

Associations: Model Articles of Association

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Swiss law (Art. 60-79 ZGB, Swiss Civil Code) gives associations ample freedom in terms of organisation and the subjects included in the articles of association. However, one principle applies in all cases: If the law says “by law”, deviations are not permissible.

The articles of association represent the fundamental order of any association. Written articles of association are required to confer legal validity on the association. Aside from the statutory requirements under the ZGB, the articles are the association’s own law which members and the board of directors must comply with.

Principally, all members are subject to the same rights and duties. If an association intends to deviate from this rule, such deviation must be specified in the articles of association.

“Streamlined” articles of association are not necessarily the best solution, as they may not provide sufficient information in cases of doubt or dispute.

Associations should adopt the articles of association that serve and suit them best. Hence, there are no universally applicable model articles that are suitable for all associations.

The following model articles of association include *comments* in boxes. On top of this, we have provided a non-conclusive list of *variations* on the individual regulations.

Please only adopt the model formulations that apply to your association. Naturally, you can also include further provisions and more detailed regulations.

Model Articles of Association

Association [name]

1. Name and domicile

An association as defined by Art. 60 ff. ZGB has been established under the name “[name]”. Its registered office is in [municipality]. The association shall be independent in terms of politics and religion.

Comments:

The registered office of an association is always a municipality, while the address of the association can be in a different place.

2. Objective and purpose

The association’s purpose is “[purpose]”.

Comments:

The purpose of associations must be nonmaterial. The manner of achieving the association’s objectives may be added in this context.

Non-profit associations: “The association does not pursue any commercial purposes and is not for profit. Its governing bodies perform their function on a voluntary basis.”

3. Resources

The association shall draw on the following resources to pursue its purpose:

- Membership contributions
- Income from organising events
- Subsidies
- Income from service agreements
- Donations and grants of any kind

Comments: If membership contributions are charged, the articles of association must include a respective provision. Otherwise, only actual sources of income need to be specified.

The membership contributions shall be determined once a year by the general meeting. Active members shall pay higher contributions than inactive members. Honorary members and acting board members shall be exempt from contribution payments.

The financial year is consistent with the calendar year.

Comments: If the articles of association do not specify different contribution levels for different member groups, everybody pays the same membership contribution. Board members cannot be exempted from contributions unless this is specified in the articles of association.

4. Membership

Members shall consist of natural persons and legal entities who support the association's purpose.

Active members with voting rights shall consist of natural persons who use the association's services and facilities.

Passive members with voting rights may consist of natural persons or legal entities who support the association in nonmaterial and financial ways.

Upon proposal of the board of directors, individuals who have rendered outstanding services to the association may be awarded honorary membership by the general meeting.

Supporting members with voting rights shall pay an annual contribution equal to or higher than the contributions paid by active members.

Comments: The distinction between active and passive members is not mandatory. Where various types of membership exist, the rights and duties of the respective categories must be clearly specified.

Applications for joining shall be addressed to the board of directors which shall decide upon acceptance or non-acceptance.

Comments: In the absence of respective provisions in the articles of association, the general meeting decides upon the acceptance of new members.

5. Membership expiry

Membership shall expire

- Upon resignation, exclusion or death in the case of natural persons.
- Upon resignation, exclusion or dissolution in the case of legal entities.

6. Membership resignation and exclusion

Resignation from the association is possible [anytime/as per date/end of the year]. A resignation letter shall be sent to the board of directors at least [...weeks] before the ordinary general meeting. The full membership contribution shall be payable even if the last year is incomplete.

Comments: Notice periods may not exceed 6 months.

Members may be excluded from the association at any time on grounds of [reasons, e.g. infringement of the articles of association, infringements against the objectives of the association, etc.].

Variations:

The board of directors may exclude members at any time without stating any reasons.

The board of directors is responsible for taking the decision regarding the exclusion of members; the respective member may address an appeal against the decision to the general meeting.

Where members fail to pay their membership contribution despite receiving reminders, the board of director may automatically exclude them.

Comments: In the absence of other stipulations, the general meeting decides upon the exclusion. Members must get a hearing before their exclusion in all cases.

7. Association's governing bodies

The governing bodies of the association shall consist of:

- a) The general meeting
- b) The board of directors
- c) The auditors
- d) The office
- e) Others

Comments: The general meeting and the board of directors are mandatory bodies. The articles of association shall only list the actual governing bodies, if applicable using the formulation 'may' if the body will be established only if required or according to the financial circumstances.

8. General meeting

The general meeting is the association's supreme governing body. Ordinary general meetings shall take place every year [on/in the period...].

Comments: It is advisable to hold the general meeting in the first half of the year, ideally in the first quarter.

Members shall be invited to the meeting [freely selectable period of time, at least 10 days] in advance in conjunction with a written list of the agenda items. Invitations may be sent out by email.

Submissions to the general meeting shall be sent in writing to the board of directors by [no. days/weeks].

Comments: Submissions are agenda items/matters. Members must have the opportunity to submit motions on individual agenda items during the general meeting when such items are being discussed.

The board of directors, or one-fifth of the members, may request the convocation of an extraordinary general meeting at any time if they state the purpose of the meeting. The meeting shall take place no later than [...weeks] after receipt of the request.

Comments: The one-fifth quorum is the minimum requested by law. This minimum may not be exceeded in the Articles of Association, i.e. requesting a one-third quorum would be against the law because it sets the bar higher (not lower) for members to call a meeting. The right to call a general meeting may also be granted to further bodies or individuals.

The general meeting is the association's supreme governing body. It has the following non-withdrawable responsibilities and powers:

- a) Approval of the minutes of the last general meeting
- b) Approval of the annual report of the board of directors
- c) Reception of the audit report and approval of the annual accounts
- d) Discharge of the board of directors
- e) Election of the chairperson, the remaining board of directors and the auditor.

Comments: Board members may also be elected individually.

- f) Determination of the membership contribution
Variation: of the membership contributions
- g) Approval of the annual budget
Variation: taking note of the annual budget
- h) Resolution on programme of activities
Variation: taking note of the programme of activities
- i) Resolution on submissions by the board and the members
- j) Amendments of the articles of association
- k) Decision on exclusion of members
- l) Resolution on dissolution of the association and appropriation of the liquidation proceeds.

All duly convened general meetings shall have a quorum irrespective of the number of members present.

Variation: All duly convened general meeting shall have a quorum if a minimum of [number or quota] members are present.

Comments: This variation only makes sense if the quota is normally not reached.

The members shall pass resolutions with a relative majority of the votes cast. Abstentions and invalid votes shall not count. In the case of tied votes, the chairperson shall cast the deciding vote.

Variation: The members shall pass resolutions with an absolute majority of the valid votes cast.

Comment: Since the majorities can be interpreted in different ways, it is advisable to clearly specify the type of majority in the articles of association (majority of what?).

Simple or relative majority: A motion has been adopted if the number of votes in favour exceeds that of votes against; abstentions are not counted.

Absolute majority: Motions require one vote above half of the present or valid votes cast.

Amendments of the articles of association shall require the approval of a [fraction: two-thirds, three-quarters...] majority of the votes cast.

Comments: A qualified majority can be specified for certain matters (amendments of the articles of association, dissolution), e.g. a two-thirds majority.

A record shall be prepared of the resolutions that have been passed.

9. Board of directors

The board of directors shall consist of a minimum of [number] members.

Variations:

The board of directors shall consist of [..... to] members.

The board of directors shall consist of [number] members.

Their term in office shall amount to [..] years. Re-elections are possible.

Variations: The term in office shall amount to [..] years. A maximum of [..] re-election(s) shall be possible.

The board of directors shall manage the association's current affairs and represent the association externally.

It shall pass the regulations.

It may establish working groups (specialised groups).

It may employ or engage individuals to achieve the association's objectives in return for appropriate compensation.

Further responsibilities and powers of the board of directors

The board of directors has all of the powers that are not entrusted to another body by or pursuant to these articles of association.

The following positions are represented on the board:

- a) Chairperson
- b) Deputy chairperson
- c) Finances
- d) Secretary
- e) (further)

Board members may hold several positions.

Variation: The board of directors shall constitute itself.

Comments: If a board constitutes itself, it distributes responsibilities among the members itself; the individual members are not elected into their positions.

Variation: The board of directors shall constitute itself with the exception of the chairperson.

The board of directors shall convene as often as the association's affairs require. All members may request the convocation of a meeting, stating grounds for this request.

If none of the members requests an oral discussion, resolutions may be passed in writing (including email).

The members of the board of directors shall principally perform their duties on a voluntary basis. They are entitled to the reimbursement of their actual expenses.

Comments: Voluntary status is a condition for the association's tax exemption.

10. Auditors

The general meeting shall elect [number] auditors or a legal entity to audit the accounts and conduct a spot check audit at least once a year.

The auditor shall submit a report and motion to the board of directors for the attention of the general meeting.

The auditor shall be appointed for [number of years]. Re-elections are possible.

11. Authorised signatories

The association shall be bound by the collective signatures of the chairperson and a further board member.

Variation: The board shall stipulate joint signatory power by two board members.

12. Liability

The association's assets shall be solely liable for the association's debts. Personal liability of the members is excluded.

Comments: This provision is required by law. An obligation to pay additional contributions can be stipulated.

13. Dissolution of the association

The dissolution of the association may be decided by resolution of an ordinary or extraordinary general meeting. Dissolutions require a voting majority of [required quota, qualified majority] of the members present.

Variation:

The dissolution of the association may be decided by resolution of a general meeting convened for this purpose. It requires a voting majority of [required quota, qualified majority] of the members if a minimum of [required quorum] of the members are present.

If less than [required quorum] of all members are present at the meeting, a second meeting shall be convened within a period of one month. At this meeting, the association may be dissolved by simple majority if less than three-quarters of the members are present.

Upon dissolution of the association, the association's assets shall be transferred to a tax-exempt organisation that pursues the same or a similar purpose. Distribution of the assets among the members is excluded.

Comments: Tax exemption crucially depends on the assets being transferred to a non-profit organisation and must not be distributed among the members.

14. Entry into force

These articles of association were adopted at the foundation meeting on [foundation date] and entered into force on the same date.

Date, place _____

Chairman:

Keeper of the minutes:
