

## **ICOM Canada by-laws revision**

*The ICOM Canada Board of Directors is pleased to submit to membership for discussion and vote fully revised bylaws, following the first comprehensive review of the organization's bylaws since 2015. While entirely aligned with the ICOM Statutes, the text in front of you also draws on templates and standards established by Corporations Canada*

### **BY-LAW NO. 1**

**A by-law relating generally to the conduct of the affairs of**

**ICOM-MUSEUMS-MUSÉES-CANADA**

**(the “Corporation”)**

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Be it enacted as a by-law of the Corporation as follows:

## **SECTION 1 - GENERAL**

### **1.1 Definitions**

In the By-laws of the Corporation, capitalized terms used but not otherwise defined will have the same meaning as in the Act. In addition:

- 1.1.1 "Act" means the Canada Not-for-profit Corporations Act S.C. 2009, c.23 including the Regulations made pursuant to the Act, and any statute or regulations that may be substituted, as amended from time to time;
- 1.1.2 "Articles" means the original or restated articles of incorporation or articles of amendment, amalgamation, continuance, reorganization, arrangement or revival of the Corporation;
- 1.1.3 "Board" means the board of directors of the Corporation and "director" means a member of the board;
- 1.1.4 "By-law" means this by-law and any other by-laws of the Corporation as amended and which are, from time to time, in force and effect;
- 1.1.5 "Meeting of members" includes an annual meeting of members or a special meeting of members; "special meeting of members" includes a meeting of any class or classes of members and a special meeting of all members entitled to vote at an annual meeting of members;
- 1.1.6 "Ordinary resolution" means a resolution passed by a majority (for example more than 50%) of the votes cast on that resolution;
- 1.1.7 "Proposal" means a proposal submitted by a member of the Corporation that meets the requirements of section 163 (Shareholder Proposals) of the Act;
- 1.1.8 "Regulations" means the regulations made under the Act, as amended, restated or in effect from time to time; and
- 1.1.9 "Special resolution" means a resolution passed by a majority of not less than two-thirds (2/3) of the votes cast on that resolution.

### **1.2 Interpretation**

In the interpretation of this by-law, words in the singular include the plural and vice-versa, words in one gender include all genders, and "person" includes an individual, body corporate, partnership, trust and unincorporated organization.

Other than as specified in 1.1 above, words and expressions defined in the Act have the same meanings when used in these by-laws.

### **1.3 Corporate Seal**

The Corporation may have a corporate seal in the form approved from time to time by the board. If a corporate seal is approved by the board, the secretary of the Corporation, or other director appointed by the board, shall be the custodian of the corporate seal.

### **1.4 Execution of Document**

Deeds, transfers, assignments, contracts, obligations and other instruments in writing requiring execution by the Corporation may be signed by any two (2) of its officers or directors. In addition, the board may from time to time direct the manner in which and the person or persons by whom a particular document or type of document shall be executed. Any person authorized to sign any document may affix the corporate seal (if any) to the document. Any signing officer may certify a copy of any instrument, resolution, by-law or other document of the Corporation to be a true copy thereof.

### **1.5 Financial Year End**

Unless otherwise determined by the board of directors, the financial year-end of the Corporation shall be December 31<sup>st</sup>.

### **1.6 Banking Arrangements**

The banking business of the Corporation shall be transacted at such bank, trust company or other firm or corporation carrying on a banking business in Canada or elsewhere as the board of directors may designate, appoint or authorize from time to time by resolution. The banking business or any part of it shall be transacted by an officer or officers of the Corporation and/or other persons as the board of directors may by resolution from time to time designate, direct or authorize.

### **1.7 Annual Financial Statements**

The Corporation may, instead of sending copies of the annual financial statements and other documents referred to in subsection 172(1) (Annual Financial Statements) of the Act to the members, publish a notice to its members stating that the annual financial statements and documents provided in subsection 172(1) are available on the Corporation's official website, or via electronic means upon request.

### **1.8 Languages**

The Corporation will provide all communications to members in both of Canada's official languages (English and French).

## **SECTION 2 - MEMBERSHIP - MATTERS REQUIRING SPECIAL RESOLUTION**

### **2.1 Membership Conditions**

Subject to the articles, there shall be six (6) classes of members in the Corporation. The following classes and conditions of membership shall apply:

2.1.1 - Individual Member is a working or retired museum professional or provides services, knowledge and expertise for museums, as your main professional activity. An Individual Member, including retirees, shall be entitled to notice of and to attend meetings of Members and shall have the right to one (1) vote at meetings of Members.

2.1.2 - Institutional Member is an individual that represents a museum or another institution that complies with the definition of a museum. An Institutional Member shall be entitled to notice of and to attend meetings of Members and shall have the right to one (1) vote at meetings of Members.

2.1.3 - Student Member is an individual enrolled in a museum-related academic programme. A Student Member shall be entitled to notice of and to attend meetings of members, but are not entitled to exercise voting rights in any organ or body of ICOM.

2.1.4 - Supporting Member is a person not directly involved in the work of the museum community who provides substantial assistance to ICOM both financially and otherwise, due to an interest in museums. Supporting Members are not entitled to exercise voting rights in any organ or body of ICOM.

2.1.5 - Honorary Members are defined by ICOM as persons who have rendered exceptional services to the international museum community or to ICOM. Honorary members are designated as such by ICOM, in accordance with the ICOM statutes. Honorary members are non-voting.

2.1.6 Members who are self-identified as Indigenous and join as Individual or Student members, are exempt from paying membership fees.

### **2.2 Notice of Meeting of Members**

Notice of the time and place of a meeting of members shall be given to each member entitled to vote at the meeting by electronic or other communication facility to each member entitled to vote at the meeting, during a period of 21 to 35 days before the day on which the meeting is to be held.

Notice of any meeting where special business will be transacted shall state the nature of that business in sufficient detail to permit a member to form a reasoned judgment on the business and state the text of any Special Resolution to be submitted to the meeting.

Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendment to the by-laws of the Corporation to change the manner of giving notice to members entitled to vote at a meeting of members.

### **2.3 Absentee Voting by Mail or Electronic Ballot**

Pursuant to section 171(1) (Absentee Voting) of the Act, a member entitled to vote at a meeting of members may vote by mailed-in or electronic ballot if the Corporation has a system that:

1. enables the votes to be gathered in a manner that permits their subsequent verification, and
2. permits the tallied votes to be presented to the Corporation without it being possible for the Corporation to identify how each member voted.

Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendment to the by-laws of the Corporation to change this method of voting by members not in attendance at a meeting of members.

## **SECTION 3 - MEMBERSHIP DUES, TERMINATION AND DISCIPLINE**

### **3.1 Membership Dues**

The board of directors shall set the membership dues for the corporation. Dues are payable annually based on the calendar year. Dues are not pro-rated.

Membership in the corporation commences upon acceptance by the board of directors or designated committee.

Members shall be notified in writing of the membership dues at any time payable by them and, if any are not paid within one (1) month of the membership renewal date (January 1), the members in default shall automatically cease to be members of the Corporation.

### **3.2 Termination of Membership**

A membership in the Corporation is terminated when:

1. the member dies, or, in the case of a member that is a institution, the institution is dissolved;
2. a member fails to maintain any qualifications for membership described in Section 2.1 or Section 3.1 of these by-laws;
3. the member resigns by delivering a written resignation to the chair of the board of the Corporation in which case such resignation shall be effective on the date specified in the resignation;
4. the member is expelled in accordance with Section 3.3 below or is otherwise terminated in accordance with the articles or by-laws;
5. the member's term of membership expires; or
6. the Corporation is liquidated or dissolved under the Act.

Subject to the articles, upon any termination of membership, the rights of the member, including any rights in the property of the Corporation, automatically cease to exist.

### **3.3 Discipline of Members**

The board shall have authority to suspend or expel any member from the Corporation for any one or more of the following grounds:

1. violating any provision of the articles, by-laws, or written policies of the Corporation;
2. carrying out any conduct which may be detrimental to the Corporation as determined by the board in its sole discretion;
3. for any other reason that the board in its sole and absolute discretion considers to be reasonable, having regard to the purpose of the Corporation.

In the event that the board determines that a member should be expelled or suspended from membership in the Corporation, the president, or such other officer as may be designated by the board, shall provide twenty (20) days notice of suspension or expulsion to the member and shall provide reasons for the proposed suspension or expulsion. The member may make written submissions to the president, or such other officer as may be designated by the board, in response to the notice received within such twenty (20) day period. In the event that no written submissions are received by the president, the president, or such other officer as may be designated by the board, may proceed to notify the member that the member is suspended or expelled from membership in the Corporation. If written submissions are received in accordance with this section, the board will consider such submissions in arriving at a final decision and shall notify the member concerning such final decision within a further twenty (20) days from the date of receipt of the submissions. The board's decision shall be final and binding on the member, without any further right of appeal.

## **SECTION 4 - MEETINGS OF MEMBERS**

### **4.1 Place of Meetings**

The annual meeting or any special meeting of the Members shall be held virtually through videoconferencing software and/or in person at any place in Canada as the Board may determine and on such day as the Board shall appoint. All participants must be able to communicate adequately with each other during the meeting, if the Corporation makes available such a communication facility. A person participating in a meeting by such means is deemed for the purposes of this Act to be present at the meeting.

### **4.2 Persons Entitled to be Present**

The only persons entitled to be present at a meeting of members shall be those entitled to vote at the meeting, the directors and the public accountant of the Corporation and such other persons who are entitled or required under any provision of the Act, articles or by-laws of the Corporation to be present at the meeting. Any other person may be admitted only on the invitation of the chair of the meeting or by resolution of the members.

### **4.3 Chair of the Meeting**

In the event that the chair of the board and the vice-chair of the board are absent, the members who are present and entitled to vote at the meeting shall choose one of their number to chair the meeting.



#### **4.4 Quorum**

20 voting members gathered for a meeting in person or virtually shall constitute a quorum at any members meeting. If a quorum is present at the opening of a meeting of members, the members present may proceed with the business of the meeting even if a quorum is not present throughout the meeting.

#### **4.5 Votes to Govern**

At any meeting of members every question shall, unless otherwise provided by the articles or by-laws or by the Act, be determined by a majority of the votes cast on the question. In case of an equality of votes either on a show of hands or on a ballot or on the results of electronic voting, the chair of the meeting in addition to an original vote shall have a second or casting vote

#### **4.6 Annual Meetings**

Subject to the Act, the annual meeting of the Members will be held on the date and at the time determined by the Board, but in any case, (i) not more than fifteen (15) months after the holding of the last preceding annual meeting, and (ii) not later than six (6) months after the end of the Corporation's preceding financial year. At every annual meeting of the Members, in addition to any other business that may be transacted, the Members shall: (a) review and consider the financial statements, the report of the public accountant, if any, and any other reports required by the Act to be placed before the Members at the annual meeting; (b) elect Directors; (c) if applicable, appoint the public accountant; and (d) transact any other business that may be properly brought before the Members.

#### **4.7 Special Meetings**

The Board shall have the power to call at any time a special meeting of the Members. In addition, the Board shall call a meeting of the Members on written requisition of Members carrying not less than 5% of the voting rights. If the Board does not call a meeting within 21 days of receiving the requisition, any Member who signed the requisition may call the meeting.

### **SECTION 5 – DIRECTORS**

#### **5.1 Election and Term**

The board of directors will consist of a minimum of seven (7) directors and maximum of eleven (11) directors.

Subject to the articles, the members will elect the directors at the first meeting of members and at each succeeding annual meeting at which an election of directors is required, and the directors shall be elected to hold office for a term expiring not later than the close of the third annual meeting of members following the election.

Following their initial term, each Director will be eligible for re-election as a Director for another three (3) year term. At the end of 6 years a Director must come off the board for a year before serving another term.

## **5.2 Powers of the Board**

5.2.1 The Board shall manage or supervise the management of the activities and affairs of the Corporation in all things. The Board may make or cause to be made for the Corporation, in its name, any kind of contract which the Corporation may lawfully enter into and may exercise all such other powers and do all such other acts and things as the Corporation is authorized to exercise and do.

5.2.2 Without limiting the generality of the foregoing, the Board may, without the authorization of the Members: borrow money on the credit of the Corporation; issue, reissue, sell, pledge or hypothecate debt obligations of the Corporation; give a guarantee on behalf of the Corporation to secure performance of an obligation of any person; and mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the Corporation, owned or subsequently acquired, to secure any obligation of the Corporation.

The Board may, by resolution, delegate the powers referred to in this Section 5.2.2 to a Director, a committee of Directors or an Officer.

## **5.3 Director Vacancies**

The office of Director shall be automatically vacated: if the director ceases to be a member as per these by-laws; if the Director is less than 18 years of age; if the Director is declared incapable by a court in Canada or in another country; if the Director has the status of a bankrupt; if the Director resigns his or her office by delivering a written resignation to the Secretary of the Corporation; or on the Director's death.

The Members may, by resolution, at a special meeting remove any Director from office for any reason.

The office of Director shall be vacated upon the written resignation of the Director, effective at the time the written resignation is sent to the Corporation or at the time specified in the resignation, whichever is later.

A quorum of the Board may fill a vacancy among the Directors.

## **SECTION 6 - MEETINGS OF DIRECTORS**

### **6.1 Calling of Meetings**

Meetings of the board may be called by the chair of the board, the vice-chair of the board or any two (2) directors at any time.

### **6.2 Notice of Meeting**

Notice of the time and place for the holding of a meeting of the board shall be given to every director of the Corporation not less than 7 days before the time when the meeting is to be held by an electronic document in accordance with Part 17 of the Act.

Notice of a meeting shall not be necessary if all of the directors are present, and none objects to the holding of the meeting, or if those absent have waived notice of or have otherwise signified their consent to the holding of such meeting. Notice of an adjourned meeting is not required if the time and place of the adjourned meeting is announced at the original meeting. Unless the by-law otherwise provides, no notice of meeting need specify the purpose or the business to be transacted at the meeting except that a notice of

meeting of directors shall specify any matter referred to in subsection 138(2) (Limits on Authority) of the Act that is to be dealt with at the meeting.

### **6.3 Regular Meetings**

The board may appoint a day or days in any month or months for regular meetings of the board at a place and hour to be named. A copy of any resolution of the board fixing the place and time of such regular meetings of the board shall be sent to each director forthwith after being passed, but no other notice shall be required for any such regular meeting except if subsection 136(3)(Notice of Meeting) of the Act requires the purpose thereof or the business to be transacted to be specified in the notice.

### **6.4 Quorum**

A majority of the number of Directors of the Corporation in office at the time the meeting is held constitutes a quorum at any meeting of Directors.

### **6.5 Votes to Govern**

At all meetings of the board, every question shall be decided by a majority of the votes cast on the question. In case of an equality of votes, the chair of the meeting in addition to an original vote shall have a second or casting vote.

### **6.6 Place of Meetings**

Unless the Articles otherwise provide, meetings of the Board may be held virtually through videoconferencing software and/or in person, as determined by the Board. All persons participating in the meeting must be able to communicate with each other simultaneously and instantaneously. A director participating in such a meeting by those means is deemed to be present at that meeting.

### **6.7 Remuneration and Expenses**

The Directors will serve without remuneration for their services and no Director shall directly or indirectly receive any profit from such Director's position as such. The Directors will be entitled to be reimbursed for reasonable travelling and other reasonable expenses properly incurred by them in attending meetings of the Board or any committee of the Board or ICOM international business, subject to board approval.

### **6.8 Minutes**

The Board shall see that all minutes of the Corporation required by the By-laws or by any applicable statute or law are regularly and properly kept.

### **6.9 Committees**

The board may from time to time appoint any committee or other advisory body, as it deems necessary or appropriate for such purposes and, subject to the Act, with such powers as the board shall see fit. Any such committee may formulate its own rules of procedure, subject to such regulations or directions as the board may from time to time make. Any committee member may be removed by resolution of the board of directors.

## **SECTION 7 - OFFICERS**

### **7.1 Description of Offices**

Officers are appointed by the board and must be directors. Unless otherwise specified by the board which may, subject to the Act modify, restrict or supplement such duties and powers, the offices of the Corporation, if designated and if officers are appointed, shall have the following duties and powers associated with their positions:

a. - President/Chair of the Board - The president is also chair of the board. The president shall be the chief executive officer of the Corporation and shall be responsible for implementing the strategic plans and policies of the Corporation. The president shall, subject to the authority of the board, have general supervision of the affairs of the Corporation. The president shall, when present, preside at all meetings of the board of directors and of the members, and shall have such other duties and powers as the board may specify.

b. - Vice-President/Vice Chair of the Board - The vice-president is also vice-chair of the board. If the president is absent or is unable or refuses to act, the vice-president shall, when present, preside at all meetings of the board of directors and of the members. The vice-president shall have such other duties and powers as the board may specify.

c.- Secretary - The secretary shall attend and be the secretary of all meetings of the board, and members. The secretary shall enter or cause to be entered in the Corporation's minute book, minutes of all proceedings at such meetings; the secretary shall give, or cause to be given, as and when instructed, notices to members, directors, the public accountant and members of committees; the secretary shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation.

d. -Treasurer - The treasurer shall have such powers and duties as the board may specify.

The powers and duties of all other officers of the Corporation shall be such as the terms of their engagement call for or the board or president requires of them. The board may, from time to time and subject to the Act, vary, add to or limit the powers and duties of any officer.

Co-Presidents may be appointed instead of a President and Vice-President, if so determined by the board.

A Past President may also be designated by the board.

## **7.2 Term of Office/Vacancy in Office**

In the absence of a written agreement to the contrary, the board may remove, whether for cause or without cause, any officer of the Corporation. Unless so removed, an officer shall hold office until the earlier of: the officer's successor being appointed, the officer's resignation, such officer ceasing to be a director (if a necessary qualification of appointment) or such officer's death.

