

Updating Charities and Not-For-Profits on recent legal developments  
and risk management considerations

## OCTOBER 2017

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"Update on Charity Law" Resource Paper

Charities Legislation & Commentary, 2018 Edition Available for Pre-Order

### [24th Annual Church & Charity Law™ Seminar](#)

TORONTO - THURSDAY NOVEMBER 9, 2017

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Hosted by Carters Professional Corporation in Greater Toronto, Ontario.

Guest speakers include **the Honourable Justice David Brown**, Court of Appeal of Ontario  
and **Tony Manconi**, Director General, Charities Directorate, Canada Revenue Agency

### **The Ottawa Region Charity and Not-for-Profit Law™ Seminar**

Hosted by Carters Professional Corporation in Ottawa, Ontario,

on **Thursday February 15, 2017**

Guest Speakers include **the Honourable Justice David Brown**, Court of Appeal of Ontario  
and **Tony Manconi**, Director General of the Charities Directorate of the CRA

Brochure and online registration will be available on our website shortly.

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## **RECENT PUBLICATIONS AND NEWS RELEASES**

### **Bill 154 – Proposed Amendments to ONCA**

By [Theresa L.M. Man](#)

By way of background, changes to the Ontario *Not-for-Profit Corporations Act, 2010* (“ONCA”) were first proposed by way of Bill 85, *Companies Statute Law Amendment Act, 2014* (“Bill 85”). After having waited three years since the demise of Bill 85 in May 2014, it is exciting news that the Ontario government is again moving forward with the corporate reform for the not-for-profit sector in releasing Bill 154, *Cutting Unnecessary Red Tape Act, 2017* (“Bill 154”), which proposes changes to the Ontario *Corporations Act* (“OCA”), ONCA, and other legislation. The News Release announcing Bill 154 states that it is intended to “build a smarter, more modern regulatory environment by rooting out unnecessary burdens and streamlining regulations” by proposing amendments to more than 40 statutes. The Backgrounder to Bill 154 indicates that the proposed amendments would “enable the future proclamation” of the ONCA and the proposed amendments to the OCA would “enable Ontario not-for-profit corporations to benefit from some of the ONCA features prior to its proclamation, such as allowing notice of members’ meetings to be sent electronically and members’ meetings to be held electronically.” As well, these proposed amendments would “increase flexibility, encourage participation in meetings, provide clarity and reduce burdens and costs for not-for-profit corporations.”

This Bulletin highlights key proposed amendments to the ONCA but a detailed review of the proposed changes is outside its scope. This Bulletin does not review proposed amendments to other statutes contained in Bill 154. For the balance of this Bulletin, please see [Charity & NFP Law Bulletin No. 409](#).

### **Legislation Update**

By [Terrance S. Carter](#)

#### **Explanatory Notes on changes to Tax Legislation and Regulations Released**

On September 8, 2017, the Minister of Finance released two explanatory notes, [Legislative Proposals Relating to the Income Tax Act and Explanatory Notes](#) (“ITA Proposals”) and [Legislative and Regulatory Proposals Relating to the Goods and Services Tax/Harmonized Sales Tax and to the Excise Act and Explanatory Notes](#) (“GST/HST Proposals”). Among numerous proposed changes to the *Income Tax Act*, the ITA Proposals contain proposed legislative changes concerning ecological gifts that are the same as

those proposed by the 2017 Federal Budget's [Notice of Ways and Means Motion to Amend the Income Tax Act and Other Related Legislation](#) and outlined in [Charity & NFP Law Bulletin No. 399](#). Although not yet available, these amendments are expected to be introduced as legislation through a future Budget Implementation Act. The GST/HST Proposals propose changes to subsection 225.1(2) of the *Excise Tax Act* by amending the criteria for the calculation of net tax for charities.

### **National Security and Intelligence Committee of Parliamentarians Act and Regulations**

On October 6, 2017, both the [National Security and Intelligence Committee of Parliamentarians Act](#) (the "Act") and the [National Security and Intelligence Committee of Parliamentarians Regulations](#) (the "Regulations") came into force pursuant to separate Orders of the Governor General in Council. As discussed most recently in the [August 2017 Charity and NFP Law Update](#), the Act establishes the National Security and Intelligence Committee of Parliamentarians and makes several amendments to other acts, including the [Access to Information Act](#), the [Privacy Act](#), and the [Proceeds of Crime \(Money Laundering\) and Terrorist Financing Act](#), among others. For additional information on the Act and the Regulations, see the [Anti-Terrorism Law Update](#), below.

### **Ontario Bill 154, Cutting Unnecessary Red Tape Act, 2017 Status Update**

On October 3, 2017, Bill 154, [Cutting Unnecessary Red Tape Act, 2017](#), was referred to the Standing Committee on Justice Policy (the "Committee"). The first meeting of the Committee was held on October 19, 2017, which included the participation by some organizations from the not-for-profit sector. A clause-by-clause review has been scheduled for October 26, 2017. Further information on the Bill 154 amendments to the *Charities Accounting Act* ("CAA") is available in [Charity & NFP Law Bulletin No. 407](#). Further information on the Bill 154 amendments to the OCA is available in [Charity & NFP Law Bulletin No. 406](#). For additional information on the Bill 154 amendments to the ONCA, see [Charity & NFP Law Bulletin No. 409](#), above.

### **Ontario Bill 160, Strengthening Quality and Accountability for Patients Act, 2017**

Bill 160, [Strengthening Quality and Accountability for Patients Act, 2017](#) ("Bill 160"), was introduced in the Ontario Legislative Assembly on September 27, 2017. Bill 160 amends, enacts and repeals a number of Acts regulating healthcare in Ontario. Among the several other statutory changes introduced by Bill 160, it enacts the *Health Sector Payment Transparency Act, 2017*, the *Medical Radiation and Imaging Technology Act, 2017* and the *Oversight of Health Facilities and Devices Act, 2017*. Bill 160 also establishes a new system to deal with both the restraining and confining of residents to replace the

provisions of “secure units” in the *Long-Term Care Homes Act, 2007*. Similarly, Bill 160 establishes new requirements for the confinement or restraint of residents of a retirement home. For additional information, see [Omnibus Bill Proposes Changes to Ontario Healthcare Law](#), below.

## **Ontario Bill 166, *Strengthening Protection for Ontario Consumers Act, 2017***

Bill 166, [Strengthening Protection for Ontario Consumers Act, 2017](#) (“Bill 166”) was introduced in the Ontario Legislative Assembly on October 5, 2017 and debated on second reading on October 17, 2017. Schedule 3 of Bill 166 enacts the *Ticket Sales Act, 2017*, establishing a variety of restrictions on the sale of tickets to recreational, sporting, cultural or other prescribed events in the secondary market. Subsection 2(4) provides an exception to the provision restricting the secondary market sale of tickets above face value where the ticket sale “is for the benefit of a registered charity as defined in subsection 248(1) of the *Income Tax Act*”.

## **CRA News**

By [Esther S.J. Oh](#)

### **New Videos on the CRA Website**

On September 28, 2017, the Canada Revenue Agency (“CRA”) added two new videos to its online charities video gallery. The new videos are part of the [“Series: Gifting and Receipting”](#) introduced in late October 2016 and covered in our [November 2016 Charity & NFP Law Update](#). In the first video entitled “Services – Are they receiptable?”, the CRA explains what gifts of service are and provides examples of scenarios where donation receipts cannot be issued for donations of gifts of service. The video explains that gifts of service include donated time, skills and effort and while valuable to a charity, gifts of service do not constitute a transfer of property and therefore, gifts of service are not receiptable by a charity.

In the second video entitled “Services: Website and Software”, the CRA explains that a charity cannot issue a donation receipt for time spent on creating a website for a charity, as this constitutes a gift of service involving donated time, skill and effort (which is not receiptable). However, the CRA further explains a charity can issue a donation receipt for a donation of a software product that is sold in the marketplace, as this constitutes a gift of property. A donation receipt can be issued provided that the receipt reflects the fair market value of the software product, records of which should be retained with the books and records of the charity.

## Parent Charity Permitted to Change Governance Structure

By [Ryan M. Prendergast](#)

On September 12, 2017, the Ontario Superior Court of Justice released its decision in [Ottawa Humane Society v. Ontario Society for the Prevention of Cruelty to Animals](#), concerning a governance dispute between the Ontario Society for the Prevention of Cruelty to Animals' ("OSPCA") and seven of its affiliated societies (the "Applicants"), separately incorporated and independent from the OSPCA. The dispute began when the OSPCA board voted to: i) "temporarily suspend" the affiliated societies, which were one of three classes of membership of the OSPCA; ii) revoke by-law 9, which provided those affiliated societies with sole voting rights at member's meetings; iii) adopt a new by-law 10 that eliminated affiliated societies' voting rights and replaced the three original membership classes with a new single voting class of membership composed solely of the OSPCA board of directors; and iv) subsequently reinstate the affiliated societies. After the Ottawa Humane Society ("OHS") demanded these changes be undone, the OSPCA suspended the OHS and its agents and passed by-law 11 reinstating a separate class of membership for affiliate societies but retaining sole voting rights for the board.

The matter was brought before the court, which suspended the operation of by-laws 10 and 11. Subsequently, at the OSPCA's 2016 annual general meeting, a new by-law 12 was passed by a majority of affiliate societies, changing the governance model from an open-membership to a closed-membership model with voting rights for the OSPCA's board.

However, the Applicants continued to dispute the validity of by-law 12, arguing that the OSPCA's incorporating legislation, the *Ontario Society for the Prevention of Cruelty to Animals Act*, provided an "accountability structure... [that] reflects a legislative choice from which neither the OSPCA board nor its members may derogate by passing by-laws contrary to the legislation." The Applicants argued that by-law 12 contained a definition of "annual general meeting" limited to "Voting Members" and was, therefore, contrary to s. 293 of the OCA, which does not allow for the discrimination between classes of members in respect of the right to attend annual meetings.

The court held that by-law 12 was lawfully passed by voting members and that the OSPCA owed "no legislative or other accountability" to its affiliates. It further held that the board acted in the best interests of the OSPCA when putting in place a "best-practices" governance structure, and that it was "entitled to deference under the Business Judgment Rule."

The Applicants also sought a declaration that a 2016 draft “non-suit clause” was illegal and void contrary to public policy. The draft non-suit clause prohibited affiliates from initiating legal action or claims against the OSPCA and other related parties, and was contained in the OSPCA’s Funding Agreement, which governs affiliates’ enforcement work as well as the funding relationship between affiliates and the OSPCA. Meanwhile, the OSPCA maintained that the Applicants were breaching the Funding Agreement with their application in court and did not provide them with any funding allocation. The court considered that the non-suit clause functioned as a release. It ultimately held that the non-suit clause was not unconscionable because the Applicants were “sophisticated parties in receipt of legal advice,” and no further overriding public policy existed to exclude the non-suit clause.

This case highlights the importance of well-drafted by-laws and of following corporate procedure, as well as the court’s reluctance to interfere in board decisions made in accordance with a charity’s internal documents. Although this case was in reference to a corporation created by special act, the court’s reliance on deference to the business judgment rule where boards seek to implement “best practices” to their governance in the best interests of the corporation is important at a time when many such corporations have or are implementing similar changes in their membership structure in anticipation of new federal or provincial not-for-profit legislation.

## **Directors’ Actions Lead to Not-for-Profit’s Workplace Discrimination Liability**

By [Barry W. Kwasniewski](#)

On April 4, 2017, the Human Rights Tribunal of Ontario released its decision in [Dix v The Twenty Theater Company](#) in response to an application whereby a former employee (the “Applicant”) alleged discrimination with respect to employment because of sex, age, disability, and reprisal, against members of the board of directors of the not-for-profit The Twenty Theater Company, in contravention of the Ontario [Human Rights Code](#). The Applicant’s allegations were based on inappropriate comments by members of the not-for-profit’s board, and resulted in an award for damages to the Applicant. This case serves as an important reminder to not-for-profit board members that their inappropriate interactions with employees can result in serious consequences to the organization for which they have a fiduciary duty to protect as directors.

For the balance of this Bulletin, please see [Charity & NFP Law Bulletin No. 410](#).

## #YourCharityName as a Trademark

By [Sepal Bonni](#)

Social media is a vast repository of content where the popularity of a particular topic, often referred to as “trending”, is crucial in its continuing reach and relevance. This is why some social media sites, such as Twitter, Facebook and Instagram allow users to tag the content they share with a “hashtag”. Hashtags refer to topical words or phrases preceded by a hash, pound or number sign (#) which allow users to easily find content tagged with similar hashtags by clicking or searching the hashtags.

Given the extensive use of hashtags by social media users, organizations often try to increase online brand presence through the use of hashtags. Hashtags can therefore be an effective means of promoting a charity’s or not-for-profit’s brands, campaigns, or fundraising events. Typically, this is done by the charity or not-for-profit creating a hashtag to identify its fundraising campaign and asking supporters to participate by uploading a photo or sharing a story on social media and including the hashtag in the post, thereby elevating its use and promoting the campaign. For example, The Princess Margaret Cancer Foundation’s [#NoHairSelfie](#) campaign which launched in 2015 encouraged social media users to participate in the campaign by posting photos and tagging them with the hashtag, thereby raising awareness. The campaign was a success and raised over \$1.85 million for cancer research.

As a result, hashtags can be very powerful marketing tools used to strengthen the brand of a charity or not-for-profit. This is reflected in a search of the trademark database in Canada and the USA which shows that there are already hundreds of registered trademarks containing hashtags, including [#NOHAIRSELFIE](#). If a charity or not-for-profit is using hashtags to leverage the reach of its brand, consideration should be given to whether the hashtag should also be registered as a trademark in order to protect the goodwill associated with the expanded brand presence of the organization.

## Ministry of Health and Long-Term Care Publishes Hospital Naming Directive

By [Esther Shainblum](#)

On October 12, 2017, the Hospitals Branch of Ontario’s Ministry of Health and Long-Term Care (the “Ministry”) issued a [Hospital Naming Directive](#) (the “Directive”). The Directive requires all public hospitals within the meaning of Ontario’s [Public Hospitals Act](#) to obtain the written approval of the Minister of Health and Long-Term Care (“Minister”) before adopting a new corporate or business name. The Directive applies to hospital corporations, hospital sites, individual hospital buildings where the

building comprises all or substantially all of a hospital site and alliances, partnerships, and other associations between or among hospital corporations. It does not apply to hospital wings, hospital buildings that do not comprise all or substantially all of a hospital site, research or treatment centres, or programs or services. The Directive governs both names for new entities as well as new names for existing entities. The Directive is intended, among other things, to ensure that hospital names reflect their role as publicly-supported organizations operating within a universal, publicly funded health care system.

Proposed new names must not include corporate or business names of corporate donors or names of individuals or families, and must not give rise to a public perception that a donor will unduly influence hospital practices or operations or undermine public confidence in hospitals or the health care system. The Directive requires new names to be consistent with the vision, mission and values of the hospital and to include references to at least one of the following criteria: the geographic location of the hospital, its service or clinical mandate, the patient population it serves, the cultural heritage of its patient population or its history.

Every hospital that seeks a name change must prepare and submit to the Ministry a comprehensive package that includes the proposed new name in full, the rationale for the name change and for the proposed new name, evidence that the name change has been approved by the hospital board(s) of directors and CEO(s), together with endorsement from the hospital's Patient and Family Council and details of any consultations undertaken with the public and with the local health integrated network ("LHIN") on the proposed new name.

Hospitals are required to consult with the public and with their respective LHIN prior to undertaking a name change and to include a written endorsement from the LHIN's board chair in their submission to the Ministry for approval of the name.

In determining whether or not to grant approval to a proposed name, the Minister may consider any matter that he or she regards as relevant, including whether the new name will give rise to a public perception that a donor will unduly influence hospital practices or operations or will undermine public confidence in hospitals or the health care system.

The Directive is clear that meeting all of the naming criteria and submission requirements is no guarantee of approval and provides that the Minister's decision is final and not subject to review or appeal. Hospitals may request an exemption from any of the submission or approval requirements, which the Minister may grant where he or she deems it necessary or appropriate.



It should be noted that, as described above, although the Directive gives the Minister the authority to make decisions regarding whether or not a new name should be approved, it requires submissions for approval to be made to the Ministry and not to the Minister directly.

The processes outlined in the Directive are in addition to any other requirements for registering names or filing letters patent under any other applicable legislation. There are concerns that the Directive will have an adverse effect on hospitals' ability to secure large donations and hospitals should be cautious in how they deal with prospective donors. All hospitals within the meaning of the *Public Hospitals Act*, including their boards and management, will need to become familiar with the new requirements set out under the Directive.

## **Register Trademarks Before Amendments Take Effect**

By [Sepal Bonni](#)

As originally reported in our [June 2014 Charity Law Update](#), amendments to Canada's [Trademarks Act](#) were passed into law on June 19, 2014 and introduced sweeping changes to trademark law in Canada. The Canadian Intellectual Property Office ("CIPO") has confirmed that the amendments to the *Trademarks Act* will come into force in early 2019.

Amongst other changes discussed in greater detail in [Charity Law Bulletin No. 360](#), the amendments eliminate the requirement to use a trademark in Canada before a registration can be obtained. This is notably the most significant change to trademark law since the 1950s. As a result, many in the sector are predicting this could result in trademark trolls registering existing common law trademarks as a way to extort payment out of unregistered brand owners. Further, filing fees will increase as Canada shifts to a new goods and services classification regime which will align Canada with other jurisdictions, such as the USA.

As a result of the imminent changes to the trademark regime, trademark owners have begun filing applications in advance of the changes coming into force. Since the amendments to the *Trademarks Act* were passed into law in 2014, the number of applications on CIPO's Trademarks Database has increased significantly from 40,000 to 70,000 pending applications. Canadian charities and not-for-profits with existing unregistered trademarks should anticipate a continued influx of trademark applications, and will therefore want to consider taking steps to register trademarks in Canada before the amendments are implemented.

## Omnibus Bill Proposes Changes to Ontario Healthcare Law

By [Esther Shainblum](#)

Bill 160, a healthcare omnibus bill entitled [Strengthening Quality and Accountability for Patients Act, 2017](#), was introduced in the Ontario Legislative Assembly on September 27, 2017. Bill 160 will, if passed, enact three new statutes, amend seven statutes and repeal five statutes, as well as making consequential amendments to a number of other pieces of legislation.

In terms of new legislation, Bill 160 will enact the new *Health Sector Payment Transparency Act, 2017*, which will make it mandatory for drug companies and others in the medical industry to disclose payments and other transfers of value, including meals, entertainment and other benefits of any kind, made to physicians and other recipients to be prescribed by regulation. The dollar value threshold for reporting these transactions will be set by regulation. This information will be used by the Ministry of Health and Long-Term Care (“Ministry”) for health system research, evaluation, planning and policy analysis. The information, which may include personal information, will also be made available to the public.

Another new statute to be enacted under Bill 160 will be the *Oversight of Health Facilities and Devices Act, 2017*, which will consolidate oversight for all community health facilities and for all energy applying and detecting medical devices (such as x-rays, CT scanners, MRIs and ultrasound machines) under the executive officer for community health facilities and energy applying and detecting medical devices (the “Executive Officer”), who shall be appointed by order in council. The Executive Officer will be responsible for the licensing of both community health facilities as well as operators of energy applying and detecting medical devices. The statute will also impose quality and safety standards, which will be outlined in regulations, and sets out a range of enforcement powers for contraventions of the statute, including the imposition of monetary penalties, the issuance of compliance orders and orders to cease operations, as well as the appointment of a supervisor to take over the operations of a community health facility that receives public funds where the Executive Officer considers it in the public interest to do so. The *Oversight of Health Facilities and Devices Act, 2017* will also repeal the [Private Hospitals Act](#), the [Independent Health Facilities Act](#) and the [Healing Arts Radiation Protection Act](#).

The third new statute to be enacted under Bill 160 is the *Medical Radiation and Imaging Technology Act, 2017*. This statute will repeal and replace the existing [Medical Radiation Technology Act](#). It will bring diagnostic medical sonography (ultrasound) under the same statute as other forms of medical imaging and

will include sonographers as regulated health professionals under the to-be renamed College of Medical Radiation and Imaging Technologists of Ontario.

Bill 160 will amend the [Health Protection and Promotion Act](#) to permit the regulation of splash pads, wading pools and water slides, as well as hairdressers, tattoo and body piercing parlours, nail salons and other places where esthetic services are offered.

Bill 160 will also make a number of amendments to the *Long-Term Care Homes Act, 2007* that are intended to strengthen the province's ability to control and oversee long term care homes. Bill 160 will replace the existing rules on restraints with a consent-based regime for the confining of residents. Other amendments will provide for enhanced enforcement powers on the part of the province including the power to impose monetary penalties on long term care home operators who contravene the statute, to suspend their licenses and to issue binding policy and operational directives.

This has not been a comprehensive review of Bill 160 and the draft legislation may be amended substantially in the course of its passage through the Legislature. Not-for-profit and charitable healthcare providers should keep abreast of developments as Bill 160 makes its way through the legislative process.

## **Ontario Bar Association Submission on Bill 154**

By [Terrance S. Carter](#)

On October 19, 2017, the Ontario Bar Association ("OBA") sent a submission to the Standing Committee on Justice Policy ("OBA Submission"), to provide comments on Schedules 2, 7, 8 and 9 of Bill 154, *Cutting Unnecessary Red Tape Act, 2017*. As discussed in our [September 2017 Charity & NFP Law Update](#), Bill 154 introduces changes to a number of statutes, including the ONCA, OCA, and CAA. The OBA Submission was made ahead of the clause-by-clause consideration scheduled for October 26, 2017, but only those aspects of the OBA Submission dealing with proposed amendments in Schedules 2, 7 and 8 of Bill 154 will be of interest to charities and not-for-profits.

Regarding Schedule 2, which includes amendments to the CAA, the OBA Submission addresses several questions regarding the classification of investments, limitations on the expenditure of capital, restrictions in constating documents, liability of trustees and social investment advice. The OBA Submission also points out several transitional provisions outlined in Schedule 7 affecting non-share capital corporations under the OCA, stating that as presently drafted, some of the provisions on the timing of proclamations may lead to confusion. Regarding the amendments to the ONCA in Schedule 8, the OBA Submission

notes that Bill 154 addresses many of the concerns previously raised with regard to the transition provisions in Bill 85, Companies Statute Law Amendment Act, 2014. However, the OBA Submission also highlights the need for further clarification of the sections dealing with restated articles and with corporations sole.

## Anti-Terrorism Law Update

By [Terrance S. Carter](#), [Nancy E. Claridge](#) and [Sean S. Carter](#)

### National Security and Intelligence Committee of Parliamentarians Act and Regulations

The *National Security and Intelligence Committee of Parliamentarians Act* (the “Act”) came into force on October 6, 2017, by [Order of the Governor General in Council](#). On the same date, the Governor General in Council issued an [Order designating the Government House Leader as the Minister for the purposes of the Act](#) pursuant to section 3 of the Act, as well as an [Order making the National Security and Intelligence Committee of Parliamentarians Regulations](#) (the “Regulations”) in accordance with section 33 of the Act. Progress of the Act has been discussed since it was first introduced as Bill C-22 in the “Anti-Terrorism & Money-Laundering Update” from the [June 2016 Charity & NFP Law Update](#), the “Legislation Update” from the [November 2016 Charity & NFP Law Update](#) and the “Legislation Update” from the [August 2017 Charity and NFP Law Update](#).

The Act establishes the National Security and Intelligence Committee of Parliamentarians (“NSICOP”) and makes several coordinating amendments concerning the NSICOP to other acts, including new section 16.6 of the [Access to Information Act](#), new section 22.4 of the [Privacy Act](#) and new section 53.4 of the [Proceeds of Crime \(Money Laundering\) and Terrorist Financing Act](#), all of which discuss the disclosure of personal information by NSICOP.

The Regulations establish requirements for members of NSICOP with regard to: i) the necessary Top Secret security clearance issued by the Clerk of the Privy Council, ii) the report to the Clerk of the Privy Council of any change in personal circumstances that may affect the security clearance of the member; and iii) attending security briefings before accessing “sensitive information”. Section 1 of the Regulations state “*sensitive information* means information or documents (a) that a member obtains, creates or has access to in the course of exercising their powers or performing their duties and functions under the Act; and (b) that a department is taking measures to protect.”

The Regulations also provide practices and procedures for protecting sensitive information similar to those in the Treasury Board [Standard on Security Screening](#). According to section 4 of the Regulations, members are only permitted to handle sensitive information while inside a restricted area, defined as an area “that is indicated by a perimeter and monitored continuously, to which access is limited to persons who hold the proper authorization and to escorted visitors, and for which records detailing the access to the area are maintained and audited.” While this is a development towards setting limits to some of those who access “sensitive information”, it needs to be remembered that this is in the larger context of a growing number of individuals and agencies (both domestic and foreign), who are now participating in the burgeoning information sharing regime.

### **Objectives of the Financial Action Task Force’s Presidency for 2017-2018**

During the Plenary meeting of the Financial Action Task Force (“FATF”) held in Valencia, Spain, between June 21 and June 23, 2017, the incoming president of the FATF, Santiago Otamendi, presented his [objectives for the upcoming year](#) (July 2017-June 2018) (“Objectives”). The Objectives recognize there is a double global threat of crime and terrorism, but also a need for financial inclusion, in line with the FATF Standards and the [G20 High-Level Principles for Digital Financial Inclusion](#).

Financial inclusion is an issue that is of particular importance to charities and not-for-profits involved in programs that require the transfer of funds overseas to areas where there is either no financial infrastructure or where the correspondent bank has a restrictive policy that often only permits transfers by governmental entities or large organizations. For more information about this, see “Bank De-Risking and its Impact on NFPs” in our [January 2016 Charity & NFP Law Update](#).

The Objectives recognize that the process of “de-risking and de-marketing” by global banks may potentially increase the risks of money laundering and terrorist financing, as those who need to transfer funds to certain remote areas are left outside existing safe regulated channels. In this sense, the FATF is looking to continue its work with the [Financial Stability Board](#), not-for-profits and financial institutions to monitor and address these issues and, specifically, to prevent the use of not-for-profits for terrorist financing, while ensuring these efforts do not disrupt or discourage the activities carried out by these organizations, as per [Recommendation 8](#). For further information on the FATF’s Recommendation 8, see [Anti-Terrorism and Charity Law Alert No. 46](#).

