

Dutch Civil Code (excerpts)

(26 July 1972, as of 4 February 2014)

Book 2 Legal Persons

Title 2.2 Associations

Article 2:26 Definition of a normal 'Association'

- **1.** An Association ('*vereniging*') is a legal person with members, pursuing a particular purpose which is different from the purpose described in Article 2:53, paragraph 1 or 2.
- **2.** An Association ('*vereniging*') is formed by means of a more-sided (multilateral) juridical act.
- **3.** An Association ('*vereniging*') may not distribute profits among its members.

Article 2:27 The notarial deed of incorporation

- **1.** Where an Association ('*vereniging*') is formed by notarial deed, the following provisions have to be observed.
- **2.** The notarial deed must be executed in the Dutch language. If the Association ('*vereniging*') has its seat in the province of Friesland ('*Fryslân*'), the notarial deed may be executed as well in the Frisian language. A procuration (power of attorney) to cooperate with the execution of the notarial deed must be granted in writing.
- **3.** The notarial deed contains the articles of incorporation (also known as articles of Association).
- **4.** The articles of incorporation include:
 - a.** the name of the Association ('*vereniging*') and the municipality in the Netherlands where it has its seat;
 - b.** the purpose (objective) of the Association ('*vereniging*');
 - c.** the obligations of the members towards the Association ('*vereniging*'), or the way in which such obligations may be imposed;
 - d.** the method of convening the General Meeting;
 - e.** the method for the appointment and dismissal of the Directors (Officers) of the Association ('*vereniging*');
 - f.** how the surplus of the Association ('*vereniging*') must be used in case of a dissolution of the Association ('*vereniging*'), or how this use will be determined.
- **5.** The notary, in front of whom the notarial deed of incorporation is executed, shall ensure that the deed is in accordance with the provisions of paragraph 2 up to and including 4. In the event of a defect, the notary is personally liable towards those who have suffered damage as a result.

Article 2:28 Articles of incorporation embodied in a notarial deed

- **1.** Where an Association ('*vereniging*') is not formed in accordance with paragraph 1 of the previous Article, its General Meeting may pass a resolution to embody the articles of incorporation in a notarial deed.
- **2.** In that event paragraph 2 up to and including 5 of the previous Article apply accordingly.

Article 2:29 Registration in the commercial register

- **1.** The Directors of an Association ('*vereniging*') of which the articles of incorporation are

embodied in a notarial deed, are responsible for the registration of the Association ('vereniging') in the commercial register, and must deposit a certified copy or an authentic extract of the notarial deed of incorporation at the office of that register (Chamber of Commerce).

- **2.** As long as no application for an initial registration or deposit has been lodged with the keeper of the commercial register, each Director is jointly and severally liable, in addition to the Association ('vereniging'), for juridical acts through which he has committed (bound) the Association ('vereniging').

Article 2:30 'Informal Association' with limited legal capacity to acquire property

- **1.** An Association ('vereniging') of which the articles of incorporation are not embodied in a notarial deed (a so called 'informal Association'), cannot acquire registered property and cannot be an heir.

- **2.** The Directors of such an Association ('vereniging') are jointly and severally liable, in addition to the Association ('vereniging'), for debts arising from a juridical act of the Association ('vereniging') that have become due and demandable during their period as Director. After their resignation they remain jointly and severally liable for debts arising from a juridical act performed during their period as Director, yet only to the extent that no other person, in addition to the Association ('vereniging'), is liable for these debts pursuant to the previous sentence. A liability pursuant to one of the preceding sentences does not rest on the ones who have not been consulted in advance about the juridical act and who, when they became aware of that act, have refused to accept any responsibility for it as Director. When no other person, in addition to the Association ('vereniging'), can be made liable for a debt on the basis of one of the two previous sentences, the persons who have performed the juridical act which caused the debt are jointly and severally liable for it.

- **3.** The Directors of an Association ('vereniging') as meant in the present Article (informal Association), may have it registered in the commercial register. If they do so and the articles of incorporation are made in writing, they must deposit a copy thereof at the office of the register (Chamber of Commerce).

- **4.** Where the registration referred to in the preceding paragraph has been made, the persons who are liable on account of paragraph 2 shall only be liable as far as the counterparty makes plausible that the Association ('vereniging') shall not perform the obligation.

Article 2:31 *[repealed on 01.01.1992]*

Article 2:32 *[repealed on 01.09.1994]*

Article 2:33 Admission of members

Unless the articles of incorporation provide otherwise, the Board of Directors resolves (decides) on the admission of a new member; when the Board of Directors refuses to admit a new member, the General Meeting may still decide to admit the involved person as member.

Article 2:34 Membership is personal (not freely transferable)

- **1.** The membership of an Association ('vereniging') is personal, unless the articles of incorporation provide otherwise.

- **2.** If a legal person is a member of an Association and this legal person ceases to exist as a result of a merger or split up (demerger), then its membership shall pass to the acquiring legal

person or, respectively, to one of the acquiring legal persons in accordance with the description appended to the notarial deed of the split up (demerger), unless the articles of incorporation of the Association ('vereniging') provide otherwise.

Article 2:34a Obligations attached to membership

Obligations may only be attached to the membership by or pursuant to the articles of incorporation of the Association ('vereniging').

Article 2:35 Ending of membership; removal of a member

- **1.** The membership of an Association ('vereniging') ends:

- a.** when the involved member dies, unless the articles of incorporation of the Association ('vereniging') permit a passage of membership under the law of succession;
- b.** when it is terminated by the member;
- c.** when it is terminated by the Association ('vereniging');
- d.** when the member is removed as such.

- **2.** The Association ('vereniging') may terminate a membership in the situations mentioned for this purpose in its articles of incorporation and, furthermore, when a member no longer meets the requirements for membership as set under the articles of incorporation and, in addition, when a continuation of membership reasonably cannot be expected of the Association ('vereniging'). Where the Association ('vereniging') terminates a membership, the Board of Directors has the power to do so, unless the articles of incorporation have granted this power to another body of the Association ('vereniging').

- **3.** The removal of a member may only be ordered when this member has acted in violation of the articles of incorporation, the internal regulations (by-laws) or a resolution of the Association ('vereniging'), or when this member has harmed the Association ('vereniging') unreasonably.

- **4.** The removal of a member is ordered by the Board of Directors, unless the articles of incorporation have granted this power to another body of the Association ('vereniging'). The removed member is given notice of his removal as soon as possible; the notice must be in writing, mentioning as well the grounds for the removal. Within one month after the removed member has received the earlier meant notification, he may lodge an appeal with the General Meeting or with another body of the Association ('vereniging') or a third party designated for this purpose in the articles of incorporation, unless the resolution (decision) to remove him as member was taken by the General Meeting. The articles of incorporation may enclose other provisions for such an appeal, on the understanding that the period for appeal cannot be shorter than one month. During the period for appeal and pending an appeal the removed member is suspended.

- **5.** When the membership has ended in the course of an accounting (financial) year, the annual contribution nevertheless remains chargeable in full, unless the articles of incorporation provide otherwise.

- **6.** The Association ('vereniging') ensures that the members prior to the termination of the membership are easily able to inspect the necessary information. The information in any case is mentioned prominent on the head page of the website and on pages 1, 2 and 3 of the member magazine, if an Association ('vereniging') makes use of such means of communication.

Article 2:36 Termination of membership

- **1.** Unless the articles of incorporation provide otherwise, the membership may be terminated as of an effective date at the end of an accounting (financial) year, with due observance of a term of notice of four weeks; the General Act on Terms does not apply to this term of notice. The membership may be terminated in any event as of an effective date at the end of the accounting

(financial) year following the one in which the notice of termination was given or, if a continuation of membership reasonably cannot be expected, with immediate effect.

- **2.** A termination in violation of the provisions in the preceding paragraph, shall terminate the membership at the earliest time allowed after the effective date mentioned under the defect termination.

- **3.** A member may terminate his membership with immediate effect within one month after he has been informed or become aware of a resolution (decision) restricting his rights or increasing his obligations; this resolution shall not apply to him after such a termination. This right of termination may be denied to the members of the Association ('vereniging') in the articles of incorporation as far as it concerns a change in rights and obligations that are described precisely in the articles of incorporation and, furthermore, in general as far as it concerns a change in financial rights and financial obligations.

- **4.** A member may also terminate his membership with immediate effect within one month after he has been informed about a resolution to convert the Association ('vereniging') into a legal person of a different type or about a resolution on a merger or split up (demerger) of the Association ('vereniging').

Article 2:37 Appointment, suspension and dismissal of Directors

- **1.** The Board of Directors is appointed from the members. The articles of incorporation may however specify that also non-members may be appointed as Director.

- **2.** The appointment is made by the General Meeting. The articles of incorporation may include other provisions for the way in which Directors can be appointed, provided that each member is able to participate, either directly or indirectly, in the voting on the appointment of the Directors.

- **3.** The articles of incorporation may provide that one or more of the members of the Board of Directors, yet no more than one half, may be appointed by others than the members of the Association ('vereniging').

- **4.** If the articles of incorporation specify that a Director must be appointed at a meeting from a binding list of nominated candidates, then the binding force of that list may be removed by a resolution passed at that meeting with at least two thirds of the votes cast. The articles of incorporation may require that there must be an opportunity for at least a certain (minimal) number of votes to be cast at that meeting.

- **5.** When a member of the Board of Directors on the basis of the articles of incorporation is to be appointed by the members of the Association ('vereniging') or by sections of the Association ('vereniging') outside a convened meeting, then the members of the Association ('vereniging') must be given the opportunity to nominate certain candidates. The articles of incorporation may provide that this right only belongs to a number of members jointly, provided that their number is set no higher than one fifth of the members allowed to participate in the election. The articles of incorporation may also provide that candidates who have been nominated in this way, will be appointed only if at least a certain number of votes have been cast in their favour, provided that this number is set no higher than two thirds of the number of the votes cast.

- **6.** Even when a Director is appointed for a fixed term, he may be dismissed or suspended by the body which appointed him. The court is not able to order the restoration of the employment contract between the Association ('vereniging') and the Director as referred to in Article 7:682 of the Civil Code.

- **7.** Unless the articles of incorporation provide otherwise, the Board of Directors appoints its chairman, secretary and treasurer from its members.

Article 2:38 General Meeting; participation; right to vote

- **1.** Subject to what is provided in the next Article, all members who are not suspended may

attend the General Meeting and may cast one vote there; a suspended member may attend the meeting where the resolution to suspend him is considered and he is entitled to speak at this meeting on his behalf. The articles of incorporation may grant particular members more than one vote.

- **2.** Unless the articles of incorporation provide otherwise, the President and Secretary of the Board of Directors or their substitutes shall operate as Chairman and Secretary of the General Meeting.
- **3.** The articles of incorporation may provide that persons belonging to other bodies of the Association ('vereniging') who are not a member of the Association ('vereniging') may vote at the General Meeting. The number of votes to be cast by them may in total not exceed one half of the number of votes to be cast by the members of the Association ('vereniging').
- **4.** Unless the articles of incorporation provide otherwise, a person who is entitled to vote pursuant to paragraph 1 or 3, may grant a written proxy to vote on his behalf to another person entitled to vote.
- **5.** The requirement that the proxy must be granted in writing is fulfilled as well when the proxy is recorded electronically.
- **6.** The articles of incorporation may provide that a person who is entitled to vote pursuant to paragraph 1 or 3, may exercise his voting right by electronic means of communication.
- **7.** For the purposes of paragraph 6, it is required that the person entitled to vote can be identified through the electronic means of communication, that he immediately can obtain knowledge of what is said or exchanged at the meeting and that he is able to exercise his voting right. The articles of incorporation may require in addition that the person entitled to vote has the opportunity to participate by electronic means of communication in the deliberations.
- **8.** The articles of incorporation may provide that votes cast by electronic means of communication on a date prior to the General Meeting, yet not earlier than thirty days prior to that meeting, are equated with votes cast at that meeting itself.
- **9.** Conditions may be set by or pursuant to the articles of incorporation for the use of electronic means of communication. If these conditions are set pursuant to the articles of incorporation, they will be announced in the convening notice for the General Meeting.

Article 2:39 Council of Members (delegates); referendum

- **1.** The articles of incorporation may provide that the General Meeting shall consist of delegates (Council of Members) elected by and from the members of the Association ('vereniging'). The method of election and the number of delegates are regulated in the articles of incorporation. Each member of the Association ('vereniging') must have the opportunity to participate, directly or indirectly, in the election. Article 2:37 paragraph 4 and 5 shall apply accordingly to such an election. Article 38 paragraph 3 shall apply accordingly to persons who belong to other bodies of the Association ('vereniging') and who are not a delegate.
- **2.** The articles of incorporation may provide that specific resolutions of the General Meeting are subjected to a referendum. The articles of incorporation must specify in which events such a referendum is to be held and within which period and how it is to be held. Pending the outcome of the referendum, the implementation of the resolution shall be suspended.

Article 2:40 Duty and powers of the General Meeting; passing a resolution outside a convened General Meeting

- **1.** Within the Association ('vereniging'), the General Meeting is conferred with all powers insofar that these powers are not granted by law or the articles of incorporation to other bodies of the Association ('vereniging').
- **2.** A unanimous decision of all members of the Association ('vereniging') or, where appropriate,

of all delegates, taken outside a convened meeting, has the same force as a resolution of the General Meeting, provided that it was taken with the knowledge of the Board of Directors.

Article 2:41 The convening of a General Meeting

- **1.** The Board of Directors shall convene a General Meeting as often as it regards that this is appropriate, or when it is obliged to do so by virtue of the law or the articles of incorporation. The articles of incorporation may delegate this power to others than the Board of Directors.
- **2.** Where a number of members of the Association ('vereniging') or delegates who are entitled to cast at least one tenth of votes at the General Meeting or a smaller number of such members or delegates as provided for by the articles of incorporation, request the Board of Directors in writing to convene a General Meeting, the Board of Directors is obliged to convene such a General Meeting within four weeks after the request was lodged.
- **3.** If no actions have been taken by the Board of Directors within fourteen days after the request was lodged, then the involved applicants may proceed to convene a General Meeting themselves in the way in which the General Meeting is convened by the Board of Directors or by means of an announcement published in a daily newspaper that is read widely in the place where the Association ('vereniging') is established, unless the articles of incorporation indicate that the General Meeting must be convened in another way when the Board of Directors does not take any actions as referred to in the present paragraph. Where the applicants themselves have convened a General Meeting pursuant to the previous sentence, they may assign other persons than the members of the Board of Directors to preside the meeting and to take the minutes.
- **4.** Unless the articles of incorporation provide otherwise, the requirement that the request must be made in writing, as mentioned in paragraph 2, is satisfied as well when the request is recorded electronically.
- **5.** Unless the articles of incorporation provide otherwise, the convening notice for a General Meeting may be given by means of an electronically transmitted message if a member of the Association ('vereniging') or a delegate has given his consent to do so; such an electronically transmitted message must be sent to the address disclosed by the involved member or delegate for this purpose; it must be readable and reproducible.

Article 2:41a Sections of an Association

Articles 2:37 up to and including 2:41 apply accordingly to sections ('afdelingen') of an Association ('vereniging') which are not a legal person, but which do have a General Meeting and a Board of Directors of their own; what is provided in those Articles with reference to the articles of incorporation, may be specified in the internal regulations of a section (by-laws of that section).

Article 2:42 Amendment of the articles of incorporation; proposal to dissolve the Association

- **1.** The articles of incorporation of an Association ('vereniging') can be amended only by a resolution of the General Meeting, convened by notice, in which is mentioned that an amendment of the articles of incorporation will be proposed at this meeting. The period of notice for such a meeting shall at least be seven days.
- **2.** The persons who convened the General Meeting in order to vote on a proposal to amend the articles of incorporation, must deposit a copy of that proposal in order to enable the members of the Association ('vereniging') to inspect it properly; the copy of the proposal must contain the proposed amendment to the letter; the copy of the proposal must be deposited for inspection at least five days prior to the meeting at a location suitable for this purpose, and it must remain at that location until the end of day on which the meeting is held. The different sections of the

Association ('vereniging') and the delegates referred to in Article 2:39 must have received the proposal at least fourteen days prior to the meeting, in which case the previous sentences of the present paragraph are not applicable.

- **3.** The provisions of paragraph 1 and 2 do not apply if all members of the Association ('vereniging') or, where appropriate, all delegates are present or represented at the General Meeting and the resolution to amend the articles of incorporation is passed unanimously at that meeting.

- **4.** The provisions of paragraph 1 and 2 of the present Article and the provisions of the next Article apply accordingly to a resolution for the dissolution of the Association ('vereniging').