If the office of any officer of the Corporation shall be or become vacant, the directors may, by resolution, appoint a person to fill such vacancy.

## **7.3 Management**

The responsibility for the management of the activities of the Corporation shall rest with the Board who may exercise the powers needed to achieve its purposes. The Board may engage a manager and determine the person's title, duties, responsibilities, and remuneration. They may as well establish policies to guide the management of the corporation.

# **SECTION 8 - NOTICES**

## **8.1 Method of Giving Notice**

Any notice (which term includes any communication or document) to be given (which term includes sent, delivered or served), other than notice of a meeting of members or a meeting of the board of directors, pursuant to the Act, the articles, the by-laws or otherwise to a member, director, officer or member of a committee of the board or to the public accountant shall be sufficiently given if provided in the form of an electronic document in accordance with Part 17 of the Act.

A notice so delivered shall be deemed to have been given when it is delivered personally or to the recorded address as aforesaid; a notice so mailed shall be deemed to have been given when deposited in a post office or public letter box; and a notice so sent by any means of transmitted or recorded communication shall be deemed to have been given when dispatched or delivered to the appropriate communication company or agency or its representative for dispatch. The secretary may change or cause to be changed the recorded address of any member, director, officer, public accountant or member of a committee of the board in accordance with any information believed by the secretary to be reliable. The declaration by the secretary that notice has been given pursuant to this by-law shall be sufficient and conclusive evidence of the giving of such notice. The signature of any director or officer of the Corporation to any notice or other document to be given by the Corporation may be written, stamped, type-written or printed or partly written, stamped, type-written or printed.

## **8.2 Invalidity of any provisions of this by-law**

The invalidity or unenforceability of any provision of this by-law shall not affect the validity or enforceability of the remaining provisions of this by-law.

## **8.3 Omissions and Errors**

The accidental omission to give any notice to any member, director, officer, member of a committee of the board or public accountant, or the non-receipt of any notice by any such person where the Corporation has provided notice in accordance with the by-laws or any error in any notice not affecting its substance shall

not invalidate any action taken at any meeting to which the notice pertained or otherwise founded on such notice.

## **SECTION 9 - DISPUTE RESOLUTION**

### **9.1 Mediation and Arbitration**

Disputes or controversies among members, directors, officers, committee members, or volunteers of the Corporation are as much as possible to be resolved in accordance with mediation and/or arbitration as provided in Section 9.2 of this by-law.

### **9.2 Dispute Resolution Mechanism**

In the event that a dispute or controversy among members, directors, officers, committee members or volunteers of the Corporation arising out of or related to the articles or by-laws, or out of any aspect of the operations of the Corporation is not resolved in private meetings between the parties, then without prejudice to or in any other way derogating from the rights of the members, directors, officers, committee members, employees or volunteers of the Corporation as set out in the articles, by-laws or the Act, and as an alternative to such person instituting a law suit or legal action, such dispute or controversy shall be settled by a process of dispute resolution as follows:

1. The dispute or controversy shall first be submitted to a panel of mediators whereby the one party appoints one mediator, the other party (or if applicable the board of the Corporation) appoints one mediator, and the two mediators so appointed jointly appoint a third mediator. The three mediators will then meet with the parties in question in an attempt to mediate a resolution between the parties.
2. The number of mediators may be reduced from three to one or two upon agreement of the parties.
3. If the parties are not successful in resolving the dispute through mediation, then the parties agree that the dispute shall be settled by arbitration before a single arbitrator, who shall not be any one of the mediators referred to above, in accordance with the provincial or territorial legislation governing domestic arbitrations in force in the province or territory where the registered office of the Corporation is situated or as otherwise agreed upon by the parties to the dispute. The parties agree that all proceedings relating to arbitration shall be kept confidential and there shall be no disclosure of any kind. The decision of the arbitrator shall be final and binding and shall not be subject to appeal on a question of fact, law or mixed fact and law.
4. All costs of the mediators appointed in accordance with this section shall be borne equally by the parties to the dispute or the controversy. All costs of the arbitrators appointed in accordance with this section shall be borne by such parties as may be determined by the arbitrators.

#### **SECTION 10 - EFFECTIVE DATE**

Subject to matters requiring a special resolution, this by-law shall be effective when made by the board.

CERTIFIED to be By-Law No. 1 of the Corporation, as enacted by the directors of the Corporation by resolution on the \_\_ day of \_\_\_\_\_, 20\_\_\_\_ and confirmed by the members of the Corporation by special resolution on the \_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Dated as of the \_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
[Indicate name of director/officer]