## “Update on Charity Law” Resource Paper

By [Terrance S. Carter](#)

A resource paper compiling various articles from *Charity Law Updates* and *Charity Law Bulletins* over the last 12 months, available at [charitylaw.ca](http://charitylaw.ca), was presented at the Law Society of Upper Canada’s 20th Annual Estates and Trusts Summit on October 17, 2017. The paper highlighted a number of legislative and common law developments that impact how charities, as well as not-for-profit corporations, operate in Canada. The purpose of the paper is to provide a brief overview of some of the more important developments in the last year, including changes introduced through the 2017 Federal Budget, new publications from the Charities Directorate of the CRA, corporate updates under the *Canada Not-for-Profit Corporations Act*, the OCA, the ONCA, and the CAA, as well as other federal and provincial initiatives and recent court decisions affecting charities.

The full text of the paper can be accessed [here](#).

## Charities Legislation & Commentary, 2018 Edition Available for Pre-Order

Co-Edited by Terrance S. Carter, Maria Elena Hoffstein, and Adam M. Parachin (LexisNexis Butterworths, November 2018)

The *2018 Charities Legislation & Commentary*, co-edited by Terrance S. Carter, M. Elena Hoffstein and Professor Adam Parachin, will be released next month. This consolidation provides an updated tool to facilitate charity law research by setting out excerpts from, and in some cases the entire text of approximately 145 key federal and 75 Ontario statutes and regulations that apply to charities current to September 2017, including changes introduced by the 2017 federal budget. Order the book by [clicking here](#).

## IN THE PRESS

[Charity & NFP Law Update – September 2017](#) (Carters Professional Corporation) was featured on *Taxnet Pro*™ and is available online to those who have OnePass subscription privileges.

[Ontario Proposes to Allow “Social Investments” by Charities in Bill 154](#) written by Terrance S. Carter was published in *The Lawyers Daily* on October 17, 2017.

## RECENT EVENTS AND PRESENTATIONS

**Legal Issues in Social Media and Related Policies** was presented by Terrance S. Carter at the Association of Treasurers of Religious Institutes (ATRI) Conference held on September 30, 2017.

**Duties and Liabilities of Directors and Officers of Charities and NFPs** was presented by Terrance S. Carter at the BDO Canada LLP – Waterloo/Guelph Office on October 4, 2017, and at the BDO Canada LLP – London Office on October 11, 2017.

## UPCOMING EVENTS AND PRESENTATIONS

[24<sup>th</sup> Annual Church and Charity Law Seminar](#) – Limited Registration Available – Only a Few Spaces Left

The upcoming 24th Annual *Church & Charity Law*<sup>TM</sup> Seminar hosted by Carters in Greater Toronto, Ontario, will be held on **Thursday November 9, 2017**. Click here for [details](#) and [online registration](#).

[AFP Congress 2017](#) will be held in Toronto, Ontario on November 21, 2017. Terrance S. Carter will present on the topic of “Legal Issues in Social Media for Charities”.

[Child Development Resource Connection Peel \(CDRCP\)](#) will host a full-day conference on November 23, 2017 in Brampton, Ontario. The following topics will be covered:

- Legal Check-Up: 10 Tips to Effective Legal Risk Management – Terrance S. Carter
- The Top Ten Human Resources Mistakes Employers Make (And How to Avoid Them) – Barry W. Kwasniewski
- Legal Issues in Social Media and Related Policies – Terrance S. Carter
- Hiring, Firing, and Employment Contracts – Barry W. Kwasniewski
- Identifying and Managing Risk When Working With Children – Sean S. Carter

[BDO Canada LLP – Orangeville and Area Office](#) will host a conference in Orangeville, Ontario on November 30, 2017. Terrance S. Carter will present on the topic of “Duties and Liabilities of Directors and Officers of Charities and NFPs”.

**The Ottawa Region Charity and Not-for-Profit Law™ Seminar** hosted by Carters Professional Corporation will be held at the Centurion Conference Center in Ottawa, Ontario, on **Thursday February 15, 2018**. Guest Speakers include the Honourable Justice David Brown, Court of Appeal of Ontario and Tony Manconi, Director General of the Charities Directorate of the CRA. Brochure and online registration will be available on our website shortly.



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## ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

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