Article 2:43 Formalities for the amendment of the articles of incorporation (and the dissolution of the Association)

- **1.** Unless the articles of incorporation provide otherwise, a resolution to amend the articles of incorporation requires a majority of two thirds of the votes cast.

- **2.** As far as the power (possibility) to amend the articles of incorporation has been excluded, such an amendment is nevertheless possible by means of a resolution passed by unanimous votes at a meeting where all members of the Association ('vereniging') or, where appropriate, all delegates are present or represented.

- **3.** A provision in the articles of incorporation limiting the power (possibility) to amend one or more other provisions of those articles of incorporation, can be amended only with due observance of the same limitation.

- **4.** A provision in the articles of incorporation excluding the power (possibility) to amend one or more other provisions of those articles of incorporation, can be amended only by means of a resolution passed by unanimous votes at a meeting where all members of the Association ('vereniging') or, where appropriate, all delegates are present or represented.

- **5.** If the Association has full legal capacity, then an amendment of its articles of incorporation shall only take effect after a notarial deed has been drawn up of the amendment. The Directors are obliged to deposit a certified copy of the amendment and of the amended articles of incorporation at the office of the commercial register (Chamber of Commerce).

- **6.** Where a copy of the articles of incorporation of an Association with limited legal capacity ('informal Association') has been deposited at the office of the commercial register (Chamber of Commerce) in accordance with Article 2:30, the Directors of such an Association are obliged to deposit a copy of the amendment and of the amended articles of incorporation at that office.

Article 2:44 Duties and powers of the Board of Directors

- **1.** Subject to any restrictions under the articles of incorporation, the Board of Directors is charged with the administration and management of the Association ('vereniging').

- **2.** Only if this results from the articles of incorporation, the Board of Directors is empowered to resolve (decide) to enter into agreements for the acquisition, alienation (passage) and encumbrance of registered property, and to enter into agreements under which the Association ('vereniging') engages itself as surety or joint and several co-debtor or through which it guarantees performance by a third person or engages itself to provide security for the debt of someone else. The articles of incorporation may limit this power or attach conditions to it. Such exclusions, limitations and conditions apply as well to the authority of the Board of Directors to represent the Association ('vereniging') in performing the before mentioned juridical acts, unless the articles of incorporation provide otherwise.

Article 2:45 Authority to represent the Association

- **1.** The Board of Directors represents the Association (*'vereniging'*) as far as the law does not provide the contrary.
- **2.** The articles of incorporation may empower one or more Directors with the authority to represent the Association (*'vereniging'*). They may indicate that a Director is only allowed to represent the Association with the cooperation of one or more other persons [usually another Director].
- **3.** The authority to represent the Association (*'vereniging'*), granted to the Board of Directors or a Director, either solely or jointly with others, is unlimited and unconditional as far as the law does not provide the contrary. A legally permitted or prescribed limitation of or condition for the authority of representation may only be invoked by the Association (*'vereniging'*).
- **4.** The articles of incorporation may also grant authority of representation to other persons than Directors.

Article 2:46 Rights and obligations stipulated by the Association for account of its members

As far as the articles of incorporation do not provide the contrary, the Association (*'vereniging'*) may stipulate rights on behalf of its members; to the extent that the articles of incorporation specifically grant this power to the Association (*'vereniging'*), the Association may enter into commitments and obligations for account of its members. The Association (*'vereniging'*) may claim performance of the rights stipulated on behalf of its members and recover damages related to these rights, unless the involved member opposes to this.

Article 2:47 Conflict of interests between the Association and a Director or Supervisory Director

In all situations in which the Association (*'vereniging'*) has a conflict of interest with one or more of its Directors or Supervisory Directors, the General Meeting may appoint one or more persons to represent the Association (*'vereniging'*).

