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**Frequently asked questions**

**information sessions**

**organised by the Ministry for the Family and the Agence du Bénévolat**

**to 7 local authorities**

**between 30 April and 6 June 2024,**

**on bringing the Articles of Association into line**

**with the law of 7 August 2023 on associations and foundations (new law)**

**Associations recognised as being in the public interest: obligations introduced by the new law?**

Associations recognised as being in the public interest are automatically subject to the accounting rules applicable to category 3 associations, known as "large associations". They must keep double-entry accounts and are required not only to draw up their annual accounts in accordance with the accounting rules applicable to commercial companies, but also to have them audited by an approved auditor.

The law does not provide for any exemption for public interest associations that may be considered "small" or "medium-sized".

**Can de facto associations continue their activities under the new law?**

The new law, like the previous law, applies to associations whose articles of association have been published in the Registre de Commerce et des Sociétés (RCS). These are associations that have acquired legal personality and can claim to be a legal person, i.e. a legal entity distinct from that of its members. All organisations that bring people together to achieve a common purpose, referred to as amicales, groupings, clubs, cercle, Interesseveréin, etc., that are not registered with the RCS and have no legal personality, are referred to as "de facto associations". They can continue their activities without being affected by the new law.

**Are the numerical limits in the new law for determining the accounting regime applicable to NPOs linked to the consumer price index?**

No, the limits set by law are not linked to any price index.

**Can a young minor take part in general meetings and become a member of a board of directors?**

A young minor requires the authorisation of his or her parents (or guardian) to become a member of a non-profit association, and a parent participates and has the right to vote at general meetings. A minor cannot be appointed as a director of a non-profit association because he or she will be called upon to exercise a mandate, manage financial funds and take contractual decisions. These commitments are incompatible with the legal status of a minor.

**Is it compulsory to use the term "member" to designate a member who has a link with the association but does not have the right to vote at general meetings?**

Under the new law, an association may include among its members third parties who have a link with the association but do not have the right to vote at general meetings, who are considered to be adherent members. Associations that have already provided for this type of member in their articles of association under different designations, such as "sympathising", "honorary", "passive" or "registered" members, may maintain these designations and do not need to adapt their articles of association to call them "adherent members".

**What information must be included in the register of members?**

The new law requires associations to keep a register of members at their head office, containing the following information for individual members: their full names and their precise private or business address. In the case of legal entity members, this includes their company name, legal form, the precise address of their registered office and their registration number in the Trade and Companies Register. All decisions to admit, resign or exclude members are entered in the register within one month. The register may be kept in electronic form.

**What information must be accessible to the head office?**

Any member may request a copy or consult the register of members, the minutes and decisions of the general meeting and the board of directors, the association's accounting documents and the coordinated text of the articles of association at the association's registered office. As this is a legal obligation, the communication of personal data under the conditions described above does not constitute a breach of the General Data Protection Regulation.

**What is the scope of the principle that directors' mandates are exercised free of charge?**

The new law expressly states that the mandate of directors is exercised free of charge. This principle is widely respected by associations. Directors may, however, be remunerated for services rendered to the association outside their mandate and unrelated to it. It is essential that the services to be provided by the director and the amount of remuneration are decided by the Board of Directors in due and proper form. It may also be useful to inform the General Meeting of the remuneration received by directors for services provided outside their mandate.

**Do we need cash desk auditors?**

The appointment of one or more cash auditors is not compulsory; it was not provided for under the old law and is not provided for under the new law. The new law limits itself to requiring large associations to have their annual accounts audited by an approved auditor. Small and medium-sized associations are free to appoint one or two cash auditors. They are required to audit the annual accounts and make a report to the general meeting, which need not be filed with the Registre de Commerce et des Sociétés.

**When does a pre-existing association fall within the scope of the new law?**

As soon as the new coordinated version of its Articles of Association, brought into line with the new law, has been filed with the Registre de Commerce et des Sociétés, the association will be governed by the new law.

**What information must be regularly filed and published with the Registre de Commerce et des Sociétés?**

Any coordinated version of new articles of association,

the accounting documents and appendices within one month of their approval by the General Meeting,

information updates relating to :

* to the directors of the association, appointments and termination of functions and
* day-to-day management delegates, appointments and termination of functions.