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## Swiss Civil Code

of 10 December 1907 (Status as of 1 January 2022)

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*The Federal Assembly of the Swiss Confederation,*  
 based on Article 64 of the Federal Constitution<sup>1,2</sup>  
 and having considered the Dispatch of the Federal Council dated 28 May 1904<sup>3</sup>,  
*decrees:*

### Introduction

#### Art. 1

A. Application  
of the law

<sup>1</sup> The law applies according to its wording or interpretation to all legal questions for which it contains a provision.

<sup>2</sup> In the absence of a provision, the court<sup>4</sup> shall decide in accordance with customary law and, in the absence of customary law, in accordance with the rule that it would make as legislator.

<sup>3</sup> In doing so, the court shall follow established doctrine and case law.

#### Art. 2

B. Scope and  
limits of legal  
relationships

<sup>1</sup> Every person must act in good faith in the exercise of his or her rights and in the performance of his or her obligations.

I. Acting in good  
faith

<sup>2</sup> The manifest abuse of a right is not protected by law.

#### Art. 3

II. Good faith

<sup>1</sup> Where the law makes a legal effect conditional on the good faith of a person, there shall be a presumption of good faith.

AS 24 233, 27 207 and BS 2 3

<sup>1</sup> [BS 1 3]. This provision corresponds to Art. 122 of the Federal Constitution of 18 April 1999 (SR 101).

<sup>2</sup> Amended by Annex No 2 of the Civil Jurisdiction Act of 24 March 2000, in force since 1 Jan. 2001 (AS 2000 2355; BBl 1999 2829).

<sup>3</sup> BBl 1904 IV 1, 1907 VI 367

<sup>4</sup> Term in accordance with No I 1 of the FA of 26 June 1998, in force since 1 Jan. 2000 (AS 1999 1118; BBl 1996 I 1). This amendment is taken into consideration throughout the Code.

<sup>2</sup> No person may invoke the presumption of good faith if he or she has failed exercise the diligence required by the circumstances.

#### **Art. 4**

III. Judicial<sup>5</sup>  
discretion

Where the law confers discretion on the court or makes reference to an assessment of the circumstances or to good cause, the court must reach its decision in accordance with the principles of justice and equity.

#### **Art. 5**

C. Federal law  
and cantonal law  
I. Cantonal civil  
law and local  
custom

<sup>1</sup> Insofar as federal law reserves the application of cantonal law, the cantons may enact or repeal civil law provisions.

<sup>2</sup> Where the law makes reference to practice or local custom, the existing cantonal law is deemed a valid expression thereof, provided no divergent practice is shown to exist.

#### **Art. 6**

II. Cantonal  
public law

<sup>1</sup> Federal civil law does not restrict the right of the cantons to enact public law.

<sup>2</sup> The cantons are entitled within the limits of their sovereignty to restrict or prohibit the trade in certain goods or to declare transactions involving such goods legally invalid.

#### **Art. 7**

D. General  
provisions of the  
Code of  
Obligations

The general provisions of the Code of Obligations<sup>6</sup> concerning the formation, performance and termination of contracts also apply to other civil law matters.

#### **Art. 8**

E. Rules of  
evidence  
I. Burden of  
proof

Unless the law provides otherwise, the burden of proving the existence of an alleged fact shall rest on the person who derives rights from that fact.

#### **Art. 9**

II. Proof by  
public document

<sup>1</sup> Public registers and public deeds constitute full proof of the facts evidenced by them, unless their content is shown to be incorrect.

<sup>5</sup> Term in accordance with No I 1 of the FA of 26 June 1998, in force since 1 Jan. 2000 (AS 1999 1118; BBl 1996 I 1). This amendment is taken into consideration throughout the Code.

<sup>6</sup> SR 220

<sup>2</sup> Such proof of incorrectness does not require to be in any particular form.

### Art. 10<sup>7</sup>

## Part One: Law of Persons

### Title One: Natural Persons

#### Chapter One: Legal Personality

### Art. 11

A. Personality in general

I. Legal capacity

<sup>1</sup> Every person has legal capacity.

<sup>2</sup> Accordingly, within the limits of the law, every person has the same capacity to have rights and obligations.

### Art. 12

II. Capacity to act

1. Nature

A person who has capacity to act has the capacity to create rights and obligations through his actions.

### Art. 13<sup>8</sup>

2. Requirements  
a. In general

A person who is of age and is capable of judgement has the capacity to act.

### Art. 14<sup>9</sup>

b. Majority

A person is of age if he or she has reached the age of 18.

### Art. 15<sup>10</sup>

c. ...

<sup>7</sup> Repealed by Annex 1 No II 3 of the Civil Procedure Code of 19 Dec. 2008, with effect from 1 Jan. 2011 (AS **2010** 1739; BBl **2006** 7221).

<sup>8</sup> Amended by No I 2 of the FA of 19 Dec. 2008 (Adult Protection Law, Law of Persons and Law of Children), in force since 1 Jan. 2013 (AS **2011** 725; BBl **2006** 7001).

<sup>9</sup> Amended by No I 2 of the FA of 19 Dec. 2008 (Adult Protection Law, Law of Persons and Law of Children), with effect from 1 Jan. 2013 (AS **2011** 725; BBl **2006** 7001).

