it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court,</p> <p>(ii) the corporation, though it may not be insolvent, cannot by reason of its liabilities continue its activities and it is advisable to wind it up, or</p> <p>(iii) it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up;</p> <p>This amendment is made by subsection 27(2) of the <i>MNO Act</i>.</p>	<p>Both the <i>OCA</i> and the <i>ONCA</i> provide for corporations to be “wound up” or ended by a court order in certain circumstances. These include circumstances where the court is satisfied that: the corporation has already begun to wind up by its own choice, and creditors would be better protected if the court supervised that process; the corporation cannot continue because of its debts; or there is some other fair reason that it should be wound up. These general rules continue to apply.</p> <p>The <i>MNO Act</i> also creates a new rule for Métis Community Councils. If the Secretariat has issued a written declaration to a Community Council, and the declaration entitled the Secretariat to demand that the Community Council be dissolved after an event occurred and that event has occurred, then that would also be a basis for the Community Council to be wound up by court order. For example, the Secretariat might issue a written declaration requiring that a Community Council that had not provided audited financial statements as required to do so within a set time period or be dissolved. If the Métis Community Council did not comply with that declaration—did not provide audited financial statements within the set time—it could be wound up by a court order.</p> <p>This is in effect the same power that the Secretariat has today under the Charter Agreement system. If a Community Council breaches or fails to comply with the Agreement, the Secretariat can suspend or remove its Charter, which in effect dissolves it. This section maintains that same ability in relation to Métis Community Councils that choose to incorporate under the <i>MNO Act</i>.</p>

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<p>(6) A reference in the following provisions of the <i>Corporations Act</i> to a corporation’s letters patent is, when applied to a Métis Community Council, deemed to include a reference to any written declaration made under subsection (1) in relation to that Métis Community Council:</p> <ol style="list-style-type: none"> 1. Clause 97 (1) (d). The directors shall lay before each annual meeting of shareholders, (d) such further information respecting the financial position of the company as the letters patent, supplementary letters patent or by-laws of the company require. 2. Subsection 126 (2). Nothing in subsection (1) prohibits a director [of a not-for-profit corporation] from receiving reasonable remuneration and expenses for his or her services to the corporation as a director or prohibits a director or member from receiving reasonable remuneration and expenses for his or her services to the corporation in any other capacity, unless the letters patent, supplementary letters patent or by-laws otherwise provide. 3. Subsection 129 (1). The directors of a corporation may pass by-laws not contrary to this Act or to the letters patent or supplementary letters patent to regulate, <ol style="list-style-type: none"> (a) the admission of persons and unincorporated associations as members and as members by virtue of their office and the qualification of and the conditions of membership; (b) the fees and dues of members; (c) the issue of membership cards and certificates; (d) the suspension and termination of memberships by the corporation and by the member; 	<p>(6) A reference in the following provisions of the <i>Not-for-Profit Corporations Act, 2010</i> to a corporation’s articles is, when applied to a Métis Community Council, deemed to include a reference to any written declaration made under subsection (1) in relation to that Métis Community Council:</p> <ol style="list-style-type: none"> 1. Subsection 8(6). If a corporation’s articles require a greater number of votes of directors or members of the corporation to effect any action that are required by this Act, the provisions of the articles shall prevail, but this subsection does not apply to a provision in the articles that requires a greater number of votes to remove a director than the number required by section 26. 2. Subsection 16(3). No act of a corporation, including any transfer of property to or by a corporation, is invalid by reason only that the act or transfer is contrary to its articles, by-laws or this Act. 3. Subsection 17(1). Unless the articles or the by-laws otherwise provide, the directors may be resolution make, amend or repeal any by-law that regulates the activities or affairs of the corporation, except in respect of a matter referred to in clause 103(1)(g), (j) or (l). 4. Clause 19(1)(a). A corporation or a guarantor of an obligation of a corporation may not assert against a person dealing with the corporation or with any person who has acquired rights from the corporation that, <ol style="list-style-type: none"> (a) the articles or by-laws have not been complied with 5. Subsection 42(1). Subject to the articles or the by-laws, <ol style="list-style-type: none"> (a) the directors may designate the offices of the corporation, appoint officers, specify their duties and delegate to them 	<p>“Letters patent” or “articles” are the documents that create a corporation and generally establish how it will be governed and structured. This is different than the corporation’s by-laws, which set out its rules in greater detail.</p> <p>This section identifies a number of provisions of the <i>OCA</i> that refer to letters patent. It says that when those provisions apply to a Métis Community Council, the term “letters patent” means “letters patent including any written declarations issued by the Secretariat.”</p> <p>The same will be true for the identified provisions of the <i>ONCA</i> once the <i>ONCA</i> comes into force. This section says that when those provisions apply to a Community Council, the term “articles” means “articles including any written declarations issued by the Secretariat.”</p> <p>For example, clause 97(1)(d) of the <i>OCA</i> requires that the directors of a corporation provide at each annual meeting whatever financial information is required by the letters patent, supplementary letters patent or by-laws of the company. When that clause is applied to Métis Community Councils, it effectively says that the councillors must provide at each annual meeting whatever financial information is required by the letters patent including any written declarations issued by the Secretariat, or the by-laws of the Métis Community Council.</p> <p>To take another example, subsection 47(1) of the <i>ONCA</i> empowers the directors to decide how much directors, officers and employees of the corporation should be compensated, subject to the articles or the by-laws. When this subsection is applied to a Métis Community Council, it effectively says that the councillors can decide how much they, officers and employees of the Community Council should be compensated, subject to the articles including any written declarations issued by the Secretariat (i.e., MNO Financial Policies and Procedures).</p>

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<p>(e) the transfer of memberships;</p> <p>(f) the qualification of and the remuneration of the directors and the directors by virtue of their office, if any;</p> <p>(g) the time for and the manner of election of directors;</p> <p>(h) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the corporation and the security, if any, to be given by them to it;</p> <p>(i) the time and place and the notice to be given for the holding of meetings of the members and of the board of directors, the quorum at meetings of members, the requirement as to proxies, and the procedure in all things at members' meetings and at meetings of the board of directors;</p> <p>(j) the conduct in all other particulars of the affairs of the corporation.</p> <p>4. Subsection 289 (3). Despite subsections (1) and (2), in the case of a corporation without share capital, if the letters patent, supplementary letters patent or by-laws so provide, the officers of the corporation or any of them may be elected or appointed at a general meeting of the members duly called for that purpose.</p> <p>5. Paragraph 1 of section 300. A corporation shall cause the following documents and registers to be kept:</p> <p>1. A copy of the letters patent and of any supplementary letters patent issued to the corporation and of the memorandum of agreement, if any, or, if incorporated by special Act, a copy of the Act.</p>	<p>powers to manage the activities and affairs of the corporation, except powers to do anything referred to in subsection 36 (2);</p> <p>(b) a director may be appointed to any office of the corporation; and</p> <p>(c) two or more offices of the corporation may be held by the same person.</p> <p>6. Clause 43(2)(b) Every director and officer shall comply with...</p> <p>(b) the corporation's articles and by-laws.</p> <p>7. Subsection 47(1) Subject to the articles or the by-laws, the directors may fix the remuneration of the directors, officers and employees of the corporation.</p> <p>8. Clause 84(1)(c). The directors of a corporation shall place before the members at every annual meeting...</p> <p>(c) any further information respecting the financial position of the corporation and the results of its operations required by the articles or the by-laws.</p> <p>9. Sections 85 and 86. 85(1) Unless the articles or the by-laws provide otherwise, the directors of a corporation may, without authorization of the members,</p> <p>(a) borrow money on the credit of the corporation;</p> <p>(b) issue, reissue, sell or pledge debt obligations of the corporation;</p> <p>(c) give a guarantee on behalf of the corporation to secure performance of an obligation of any person; and</p> <p>(d) mortgage, pledge or otherwise create a security interest in all or any property of the corporation, owned or subsequently acquired, to secure any</p>	<p>The Secretariat is not required to issue written declarations dealing with what financial information is to be provided at an Annual General Assembly, how Community Council councillors and employees are to be compensated, or any other matter set out in the identified provisions of the <i>OCA</i> or the <i>ONCA</i>. But if the Secretariat does issue written declarations, those declarations have the same importance and binding power as the Métis Community Council's incorporating documents. Any written declarations effectively become part of the Métis Community Council's overall constituting documents.</p>

