

Model articles of association

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Swiss Law (Civil Code Articles 60–79) gives associations a great deal of freedom as to how they organise themselves and what they want to regulate in their articles of association. However, one thing always applies: where the law says “by law”, it cannot be deviated from.

Articles of association form the basic rules of the association. For an association to be legally valid, it must have written articles of association. In addition to the legal requirements under the Civil Code (CC), they are the association’s own law to which the members and the executive committee must adhere.

In principle, all members have the same rights and obligations. Any deviations from this must be regulated in the articles of association.

“Lean” articles of association are not necessarily the best because they do not provide sufficient information in case of doubt or dispute.

Every association needs the articles of association that serve it best and that suit it. Therefore, there are no “one-size-fits-all” templates for articles of association.

The following model articles of association are specified further by *comments* provided in boxes. Non-exhaustive *variants* have been added for the individual provisions.

Only adopt the provisions from these model articles of association that apply to your association. Of course, you can also include further provisions and more detailed regulations.

Individual terms are explained at www.vitaminb.ch/a-z/. There is also a work aid that provides guidance on the subject of founding an association, which describes the most important components of articles of association.

Model articles of association

Association [Name of association]

1. Name and headquarters

Under the name “[Name of association]” there exists an association pursuant to Article 60 et seqq. CC headquartered in [Municipality]. It is politically independent and denominationally neutral.

Comment:

The association is always headquartered in a political municipality; the postal address of the association may also be in another town or city.

2. Objective and purpose

The purpose of the association is “[Purpose of association]”.

Comment:

The purpose of an association must always be an idealistic one; it must not pursue economic purposes. This may also include information on how the association intends to achieve its objectives.

For non-profit associations: “The association is exclusively non-profit and does not pursue any profit-making or self-help purposes. Its bodies act in a voluntary capacity.”

3. Resources

The association has the following resources at its disposal for the pursuit of its objectives:

- member subscriptions;
- contributions from patrons;
- income generated from the association’s own events;
- subsidies;
- income generated from service level agreements;
- donations and grants of all kinds.

Comment: Any member subscriptions levied must be regulated in the articles of association. Otherwise, only the actual sources of income will be mentioned.

Fees for member subscriptions are set annually by the general meeting. Active members pay a higher membership fee than passive members. Honorary members and members of the executive committee that are holding office are exempt from the duty to pay subscriptions.

The financial year is identical to the calendar year.

Comment: Any member subscriptions to be levied that differ by category must be regulated in the articles of association. Members of the executive committee can be exempted from paying subscriptions only if this is regulated in the articles of association.

4. Membership

Membership is open to natural persons and legal entities who are concerned about the purpose of the association.

Active members with voting rights are natural persons who use the services and facilities of the association.

Passive members with voting rights may be natural persons or legal entities who support the association non-materially and financially.

Persons who have made a special contribution to the association may be awarded honorary membership by the general meeting on the proposal of the executive committee. They have full voting rights.

Variant: They have no voting rights.

Patron members with voting rights pay an annual contribution that is at least equal to that paid by active members.

Commentary: There is no mandatory rule that says a distinction must be made between active and passive members as well as other membership types. In the case of different types of membership, it must be clear what rights and obligations the respective categories have.

Whether or not passive members or honorary members are granted voting rights can be regulated in the articles of association.

Admission to the association may be made at any time. Applications for admission will be addressed to the executive committee, and the final decision on admission will be taken by the executive committee.

Comment: If there are no provisions in the articles of association, the decision on admission will be taken by the general meeting.

5. Termination of membership

Membership terminates or expires in the case of:

- natural persons by resignation, exclusion or death;
- legal entities, by resignation, exclusion or dissolution of the legal entity.

6. Resignation and exclusion

Resignation from the association is only possible [as of date/end of year/date of general meeting]. The letter of resignation must be sent to the executive committee at least [... weeks] before the date in writing.

Variant: Resignation from the association is possible at any time by notifying the executive committee.

The full membership subscription must be paid for the year in question.

Comment: The notice period must not exceed six months. It must be clear – especially in the case of resignation on the date of the general meeting – whether someone is still entitled to vote at the next general meeting or not.

A member can be excluded from the association at any time for [reasons, e.g. non-compliance with the articles of association or objectives of the association, etc.].

Variants:

A member may be excluded by the executive committee at any time without giving reasons.

The decision to exclude a member is taken by the executive committee; the member may appeal against the decision to exclude to the next general meeting within 30 days. Membership rights will be suspended until the final decision.