<sup>10</sup> Repealed by No I of the FA of 7 Oct. 1994, with effect from 1 Jan. 1996 (AS **1995** 1126; BBl **1993** I 1169).

**Art. 16<sup>11</sup>**

d. Capacity of judgement

A person is capable of judgement within the meaning of the law if he or she does not lack the capacity to act rationally by virtue of being under age or because of a mental disability, mental disorder, intoxication or similar circumstances.

**Art. 17<sup>12</sup>**

III. Incapacity  
1. In general

A person does not have the capacity to act if he or she is incapable of judgement or is under age or is subject to a general deputyship.

**Art. 18**

2. Lack of capacity of judgement

A person who is incapable of judgement cannot create legal effect by his or her actions, unless the law provides otherwise.

**Art. 19**

3. Persons capable of judgement but lacking the capacity to act.  
a. Principle<sup>13</sup>

<sup>1</sup> Persons who are capable of judgement but lack the capacity to act may only enter into obligations or give up rights with the consent of their legal representative.<sup>14</sup>

<sup>2</sup> Without such consent, they may only accept advantages that are free of charge or carry out minor everyday transactions.<sup>15</sup>

<sup>3</sup> They are liable in damages for unpermitted acts.

**Art. 19a<sup>16</sup>**

b. Consent of the legal representative

<sup>1</sup> Unless the law provides otherwise, the legal representative may consent expressly or tacitly in advance or approve the transaction retrospectively.

<sup>2</sup> The other party is relieved of any obligation if approval is not given within a reasonable period that he or she fixes or has fixed by a court.

<sup>11</sup> Amended by No I 2 of the FA of 19 Dec. 2008 (Adult Protection Law, Law of Persons and Law of Children), in force since 1 Jan. 2013 (AS 2011 725; BBl 2006 7001).

<sup>12</sup> Amended by No I 2 of the FA of 19 Dec. 2008 (Adult Protection Law, Law of Persons and Law of Children), in force since 1 Jan. 2013 (AS 2011 725; BBl 2006 7001).

<sup>13</sup> Amended by No I 2 of the FA of 19 Dec. 2008 (Adult Protection Law, Law of Persons and Law of Children), in force since 1 Jan. 2013 (AS 2011 725; BBl 2006 7001).

<sup>14</sup> Amended by No I 2 of the FA of 19 Dec. 2008 (Adult Protection Law, Law of Persons and Law of Children), in force since 1 Jan. 2013 (AS 2011 725; BBl 2006 7001).

<sup>15</sup> Amended by No I 2 of the FA of 19 Dec. 2008 (Adult Protection Law, Law of Persons and Law of Children), in force since 1 Jan. 2013 (AS 2011 725; BBl 2006 7001).

<sup>16</sup> Inserted by No I 2 of the FA of 19 Dec. 2008 (Adult Protection Law, Law of Persons and Law of Children), in force since 1 Jan. 2013 (AS 2011 725; BBl 2006 7001).

**Art. 19b**<sup>17</sup>

c. Absence of consent

<sup>1</sup> If the legal representative does not grant approval, either party may demand restitution of any performance already made. A person lacking capacity to act is however only liable to the extent that he or she has already benefited from the performance or to which he or she has been enriched at the time of the demand or has alienated the benefits in bad faith.

<sup>2</sup> If the person lacking capacity to act has induced the other party to erroneously assume that he or she has the capacity to act, he or she is liable for the damage incurred.

**Art. 19c**<sup>18</sup>

4. Strictly personal rights

<sup>1</sup> Persons capable of judgement but lacking capacity to act exercise their strictly personal rights independently; cases where the law requires the consent of the legal representative are reserved.

<sup>2</sup> The legal representative acts for a person lacking capacity of judgement unless a right is so strictly personal that any form of representation is excluded.

**Art. 19d**<sup>19</sup>

III<sup>bis</sup>. Restriction of the capacity to act

The capacity to act may be restricted by an adult protection measure.

**Art. 20**

IV.<sup>20</sup> Kinship by blood and by marriage

1. Blood kinship

<sup>1</sup> The degree of kinship<sup>21</sup> is determined by the number of intermediary generations.

<sup>2</sup> Lineal kinship exists between two persons where one is descended from the other and collateral kinship exists between two persons where both are descended from a third person and are not related lineally.

<sup>17</sup> Inserted by No I 2 of the FA of 19 Dec. 2008 (Adult Protection Law, Law of Persons and Law of Children), in force since 1 Jan. 2013 (AS 2011 725; BBl 2006 7001).

<sup>18</sup> Inserted by No I 2 of the FA of 19 Dec. 2008 (Adult Protection Law, Law of Persons and Law of Children), in force since 1 Jan. 2013 (AS 2011 725; BBl 2006 7001).

<sup>19</sup> Inserted by No I 2 of the FA of 19 Dec. 2008 (Adult Protection Law, Law of Persons and Law of Children), in force since 1 Jan. 2013 (AS 2011 725; BBl 2006 7001).

<sup>20</sup> Amended of margin title in accordance with No I 3 of the FA of 30 June 1972, in force since 1 April 1973 (AS 1972 2819, 1973 92; BBl 1971 I 1200).

<sup>21</sup> Term amended by No I 3 of the FA of 30 June 1972, in force since 1 April 1973 (AS 1972 2819; BBl 1971 I 1200).