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	<p>obligation of the corporation.</p> <p>(2) Despite subsection 36 (2) and clause 42 (1) (a), unless the articles or the by-laws provide otherwise, the directors may by resolution delegate the powers referred to in subsection (1) to a director, a committee of directors or an officer.</p> <p>86. Subject to the articles and the by-laws, the directors may require members to make an annual contribution or pay annual dues and may determine the manner in which the contribution is to be made or the dues are to be paid.</p> <p>10. Clause 92(1)(a).</p> <p>A corporation shall prepare and maintain records containing,</p> <p>(a) the corporation’s articles and by-laws, and amendments to them;</p> <p>11. Subsection 95(2), except that the reference in that subsection to amendments to the articles does not apply with respect to a written declaration.</p> <p>A member of a corporation is entitled on request and free of charge to one copy of the articles and by-laws, including any amendments thereto.</p> <p>This amendment is made by subsection 27(3) of the MNO Act.</p>	
<p>(7) The following provisions of the <i>Corporations Act</i>, as they apply to a Métis Community Council, are subject to any written declaration made under subsection (1) in relation to that Métis Community Council:</p> <p>1. Subsection 59 (1).</p> <p>The directors may pass by-laws,</p> <p>(a) for borrowing money on the credit of the company;</p> <p>(b) for issuing, selling or pledging securities of the company; or</p> <p>(c) for charging, mortgaging, hypothecating or</p>	<p>(7) Section 21 and subsection 43(3) of the <i>Not-for-Profit Corporations Act, 2010</i>, as they apply to a Métis Community Council, are subject to any written declaration made under subsection (1) in relation to that Métis Community Council.</p> <p>Section 21 of the <i>ONCA</i> states:</p> <p>Subject to this Act, the directors of a corporation shall manage or supervise the management of the activities and affairs of the corporation.</p> <p>Subsection 43(3) of the <i>ONCA</i> states:</p>	<p>This section makes some provisions of the <i>OCA</i> as they apply to Métis Community Councils subject to written declarations. This means that on certain issues, the Secretariat has the power to make written declarations that will apply to Métis Community Councils instead of the <i>OCA</i>. In effect, the MNO Secretariat—the collective representative of MNO citizens—has the power to override these provisions of the <i>OCA</i> and establish its own rules for Métis Community Councils. This means that the Secretariat, and the MNO citizens it represents, will continue to have the final say on a number of issues—just as it does under the current Charter Agreement system—if Métis Community Councils choose to incorporate under the MNO Act.</p>

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<p>pledging all or any of the property of the company, including book debts and unpaid calls, rights, powers, franchises and undertaking, to secure any securities or any money borrowed, or other debt, or any other obligation or liability of the company.</p> <p>2. Section 69. No by-law for the payment of the president as president or of any director as a director is effective until it has been confirmed at a general meeting of the shareholders duly called for that purpose.</p> <p>3. Subsection 130 (1). The directors of a corporation may pass by-laws providing for,</p> <ul style="list-style-type: none"> (a) the division of its members into groups that are composed of territorial groups, common interest groups or both territorial and common interest groups; (b) the election of some or all of its directors, <ul style="list-style-type: none"> (i) by such groups on the basis of the number of members in each group, or (ii) for the groups in a defined geographical area, by the delegates of such groups meeting together; (c) the election of delegates and alternative delegates to represent each group on the basis of the number of members in each group; (d) the number and method of electing delegates; (e) the holding of meetings of delegates; (f) the authority of delegates at meetings or providing that a meeting of delegates shall for all purposes be deemed to be and to have all the powers of a meeting of the members; (g) the holding of meetings of members or delegates 	<p>No provision in a contract, the articles, the by-laws or a resolution relieves a director or officer from the duty to act in accordance with this Act and the regulations or relieves him or her from liability for a breach of this Act or the regulations.</p> <p>This amendment is made by subsection 27(3) of the MNO Act.</p>	<p>For example, subsection 59(1) of the <i>OCA</i> says that the directors can pass by-laws for borrowing money. This would mean that the councillors of a Métis Community Council could pass by-laws for borrowing money. Under the MNO Act, however, that provision is subject to a written declaration issued by the Secretariat. That means that the Secretariat as the representative body for all MNO citizens could make rules for how and when Métis Community Councils can borrow money. That keeps authority in the hands of the MNO as a whole, just as it is today.</p> <p>To take another example, subsection 283(1) of the <i>OCA</i> says that the affairs of every corporation shall be managed by a board of directors. That would mean that the affairs of a Community Council had to be managed by the councillors of that Community Council. But, as set out above, if the Secretariat issues a written declaration it effectively assumes control of whatever aspect of the Métis Community Council’s affairs that declaration addresses—such as how it conducts elections. By saying that subsection 283(1) is subject to a written declaration, this section of the MNO Act avoids any conflict between that provision and the written declaration. The written declaration effectively “trumps” the <i>OCA</i>. A written declaration requiring that a Community Council comply with the MNO’s Electoral Code would also trump or override those sections of the <i>OCA</i> dealing with the election of directors and the selection of officers.</p> <p>The same will be true when the <i>ONCA</i> comes into force, although not as many exemptions will be required in order to recognize the effect of written declarations. Like subsection 283(1) of the <i>OCA</i>, section 21 says that the activities of affairs of a corporation shall be managed or supervised by the directors. Subsection 43(3) of the <i>ONCA</i> says that directors cannot be relieved of their duties or obligations by anything in a contract, the by-laws, or a resolution. But again, as set out above, if the Secretariat issues a written declaration it effectively assumes control of whatever aspect of Community Council’s affairs that declaration addresses—and also assumes liabilities consistent with the control it takes on.</p>

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>territorially or on the basis of common interest.</p> <p>4. Subsection 283 (1). The affairs of every corporation shall be managed by a board of directors howsoever designated.</p> <p>5. Subsection 289 (4). If the office of secretary is vacant or if for any reason the secretary is unable to act, anything required or authorized to be done by the secretary may be done by an assistant secretary or, if there is no assistant secretary able to act, by any other officer of the corporation authorized generally or specifically in that behalf by the directors</p> <p>6. Section 290. A corporation may by special resolution provide for the election by the directors from among themselves of a chair of the board of directors and define his or her duties, and may assign to the chair of the board of directors any or all of the duties of the president or other officer of the corporation, and in that case the special resolution shall fix and prescribe the duties of the president.</p> <p>7. Subsection 291 (1). Except in the case of the president and the chair of the board of directors, no officer of the corporation need be a director or a shareholder or member of the corporation unless the by-laws so provide.</p>		<p>Again, by saying that these provisions of the <i>ONCA</i> are subject to a written declaration, the MNO Act avoids a conflict between the legislation and a written declaration. The written declaration from the Secretariat, on behalf of Métis government—the MNO—takes precedence over provincial legislation.</p>
<p>14. (1) A person who, while under the age of 18, is appointed by the Secretariat, in its capacity as the sole member of a Métis Community Council, in accordance with the by-laws of the Métis Community Council to represent, on the Métis Community Council’s board, the interests of young people for a specified term is not a councillor, does not hold any of the rights, powers, duties or liabilities of a councillor, and is not entitled to exercise a binding vote on any matter before the board or any of its committees.</p>	<p>No change.</p>	<p>This section does for the Métis Community Councils exactly what was done for the Secretariat. It ensures that youth representatives who are under 18 can be elected to and meaningfully participate in Community Councils while also protecting their legal interests.</p>

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>(2) Subsection (1) applies for the duration of the person’s term, even if he or she reaches the age of 18 during the term.</p>		<p>If a youth representative turns 18 during their term on a Community Council, they will not automatically acquire the rights and liabilities of a director. Again, the MNO could develop a policy that allows these elected representative at 18 to assume legal and corporate liabilities, if they so chose.</p>
	<p>14.1 The by-laws of a Métis Community Council may provide that a notice or other document may or shall be given by it to a councillor in a manner other than a manner specified in subsection 196(1) of the <i>Not-for-Profit Corporations Act, 2010</i>.</p> <p>Subsection 196(1) of the <i>ONCA</i> states:</p> <p style="padding-left: 40px;">A notice or other document required or permitted by this Act, the regulations, the articles or the by-laws to be given to a member or director of a corporation may be given to,</p> <p style="padding-left: 40px;">(a) a member at the member’s latest address as shown in the records of the corporation;</p> <p style="padding-left: 40px;">(b) a 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 <i>Corporations Information Act</i>, whichever is the more current.</p> <p style="padding-left: 40px;">This amendment is made by section 28 of the MNO Act.</p>	<p>A Métis Community Council can amend their by-laws to provide for a document to be given to a Community Council councillor by a different method than sending it to his or her latest address. For example, a Community Council could pass a by-law saying that councillors can be given notices or other documents by email or fax.</p> <p>This is the same as the rule created for the Secretariat.</p>

Prohibition Respecting Corporate Names: Section 15

This section helps protect against confusion about who the MNO and Community Councils are and represent. It prevents a situation from arising in which a corporation that is not part of the MNO tries to incorporate using the phrase “Métis Nation of Ontario” or “Métis Community Council” as part of its name. That means, among other things, that any business or organization that is working with a corporation that is called “X Métis Community Council” can be confident that it is dealing with a corporation that is part of the MNO’s governance structure.

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>15. (1) Use by a corporation of any of the following expressions, either within its corporate name or any other name by which the corporation is known, is prohibited without the Secretariat’s written consent:</p> <ol style="list-style-type: none"> 1. Métis Nation of Ontario. 2. Métis Community Council. 3. Nation métisse de l’Ontario. 4. Conseil communautaire métis. 	No change.	Unless the Secretariat gives its permission, no corporation can include in its name the phrases “Métis Nation of Ontario” or “Métis Community Council” or their French equivalents.
(2) This section applies only to corporations incorporated on or after the day on which this section comes into force.	No change.	This prohibition only applies on a going-forward basis. That means that if a corporation already exists that has one of those phrases as part of its name, it will not be prohibited from keeping that name.

Regulations: Section 16

Most legislation includes the power to make regulations under them—and the MNO Act is no exception. Making regulations is a much simpler process than passing legislation. Whereas legislation has to be passed and enacted by the whole Legislative Assembly (or Parliament for federal legislation) regulations can be made by a Minister or Cabinet (which is all of the Ministers together). The requirements for passing regulations are less demanding because of the nature of regulations. Legislation establishes the overarching framework and general rules, while regulations deal with the “fine print”—details that may change over time. This ensures flexibility and responsiveness to changing circumstances. Officially, regulations are made by the Lieutenant Governor in Council—that is, the Lieutenant Governor acting on the advice of cabinet. In practice, just as the Lieutenant Governor always gives Royal Assent to Acts enacted by the Legislative Assembly, the Lieutenant Governor always makes regulations that are recommended by cabinet or specific Ministers.

The Act addresses all of the ways in which current provincial law is inconsistent with the MNO’s governance structure and processes. But, in the future, the Ontario government could decide to change its laws again in ways that have unintended consequences for the MNO. Making changes through regulations is a far simpler procedure than making amendments to the Act itself. Section 16(1) gives the Lieutenant Governor the power to make regulations under the Act if the regulations are jointly recommended by the Minister of Aboriginal Affairs and the Minister of Government and Corporate Services, and the regulations do one of two things: (a) create further exemptions from or alterations to the provincial corporate law as it applies to the Secretariat and Métis Community Councils; or (b) relate to another matter that is necessary or advisable for the purposes of the MNO Act.

This regulation making power does not put the Secretariat under the control of the Minister or any further under the “thumb of government” than it was previously when it was incorporated in 1994. On the contrary, this regulation making power better protects the MNO and the Secretariat from future changes to corporate law in Ontario. Firstly, 16(1)(a) gives the power for regulations that further **exempt** the Secretariat from Ontario law. This essentially means that the MNO’s unique governance structures can be further insulated and protected from decisions of the Ontario legislature in the future. Secondly, 16(1)(b) gives the power for regulations that are **consistent with the purposes of the Act** that are set out in the preamble. As described above, the Act is intended to recognize and reflect the Secretariat’s unique role as a governance structure. This section only gives the government the power to make regulations under the Act *only* in order to better achieve the legislation’s purpose, which clearly recognizes the MNO’s authorities and unique governance structure. Contrary to the suggestion by some, this regulation power is not about controlling the MNO or the Secretariat in any way. Further, there is simply no authority under the MNO Act to make regulations that would be negative for the MNO or put it “under the thumb” of government. Even if a different government was in power, the worst it could do would be to refuse to make a regulation that the MNO wanted. It would not have any authority under the Act to make a regulation that the MNO did not want or that was inconsistent with the Act’s purpose.

Section 16(2) gives the Minister of Aboriginal Affairs the power to make regulations to bring Community Councils that have chosen to incorporate under the MNO Act. This means that a Community Council that chooses to incorporate will have the benefit of all of the exemptions and special rules the Act creates. If and when a Community Council chooses to incorporate, the Secretariat will notify the Minister of Aboriginal Affairs using the notification process described in section 3 of the MNO Act. This will only happen after the MNO, the Secretariat and a Community Council have negotiated mutually agreeable by-laws for incorporation. This process must have the consent of all parties. Once the Ministry of Aboriginal Affairs is given notice by the MNO, it will then work together with Service Ontario and the Minister of Government and Corporate Services to make sure that the regulation is made at the same time that the Community Council becomes registered as a not-for-profit corporation. The newly-incorporated Métis Community Council will immediately have the full benefit of the MNO Act. It is important to note that this process is solely driven by the MNO, the Secretariat and a Community Council. The Ontario government will only act and use these provisions of the Act if requested by the MNO.

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
<p>16. (1) The Lieutenant Governor in Council, on the joint recommendation of the Minister responsible for the administration of this Act and the Minister responsible for the administration of the <i>Corporations Act</i>, may make regulations,</p> <p>(a) providing for further exemptions from or alterations to the application of the <i>Corporations Act</i> or the regulations made under it to the Secretariat or to Métis Community Councils;</p> <p>(b) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable for the purposes of this Act.</p>	<p>16. (1) The Lieutenant Governor in Council, on the joint recommendation of the Minister responsible for the administration of this Act and the Minister responsible for the administration of the <i>Not-for-Profit Corporations Act, 2010</i>, may make regulations,</p> <p>(a) providing for further exemptions from or alterations to the application of the <i>Not-for-Profit Corporations Act, 2010</i> or the regulations made under it to the Secretariat or to Métis Community Councils;</p> <p>(b) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable for the purposes of this Act.</p> <p style="color: green;">This amendment is made by section 29 of the MNO Act.</p>	<p>The Ministers of Aboriginal Affairs and Government and Corporate Services can recommend regulations to do two things:</p> <p>(a) Create further exemptions from or changes to provincial corporate law as it applies to the Secretariat or Métis Community Councils</p> <p>(b) Do anything else that is necessary or advisable for the purposes of the Act.</p> <p>The purposes of the Act are set out in the preamble. In brief, the Act is intended to recognize and reflect the Secretariat’s unique status as a governance structure rather than an ordinary not-for-profit corporation. This section allows for regulations to be made <i>only</i> in order to better achieve that purpose.</p> <p>Clause (a) gives one example of what might be necessary or advisable to achieve that purpose—namely further exemptions from or changes to corporate law that applies. For example, the <i>OCA</i> might be amended to include a new provision that is inconsistent with how MNO citizens have chosen to govern themselves. That would require a new exemption.</p> <p>Clause (b) recognizes that other things might be necessary to recognize the Secretariat’s unique status. For example, a new “special rule” —not just an exemption—might be required. The MNO might decide, through its democratic processes and structures, to make changes to its by-laws that require new rules to be created. Clause (b) enables the Ministers to make regulations to give effect to those changes.</p>
<p>(2) The Minister responsible for the administration of this Act may make regulations prescribing corporations without share capital for the purposes of clause (c) of the definition of “Métis Community Council” in section 1.</p>	<p>No change.</p>	<p>This ties back to the definition of “Métis Community Council” in section 1, and to the requirement in section 3 that the Secretariat notify the Minister when an application is made to incorporate a Métis Community Council. There is no possibility that the Minister could prescribe or bring under the Act any Community Council that did not choose to incorporate. The Minister simply does not have that power under this section.</p>

Commencement and Short Title: Sections 30-31

What the Act Says Now	When the <i>ONCA</i> Comes Into Force	What this Means
30. (1) Subject to subsection (2), this Act comes into force on the later of January 1, 2016 and the day this Act receives Royal Assent.	No change.	The Act received Royal Assent on December 10, which means that it came into force on January 1, 2016, except for those sections that are dealt with in subsection 2.
(2) Sections 17 to 29 come into force on the later of the day subsection 4 (1) of the <i>Not-for-Profit Corporations Act, 2010</i> comes into force and the day this Act receives Royal Assent.	No change.	All of the amendments set out in the middle column will come into force when the <i>ONCA</i> comes into force
31. The short title of this Act is the <i>Métis Nation of Ontario Secretariat Act, 2015</i> .	No change.	The MNO Act is referred to as the <i>Métis Nation of Ontario Secretariat Act, 2015</i> .