Article 2:48 Financial statements and annual accounts

- **1.** Within six months after the end of the accounting year, except when this period has been extended by the General Meeting, the Board of Directors reveals at the General Meeting an annual report on the course of events within the Association (*'vereniging'*) and on the policy conducted. It submits the balance sheet and the profit and loss account (income statement), added with notes, for approval to the General Meeting. These documents are signed by the Directors and Supervisory Directors; where the signature of one or more of them is missing, this shall be reported, mentioned as well the reason for this. After the expiration of the before mentioned period, each member of the Association (*'vereniging'*) may file a legal claim in court against all Directors to force them to comply with these obligations.
- **2.** When the Association (*'vereniging'*) does not have a Supervisory Board, and no statement of an accountant as referred to in Article 2:391 paragraph 1 is submitted to the General Meeting with regard to the correctness of the documents meant in the second sentence of paragraph 1, the General Meeting shall for each accounting year appoint a committee of at least two persons who are not a member of the Board of Directors. The committee shall examine the documents referred to in the second sentence of paragraph 1, and shall report to the General Meeting on its findings. The Board of Directors shall provide all information which the committee requires for its investigation; it will display to the committee, upon request, all cash and valuables and it will allow the committee to inspect the books, records and other data carriers of the Association (*'vereniging'*).

- **3.** An Association (*'vereniging'*) which conducts one or more enterprises that, pursuant to law, have to be registered in the commercial register, mentions in the profit and loss account (income statement) the net turnover of these enterprises.

Article 2:49 Annual accounts and annual report of an Association with a so called 'large enterprise'

- **1.** Annually, within six months after the end of the accounting year, except when this period has been extended with at the most five months by the General Meeting in view of particular circumstances, the Board of Directors of an Association (*'vereniging'*) as meant in Article 2:360, paragraph 3, draws up the annual accounts, and deposits these documents at the office of the Association (*'vereniging'*) for inspection by the members of the Association (*'vereniging'*). Within the same period, the Board of Directors also deposits the annual report for inspection by those members, unless Article 2:396, paragraph 7, or Article 2:403 applies to the Association (*'vereniging'*).
- **2.** The annual accounts are signed by the Directors and the Supervisory Directors; where the signature of one or more of them is missing, this shall be reported, mentioning as well the reason for this.
- **3.** The annual accounts shall be adopted by the General Meeting, which is to be convened by the Board of Directors no later than one month after the end of the period referred to in paragraph 1. An adoption of the annual accounts does not implicate a discharge of the liability for the Directors or Supervisory Directors.
- **4.** Article 2:48, paragraph 1, does not apply to an Association (*'vereniging'*) as meant in Article 2:360, paragraph 3. Article 2:48, paragraph 2, is applicable to such an Association (*'vereniging'*), on the understanding that the word 'documents' means the documents that have to be submitted pursuant to paragraph 1.
- **5.** An Association (*'vereniging'*) as meant in Article 2:360, paragraph 3, may only recover a deficit from the statutory reserves as far as this is permitted by law.
- **6.** Upon request, the Minister of Economic Affairs may, for compelling reasons, grant relief from the obligation to draw up, submit and adopt the annual accounts.

Article 2:50 Availability of the financial statements and annual accounts

An Association as meant in Article 2:360, paragraph 3, ensures that its drawn up annual accounts, the annual report and the information which has to be added pursuant to Article 2:392, paragraph 1, are available at its office as of the day on which the convening notice is given for a General Meeting for the adoption of the annual accounts. The members of the Association (*'vereniging'*) may inspect these documents there and may obtain a free copy thereof.

Article 2:50a Liability of Directors and Supervisory Directors in case of a bankruptcy of the Association

Articles 2:131, 2:138, 2:139, 2:149 and 2:150 shall apply accordingly in the event of a bankruptcy of an Association (*'vereniging'*) of which the articles of incorporation are embodied in a notarial deed and which is subject to corporation tax.

Article 2:51 Required registrations in case of a bankruptcy or an official moratorium on payment

In the event of a bankruptcy (*'faillissement'*) or an official moratorium on payment (*'surséance van betaling'*) of an Association (*'vereniging'*) that is registered in the commercial register, the

announcements which have to be published in the Dutch Gazette by virtue of the Bankruptcy Act, shall be reported also for registration to the keeper of the commercial register by the person who is charged with the publication of these announcements in the Dutch Gazette [i.e. by the bankruptcy liquidator or, respectively, the administrator appointed by the court under the moratorium].

Article 2:52 Written articles of incorporation required for a derogation from the statutory provisions of Title 2.2

As far as it is permitted to derogate from the statutory provisions of the present Title (Title 2.2), this can be done only by means of a written provision in the articles of incorporation.

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