If members fail to pay the member subscription in spite of a reminder, they may be excluded by the executive committee immediately.

Comment: If nothing else is stipulated, the general meeting will decide on the exclusion. The member concerned will be heard before any exclusion.

7. Bodies of the association

The bodies that make up the association are:

- a) the general meeting;
- b) the executive committee;
- c) the auditors;
- d) the executive office.
- e) *Others*

Comment: The general meeting and executive committee are mandatory bodies. Only the effective bodies are listed in the articles of association. An “optional” label may be affixed if the body is set up only if necessary or where such a body is possible within the financial means of the association.

If an office is listed as a body, it should additionally be listed in a separate article, e.g. with the wording: «The management of operational business shall be delegated by the Executive Committee to a managing director (or an office). The cooperation between the Executive Committee and the office as well as the tasks, competences and responsibilities of the bodies are set out in the Rules of Procedure. The office representative shall attend Executive Committee meetings in an advisory capacity.»

8. The general meeting

The supreme body of the association is the general meeting. The general meeting convenes annually [time/period ...].

Comment: It is recommended that the general meeting be held in the first half of the year or, ideally, in the first quarter.

Alternatives to the physical meeting must be regulated in the articles of association and may be worded, for example, as follows: “The executive committee may, in justified exceptional cases, allow resolutions to be passed by means of an electronic voting platform or in writing.” However, this can result in substantial disadvantages; see: www.vitaminb-e.ch/tools/faq/#written-vote-instead-of-a-general-meeting

In the case of an alternative procedure, the same provisions of the articles of association must be observed as in the case of a physical meeting: invitation period, attendance quorum (participation quorum), required majorities. The calculation of the majorities is subject to the number of members participating in the vote/election.

The members are invited to the general meeting [freely selectable time period, but at least 10 days] in advance in writing, and the invitation must include the items of the agenda. Invitations sent by e-mail are valid.

Motions from members for additional business brought before the general meeting must be submitted in writing to the executive committee no later than [number of days/weeks] stating the reasons for the motion.

Comment: Such motions refer to items on the agenda (motions to add items to the agenda). The time limit should not be too short because all business to be transacted at a general meeting must be made known to all members in advance (at least 10 days).

It must be possible to introduce motions on individual items of the agenda at the meeting when such items are being addressed. www.vitaminb-e.ch/uploads/media/default/1188/Agenda_Items_and_Motions2019.pdf

The executive committee or one-fifth of the members may at any time request that an extraordinary general meeting be convened, stating the purpose of the meeting. Such a meeting must be held no later than [... weeks] after receipt of the request.

Comment: The quorum of one-fifth is compulsory. It may be lower but must not be exceeded. Other bodies or persons may be granted the right to convene a general meeting.

The general meeting has the following inalienable duties and powers:

- a) Approval of the minutes of the last general meeting
- b) Approval of the annual report of the executive committee
- c) Acceptance of the auditors' report and approval of the annual accounts
- d) Discharge of the executive committee
- e) Election of the chairperson, the other members of the executive committee and the auditors

Comment: Members of the executive committee may also be elected individually, for example as treasurer, vice chair, etc. Election of other bodies.

- f) Determination of member subscription
Variant: of member subscriptions
- g) Approval of annual budget
Variant: Acknowledgement of annual budget
- h) Resolution on the programme of activities
Variant: Acknowledgement of the programme of activities
- i) Resolutions on motions of the executive committee and members
- j) Amendment of the articles of association
- k) Decision on exclusion of members.
Variant: Decision on exclusion appeals
- l) Resolutions on the dissolution of the association and the use of the liquidation proceeds.

Any duly convened general meeting constitutes a quorum irrespective of the number of members present.

Variant: Every duly convened general meeting has a quorum if at least [number or share of] members are present.

Comment: This variant only makes sense if the quorum is generally reached.

The members pass resolutions by a simple majority of the votes cast. In the event of a tie, the chairperson has the deciding vote.

Variant: The members present pass resolutions by an absolute majority.

Comment: Simple or relative majority – a motion is adopted if it receives more votes in favour than against; abstentions are not counted.

Absolute majority: a motion requires one vote more than half of the valid votes present.

It is recommended to precisely define the type of majority in the articles of association in order to avoid ambiguities. www.vitaminb-e.ch/uploads/media/default/1720/Proper%Voting.pdf

Amendments to the articles of association require the approval of [proportional number of votes: two-thirds, three-quarters, etc.] of the members present and entitled to vote.

Comment: For special business (amendments to the articles of association, dissolution), a qualified majority may be required, for example a two-thirds majority.

Variant regarding proxies: A member of the association may be represented at the general meeting by another member of the association by proxy. Each member may represent a maximum of [number] members.

At least minutes of resolutions must be kept of the resolutions passed.

9. The executive committee

The executive committee consists of at least [number] persons.

Variants:

The executive committee consists of [from ... to ...] persons.

The executive committee consists of [number] persons.

The term of office is [...] years. Reelection is allowed.

Variant: The term of office is [...] years. Reelection is allowed no more than [...] times.

The executive committee is responsible for managing the day-to-day business and representing the association externally.

It issues regulations.

It may set up work groups (groups of specialists).

It may employ or commission persons against appropriate remuneration (in accordance with labour law) to achieve the objectives of the association.

Further responsibilities and competencies of the executive committee

The executive committee has all powers not delegated to another body by law or under these articles of association.

The following units are represented on the executive committee:

- a) Chairperson
- b) Vice chairperson
- c) Treasurer
- d) Actuary
- e) Others

Several offices may be held at the same time.

Variant: The executive committee constitutes itself.

Comment: Self-constituting means that the executive committee distributes the tasks itself; the individual executive committee members are not elected to their offices.

Variant: The executive committee constitutes itself with the exception of the chairperson.

The executive committee meets as often as business requires. Any member of the executive committee may request a meeting, stating the reasons.

Unless a member of the executive committee requests oral deliberation, resolutions may be passed by circular letter (including e-mail).

In general, the members of the executive committee work in a voluntary capacity and are not paid. They are, however, entitled to reimbursement of effective expenses. For special services, individual executive committee members can be given an appropriate remuneration.

Comment: Voluntary work is a condition for tax exemption.

10. The auditors

The general meeting elects [number] auditors or a legal entity to audit the accounts and conduct random checks at least once a year.

The auditors report to the executive committee for the attention of the general meeting.

Their term of office is [number of years]. Reelection is allowed.

11. Signing authority

The association is bound by the collective signature of the chairperson together with another member of the executive committee.

Variant: The executive committee regulates collective signing authority of two.

12. Liability

Only the assets of the association are liable for the debts of the association. Personal liability of the members is excluded.

Comment: This is regulated by law. An obligation to make additional contributions may also be defined.

13. Data protection

The association exclusively gathers the personal data of the members required to fulfil the purpose of the association. The executive committee ensures data security appropriate to that of the risk.

The member data, particularly name, address, phone number and email address [list other data, if necessary], will be disclosed to all association members.

Variants: The member data will not be disclosed to other members, unless a legal provision applies.

Comment: The member data may be required of the members to exercise membership rights (e.g. calling of an extraordinary meeting pursuant to Article 64(3) CC).

The member data, particularly [which data], will be published on the website, in the newsletter as well as in the bulletin of the association [other publications, if applicable]. Otherwise, data will only be disclosed to third parties within the scope of legally permissible order processing, and if this should be required by law or ordered by the authorities.

Comment: Should member data be forwarded to third-parties, which data (e.g. name, address and email address), for what purpose (e.g. advertising) and to which parties (e.g. sponsor) must be clear from the provision. The umbrella organisation of a section is also deemed a third party.

Otherwise, member data is processed in accordance with the provisions of Swiss data protection legislation and the privacy policy on the association's website.

Comment: Every association create a privacy policy to fulfil its legal data protection information obligation, which it preferably publishes on its website.

14. Dissolution of the association

The association may be dissolved by resolution of the general meeting or an extraordinary general meeting by a majority of votes of [required quota, qualified majority] the members present.

Variant:

The association may be dissolved by resolution of the general meeting or an extraordinary general meeting by a majority of votes of [required quota, qualified majority] of the members present if at least [required quorum] of the members are present.

If fewer than [required quorum] of all members attend the meeting, a second meeting will have to be convened within one month. At such meeting the association may be dissolved by a simple majority even if fewer than three-quarters of the members are present.

In the event that the association is dissolved, the assets of the association will be transferred to a tax-exempt organisation in Switzerland that pursues the same or a similar purpose. The distribution of the association's assets among the members is excluded.

Comment: For tax exemption, it is mandatory that the funds go to a non-profit organisation based in Switzerland and are not distributed to the members.

15. Entry into force

These articles of association were adopted by the constitutive meeting on [date of constitution or date of general meeting] and entered into force with effect from such date. They replace all previous versions (for existing associations).

Date, place _____

The chairperson:

The minute taker:
