

*English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.*

## **Federal Constitution of the Swiss Confederation**

of 18 April 1999 (Status as of 30 November 2008)

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### **Preamble**

In the name of Almighty God!

*The Swiss People and the Cantons,*

mindful of their responsibility towards creation,

resolved to renew their alliance so as to strengthen liberty, democracy, independence and peace in a spirit of solidarity and openness towards the world,

determined to live together with mutual consideration and respect for their diversity, conscious of their common achievements and their responsibility towards future generations,

and in the knowledge that only those who use their freedom remain free, and that the strength of a people is measured by the well-being of its weakest members;

*adopt the following Constitution<sup>1</sup>:*

### **Title One: General Provisions**

#### **Art. 1**           The Swiss Confederation

The People and the Cantons of Zurich, Bern, Lucerne, Uri, Schwyz, Obwalden and Nidwalden, Glarus, Zug, Fribourg, Solothurn, Basel Stadt and Basel Landschaft, Schaffhausen, Appenzell Ausserrhoden and Appenzell Innerrhoden, St. Gallen, Graubünden, Aargau, Thurgau, Ticino, Vaud, Valais, Neuchâtel, Geneva, and Jura form the Swiss Confederation.

#### **Art. 2**           Aims

<sup>1</sup> The Swiss Confederation shall protect the liberty and rights of the people and safeguard the independence and security of the country.

<sup>2</sup> It shall promote the common welfare, sustainable development, internal cohesion and cultural diversity of the country.

AS 2007 5225

<sup>1</sup> Adopted by the popular vote of 18 April 1999 (Federal Decree of 18 Dec. 1998, Federal Council Decree of 11 Aug. 1999 - AS 1999 2556; BBl 1997 I 1, 1999 162 5986).

<sup>3</sup> It shall ensure the greatest possible equality of opportunity among its citizens.

<sup>4</sup> It shall be committed to the long term preservation of natural resources and to a just and peaceful international order.

**Art. 3**            Cantons

The Cantons are sovereign except to the extent that their sovereignty is limited by the Federal Constitution. They shall exercise all rights that are not vested in the Confederation.

**Art. 4**            National languages

The National Languages are German, French, Italian, and Romansh.

**Art. 5**            Rule of law

<sup>1</sup> All activities of the state shall be based on and limited by law.

<sup>2</sup> State activities must be conducted in the public interest and be proportionate to the ends sought.

<sup>3</sup> State institutions and private persons shall act in good faith.

<sup>4</sup> The Confederation and the Cantons shall respect international law.

**Art. 5a<sup>2</sup>**        Subsidiarity

The principle of subsidiarity must be observed in the allocation and performance of state tasks.

**Art. 6**            Individual and collective responsibility

All individuals shall take responsibility for themselves and shall, according to their abilities, contribute to achieving the tasks of the state and society.

## **Title Two: Fundamental Rights, Citizenship and Social Goals**

### **Chapter One: Fundamental Rights**

**Art. 7**            Human dignity

Human dignity must be respected and protected.

<sup>2</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

**Art. 8** Equality before the law

<sup>1</sup> Everyone shall be equal before the law.

<sup>2</sup> No one may be discriminated against, in particular on grounds of origin, race, gender, age, language, social position, way of life, religious, ideological, or political convictions, or because of a physical, mental or psychological disability.

<sup>3</sup> Men and women shall have equal rights. The law shall ensure their equality, both in law and in practice, most particularly in the family, in education, and in the workplace. Men and women shall have the right to equal pay for work of equal value.

<sup>4</sup> The law shall provide for the elimination of inequalities that affect persons with disabilities.

**Art. 9** Protection against arbitrary conduct and principle of good faith

Everyone has the right to be treated by state authorities in good faith and in a non-arbitrary manner.

**Art. 10** Right to life and to personal freedom

<sup>1</sup> Everyone has the right to life. The death penalty is prohibited.

<sup>2</sup> Everyone has the right to personal liberty and in particular to physical and mental integrity and to freedom of movement.

<sup>3</sup> Torture and any other form of cruel, inhuman or degrading treatment or punishment are prohibited.

**Art. 11** Protection of children and young people

<sup>1</sup> Children and young people have the right to the special protection of their integrity and to the encouragement of their development.

<sup>2</sup> They may personally exercise their rights to the extent that their power of judgement allows.

**Art. 12** Right to assistance when in need

Persons in need and unable to provide for themselves have the right to assistance and care, and to the financial means required for a decent standard of living.

**Art. 13** Right to privacy

<sup>1</sup> Everyone has the right to privacy in their private and family life and in their home, and in relation to their mail and telecommunications.

<sup>2</sup> Everyone has the right to be protected against the misuse of their personal data.

**Art. 14** Right to marry and to have a family

The right to marry and to have a family is guaranteed.

**Art. 15** Freedom of religion and conscience

<sup>1</sup> Freedom of religion and conscience is guaranteed.

<sup>2</sup> Everyone has the right to choose freely their religion or their philosophical convictions, and to profess them alone or in community with others.

<sup>3</sup> Everyone has the right to join or to belong to a religious community, and to follow religious teachings.

<sup>4</sup> No one shall be forced to join or belong to a religious community, to participate in a religious act, or to follow religious teachings.

**Art. 16** Freedom of expression and of information

<sup>1</sup> Freedom of expression and of information is guaranteed.

<sup>2</sup> Everyone has the right freely to form, express, and impart their opinions.

<sup>3</sup> Everyone has the right freely to receive information to gather it from generally accessible sources and to disseminate it.

**Art. 17** Freedom of the media

<sup>1</sup> The freedom of the press, radio and television and of other forms of dissemination of features and information by means of public telecommunications is guaranteed.

<sup>2</sup> Censorship is prohibited.

<sup>3</sup> The protection of sources<sup>3</sup> is guaranteed.

**Art. 18** Freedom to use any language

The freedom to use any language is guaranteed.

**Art. 19** Right to primary school education

The right to an adequate and free primary school education is guaranteed.

**Art. 20** Freedom of science

The freedom of scientific research and teaching is guaranteed.

**Art. 21** Freedom of artistic expression

The freedom of artistic expression is guaranteed.

**Art. 22** Freedom of assembly

<sup>1</sup> The freedom of assembly is guaranteed.

<sup>3</sup> Editorial secrecy comprises the confidentiality of journalistic sources and the right to refuse to give evidence.

<sup>2</sup> Everyone has the right to organise meetings and to participate or not to participate in meetings.

**Art. 23** Freedom of association

<sup>1</sup> The freedom of association is guaranteed.

<sup>2</sup> Everyone has the right to form, join or belong to an association and to participate in the activities of an association.

<sup>3</sup> No one may be compelled to join or to belong to an association.

**Art. 24** Freedom of domicile

<sup>1</sup> Swiss citizens have the right to establish their domicile anywhere in the country.

<sup>2</sup> They have the right to leave or to enter Switzerland.

**Art. 25** Protection against expulsion, extradition and deportation

<sup>1</sup> Swiss citizens may not be expelled from Switzerland and may only be extradited to a foreign authority with their consent.

<sup>2</sup> Refugees may not be deported or extradited to a state in which they will be persecuted.

<sup>3</sup> No one may be deported to a state in which they face the threat of torture or any other form of cruel or inhumane treatment or punishment.

**Art. 26** Guarantee of ownership

<sup>1</sup> The right to own property is guaranteed.

<sup>2</sup> The compulsory purchase of property and any restriction on ownership that is equivalent to compulsory purchase shall be compensated in full.

**Art. 27** Economic freedom

<sup>1</sup> Economic freedom is guaranteed.

<sup>2</sup> Economic freedom includes in particular the freedom to choose an occupation as well as the freedom to pursue a private economic activity.

**Art. 28** Right to form professional associations

<sup>1</sup> Employees, employers and their organisations have the right to join together in order to protect their interests, to form associations and to join or not to join such associations.

<sup>2</sup> Disputes must wherever possible be resolved through negotiation or mediation.

<sup>3</sup> Strikes and lock outs shall be permitted if they relate to employment relations and if they do not contravene any requirements to preserve peaceful employment relations or to conduct arbitration proceedings.

<sup>4</sup> The law may prohibit certain categories of person from taking strike action.

**Art. 29**            General procedural guarantees

<sup>1</sup> Everyone has the right to equal and fair treatment in judicial and administrative proceedings and to have their case decided within a reasonable time.

<sup>2</sup> Each party to a case has the right to be heard.

<sup>3</sup> Anyone who does not have sufficient means has the right to free legal advice and assistance unless their case appears to have no prospect of success. If it is necessary in order to safeguard their rights, they also have the right to free legal representation in court.

**Art. 29<sup>a</sup>**            Guarantee of access to the courts

In a legal dispute, everyone has the right to have their case determined by a judicial authority. The Confederation and the Cantons may by law preclude the determination by the courts of certain exceptional categories of case.

**Art. 30**            Judicial proceedings

<sup>1</sup> Anyone whose case falls to be judicially decided has the right to have their case heard by a legally constituted, competent, independent and impartial court. Ad hoc courts are prohibited.

<sup>2</sup> Unless otherwise provided by law, anyone against whom civil proceedings have been raised has the right to have their case decided by a court within the jurisdiction in which they reside.

<sup>3</sup> Unless the law provides otherwise, court hearings and the delivery of judgments shall be in public.

**Art. 31**            Deprivation of liberty

<sup>1</sup> No one may be deprived of their liberty other than in the circumstances and in the manner provided for by the law.

<sup>2</sup> Anyone deprived of their liberty has the right to be notified without delay and in a language they can understand of the reasons for their detention and of their rights. They must be given the opportunity to exercise their rights, in particular, the right to have their next-of-kin informed.

<sup>3</sup> Anyone in pre-trial detention has the right to be brought before a court without delay. The court shall decide whether the person must remain in detention or be released. Anyone in pre-trial detention has the right to have their case decided within a reasonable time.

<sup>4</sup> Adopted by the popular vote on 12 March 2000, in force since 1 Jan. 2007 (Federal Decree of 8 Oct. 1999, Federal Council Decree of 17 May 2000, Federal Decree of 8 March 2005 – AS **2002** 3148, **2006** 1059; BBl **1997** I 1, **1999** 8633, **2000** 2990, **2001** 4202).

<sup>4</sup> Anyone who has been deprived of their liberty by a body other than a court has the right to have recourse to a court at any time. The court shall decide as quickly as possible on the legality of their detention.

**Art. 32** Criminal proceedings

<sup>1</sup> Everyone is presumed innocent until they have been found guilty by a legally enforceable judgment.

<sup>2</sup> Every accused person has the right to be notified as quickly and comprehensively as possible of the charge brought against them. They must be given the opportunity to assert their rights to a proper defence.

<sup>3</sup> Every convicted person has the right to have their conviction reviewed by a higher court, with the exception of cases in which the Federal Supreme Court sits at first instance.

**Art. 33** Right of petition

<sup>1</sup> Everyone has the right, without prejudice, to petition the authorities.

<sup>2</sup> The authorities must acknowledge receipt of such petitions.

**Art. 34** Political rights

<sup>1</sup> Political rights shall be guaranteed.

<sup>2</sup> The guarantee of political rights protects the freedom of the citizen to form an opinion and to give genuine expression to his or her will.

**Art. 35** Upholding of fundamental rights

<sup>1</sup> Fundamental rights must be upheld throughout the legal system.

<sup>2</sup> Whoever acts on behalf of the state is bound by fundamental rights and is under a duty to contribute to their implementation.

<sup>3</sup> The authorities shall ensure that fundamental rights, where appropriate, apply to relationships among private persons.

**Art. 36** Restrictions on fundamental rights

<sup>1</sup> Restrictions on fundamental rights must have a legal basis. Significant restrictions must have their basis in a federal act. The foregoing does not apply in cases of serious and immediate danger where no other course of action is possible.

<sup>2</sup> Restrictions on fundamental rights must be justified in the public interest or for the protection of the fundamental rights of others.

<sup>3</sup> Any restrictions on fundamental rights must be proportionate.

<sup>4</sup> The essence of fundamental rights is sacrosanct.

## Chapter 2: Citizenship and Political Rights

### Art. 37            Citizenship

<sup>1</sup> Anyone who is a citizen of a commune and of the Canton to which that commune belongs is a Swiss citizen.

<sup>2</sup> No one shall be given preferential treatment or suffer prejudice because of their citizenship. The foregoing does not apply to regulations on political rights in citizens' communes and corporations or to participation in the assets thereof, unless cantonal legislation provides otherwise.

### Art. 38            Acquisition and deprivation of citizenship

<sup>1</sup> The Confederation shall regulate the acquisition and deprivation of citizenship by birth, marriage or adoption. It shall also regulate the deprivation of Swiss citizenship on other grounds, together with the reinstatement of citizenship.

<sup>2</sup> It shall legislate on the minimum requirements for the naturalisation of foreign nationals by the Cantons and grant naturalisation permits.

<sup>3</sup> It shall enact simplified regulations on the naturalisation of stateless children.

### Art. 39            Exercise of political rights

<sup>1</sup> The Confederation shall regulate the exercise of political rights in federal matters, and the Cantons shall regulate their exercise at cantonal and communal matters.

<sup>2</sup> Political rights are exercised in the commune in which a citizen resides, although the Confederation and the Cantons may provide for exceptions.

<sup>3</sup> No one may exercise their political rights contemporaneously in more than one Canton.

<sup>4</sup> A Canton may provide that a person newly registered as a resident may exercise the right to vote in cantonal and communal matters only after a waiting period of a maximum of three months of permanent settlement.

### Art. 40            The Swiss abroad

<sup>1</sup> The Confederation shall encourage relations among the Swiss abroad and their relations with Switzerland. It may support organisations that pursue this objective.

<sup>2</sup> It shall legislate on the rights and obligations of the Swiss abroad, in particular in relation to the exercise of political rights in the Confederation, the fulfilment of the obligation to perform military or alternative service, welfare support and social security.



## Chapter 3: Social Objectives

### Art. 41

<sup>1</sup> The Confederation and the Cantons shall, as a complement to personal responsibility and private initiative, endeavour to ensure that:

- a. everyone has access to social security;
- b. everyone has access to the health care that they require;
- c. families are protected and encouraged as communities of adults and children;
- d. everyone who is fit to work can earn their living by working under fair conditions;
- e. anyone seeking accommodation for themselves and their family can find suitable accommodation on reasonable terms;
- f. children and young people as well as persons of employable age can obtain an education and undergo basic and advanced training in accordance with their abilities;
- g. children and young people are encouraged to develop into independent and socially responsible people and are supported in their social, cultural and political integration.

<sup>2</sup> The Confederation and Cantons shall endeavour to ensure that everyone is protected against the economic consequences of old-age, invalidity, illness, accident, unemployment, maternity, being orphaned and being widowed.

<sup>3</sup> They shall endeavour to achieve these social objectives within the scope of their constitutional powers and the resources available to them.

<sup>4</sup> No direct right to state benefits may be established on the basis of these social objectives.

## 3<sup>rd</sup> Title: Confederation, Cantons and Communes

### Chapter 1: Relations between the Confederation and the Cantons

#### Section 1: Duties of the Confederation and the Cantons

### Art. 42 Duties of the Confederation

<sup>1</sup> The Confederation shall fulfil the duties that are assigned to it by Federal Constitution.

<sup>2</sup> ...<sup>5</sup>

<sup>5</sup> Repealed by the popular vote on 28. Nov. 2004, with effect from 1 Jan. 2008 (Federal Decree of 3 Oct. 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

**Art. 43** Duties of the Cantons

The Cantons shall decide on the duties that they must fulfil within the scope of their powers.

**Art. 43a<sup>6</sup>** Principles for the allocation and fulfilment of state tasks

<sup>1</sup> The Confederation shall only undertake tasks that the Cantons are unable to perform or which require uniform regulation by the Confederation.

<sup>2</sup> The collective body that benefits from a public service shall bear the costs thereof.

<sup>3</sup> The collective body that bears the costs of a public service may decide on the nature of that service.

<sup>4</sup> Universally provided services must be made available to everyone in a comparable manner.

<sup>5</sup> State tasks must be fulfilled economically and in accordance with demand.

**Section 2: Cooperation between the Confederation and the Cantons****Art. 44** Principles

<sup>1</sup> The Confederation and the Cantons shall support each other in the fulfilment of their duties and shall generally cooperate with each other.

<sup>2</sup> They owe each other a duty of consideration and support. They shall provide each other with administrative assistance and mutual judicial assistance.

<sup>3</sup> Disputes between Cantons or between Cantons and the Confederation shall wherever possible be resolved by negotiation or mediation.

**Art. 45** Participation in federal decision-making

<sup>1</sup> In the cases specified by the Federal Constitution, the Cantons shall participate in the federal decision making process, and in particular in the legislative process.

<sup>2</sup> The Confederation shall inform the Cantons of its intentions fully and in good time. It shall consult the Cantons where their interests are affected.

**Art. 46** Implementation of federal law

<sup>1</sup> The Cantons shall implement federal law in accordance with the Federal Constitution and federal legislation.

<sup>6</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>2</sup> The Confederation and the Cantons may together agree that the Cantons should achieve specific goals in the implementation of federal law and may to this end conduct programmes that receive financial support from the Confederation.<sup>7</sup>

<sup>2</sup> The Confederation shall allow the Cantons all possible discretion to organise their own affairs and shall take account of cantonal particularities.<sup>8</sup>

**Art. 47**            Autonomy of the Cantons

<sup>1</sup> The Confederation shall respect the autonomy of the Cantons.

<sup>2</sup> It shall leave the Cantons sufficient tasks of their own and respect their organisational autonomy. It shall leave the Cantons with sufficient sources of finance and contribute towards ensuring that they have the financial resources required to fulfil their tasks.<sup>9</sup>

**Art. 48**            Intercantonal agreements

<sup>1</sup> The Cantons may enter into agreements with each other and establish common organisations and institutions. In particular, they may jointly undertake tasks of regional importance together.

<sup>2</sup> The Confederation may participate in such organisations or institutions within the scope of its powers.

<sup>3</sup> Agreements between Cantons must not be contrary to the law, to the interests of the Confederation or to the rights of other Cantons. The Confederation must be notified of such agreements.

<sup>4</sup> The Cantons may by intercantonal agreement authorise intercantonal bodies to issue legislative provisions that implement an intercantonal agreement, provided the agreement:

- a. has been approved under the same procedure that applies to other legislation;
- b. determines the basic content of the provisions.<sup>10</sup>

<sup>7</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>8</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>9</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>10</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>5</sup> The Cantons shall comply with intercantonal law.<sup>11</sup>

**Art. 48a<sup>12</sup>** Declaration of general application and requirement of participation

<sup>1</sup> At the request of interested Cantons, the Confederation may declare intercantonal agreements to be generally binding or require Cantons to participate in intercantonal agreements in the following fields:

- a. the execution of criminal penalties and measures;
- b.<sup>13</sup> school education in the matters specified in Article 62 paragraph 4;
- c.<sup>14</sup> cantonal institutions of higher education;
- d. cultural institutions of supra-regional importance;
- e. waste management;
- f. waste water treatment;
- g. urban transport;
- h. advanced medical science and specialist clinics;
- i. institutions for the rehabilitation and care of invalids.

<sup>2</sup> A declaration of general application shall be made in the form of a federal decree.

<sup>3</sup> The law shall specify the requirements for a declaration of general application and for a participation requirement and regulate the procedure.

**Art. 49** Precedence of and compliance with federal law

<sup>1</sup> Federal law shall take precedence over any conflicting provision of cantonal law.

<sup>2</sup> The Confederation shall ensure that the Cantons comply with federal law.

### Section 3: Communes

**Art. 50**

<sup>1</sup> The autonomy of the communes shall be guaranteed in accordance with cantonal law.

<sup>11</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>12</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>13</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 – AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).

<sup>14</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 – AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).

<sup>2</sup> The Confederation shall take account in its activities of the possible consequences for the communes.

<sup>3</sup> In doing so, it shall take account of the special position of the cities and urban areas as well as the mountain regions.

## **Section 4: Federal Guarantees**

### **Art. 51**            Cantonal constitutions

<sup>1</sup> Each Canton shall adopt a democratic constitution. This requires the approval of the People and must be capable of being revised if the majority of those eligible to vote so request.

<sup>2</sup> Each cantonal constitution shall require the guarantee of the Confederation. The Confederation shall guarantee a constitution provided it is not contrary to federal law.

### **Art. 52**            Constitutional order

<sup>1</sup> The Confederation shall protect the constitutional order of the Cantons.

<sup>2</sup> It shall intervene when public order in a Canton is disrupted or under threat and the Canton in question is not able to maintain order alone or with the aid of other Cantons.

### **Art. 53**            Number and territory of the Cantons

<sup>1</sup> The Confederation shall protect the existence and territory of the Cantons.

<sup>2</sup> Any change in the number of Cantons requires the consent of the citizens and the Cantons concerned together with the consent of the People and the Cantons.

<sup>3</sup> Any change in territory between Cantons requires the consent both of the Cantons concerned and of their citizens as well as the approval of the Federal Assembly in the form of a Federal Decree.

<sup>4</sup> Inter-cantonal boundary adjustments may be made by agreement between the Cantons concerned.

## **Chapter 2: Powers**

### **Section 1: Relations with Foreign States**

#### **Art. 54**            Foreign relations

<sup>1</sup> Foreign relations are the responsibility of the Confederation.

<sup>2</sup> The Confederation shall ensure that the independence of Switzerland and its welfare is safeguarded; it shall in particular assist in the alleviation of need and poverty

in the world and promote respect for human rights and democracy, the peaceful co-existence of peoples as well as the conservation of natural resources.

<sup>3</sup> It shall respect the powers of the Cantons and protect their interests.

**Art. 55** Participation of the Cantons in foreign policy decisions

<sup>1</sup> The Cantons shall be consulted on foreign policy decisions that affect their powers or their essential interests.

<sup>2</sup> The Confederation shall inform the Cantons fully and in good time and shall consult with them.

<sup>3</sup> The views of the Cantons are of particular importance if their powers are affected. In such cases, the Cantons shall participate in international negotiations in an appropriate manner.

**Art. 56** Relations between the Cantons and foreign states

<sup>1</sup> A Canton may conclude treaties with foreign states on matters that lie within the scope of its powers.

<sup>2</sup> Such treaties must not conflict with the law or the interests of the Confederation, or with the law of any other Cantons. The Canton must inform the Confederation before concluding such a treaty.

<sup>3</sup> A Canton may deal directly with lower ranking foreign authorities; in other cases, the Confederation shall conduct relations with foreign states on behalf of a Canton.

**Section 2: Security, National Defence, Civil Defence**

**Art. 57** Security

<sup>1</sup> The Confederation and the Cantons shall within the scope of their powers ensure the security of the country and the protection of the population.

<sup>2</sup> They shall coordinate their efforts in the area of internal security.

**Art. 58** Armed forces

<sup>1</sup> Switzerland shall have armed forces. In principle, the armed forces shall be organised as a militia.

<sup>2</sup> The armed forces shall serve to prevent war and to maintain peace; they shall defend the country and its population. They shall support the civilian authorities in safeguarding the country against serious threats to internal security and in dealing with exceptional situations. Further duties may be provided for by law.

<sup>3</sup> The deployment of the armed forces shall be the responsibility of the Confederation.<sup>15</sup>

**Art. 59** Military service and alternative service

<sup>1</sup> Every Swiss man is required to do military service. Alternative civilian service shall be provided for by law.

<sup>2</sup> Military service shall be voluntary for Swiss women.

<sup>3</sup> Any Swiss man who does not do military or alternative service shall be liable to pay a tax. This tax shall be levied by the Confederation and assessed and collected by the Cantons.

<sup>4</sup> The Confederation shall legislate for fair compensation for loss of income.

<sup>5</sup> Persons who suffer damage to their health or lose their lives while doing military or alternative civilian service shall be entitled to appropriate support from the Confederation, whether for themselves or for their next of kin.

**Art. 60** Armed forces organisation, training and equipment

<sup>1</sup> Armed forces legislation, together with the organisation, training and equipment of the armed forces, shall be the responsibility of the Confederation.

<sup>2</sup> ...<sup>16</sup>.

<sup>3</sup> The Confederation may, in return for appropriate compensation, take over the running of cantonal military installations

**Art. 61** Civil defence

<sup>1</sup> The legislation on the civil defence of persons and property against the effects of armed conflicts shall be the responsibility of the Confederation.

<sup>2</sup> The Confederation shall legislate on the deployment of civil defence units in the event of disasters and emergencies.

<sup>3</sup> It may declare civil defence service to be compulsory for men. For women, such service shall be voluntary.

<sup>4</sup> The Confederation shall legislate on fair compensation for loss of income.

<sup>5</sup> Persons who suffer damage to their health or lose their lives while doing civil defence service shall be entitled to appropriate support from the Confederation, whether for themselves or for their next of kin.

<sup>15</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>16</sup> Repealed by the popular vote on 28 Nov 2004, with effect from 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

### Section 3: Education, Research and Culture

#### Art. 61a<sup>17</sup> Swiss Education Area

<sup>1</sup> The Confederation and the Cantons shall, within the scope of their powers, jointly ensure the high quality and accessibility of the Swiss Education Area.

<sup>2</sup> They shall coordinate their efforts and ensure their cooperation through joint administrative bodies and other measures.

<sup>3</sup> They shall ensure in the fulfilment of their duties<sup>18</sup> that general and vocational courses of study achieve equal recognition in society.

#### Art. 62 School education

<sup>1</sup> The Cantons shall be responsible for the system of school education.

<sup>2</sup> They shall ensure the provision of an adequate primary school education that is available to all children. Primary school education shall be mandatory and be managed or supervised by the state. At state schools it shall be free of charge.<sup>19</sup>

<sup>3</sup> The Cantons shall ensure that adequate special needs education is provided to all children and young people with disabilities up to the age of 20.<sup>20</sup>

<sup>4</sup> Where harmonisation of school education is not achieved by means of coordination in the areas of school entry age and compulsory school attendance, the duration and objectives of levels of education, and the transition for one level to another, as well as the recognition of qualifications, the Confederation shall issue regulations to achieve such harmonisation.<sup>21</sup>

<sup>5</sup> The Confederation shall regulate the start of the school year.<sup>22</sup>

<sup>6</sup> The Cantons shall participate in the drafting of federal legislation on school education that affects cantonal responsibilities, and special account shall be taken of their opinions.<sup>23</sup>

<sup>17</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).

<sup>18</sup> Revised by the Editing Committee of the Federal Assembly, Art. 58 para. 1 ParLA (SR **171.10**).

<sup>19</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).

<sup>20</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 - AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>21</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).

<sup>22</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).

<sup>23</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).



**Art. 63<sup>24</sup>** Vocational education and training

<sup>1</sup> The Confederation shall issue regulations on vocational education and training.

<sup>2</sup> It shall encourage the provision of a diverse and accessible range of courses in vocational training.

**Art. 63<sup>a25</sup>** Institutions of higher education

<sup>1</sup> The Confederation shall manage the Federal Institutes of Technology. It may establish, take over or manage additional universities and other higher education institutions.

<sup>2</sup> It shall support the cantonal universities and may make financial contributions to other higher education institutions that it recognises.

<sup>3</sup> The Confederation and the Cantons shall be jointly responsible for the coordination and guarantee of quality in Swiss higher education. In fulfilling this responsibility, they shall take account of the autonomy of the universities and the various bodies responsible for them and ensure the equal treatment of institutions with the same functions.

<sup>4</sup> In order to fulfil their duties, the Confederation and the Cantons shall enter into agreements and delegate certain powers to joint administrative authorities. The law shall regulate the powers that may be delegated, and determine the principles governing the organisation of and procedures for coordination.

<sup>5</sup> If the Confederation and the Cantons fail to reach their common goals by means of coordination, the Confederation shall issue regulations on levels of studies and the transition from one level to another, on postgraduate education and on the recognition of institutions and qualifications. In addition, the Confederation may impose standard funding principles for subsidising of universities, and may make subsidies contingent on universities sharing particularly cost-intensive activities.

**Art. 64** Research

<sup>1</sup> The Confederation shall promote scientific research and innovation<sup>26</sup>.

<sup>2</sup> It may make its support conditional in particular on quality assurance and coordination being guaranteed.<sup>27</sup>

<sup>3</sup> It may establish, take over or run research institutes.

<sup>24</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBI **2005** 5479 5547 7273, **2006** 6725).

<sup>25</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBI **2005** 5479 5547 7273, **2006** 6725).

<sup>26</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBI **2005** 5479 5547 7273, **2006** 6725).

<sup>27</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBI **2005** 5479 5547 7273, **2006** 6725).

**Art. 64a<sup>28</sup>** Continuing professional education

<sup>1</sup> The Confederation shall specify principles governing continuing professional education.

<sup>2</sup> It may promote continuing professional education.

<sup>3</sup> The law shall specify the fields of and the criteria for such promotion.

**Art. 65** Statistics

<sup>1</sup> The Confederation shall compile the necessary statistical data on the status and trends in the population, the economy, society, education, research, the land and the environment in Switzerland.<sup>29</sup>

<sup>2</sup> It may issue regulations on the harmonisation and maintenance of official registers in order to reduce the cost of compiling data.

**Art. 66** Grants in education<sup>30</sup>

<sup>1</sup> The Confederation may contribute to cantonal expenditure on grants provided to students at universities and higher education institutions. It may encourage the intercantonal harmonisation of education grants and lay down principles for the payment of education grants.<sup>31</sup>

<sup>2</sup> It may also supplement cantonal measures while preserving cantonal autonomy in education matters by taking its own measures to promote education.

**Art. 67** Encouragement of children and young people<sup>32</sup>

<sup>1</sup> In fulfilling their duties, the Confederation and Cantons shall take account of the special need of children and young people to receive encouragement and protection.

<sup>2</sup> The Confederation may supplement cantonal measures by supporting extra-curricular work with children and young people.<sup>33</sup>

**Art. 68** Sport

<sup>1</sup> The Confederation shall encourage sport, and in particular education in sport.

<sup>2</sup> It shall operate a sports school.

<sup>28</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).

<sup>29</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).

<sup>30</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).

<sup>31</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).

<sup>32</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).

<sup>33</sup> Adopted by the popular vote of 21 May 2006 (Federal Decree of 16 Dec. 2005, Federal Council Decree of 27 July 2006 - AS **2006** 3033; BBl **2005** 5479 5547 7273, **2006** 6725).

<sup>3</sup> It may issue regulations on sport for young people and declare the teaching of sport in schools to be compulsory.

**Art. 69** Culture

<sup>1</sup> Cultural matters shall be a cantonal responsibility.

<sup>2</sup> The Confederation may support cultural activities of national interest as well as art and music, in particular in the field of education.

<sup>3</sup> In the fulfilment of its duties, it shall take account of the cultural and linguistic diversity of the country.

**Art. 70** Languages

<sup>1</sup> The official languages of the Confederation shall be German, French and Italian. Romansh shall also be an official language of the Confederation when communicating with persons who speak Romansh.

<sup>2</sup> The Cantons shall decide on their official languages. In order to preserve harmony between linguistic communities, the Cantons shall respect the traditional territorial distribution of languages and take account of indigenous linguistic minorities.

<sup>3</sup> The Confederation and the Cantons shall encourage understanding and exchange between the linguistic communities.

<sup>4</sup> The Confederation shall support the plurilingual Cantons in the fulfilment of their special duties.

<sup>5</sup> The Confederation shall support measures by the Cantons of Graubünden and Ticino to preserve and promote the Romansh and the Italian languages.

**Art. 71** Cinema

<sup>1</sup> The Confederation may encourage Swiss film production and film culture.

<sup>2</sup> It may issue regulations to promote the diversity and the quality of the cinematographic works that are offered.

**Art. 72** Church and state

<sup>1</sup> The regulation of the relationship between the church and the state shall be the responsibility of the Cantons.

<sup>2</sup> The Confederation and the Cantons may within the scope of their powers take measures to preserve public peace between the members of different religious communities.

<sup>3</sup> ...<sup>34</sup>

<sup>34</sup> Repealed by the popular vote on 10 June 2001 (Federal Decree of 15 Dec. 2000, Federal Council Decree of 22 Aug. 2001 – AS **2001** 2262; BBl **2000** 4038 5581 6108, **2001** 4660).

## Section 4: Environment and Spatial Planning

### Art. 73 Sustainable development

The Confederation and the Cantons shall endeavour to achieve a balanced and sustainable relationship between nature and its capacity to renew itself and the demands placed on it by the population.

### Art. 74 Protection of the environment

<sup>1</sup> The Confederation shall legislate on the protection of the population and its natural environment against damage or nuisance.

<sup>2</sup> It shall ensure that such damage or nuisance is avoided. The costs of avoiding or eliminating such damage or nuisance shall be borne by those responsible for causing it.

<sup>3</sup> The Cantons shall be responsible for the implementation of the relevant federal regulations, except where the law reserves this duty for the Confederation.

### Art. 75 Spatial planning

<sup>1</sup> The Confederation shall lay down principles on spatial planning. These principles shall be binding on the Cantons and serve to ensure the appropriate and economic use of the land and its properly ordered settlement.

<sup>2</sup> The Confederation shall encourage and coordinate the efforts of the Cantons and shall cooperate with them.

<sup>3</sup> Confederation and Cantons shall in the fulfilment of their duties take account of the requirements of spatial planning.

### Art. 75a<sup>35</sup> National Land Survey

<sup>1</sup> The National Land Survey shall be the responsibility of the Confederation.

<sup>2</sup> The Confederation shall issue regulations on official surveying.

<sup>3</sup> It may issue regulations on the harmonisation of official information relating to the land.

### Art. 76 Water

<sup>1</sup> The Confederation shall within the scope of its powers ensure the economic use and the protection of water resources and provide protection against the harmful effects of water.

<sup>35</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>2</sup> It shall lay down principles on the conservation and exploitation of water resources, the use of water for the production of energy and for cooling purposes, as well as on other measures affecting the water-cycle.

<sup>3</sup> It shall legislate on water protection, on ensuring appropriate residual flow, on hydraulic engineering and the safety of dams, and on measures that influence precipitation.

<sup>4</sup> The Cantons shall manage their water resources. They may levy charges for the use of water, subject to the limits imposed by federal legislation. The Confederation has the right to use water for its transport operations subject to payment of a charge and compensation.

<sup>5</sup> The Confederation, in consultation with the Cantons concerned, shall decide on rights to international water resources and the charges for them. If Cantons are unable to agree on rights to intercantonal water resources, the Confederation shall decide.

<sup>6</sup> The Confederation shall in the fulfilment of its duties take account of the concerns of the Cantons where the water originates.

**Art. 77** Forests

<sup>1</sup> The Confederation shall ensure that the forests are able to fulfil their protective, commercial and public amenity functions.

<sup>2</sup> It shall lay down principles on the protection of the forests.

<sup>3</sup> It shall encourage measures for the conservation of the forests.

**Art. 78** Protection of natural and cultural heritage

<sup>1</sup> The protection of natural and cultural heritage shall be the responsibility of the Cantons.

<sup>2</sup> In the fulfilment of its duties, the Confederation shall take account of concerns for the protection of natural and cultural heritage. It shall protect the countryside and places of architectural, historical, natural or cultural interest; it shall preserve such places intact if required to do so in the public interest.

<sup>3</sup> It may support efforts made for the protection of natural and cultural heritage and acquire or preserve properties of national importance by contract or through compulsory purchase.

<sup>4</sup> It shall legislate on the protection of animal and plant life and on the preservation of their natural habitats and their diversity. It shall protect endangered species from extinction.

<sup>5</sup> Moors and wetlands of special beauty and national importance shall be preserved. No buildings may be built on them and no changes may be made to the land, except for the construction of facilities that serve the protection of the moors or wetlands or their continued use for agricultural purposes.

**Art. 79** Fishing and hunting

The Confederation shall lay down principles on fishing and hunting and in particular on the preservation of the diversity of fish species, wild mammals and birds.

**Art. 80** Protection of animals

<sup>1</sup> The Confederation shall legislate on the protection of animals.

<sup>2</sup> It shall in particular regulate:

- a. the keeping and care of animals;
- b. experiments on animals and procedures carried out on living animals;
- c. the use of animals;
- d. the import of animals and animal products;
- e. the trade in animals and the transport of animals;
- f. the slaughter of animals.

<sup>3</sup> The enforcement of the regulations shall be the responsibility of the Cantons, except where the law reserves this to the Confederation.

## **Section 5: Public Construction Works and Transport**

**Art. 81** Public Construction Works

The Confederation may in the interests of the country as a whole or a large part of it carry out and operate public construction works, or provide support for such construction works.

**Art. 82** Road transport

<sup>1</sup> The Confederation shall legislate on road transport.

<sup>2</sup> It shall exercise supervisory control over roads of national importance; it may decide which transit roads must remain open to traffic.

<sup>3</sup> Public roads may be used free of charge. The Federal Assembly may authorise exceptions.

**Art. 83** National roads

<sup>1</sup> The Confederation shall ensure the construction of a network of motorways and shall guarantee that they remain useable.

<sup>2</sup> The Confederation shall construct, operate and maintain the national roads. It shall bear the costs thereof. It may assign this task wholly or partly to public or private bodies or combined public-private bodies.<sup>36</sup>

<sup>3</sup> ...<sup>37</sup>

**Art. 84** Alpine transit traffic\*

<sup>1</sup> The Confederation shall protect the Alpine region from the negative effects of transit traffic. It shall limit the nuisance caused by transit traffic to a level that is not harmful to people, animals and plants or their habitats.

<sup>2</sup> Transalpine goods traffic shall be transported from border to border by rail. The Federal Council shall take the measures required. Exceptions shall be permitted only when there is no alternative. They must be specified in detail in a federal act.

<sup>3</sup> The capacity of the transit routes in the Alpine region must not be increased. This does not apply to by-pass roads that reduce the level of transit traffic in towns and villages.

**Art. 85** Heavy vehicle charge\*

<sup>1</sup> The Confederation may levy a capacity or mileage-related charge on heavy vehicle traffic where such traffic creates public costs that are not covered by other charges or taxes.

<sup>2</sup> The net revenue from the charge shall be used to cover the costs incurred in connection with the road traffic.

<sup>3</sup> The Cantons shall be entitled to a share of the net revenue. In the assessment of the shares allocated, the particular consequences that levying the charge have for mountainous and remote regions shall be taken into account.

**Art. 86** Consumption tax on motor fuels and other traffic taxes

<sup>1</sup> The Confederation may levy a consumption tax on motor fuels.

<sup>2</sup> It shall levy a charge for the use of the motorways by motor vehicles and trailers that are not liable to pay the heavy vehicle charge.

<sup>3</sup> It shall use half of the net proceeds from the consumption tax on motor fuels and the net revenue from the motorways charge for the following tasks and costs in connection with road traffic:

<sup>36</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>37</sup> Repealed by the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

\* With transitional provision

- a. the construction, maintenance and operation of motorways;
  - b.<sup>38</sup> measures to encourage combined transport and the transport of motor vehicles and drivers;
  - b<sup>bis</sup>.<sup>39</sup> measures to improve the transport infrastructure in cities and urban areas;
  - c.<sup>40</sup> contributions towards the cost of main roads;
  - d. contributions towards protective structures to prevent natural disasters and measures to protect the environment and countryside from the effects of road traffic;
  - e.<sup>41</sup> general contributions towards the costs incurred by the Cantons for roads open to motor vehicles
  - f.<sup>42</sup> contributions to Cantons without national roads.
- <sup>4</sup> If these resources are insufficient, then the Confederation may levy a surcharge on the consumption tax.

**Art. 87** Railways and other modes of transport\*

The legislation on rail transport, cableways, shipping, aviation and space travel shall be the responsibility of the Confederation.

**Art. 88** Footpaths and hiking trails

<sup>1</sup> The Confederation shall lay down principles with regard to the network of footpaths and hiking trails.

<sup>2</sup> It may support and coordinate cantonal measures to construct and maintain such networks.

<sup>38</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>39</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>40</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>41</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>42</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

\* With transitional provision



<sup>3</sup> It shall take account of the network of footpaths and hiking trails in the fulfilment of its duties and shall replace paths and trails that it has to close.

## **Section 6: Energy and Communications**

### **Art. 89** Energy policy

<sup>1</sup> Within the scope of their powers, the Confederation and Cantons shall endeavour to ensure a sufficient, diverse, safe, economic and environmentally sustainable energy supply as well as the economic and efficient use of energy.

<sup>2</sup> The Confederation shall establish principles on the use of local and renewable energy sources and on the economic and efficient use of energy.

<sup>3</sup> The Confederation shall legislate on the use of energy by installations, vehicles and appliances. It shall encourage the development of energy technologies, in particular in the fields of saving energy and the renewable energy sources.

<sup>4</sup> The Cantons shall be primarily responsible for measures relating to the use of energy in buildings.

<sup>5</sup> The Confederation shall take account in its energy policy of the efforts made by the Cantons, the communes and the business community; it shall take account of the conditions in the individual regions of the country and the limitations of what is economically feasible.

### **Art. 90** Nuclear energy\*

The Confederation shall be responsible for legislation in the field of nuclear energy.

### **Art. 91** Transport of energy

<sup>1</sup> The Confederation shall legislate on the transport and the supply of electrical energy.

<sup>2</sup> The Confederation shall be responsible for legislation on transmission and distribution systems for the transport of liquid or gaseous fuels.

### **Art. 92** Postal and telecommunications services

<sup>1</sup> The Confederation shall be responsible for postal and telecommunications services.

<sup>2</sup> The Confederation shall ensure the adequate, universal and reasonably priced provision of postal and telecommunications services in all regions of the country. The rates shall be fixed according to standard principles.

\* With transitional provision

**Art. 93** Radio and television

<sup>1</sup> The Confederation shall be responsible for legislation on radio and television as well as on other forms of public broadcasting of features and information.

<sup>2</sup> Radio and television shall contribute to education and cultural development, to the free shaping of opinion and to entertainment. They shall take account of the particularities of the country and the needs of the Cantons. They shall present events accurately and allow a diversity of opinions to be expressed appropriately.

<sup>3</sup> The independence of radio and television as well as their autonomy in deciding on programming shall be guaranteed.

<sup>4</sup> Account must be taken of the role and duties of other media, in particular the press.

<sup>5</sup> Complaints about programmes may be submitted to an independent complaints authority.

**Section 7: The Economy****Art. 94** Principles of the economic system

<sup>1</sup> The Confederation and the Cantons shall abide by the principle of economic freedom.

<sup>2</sup> They shall safeguard the interests of the Swiss economy as a whole and, together with the private sector, shall contribute to the welfare and economic security of the population.

<sup>3</sup> They shall endeavour to create favourable general conditions for the private sector in accordance with their responsibilities.

<sup>4</sup> Any divergence from the principle of economic freedom, and in particular measures designed to restrain competition, shall be permitted only if they are provided for in the Federal Constitution or based on cantonal monopoly rights.

**Art. 95** Professional activities in the private sector\*

<sup>1</sup> The Confederation may legislate on professional activities in the private sector.

<sup>2</sup> It shall seek to create a unified Swiss economic area. It shall guarantee that persons with an academic qualification or with a federal or cantonal educational qualification or an educational qualification recognised by a Canton are able to practise their profession throughout Switzerland.

**Art. 96** Competition policy

<sup>1</sup> The Confederation shall legislate against the damaging effects in economic or social terms of cartels and other restraints on competition.

<sup>2</sup> It shall take measures

\* With transitional provision

- a. to prevent abuses in price maintenance by dominant undertakings and private and public law organisations;
- b. against unfair competition.

**Art. 97** Consumer protection

- <sup>1</sup> The Confederation shall take measures to protect consumers.
- <sup>2</sup> It shall legislate on the legal remedies available to consumer organisations. These organisations shall have the same rights under the federal legislation on unfair competition as professional and trade associations.
- <sup>3</sup> The Cantons shall provide a conciliation procedure or a simple and rapid court procedure for claims of up to a certain sum. The Federal Council shall fix this sum.

**Art. 98** Banks and insurance companies

- <sup>1</sup> The Confederation shall legislate on the banking and stock exchange system; in doing so, it shall take account of the special function and role of the cantonal banks.
- <sup>2</sup> It may legislate on financial services in other fields.
- <sup>3</sup> It shall legislate on private insurance.

**Art. 99** Monetary policy

- <sup>1</sup> The Confederation shall be responsible for money and currency; the Confederation has the exclusive right to issue coins and banknotes.
- <sup>2</sup> The Swiss National Bank, as an independent central bank, shall pursue a monetary policy that serves the overall interests of the country; it shall be administered with the cooperation and under the supervision of the Confederation.
- <sup>3</sup> The Swiss National Bank shall create sufficient currency reserves from its revenues; part of these reserves shall be held in gold.
- <sup>4</sup> A minimum of two thirds of the net profits made by the Swiss National Bank shall be allocated to the Cantons.

**Art. 100** Economic policy

- <sup>1</sup> The Confederation shall take measures to achieve balanced economic development, and in particular to prevent and combat unemployment and inflation.
- <sup>2</sup> It shall take account of economic development in individual regions of the country. It shall cooperate with the Cantons and the business community.
- <sup>3</sup> In the field of money and banking, in foreign economic affairs and in the field of public finance, the Confederation may if necessary depart from the principle of economic freedom.
- <sup>4</sup> The Confederation, the Cantons and the communes shall take account of the economic situation in their revenue and expenditure policies.

<sup>5</sup> To stabilise the economic situation, the Confederation may temporarily levy surcharges or grant rebates on federal taxes and duties. The accumulated funds must be held in reserve; following their release, direct taxes shall be individually refunded, and indirect taxes used to grant rebates or to create jobs.

<sup>6</sup> The Confederation may oblige businesses to accumulate reserves for the creation of jobs; it shall for this purpose grant tax concessions and may require the Cantons to do the same. Following the release of the reserves, businesses shall be free to decide how the funds are applied within the scope of the uses permitted by law.

**Art. 101** Foreign economic policy

<sup>1</sup> The Confederation shall safeguard the interests of the Swiss economy abroad.

<sup>2</sup> In special cases, it may take measures to protect the domestic economy. In doing so, it may if necessary depart from the principle of economic freedom.

**Art. 102** National economic supply\*

<sup>1</sup> The Confederation shall ensure that the country is supplied with essential goods and services in the event of the threat of politico-military strife or war, or of severe shortages that the economy cannot by itself counteract. It shall take precautionary measures to address these matters.

<sup>2</sup> In exercising its powers under this Article, it may if necessary depart from the principle of economic freedom.

**Art. 103** Structural policy\*

The Confederation may support regions of the country that are under economic threat and promote specific economic sectors and professions, if reasonable self-help measures are insufficient to ensure their existence. In exercising its powers under this Article, it may if necessary depart from the principle of economic freedom.

**Art. 104** Agriculture

<sup>1</sup> The Confederation shall ensure that agricultural sector, by means of a sustainable and market oriented production policy, makes an essential contribution towards:

- a. the reliable provision of the population with foodstuffs;
- b. the conservation of natural resources and the upkeep of the countryside;
- c. decentralised population settlement of the country.

<sup>2</sup> In addition to the self-help measures that can reasonably be expected in the agriculture sector and if necessary in derogation from the principle of economic freedom, the Confederation shall support farms that cultivate the land.

\* With transitional provision

<sup>3</sup> The Confederation shall organise measures in such a manner that the agricultural sector fulfils its multi-functional duties. It has in particular the following powers and duties:

- a. supplementing revenues from agriculture by means of direct subsidies in order to achieve of fair and adequate remuneration for the services provided, subject to proof of compliance with ecological requirements.
- b. encouraging by means of economically advantageous incentives methods of production that are specifically near-natural and respectful of both the environment and livestock.
- c. legislating on declarations of origin, quality, production methods and processing procedures for foodstuffs.
- d. protecting the environment against the detrimental effects of the excessive use of fertilisers, chemicals and other auxiliary agents.
- e. at its discretion, encouraging agricultural research, counselling and education and subsidise investments.
- f. at its discretion, legislating on the consolidation of agricultural property holdings.

<sup>4</sup> For these purposes, the Confederation shall provide both funds earmarked for the agricultural sector and general federal funds.

#### **Art. 105**      Alcohol

The legislation on the manufacture, import, rectification and sale of alcohol obtained by distillation is the responsibility of the Confederation. The Confederation shall in particular take account of the harmful effects of alcohol consumption.

#### **Art. 106**      Gambling\*

<sup>1</sup> The Confederation shall be responsible for legislation on games of chance and lotteries.

<sup>2</sup> A licence from the Confederation shall be required in order to establish and operate a casino. In granting such a licence, the Confederation shall take account of regional circumstances and the dangers of gambling.

<sup>3</sup> The Confederation shall levy a revenue-related tax on casinos; this tax must not exceed 80 per cent of the gross revenues from gambling. It shall be used to fund the federal contribution to the Old-age, Survivors' and Invalidity Insurance.

<sup>4</sup> The Cantons shall be responsible for the licensing of gaming machines involving an element of skill that offer prizes.

\* With transitional provision

**Art. 107** Weapons and war material

<sup>1</sup> The Confederation shall legislate against misuse of weapons and their accessories and ammunition.

<sup>2</sup> It shall legislate on the manufacture, procurement and sale of war material as well as the import, export and transit of such material.

**Section 8: Housing, Employment, Social Security and Health**

**Art. 108** Construction of housing and home ownership

<sup>1</sup> The Confederation shall encourage the construction of housing, the acquisition of the ownership of apartments and houses for the personal use of private individuals, as well as the activities of developers and organisations involved in the construction of public utility housing.

<sup>2</sup> It shall encourage in particular the acquisition and development of land for the construction of housing, increased efficiency in construction and the reduction of construction and housing costs.

<sup>3</sup> It may legislate on the development of land for housing construction and on increasing the efficiency of construction.

<sup>4</sup> In doing so, it shall take particular account of the interests of families, elderly persons, persons on low incomes and persons with disabilities.

**Art. 109** Landlord and tenant

<sup>1</sup> The Confederation shall legislate against abuses in tenancy matters, and in particular against unfair rents, as well as on the procedure for challenging unlawfully terminated leases and the limited extension of leases.

<sup>2</sup> It may legislate to declare framework leases to be generally applicable. Such leases may be declared generally applicable only if they take appropriate account of the justified interests of minorities and regional particularities, and respect the principle of equality before the law.

**Art. 110** Employment\*

<sup>1</sup> The Confederation may legislate on:

- a. employee protection;
- b. relations between employer and employee, and in particular on common regulations on operational and professional matters;
- c. recruitment services;
- d. the declaration of collective employment agreements to be generally applicable.

\* With transitional provision

<sup>2</sup> Collective employment agreements may be declared generally applicable only if they take appropriate account of the justified interests of minorities and regional particularities, and they respect the principle of equality before the law and the right to form professional associations.

<sup>3</sup> August 1 shall be the National Day of the Swiss Confederation. In terms of employment law, it shall be regarded as equivalent to a Sunday, with equivalent rights to pay.

**Art. 111** Old-age, survivors' and invalidity pension provision

<sup>1</sup> The Confederation shall take measures to ensure adequate financial provision for the elderly, surviving spouses and children, and persons with disabilities. These shall be based on three pillars, namely the Federal Old-age, Survivors' and Invalidity Insurance, the occupational pension scheme and private pension schemes.

<sup>2</sup> The Confederation shall ensure that the Federal Old-age, Survivors' and Invalidity Insurance and the occupational pension scheme are able to fulfil their purpose at all times.

<sup>3</sup> It may require the Cantons to exempt institutions of the Federal Old-age, Survivors' and Invalidity Insurance and the occupational pension scheme from liability to pay tax and to grant insured persons and their employers tax relief on contributions and reversionary rights.

<sup>4</sup> In cooperation with the Cantons, it shall encourage private pension schemes, in particular through measures relating to taxation policy and the policy of promoting property ownership.

**Art. 112** Old-age, Survivors' and Invalidity Insurance\*

<sup>1</sup> The Confederation shall legislate on the Old-age, Survivors and Invalidity Insurance.

<sup>2</sup> In doing so, it shall adhere to the following principles:

- a. the insurance is compulsory.
- a<sup>bis</sup>.<sup>43</sup> it provides cash and non-cash benefits.
- b. pensions must be sufficient to cover basic living expenses adequately.
- c. the maximum pension must not be more than twice the minimum pension.
- d. pensions must as a minimum be adjusted in line with price trends.

<sup>3</sup> The insurance shall be funded:

- a. through contributions from those insured, whereby employers must pay one half of the contributions payable by their employees;

\* With transitional provision

<sup>43</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

b.<sup>44</sup> through subsidies from the Confederation.

<sup>4</sup> The subsidies from the Confederation shall not exceed one half of the disbursements made under the scheme.<sup>45</sup>

<sup>5</sup> The subsidies from the Confederation shall in the first place be funded from the net proceeds of the tax on tobacco, the tax on distilled spirits and the tax on the revenues from gaming houses.

<sup>6</sup> ...<sup>46</sup>.

**Art. 112a<sup>47</sup>** Supplementary benefits

<sup>1</sup> Confederation and Cantons shall pay supplementary benefits to people whose basic living expenses are not covered by benefits under the Old-age, Survivors and Invalidity Insurance.

<sup>2</sup> The law shall determine the extent of the supplementary benefits as well as the tasks and responsibilities of the Confederation and Cantons.

**Art. 112b<sup>48</sup>** Promoting the rehabilitation of people eligible for invalidity benefits\*

<sup>1</sup> The Confederation shall encourage the rehabilitation of people eligible for invalidity benefits by providing cash and non-cash benefits. For this purpose, it may use resources from the Invalidity Insurance.

<sup>2</sup> The Cantons shall encourage the rehabilitation of people eligible for invalidity benefits, in particular through contributions to the construction and running of institutions that provide accommodation and work.

<sup>3</sup> The law shall determine the goals of rehabilitation and the principles and criteria.

<sup>44</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>45</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>46</sup> Repealed by the popular vote on 28 Nov 2004, with effect from 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>47</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>48</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

\* With transitional provision.



**Art. 112<sup>c49</sup>** Aid for elderly people and people with disabilities\*

<sup>1</sup> The Cantons shall provide for assistance and care in the home for elderly people and people with disabilities.

<sup>2</sup> The Confederation shall support national efforts for the benefit of elderly people and people with disabilities. For this purpose, it may use resources from the Old-age, Survivors and Invalidity Insurance.

**Art. 113** Occupational pension scheme\*

<sup>1</sup> The Confederation shall legislate for an occupational pension scheme.

<sup>2</sup> In doing so, it shall adhere to the following principles:

- a. the occupational pension scheme, together with the Old-age, Survivors' and Invalidity Insurance, enables the insured person to maintain his or her previous lifestyle in an appropriate manner.
- b. the occupational pension scheme is compulsory for employees; the law may provide for exceptions.
- c. employers shall insure their employees with a pension institution; if required, the Confederation shall make it possible for employees to be insured with a federal pension institution.
- d. self-employed persons may insure themselves on a voluntary basis with a pension institution.
- e. for specific groups of self-employed persons, the Confederation may declare the occupational pension scheme to be compulsory, either in general terms or for individual risks only.

<sup>3</sup> The occupation pension scheme shall be funded from the contributions of those insured, whereby employers must pay a minimum of one half of the contributions of their employees.

<sup>4</sup> Pension schemes must satisfy the minimum requirements under federal law; the Confederation may provide for national measures to resolve particular difficulties.

**Art. 114** Unemployment insurance

<sup>1</sup> The Confederation shall legislate on unemployment insurance.

<sup>2</sup> In doing so, it shall adhere to the following principles:

- a. the insurance guarantees appropriate compensation for loss of earnings and supports measures to prevent and combat unemployment.

<sup>49</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

\* With transitional provision.

b. the insurance is compulsory for employees; the law may provide for exceptions.

c. self-employed persons may insure themselves voluntarily.

<sup>3</sup> The insurance shall be funded by the contributions from those insured, whereby one half of the contributions of employees shall be paid by their employers.

<sup>4</sup> Confederation and Cantons shall provide subsidies in extraordinary circumstances.

<sup>5</sup> The Confederation may enact regulations on social assistance for the unemployed.

**Art. 115** Support for persons in need

Persons in need shall be supported by their Canton of residence. The Confederation regulates exceptions and powers.

**Art. 116** Child allowances and maternity insurance

<sup>1</sup> In the fulfilment of its duties, the Confederation shall take account of the needs of families. It may support measures for the protection of families.

<sup>2</sup> It may issue regulations on child allowances and operate a federal family allowances compensation fund.

<sup>3</sup> It shall establish a maternity insurance scheme. It may also require persons who cannot benefit from that insurance to make contributions.

<sup>4</sup> The Confederation may declare participation in a family allowances compensation fund and the maternity insurance scheme to be compulsory, either in general terms or for individual sections of the population, and make its subsidies dependent on appropriate subsidies being made by the Cantons.

**Art. 117** Health and accident insurance

<sup>1</sup> The Confederation shall legislate on health and accident insurance.

<sup>2</sup> It may declare health and the accident insurance to be compulsory, either in general terms or for individual sections of the population.

**Art. 118** Health protection

<sup>1</sup> The Confederation shall, within the limits of its powers, take measures for the protection of health.

<sup>2</sup> It shall legislate on:

- a. the use of foodstuffs as well as therapeutic products, narcotics, organisms, chemicals and items that may be dangerous to health;
- b. the combating of communicable, widespread or particularly dangerous human and animal diseases;
- c. protection against ionising radiation.

**Art. 119** Reproductive medicine and gene technology involving human beings

<sup>1</sup> Human beings shall be protected against the misuse of reproductive medicine and gene technology.

<sup>2</sup> The Confederation shall legislate on the use of human reproductive and genetic material. In doing so, it shall ensure the protection of human dignity, privacy and the family and shall adhere in particular to the following principles:

- a. all forms of cloning and interference with the genetic material of human reproductive cells and embryos are unlawful.
- b. non-human reproductive and genetic material may neither be introduced into nor combined with human reproductive material.
- c. the procedure for medically-assisted reproduction may be used only if infertility or the risk of transmitting a serious illness cannot otherwise be overcome, but not in order to conceive a child with specific characteristics or to further research; the fertilisation of human egg cells outside a woman's body is permitted only under the conditions laid down by the law; no more human egg cells may be developed into embryos outside a woman's body than are capable of being immediately implanted into her.
- d. the donation of embryos and all forms of surrogate motherhood are unlawful.
- e. the trade in human reproductive material and in products obtained from embryos is prohibited.
- f. the genetic material of a person may be analysed, registered or made public only with the consent of the person concerned or if the law so provides.
- g. everyone shall have access to data relating to their ancestry.

**Art. 119a**<sup>50</sup> Transplant medicine

<sup>1</sup> The Confederation shall legislate in the field of organ, tissue and cell transplants. In doing so, it shall ensure the protection of human dignity, privacy and health.

<sup>2</sup> It shall in particular lay down criteria for the fair allocation of organs.

<sup>3</sup> Any donation of human organs, tissue and cells must be free of charge. The trade in human organs is prohibited.

**Art. 120** Non-human gene technology\*

<sup>1</sup> Human beings and their environment shall be protected against the misuse of gene technology.

<sup>2</sup> The Confederation shall legislate on the use of reproductive and genetic material from animals, plants and other organisms. In doing so, it shall take account of the

<sup>50</sup> Adopted by the Popular Vote on 7 Feb. 1999 (Federal Decree of 26 June 1998, Federal Council Decree of 23 March 1999 – AS **1999** 1341; BBl **1997** III 653, **1998** 3473, **1999** 2912 8768).

\* With transitional provision

dignity of the creature as well as the safety of human beings, animals and the environment, and protect the genetic diversity of animal and plant species.

## **Section 9: Residence and Permanent Settlement of Foreign Nationals**

### **Art. 121**

<sup>1</sup> The Confederation shall be responsible for legislation on entry to and exit from Switzerland, the residence and the permanent settlement of foreign nationals and on the granting of asylum.

<sup>2</sup> Foreign nationals may be expelled from Switzerland if they pose a risk to the security of the country.

## **Section 10: Civil Law, Criminal Law, Weights and Measures**

### **Art. 122<sup>51</sup>** Civil law

<sup>1</sup> The Confederation shall be responsible for legislation in the field of civil law and the law of civil procedure.

<sup>2</sup> The Cantons shall be responsible for the organisation of the courts and the administration of justice in civil matters, unless the law provides otherwise.

### **Art. 123<sup>52</sup>** Criminal law

<sup>1</sup> The Confederation shall be responsible for legislation in the field of criminal law and the law of criminal procedure.

<sup>2</sup> The Cantons shall be responsible for the organisation of the courts, the administration of justice in criminal cases as well as for the execution of penalties and measures, unless the law provides otherwise.

<sup>3</sup> The Confederation may issue regulations on the execution of penalties and measures. It may grant subsidies to the Cantons for:

- a. the construction of penal institutions;
- b. improvements in the execution of penalties and measures;

<sup>51</sup> Adopted by the Popular Vote on 12 March 2000, in force since 1 Jan. 2007 (Federal Decree of 8 Oct. 1999, Federal Council Decree of 17 May 2000, Federal Decree of 8 March 2005 – AS **2002** 3148, **2006** 1059; BB1 **1997** I 1, **1999** 8633, **2000** 2990, **2001** 4202).

<sup>52</sup> Approved in the popular vote on 12 March 2000, in force since 1 April 2003 (Federal Council Decree of 8 Oct. 1999, Federal Council Decree of 17 May 2000, Federal Council Decree of 24 Sept. 2002 – AS **2002** 3148 3147; BB1 **1997** I 1, **1999** 8633, **2000** 2990, **2001** 4202).

- c. institutions that conduct educative measures for the benefit of children, adolescents and young adults.<sup>53</sup>

**Art. 123a**<sup>54</sup>

<sup>1</sup> If a sex offender or violent offender is regarded in the reports required for sentencing as being extremely dangerous and his or her condition assessed as untreatable, he or she must be incarcerated until the end of his or her life due to the high risk of reoffending. Early release and release on temporary licence are not permitted.

<sup>2</sup> Only if new scientific findings prove that the offender can be cured and thus no longer represents a danger to the public can new reports be drawn up. If the offender is released on the basis of these new reports, the authorities granting his or her release must accept liability if he reoffends.

<sup>3</sup> All reports assessing sex offenders or violent offenders must be drawn up by at least two experienced specialists who are independent of each other. The reports must take account of all the principles that are important for the assessment.

**Art. 123b**<sup>55</sup> No time limit for the right to prosecute or for penalties for sexual or pornography offences involving prepubescent children

The right to prosecute sexual or pornography offences involving prepubescent children and the penalties for such offences shall not be subject to a time limit.

**Art. 124** Victim support

The Confederation and the Cantons shall ensure that persons who have suffered harm to their physical, mental or sexual integrity as the result of a criminal act receive support and are adequately compensated if they experience financial difficulties as a result of that criminal act.

**Art. 125** Weights and measures

The Confederation shall be responsible for legislation on weights and measures.

<sup>53</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>54</sup> Adopted by the Popular Vote on 8 February 2004 (Federal Decree of 20 June 2003, Federal Council Decree of 21 April 2004 – AS **2004** 2341; BBl **2000** 3336, **2001** 3433, **2003** 4434, **2004** 2199).

<sup>55</sup> Adopted by the Popular Vote on 30 Nov. 2008, in force since 30 Nov. 2008 (Federal Decree of 13 June 2008, Federal Council Decree of 23 Jan. 2009 – AS **2009** 471; BBl **2006** 3657, **2007** 5369, **2008** 5245, **2009** 605).

### Chapter 3: Financial System

#### Art. 126<sup>56</sup> Financial management

<sup>1</sup> The Confederation shall maintain its income and expenditure in balance at all times.

<sup>2</sup> The ceiling for total expenditure that is to be approved in the budget is based on the expected income after taking account of the economic situation.

<sup>3</sup> Exceptional financial requirements may justify an appropriate increase in the ceiling in terms of paragraph 2. The Federal Assembly shall decide on any increase in accordance with Article 159 paragraph 3 letter c.

<sup>4</sup> If the total expenditure in the federal accounts exceeds the ceiling in terms of paragraphs 2 or 3, compensation for this additional expenditure must be made in subsequent years.

<sup>5</sup> The details shall be regulated by law.

#### Art. 127 Principles of taxation

<sup>1</sup> The main structural features of any tax, in particular those liable to pay tax, the object of the tax and its assessment, shall be regulated by law.

<sup>2</sup> Provided the nature of the tax permits it, the principles of universality and uniformity of taxation as well as the principle of taxation according to ability to pay shall be applied.

<sup>3</sup> Intercantonal double taxation is prohibited. The Confederation shall take the measures required.

#### Art. 128 Direct taxes\*

<sup>1</sup> The Confederation may levy a direct tax:

- a. of a maximum of 11.5 per cent on the income of private individuals;
- b.<sup>57</sup> of a maximum of 8.5 per cent of the net profit of legal entities;
- c. ...<sup>58</sup>

<sup>2</sup> The Confederation, in fixing the taxation rates, shall take account of the burden of direct taxation imposed by the Cantons and communes.

<sup>56</sup> Adopted by the Popular Vote on 2 Dec. 2001 (Federal Decree of 22 June 2001, Federal Council Decree of 4 Feb. 2002 – AS **2002** 241; BBl **2000** 4653, **2001** 2387 2878, **2002** 1209).

\* With transitional provision

<sup>57</sup> Adopted by the popular vote on 28 Nov. 2004, in force since 1 Jan. 2007 (Federal Decree of 19 March 2004, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 2 Feb. 2006, – AS **2006** 1057 1058; BBl **2003** 1531, **2004** 1363, **2005** 951).

<sup>58</sup> Repealed by the popular vote on 28 Nov. 2004, with effect from 1 Jan. 2007 (Federal Decree of 19 March 2004, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 2 Feb. 2006 – AS **2006** 1057 1058; BBl **2003** 1531, **2004** 1363, **2005** 951).

<sup>3</sup> In relation to the tax on the income of private individuals, regular revisions shall be made to compensate for the consequences of an increased tax burden due to inflation.

<sup>4</sup> The tax shall be assessed and collected by the Cantons. A minimum of 17 per cent of the gross revenue from taxation shall be allocated to the Cantons. This share may be reduced to 15 per cent if the consequences of financial equalisation so require.<sup>59</sup>

#### **Art. 129** Tax harmonisation

<sup>1</sup> The Confederation shall set out principles on the harmonisation of the direct taxes imposed by the Confederation, the Cantons and the communes; it shall take account of the efforts towards harmonisation made by the Cantons.

<sup>2</sup> Harmonisation shall extend to tax liability, the object of the tax and the tax period, procedural law and the law relating to tax offences. Matters excluded from harmonisation shall include in particular tax scales, tax rates and tax allowances.

<sup>3</sup> The Confederation may issue regulations to prevent unjustified tax benefits.

#### **Art. 130**<sup>60</sup> Value added tax\*

<sup>1</sup> The Confederation may levy value added tax on the supply of goods, on services, including goods and services for personal use, and on imports, at a standard rate of a maximum of 6.5 per cent and at a reduced rate of at least 2.0 per cent.

<sup>2</sup> The law may provide for the taxation of accommodation services at a rate between the reduced rate and the standard rate.<sup>61</sup>

<sup>3</sup> If, due to demographic changes, the financing of the Old-Age, Survivors' and Invalidity Insurance is no longer guaranteed, the standard rate may be increased by federal act by a maximum of 1 percentage point and the reduced rate by a maximum of 0.3 of a percentage point.<sup>62</sup>

<sup>4</sup> 5 per cent of the non-earmarked revenues shall be used to reduce the health insurance premiums of persons on low incomes, unless an alternative method of assisting such persons is provided for by law.

<sup>59</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBI **2002** 2291, **2003** 6591, **2005** 951).

<sup>60</sup> Adopted by the popular vote on 28 Nov. 2004, in force since 1 Jan. 2007 (Federal Decree of 19 March 2004, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 2 Feb. 2006, – AS **2006** 1057 1058; BBI **2003** 1531, **2004** 1363, **2005** 951).

<sup>61</sup> The legislature has made use of this power; see Art. 36 para. 2 of the Federal Act of 2 Sept. 1999 on Value Added Tax (SR **641.20**), under which the rate of value added tax amounts to 3.6 % with effect from 1 Jan. 2001 (special rate for accommodation services, valid until 31 Dec. 2010).

<sup>62</sup> The legislature has made use of this power; see Art. 36 para. 1 und 3 of the Federal Act of 2 Sept. 1999 on Value Added Tax (SR **641.20**) under which the rates of value added tax amounts to 7.6 % (standard rate) and 2.4 % (reduced rate) with effect from 1 Jan. 2001.

**Art. 131** Special consumption taxes\*

<sup>1</sup> The Confederation may level special consumption taxes on:

- a. tobacco and tobacco products;
- b. distilled spirits;
- c. beer;
- d. automobiles and their parts;
- e. petroleum, other mineral oils, natural gas and products obtained by refining these resources, as well as on motor fuels.

<sup>2</sup> It may levy a surcharge on the consumption tax on motor fuels.

<sup>3</sup> The Cantons shall receive ten per cent of the net proceeds from the taxation of distilled spirits. These funds must be used to fight the causes and effects of substance addiction.

**Art. 132** Stamp duty and withholding tax\*

<sup>1</sup> The Confederation may levy a stamp duty on securities, on receipts for insurance premiums and on other commercial deeds; deeds relating to property and mortgage transactions are exempt from stamp duty.

<sup>2</sup> The Confederation may levy a withholding tax on income from moveable capital assets, on lottery winnings and on insurance benefits. 10 per cent of the tax revenue shall be allocated to the Cantons.<sup>63</sup>

**Art. 133** Customs duties

The Confederation shall be responsible for legislation on customs duties and other duties on the cross-border movement of goods.

**Art. 134** Exclusion of cantonal and communal taxation

Anything that is declared by federal legislation to be subject to, or exempt from value added tax, special consumption taxes, stamp duty or withholding tax may not be made liable to similar taxes by the Cantons or communes.

\* With transitional provision

\* With transitional provision

<sup>63</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).



**Art. 135<sup>64</sup>** Equalisation of financial resources and burdens

<sup>1</sup> The Confederation shall issue regulations on the equitable equalisation of financial resources and burdens between the Confederation and the Cantons as well as among the Cantons.

<sup>2</sup> The equalisation of financial resources and burdens is intended in particular to:

- a. reduce the differences in financial capacity among the Cantons;
- b. guarantee the Cantons a minimum level of financial resources;
- c. compensate for excessive financial burdens on individual Cantons due to geo-topographical or socio-demographic factors;
- d. encourage intercantonal cooperation on burden equalisation;
- e. maintain the tax competitiveness of the Cantons by national and international comparison.

<sup>3</sup> The funds for the equalisation of financial resources shall be provided by those Cantons with a higher level of resources and by the Confederation. The payments made by those Cantons with a higher level of resources shall amount to a minimum of two thirds and a maximum of 80 per cent of the payments made by the Confederation.

## **Title 4: The People and the Cantons**

### **Chapter 1: General Provisions**

**Art. 136** Political rights

<sup>1</sup> All Swiss citizens over the age of eighteen, unless they lack legal capacity due to mental illness or mental incapacity, shall have political rights in federal matters. Such citizens shall all have the same political rights and duties.

<sup>2</sup> They may participate in elections to the National Council and in federal popular votes, and launch or sign popular initiatives and requests for referendums in federal matters.

**Art. 137** Political parties

The political parties shall contribute to forming the opinion and will of the People.

<sup>64</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

## Chapter 2: Initiative and Referendum

**Art. 138** Popular initiative requesting the complete revision of the Federal Constitution

<sup>1</sup> Any 100,000 persons eligible to vote may within 18 months of the official publication of their initiative propose a complete revision of the Federal Constitution.<sup>65</sup>

<sup>2</sup> This proposal must be submitted to a vote of the People.

**Art. 139 (New)**<sup>66</sup> Popular initiative requesting a partial revision of the Federal Constitution in specific terms

<sup>1</sup> Any 100,000 persons eligible to vote may within 18 months of the official publication of their initiative request a partial revision of the Federal Constitution in the form of a specific draft of the provisions proposed.

<sup>2</sup> If the initiative fails to comply with the requirements of consistency of form, and of subject matter, or if it infringes mandatory provisions of international law, the Federal Assembly shall declare it to be invalid in whole or in part.

<sup>3</sup> The initiative shall be submitted to the vote of the People and the Cantons. The Federal Assembly shall recommend the acceptance or rejection of the initiative. It may submit a counter-proposal to the initiative.

**Art. 139 (Old)**<sup>67</sup> Popular initiative for the partial revision of the Federal Constitution

<sup>1</sup> Any 100,000 persons eligible to vote may request a partial revision of the Federal Constitution.

<sup>2</sup> A popular initiative for the partial revision of the Federal Constitution may take the form of a general proposal or of a specific draft of the provisions proposed.

<sup>3</sup> If the initiative fails to comply with the requirements of consistency of form, cohesion of subject matter or if it infringes mandatory provisions of international law, the Federal Assembly shall declare it to be invalid in whole or in part.

<sup>4</sup> If the Federal Assembly is in agreement with an initiative in the form of a general proposal, it shall draft the partial revision on the basis of the initiative and submit it to the vote of the People and the Cantons. If the Federal Assembly rejects the initiative, it shall submit it to a vote of the People; the People shall decide whether the

<sup>65</sup> Adopted by the Popular Vote on 9 Feb. 2003, in force since 1 Aug. 2003 (Federal Decree of 4 Oct. 2002, Federal Council Decree of 25 March 2003, Federal Decree of 19 June 2003 –AS 2003 1949 1953; BBl 2001 4803 6080, 2002 6485, 2003 3111 3954 3960).

<sup>66</sup> Adopted by the Popular Vote on 9 Feb. 2003, in force since 1 Aug. 2003 (Federal Decree of 4 Oct. 2002, Federal Council Decree of 25 March 2003, Federal Decree of 19 June 2003 –AS 2003 1949 1953; BBl 2001 4803 6080, 2002 6485, 2003 3111 3954 3960).

<sup>67</sup> Until further notice, these provisions remain in force and thus the initiative in the form of the general proposal is possible (see No. II of the Federal Decree of 19 June 2003 – AS 2003 1953).

initiative should be approved. If they vote in favour, the Federal Assembly shall draft the corresponding bill.

<sup>5</sup> ...

<sup>6</sup> The People and the Cantons shall vote at the same time on the initiative and the counter-proposal.

**Art. 139a** <sup>68</sup>

**Art. 139b** <sup>69</sup> Procedure applicable to an initiative and counter-proposal

<sup>1</sup> ...

<sup>2</sup> The People may vote in favour of both proposals. In response to the third question, they may indicate the proposal that they prefer if both are accepted.

<sup>3</sup> If in response to the third question one proposal to amend the Constitution receives more votes from the People and the other more votes from the Cantons, the proposal that comes into force is that which achieves the higher sum if the percentage of votes of the People and the percentage of votes of the Cantons in the third question are added together.

**Art. 140** Mandatory referendum

<sup>1</sup> The following must be put to the vote of the People and the Cantons:

- a. amendments to the Federal Constitution;
- b. accession to organisations for collective security or to supranational communities;
- c. emergency federal acts that are not based on a provision of the Constitution and whose term of validity exceeds one year; such federal acts must be put to the vote within one year of being passed by the Federal Assembly.

<sup>2</sup> The following shall be submitted to a vote of the People:

- a. popular initiatives for a complete revision of the Federal Constitution;
- b. popular initiatives for a partial revision of the Federal Constitution in the form of a general proposal that has been rejected by the Federal Assembly;
- c. the question of whether a complete revision of the Federal Constitution should be carried out, in the event that there is disagreement between the two Councils.

<sup>68</sup> Adopted by the Popular Vote on 9 Feb. 2003 (Federal Decree of 4 Oct. 2002, Federal Council Decree of 25 March 2003 – AS **2003** 1949; BB1 **2001** 4803 6080, **2002** 6485, **2003** 3111). This article is not yet in force.

<sup>69</sup> Adopted by the Popular Vote on 9 Feb. 2003, para. 2 und 3 in force since 1 Aug. 2003 (Federal Decree of 4 Oct. 2002, Federal Council Decree of 25 March 2003, Federal Decree of 19 June 2003 – AS **2003** 1949 1953; BB1 **2001** 4803 6080, **2002** 6485, **2003** 3111 3954 3960). Para. 1 comes into force at a later date.

**Art. 141** Optional referendum

<sup>1</sup> If within 100 days of the official publication of the enactment any 50,000 persons eligible to vote or any eight Cantons request it, the following shall be submitted to a vote of the People:<sup>70</sup>

- a. federal acts;
- b. emergency federal acts whose term of validity exceeds one year;
- c. federal decrees, provided the Constitution or an act so requires;
- d. international treaties that:
  1. are of unlimited duration and may not be terminated;
  2. provide for accession to an international organisation;
  - 3.<sup>71</sup> contain important legislative provisions or whose implementation requires the enactment of federal legislation.

<sup>2</sup> ...<sup>72</sup>

**Art. 141a**<sup>73</sup> Implementation of international treaties

<sup>1</sup> If the decision on ratification of an international treaty is subject to a mandatory referendum, the Federal Assembly may incorporate in the decision on ratification the amendments to the Constitution that provide for the implementation of the treaty.

<sup>2</sup> If the decision on ratification of an international treaty is subject to an optional referendum, the Federal Assembly may incorporate in the decision on ratification the amendments to the law that provide for the implementation of the treaty.

**Art. 142** Required majorities

<sup>1</sup> Proposals that are submitted to the vote of the People are accepted if a majority of those who vote approve them.

<sup>2</sup> Proposals that are submitted to the vote of the People and Cantons are accepted if a majority of those who vote and a majority of the Cantons approve them.

<sup>3</sup> The result of a popular vote in a Canton shall determine the vote of the Canton.

<sup>4</sup> The Cantons of Obwalden, Nidwalden, Basel-Stadt, Basel-Landschaft, Appenzell Auser rhoden and Appenzell Innerrhoden shall each have half a cantonal vote.

<sup>70</sup> Adopted by the Popular Vote on 9 Feb. 2003, in force since 1 Aug. 2003 (Federal Decree of 4 Oct. 2002, Federal Council Decree of 25 March 2003, Federal Decree of 19 June 2003 – AS **2003** 1949 1953; BBl **2001** 4803 6080, **2002** 6485, **2003** 3111 3954 3960).

<sup>71</sup> Adopted by the Popular Vote on 9 Feb. 2003, in force since 1 Aug. 2003 (Federal Decree of 4 Oct. 2002, Federal Council Decree of 25 March 2003, Federal Decree of 19 June 2003 – AS **2003** 1949 1953; BBl **2001** 4803 6080, **2002** 6485, **2003** 3111 3954 3960).

<sup>72</sup> Repealed by the popular vote on 9 Feb. 2003, with effect from 1 Aug. 2003 (Federal Decree of 4 Oct. 2002, Federal Council Decree of 25. March 2003, Federal Decree of 19 June 2003 – AS **2003** 1949 1953; BBl **2001** 4803 6080, **2002** 6485, **2003** 3111 3954 3960).

<sup>73</sup> Adopted by the Popular Vote on 9 Feb. 2003, in force since 1 Aug. 2003 (Federal Decree of 4 Oct. 2002, Federal Council Decree of 25 March 2003, Federal Decree of 19 June 2003 – AS **2003** 1949 1953; BBl **2001** 4803 6080, **2002** 6485, **2003** 3111 3954 3960).

## **Title 5: Federal Authorities**

### **Chapter 1: General Provisions**

#### **Art. 143** Eligibility for election

Any person eligible to vote may be elected to the National Council, the Federal Council or the Federal Supreme Court.

#### **Art. 144** Incompatibility

<sup>1</sup> No member of the National Council, of the Council of States, of the Federal Council or judge of the Federal Supreme Court may at the same time be a member of any other of these bodies.

<sup>2</sup> No member of the Federal Council or full-time judges of the Federal Supreme Court may hold any other federal or cantonal office or undertake any other gainful economic activity.

<sup>3</sup> The law may provide for further forms of incompatibility.

#### **Art. 145** Term of office

The members of the National Council and of the Federal Council as well as the Federal Chancellor shall be elected for a term of office of four years. Judges of the Federal Supreme Court shall have a term of office of six years.

#### **Art. 146** State liability

The Confederation shall be liable for damage or loss unlawfully caused by its organs in the exercise of official activities.

#### **Art. 147** Consultation procedure

The Cantons, the political parties and interested groups shall be invited to express their views when preparing important legislation or other projects of substantial impact as well as in relation to significant international treaties.

## **Chapter 2: Federal Assembly**

### **Section 1: Organisation**

#### **Art. 148** Status

<sup>1</sup> Subject to the rights of the People and the Cantons, the Federal Assembly shall be the supreme authority of the Confederation.

<sup>2</sup> The Federal Assembly shall comprise two chambers, the National Council and the Council of States; both chambers shall be of equal standing.

**Art. 149** Composition and election of the National Council

- <sup>1</sup> The National Council shall be composed of 200 representatives of the People.
- <sup>2</sup> The representatives shall be elected directly by the People according to a system of proportional representation. A general election shall be held every four years.
- <sup>3</sup> Each Canton shall constitute an electoral constituency.
- <sup>4</sup> The seats shall be allocated to the Cantons according to their relative populations. Each Canton shall have at least one seat.

**Art. 150** Composition and election of the Council of States

- <sup>1</sup> The Council of States shall be composed of 46 representatives of the Cantons.
- <sup>2</sup> The Cantons of Obwalden, Nidwalden, Basel-Stadt, Basel-Landschaft, Appenzell Auser rhoden and Appenzell Inner rhoden shall each elect one representative; the other Cantons shall each elect two representatives.
- <sup>3</sup> The Cantons shall determine the rules for the election of their representatives to the Council of States.

**Art. 151** Sessions

- <sup>1</sup> The Councils shall convene in session regularly. The convening of sessions shall be governed by law.
- <sup>2</sup> The Federal Council or one quarter of the members of either Council may request that the Councils be convened for an extraordinary session.

**Art. 152** Presidency

Each Council shall elect a President from its members for a term of one year, together with a first Vice-President and a second Vice-President. Re-election for the following year shall not be permitted.

**Art. 153** Parliamentary committees

- <sup>1</sup> Each Council shall form committees from its members.
- <sup>2</sup> The law may provide for joint committees.
- <sup>3</sup> The law may delegate specific powers, which may not be legislative in their nature, to committees.
- <sup>4</sup> In order to fulfil their duties, the committees shall have the right to information and to inspect documents and the power to conduct investigations. The extent of such rights and powers shall be governed by the law.

**Art. 154** Factions

The members the Federal Assembly may form factions.

**Art. 155** Parliamentary Services

The Federal Assembly shall have parliamentary services at its disposal. It may call on the services of offices of the Federal Administration. The details shall be regulated by law.

**Section 2: Procedure**

**Art. 156** Separate proceedings

<sup>1</sup> The proceedings of the National Council and Council of States shall take place separately.

<sup>2</sup> Decisions of the Federal Assembly shall require the agreement of both Chambers.

<sup>3</sup> Provision shall be made by the law to ensure that in the event of disagreement between the Councils decisions are made on:

- a. the validity or partial invalidity of a popular initiative;
- b. ...
- c. ...
- d. the budget or any amendment to it.<sup>74</sup>

**Art. 157** Joint proceedings

<sup>1</sup> The National Council and Council of States shall hold joint proceedings as the United Federal Assembly under the presidency of the President of the National Council in order to:

- a. conduct elections;
- b. decide on conflicts of jurisdiction between the highest federal authorities;
- c. decide on applications for pardons.

<sup>2</sup> The United Federal Assembly shall also convene for special events and to hear declarations made by the Federal Council.

**Art. 158** Public meetings

Meetings of the Councils shall be held in public. The law may provide for exceptions.

**Art. 159** Quorum and required majority

<sup>1</sup> The Councils are quorate if a majority of their members is present.

<sup>74</sup> Adopted by the Popular Vote on 9 Feb. 2003, lets. a and d in force since 1 Aug. 2003 (Federal Decree of 4 Oct. 2002, Federal Council Decree of 25 March 2003, Federal Decree of 19 June 2003 – AS **2003** 1949 1953; BBl **2001** 4803 6080, **2002** 6485, **2003** 3111 3954 3960). Letters b and c come into force at a later date.

<sup>2</sup> Decisions shall be taken in both Chambers and in the United Federal Assembly by the majority of those who vote.

<sup>3</sup> However, the consent of an absolute majority of the members of each of the two Councils shall be required for:

- a. a declaration that a federal act is urgent;
- b. provisions on subsidies, guarantee credits or spending ceilings that involve new non-recurrent expenditure of more than 20 million francs or new recurrent expenditure of more than 2 million francs;
- c.<sup>75</sup> an increase in overall expenditure in the case of extraordinary financial requirements in terms of Article 126 paragraph 3.

<sup>4</sup> The Federal Assembly may, by ordinance, adjust subsidies made in terms of paragraph 3 letter b in line with inflation.<sup>76</sup>

#### **Art. 160** Right to submit initiatives and motions

<sup>1</sup> Any Council member, faction, parliamentary committee or Canton shall have the right to submit an initiative to the Federal Assembly.

<sup>2</sup> Council members and the Federal Council shall have the right to submit motions on business that is under discussion.

#### **Art. 161** Prohibition of voting instructions

<sup>1</sup> No member of the Federal Assembly may vote on the instructions of another person.

<sup>2</sup> Members must disclose their links to interest groups.

#### **Art. 162** Immunity

<sup>1</sup> The members of the Federal Assembly and the Federal Council as well as the Federal Chancellor may not be held liable for statements that they make in the Assembly or in its organs.

<sup>2</sup> The law may provide for further forms of immunity and extend its scope to include other persons.

<sup>75</sup> Adopted by the Popular Vote on 2 Dec. 2001 (Federal Decree of 22 June 2001, Federal Council Decree of 4 Feb. 2002 – AS **2002** 241; BBl **2000** 4653, **2001** 2387 2878, **2002** 1209).

<sup>76</sup> Adopted by the Popular Vote on 2 Dec. 2001 (Federal Decree of 22 June 2001, Federal Council Decree of 4 Feb. 2002 – AS **2002** 241; BBl **2000** 4653, **2001** 2387 2878, **2002** 1209).



### Section 3: Powers

#### **Art. 163** Form of Federal Assembly enactments

<sup>1</sup> The Federal Assembly shall enact provisions that establish binding legal rules in the form of federal acts or ordinances.

<sup>2</sup> Other enactments shall be promulgated in the form of a federal decree; a federal decree that is not subject to a referendum shall be known as a “simple federal decree”.

#### **Art. 164** Legislation

<sup>1</sup> All significant provisions that establish binding legal rule must be enacted in the form of a federal act. These include in particular fundamental provisions on:

- a. the exercise of political rights;
- b. the restriction of constitutional rights;
- c. the rights and obligations of persons;
- d. those liable to pay tax as well as the subject matter and assessment of taxes and duties;
- e. the duties and services of the Confederation;
- f. the obligations of the Cantons in relation to the implementation and enforcement of federal law;
- g. the organisation and procedure of the federal authorities.

<sup>2</sup> Legislative powers may be delegated by federal act unless this is prohibited by the Federal Constitution.

#### **Art. 165** Emergency legislation

<sup>1</sup> Federal acts whose coming into force cannot be delayed (emergency federal acts) may be declared urgent by an absolute majority of the members of each of the two Councils and be brought into force immediately. Such acts must be of limited duration.

<sup>2</sup> If a referendum is requested on an emergency federal act, the act must be repealed one year after being passed by the Federal Assembly if it has not in the meantime been approved by the People.

<sup>3</sup> An emergency federal act that does not have the Constitution as its basis must be repealed one year after being passed by the Federal Assembly if it has not in the meantime been approved by the People and the Cantons. Any such act must be of limited duration.

<sup>4</sup> An emergency federal act that is not approved in a popular vote may not be renewed.

**Art. 166** Foreign relations and international treaties

<sup>1</sup> The Federal Assembly shall participate in shaping foreign policy and supervise the maintenance of foreign relations.

<sup>2</sup> It shall approve international treaties, with the exception of those that are concluded by the Federal Council under a statutory provision or an international treaty.

**Art. 167** Finance

The Federal Assembly shall determine the expenditure of the Confederation, adopt the budget and approve the federal accounts.

**Art. 168** Appointments

<sup>1</sup> The Federal Assembly shall elect the members of the Federal Council, the Federal Chancellor, the judges of the Federal Supreme Court and, in times of war, the Commander-in-Chief of the armed forces ("the General").

<sup>2</sup> The law may authorise the Federal Assembly to make or confirm other appointments.

**Art. 169** Supervisory control

<sup>1</sup> The Federal Assembly shall supervise the Federal Council and the Federal Administration, the federal courts and other bodies entrusted with the tasks of the Confederation.

<sup>2</sup> Official secrecy shall not apply in dealings with the special delegations of supervisory commissions that are established under the law.

**Art. 170** Evaluation of effectiveness

The Federal Assembly shall ensure that federal measures are evaluated with regard to their effectiveness.

**Art. 171** Tasks of the Federal Council

The Federal Assembly may assign functions to the Federal Council. The details shall be regulated by law, and in particular the means by which the Federal Assembly may intervene in matters that fall within the remit of the Federal Council.

**Art. 172** Relations between the Confederation and the Cantons

<sup>1</sup> The Federal Assembly shall ensure the maintenance of good relations between the Confederation and the Cantons.

<sup>2</sup> It shall guarantee the cantonal constitutions.

<sup>3</sup> It shall decide whether to approve intercantonal agreements and treaties between Cantons and foreign countries where the Federal Council or a Canton raises an objection to any such treaty.

**Art. 173** Further duties and powers

<sup>1</sup> The Federal Assembly has the following additional duties and powers:

- a. taking measures to safeguard external security and the independence and neutrality of Switzerland.
- b. taking measures to safeguard internal security.
- c. if extraordinary circumstances require, issuing ordinances or simple federal decrees in order to fulfil its duties under letters (a) and (b).
- d. regulating active service and mobilising the armed forces or sections thereof for this purpose.
- e. taking measures to enforce federal law.
- f. ruling on the validity of popular initiatives that meet the formal requirements.
- g. participating in the general planning of state activities.
- h. deciding on individual acts where a federal act expressly so provides.
- i. deciding on conflicts of jurisdiction between the highest federal authorities.
- k. issuing pardons and deciding on amnesties.

<sup>2</sup> The Federal Assembly shall also deal with matters that fall within the remit of the Confederation and are not the responsibility of any other authority.

<sup>3</sup> Other duties and powers may be delegated by law to the Federal Assembly.

## **Chapter 3: Federal Council and Federal Administration**

### **Section 1: Organisation and Procedure**

**Art. 174** Federal Council

The Federal Council shall be the supreme governing and executive authority of the Confederation.

**Art. 175** Composition and election

<sup>1</sup> The Federal Council shall have seven members.

<sup>2</sup> The members of the Federal Council shall be elected by the Federal Assembly following each general election to the National Council.

<sup>3</sup> They shall be elected for a term of office of four years from all the Swiss citizens who are eligible for election to the National Council.<sup>77</sup>

<sup>77</sup> Adopted by the Popular Vote on 7 Feb. 1999 (Federal Decree of 9 Oct. 1998, Federal Council Decree of 2 March 1999 – AS **1999** 1239; BBl **1993** IV 554, **1994** III 1370, **1998** 4800, **1999** 2475 8768).

<sup>4</sup> In electing the Federal Council, care must be taken to ensure that the various geographical and language regions of the country are appropriately represented.<sup>78</sup>

**Art. 176**          Presidency

<sup>1</sup> The President of the Confederation shall chair the Federal Council.

<sup>2</sup> The President and the Vice-President of the Federal Council shall be elected by the Federal Assembly from the members of the Federal Council for a term of office of one year.

<sup>3</sup> Re-election for the following year is not permitted. The President may not be elected Vice-President for the following year.

**Art. 177**          Principle of collegiality and allocation to departments

<sup>1</sup> The Federal Council shall reach its decisions as a collegial body.

<sup>2</sup> For the purposes of preparation and implementation, the business of the Federal Council shall be allocated to its individual members according to department.

<sup>3</sup> Business may be delegated to and directly dealt with by departments or their subordinate administrative units; in such cases, the right to legal recourse shall be guaranteed.

**Art. 178**          Federal Administration

<sup>1</sup> The Federal Council shall be in charge of the Federal Administration. It shall ensure that it is organised appropriately and that it fulfils its duties effectively.

<sup>2</sup> The Federal Administration shall be organised into Departments; each Department shall be headed by a member of the Federal Council.

<sup>3</sup> Administrative tasks may by law be delegated to public or private organisations, entities or persons that do not form part of the Federal Administration.

**Art. 179**          Federal Chancellery

The Federal Chancellery shall be the general administrative office of the Federal Council. It shall be headed by a Federal Chancellor.

<sup>78</sup> Adopted by the Popular Vote on 7 Feb. 1999 (Federal Decree of 9 Oct. 1998, Federal Council Decree of 2 March 1999 – AS **1999** 1239; BBl **1993** IV 554, **1994** III 1370, **1998** 4800, **1999** 2475 8768).

## **Section 2: Powers**

### **Art. 180** Government policy

<sup>1</sup> The Federal Council shall decide on the objectives of federal government policy and the means by which they should be achieved. It shall plan and coordinate state activities.

<sup>2</sup> It shall inform the general public fully and in good time about its activities, unless overriding public or private interests prevent this.

### **Art. 181** Right to initiate legislation

The Federal Council shall submit drafts of Federal Assembly legislation to the Federal Assembly.

### **Art. 182** Lawmaking and implementation of legislation

<sup>1</sup> The Federal Council shall enact legislative provisions in the form of ordinances, provided it has the authority to do so under the Constitution or the law.

<sup>2</sup> It shall ensure the implementation of legislation, the resolutions of the Federal Assembly and the judgments of federal judicial authorities.

### **Art. 183** Finances

<sup>1</sup> The Federal Council shall draw up the financial plan and the draft budget and prepare the federal accounts.

<sup>2</sup> It shall ensure orderly financial management.

### **Art. 184** Foreign relations

<sup>1</sup> The Federal Council shall be responsible for foreign relations, subject to the right of participation of the Federal Assembly; it shall represent Switzerland abroad.

<sup>2</sup> It shall sign and ratify international treaties. It shall submit them to the Federal Assembly for approval.

<sup>3</sup> Where safeguarding the interests of the country so requires, the Federal Council may issue ordinances and rulings. Ordinances must be of limited duration.

### **Art. 185** External and internal security

<sup>1</sup> The Federal Council shall take measures to safeguard external security, independence and neutrality of Switzerland.

<sup>2</sup> It shall take measures to safeguard internal security.

<sup>3</sup> It may in direct application of this Article issue ordinances and rulings in order to counter existing or imminent threats of serious disruption to public order or internal or external security. Such ordinances must be limited in duration.

<sup>4</sup> In cases of emergency, it may mobilise the armed forces. Where it mobilises more than 4,000 members of the armed forces for active service or where the deployment of such troops is expected to last for more than three weeks, the Federal Assembly must be convened without delay.

**Art. 186** Relations between the Confederation and the Cantons

<sup>1</sup> The Federal Council shall be responsible for maintaining relations between the Confederation and the Cantons and shall collaborate with the latter.

<sup>2</sup> It may approve cantonal legislation when required to do so by federal law.

<sup>3</sup> It may object to treaties between Cantons or between Cantons and foreign countries.

<sup>4</sup> It shall ensure compliance with federal law, as well as the cantonal constitutions and cantonal treaties and shall take the measures required to fulfil this duty.

**Art. 187** Further duties and powers

<sup>1</sup> The Federal Council also has the following duties and powers:

- a. supervising the Federal Administration and the other bodies entrusted with federal duties.
- b. reporting regularly to the Federal Assembly on the conduct of its business as well as on the situation in Switzerland.
- c. making appointments that do not fall within the remit of other authorities.
- d. dealing with appeals, where the law so provides.

<sup>2</sup> Other duties and powers may be delegated by law to the Federal Council.

**Chapter 4:**<sup>79</sup> **Federal Supreme Court and other Judicial Authorities**

**Art. 188** Status

<sup>1</sup> The Federal Supreme Court shall be the supreme judicial authority of the Confederation.

<sup>2</sup> Its organisation and procedure shall be governed by law.

<sup>3</sup> The Federal Supreme Court shall have its own administration.

**Art. 189** Jurisdiction of the Federal Supreme Court

<sup>1</sup> The Federal Supreme Court shall hear disputes concerning violations of:

<sup>79</sup> Adopted by the popular vote on 12 March 2000, in force since 1 Jan. 2007 (Federal Decree of 8 Oct. 1999, Federal Council Decree of 17 May 2000, Federal Decree of 8 March 2005 – AS **2002** 3148, **2006** 1059; BBl **1997** I 1, **1999** 8633, **2000** 2990, **2001** 4202).

- a. federal law;
- b. international law;
- c. inter-cantonal law;
- d. cantonal constitutional rights;
- e. the autonomy of the communes and other cantonal guarantees in favour of public law corporations;
- f. federal and cantonal provisions on political rights.

<sup>2</sup> It shall hear disputes between the Confederation and Cantons or between Cantons.

<sup>3</sup> The jurisdiction of the Federal Supreme Court may be extended by law.

<sup>4</sup> Acts of the Federal Assembly or the Federal Council may not be challenged in the Federal Supreme Court. Exceptions may be provided for by law.

**Art. 190**      Applicable law

The Federal Supreme Court and the other judicial authorities shall apply the federal acts and international law.

**Art. 191**      Access to the Federal Supreme Court

<sup>1</sup> Access to the Federal Supreme Court shall be guaranteed by law.

<sup>2</sup> For disputes that do not relate to a legal issue of fundamental importance, the law may stipulate a threshold for the amount in dispute.

<sup>3</sup> The law may exclude access to the Federal Supreme Court in relation to specific matters.

<sup>4</sup> The law may provide for a simplified procedure for appeals that are manifestly unfounded.

**Art. 191a**<sup>80</sup>    Other federal judicial authorities

<sup>1</sup> The Confederation shall appoint a criminal court, which shall hear at first instance criminal cases that by law come under federal jurisdiction. The law may confer further powers on the Federal Criminal Court.

<sup>2</sup> The Confederation shall appoint judicial authorities to hear public law disputes that come under the jurisdiction of the Federal Administration.

<sup>3</sup> The law may provide for further federal judicial authorities.

<sup>80</sup> Adopted by the Popular Vote on 12 March 2000, para. 1 in force since 1 April 2003 (Federal Decree of 8 Oct. 1999, Federal Council Decree of 17 May 2000, Federal Decree of 24. Sept. 2002 – AS **2002** 3148 3147; BBl **1997** I 1, **1999** 8633, **2000** 2990, **2001** 4202). The remaining paragraphs come into force at a later date.

**Art. 191b** Cantonal judicial authorities

<sup>1</sup> The Cantons shall appoint judicial authorities to judge civil and public law disputes and criminal law cases.

<sup>2</sup> They may appoint joint judicial authorities.

**Art. 191c** Independence of the judiciary

The judicial authorities shall be independent in the exercise of their judicial powers and shall be bound only by the law.

**Title 6:**

**Revision of the Federal Constitution and Transitional Provisions**

**Chapter 1: Revision**

**Art. 192** Principle

<sup>1</sup> The Federal Constitution may be totally or partially revised at any time.

<sup>2</sup> Unless the Federal Constitution and the legislation based on it provides otherwise, any revision of the Federal Constitution shall be made by the legislative process.

**Art. 193** Total revision

<sup>1</sup> A total revision of the Federal Constitution may be proposed by the People or by either of the two Councils or be decreed by the Federal Assembly.

<sup>2</sup> If the initiative emanates from the People or if the two Chambers are unable to agree, the People shall decide on whether a total revision should be carried out.

<sup>3</sup> If the People vote for a total revision, new elections shall be held to both Chambers.

<sup>4</sup> The mandatory provisions of international law must not be violated.

**Art. 194** Partial revision

<sup>1</sup> A partial revision of the Federal Constitution may be requested by the People or decreed by the Federal Assembly.

<sup>2</sup> The partial revision must respect the principle of cohesion of subject matter and must not violate mandatory provisions of international law.

<sup>3</sup> The popular initiative for partial revision must also respect the principle of consistency of form.

**Art. 195** Commencement

The totally or partly revised Federal Constitution shall come into force when it is approved by the People and the Cantons.



## Chapter 2: Transitional Provisions

**Art. 196** Transitional provisions in terms of the Federal Decree of 18 December 1998 on a new Federal Constitution<sup>81</sup>

### 1. Transitional provision to Art. 84 (*Transalpine transit traffic*)

The transfer of freight transit traffic from road to rail must be completed ten years after the adoption of the popular initiative for the protection of the alpine regions from transit traffic.

### 2. Transitional provision to Art. 85 (*Flat-rate heavy vehicle charge*)

<sup>1</sup> The Confederation shall levy an annual charge for the use of roads that are open to general traffic on domestic and foreign motor vehicles and trailers that have a maximum permissible weight of over 3.5 tonnes.

<sup>2</sup> This charge amounts to:

- |    |  |      |
|----|--|------|
| a. | for trucks and articulated motor vehicles of |      |
|    |  | Fr.  |
|    | – over 3.5 to 12 t                           | 650  |
|    | – over 12 to 18 t                            | 2000 |
|    | – over 18 to 26 t                            | 3000 |
|    | – over 26 t                                  | 4000 |
| b. | for trailers of                              |      |
|    | – over 3.5 to 8 t                            | 650  |
|    | – over 8 to 10 t                             | 1500 |
|    | – over 10 t                                  | 2000 |
| c. | for coaches                                  | 650  |

<sup>3</sup> The rates of the charge may be adjusted by federal act insofar as this is justified by the cost of road transport.

<sup>4</sup> In addition, the Federal Council may adjust by ordinance the tariff category above 12 t in accordance with paragraph 2 to comply with any amendments to the weight categories contained in the Road Traffic Act of 19 December 1958<sup>82</sup>.

<sup>5</sup> For vehicles that are not on the road in Switzerland for the entire year, the Federal Council shall determine suitably graduated rates of the charge; it shall take account of the costs of collecting the charge.

<sup>6</sup> The Federal Council shall regulate the implementation of the charge. It may determine rates in terms of paragraph 2 for special categories of vehicle, exempt certain vehicles from the charge and issue special regulations, in particular for journeys in border areas. Such regulations must not result in vehicles registered abroad being treated more favourably than Swiss vehicles. The Federal Council may provide for

<sup>81</sup> Adopted by the Popular Vote on 3 March 2002 (Federal Decree of 5 Oct. 2001, Federal Council Decree of 26 April 2002 – AS **2002** 885; BBl **2000** 2453, **2001** 1183 5731, **2002** 3690).

<sup>82</sup> SR **741.01**

finances in respect of contraventions. The Cantons shall collect the charge on vehicles registered in Switzerland.

<sup>7</sup> The charge may be limited or abolished by law.

<sup>8</sup> This provision applies until the Federal Act of 19 December 1997 on the Heavy Vehicle Charge comes into force.

### 3. *Transitional provision to Art. 87 (Railways and other carriers)*

<sup>1</sup> The major rail projects include the New Rail Link through the Alps (NRLA), RAIL 2000, the connection of Eastern and Western Switzerland to the European High Speed Rail Network as well as the improvement of noise protection along railway lines through active and passive measures.

<sup>2</sup> In order to fund the major rail projects, the Federal Council may:

- a. use all revenues from the flat-rate heavy vehicle charge in accordance with Article 196 No 2 until the performance or consumption based heavy vehicle charge in terms of Article 85 comes into force and may, for this purpose, increase the rates of the charge by a maximum of 100 per cent;
- b. use a maximum of two thirds of the revenues from the performance or consumption-based heavy vehicle charge in terms of Article 85;
- c. use mineral oil tax revenues in terms of Article 86 paragraph 3 letter b in order to cover 25 per cent of the total expenditures on the NRLA base lines;
- d. raise funds on the capital market, up to a maximum however of 25 per cent of the total expenditures for NRLA, RAIL 2000 and connection of Eastern and Western Switzerland to the European High Speed Rail Network;
- e.<sup>83</sup> increase the value added tax rates laid down in Article 130 paragraphs 1-3 by 0.1 percentage point;
- f. provide for additional funding from private sources or through international organisations.

<sup>3</sup> The funding of the major rail projects in accordance with paragraph 1 shall be carried out through a fund that is legally dependent on the Confederation but which keeps its own accounts. The resources from the charges and taxes mentioned in paragraph 2 shall be entered in the financial accounts of the Confederation and paid into the fund in the same year. The Confederation may grant advances to the fund. The Federal Assembly shall enact the fund regulations in the form of an ordinance.

<sup>4</sup> The four major rail projects in terms of paragraph 1 shall be adopted by federal acts. Proof must be established of the necessity and readiness for implementation. For each major project in its entirety. In the case of the NRLA project, each of the construction phases shall form the subject matter of a federal act. The Federal Assembly shall approve the required funding through guarantee credits. The Federal Council shall approve the construction phases and determines the time schedule.

<sup>83</sup> Adopted by the popular vote on 28 Nov. 2004, in force since 1 Jan. 2007 (Federal Decree of 19 March 2004, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 2 Feb. 2006, – AS **2006** 1057 1058; BBl **2003** 1531, **2004** 1363, **2005** 951).

<sup>5</sup> This provision applies until the conclusion of the construction work and of the funding (through repayment of the advances) of the major rail projects mentioned in paragraph 1.

*4. Transitional provision to Art. 90 (Nuclear energy)*

Until 23 September 2000, no general, construction, start-up or operating licences for new facilities for the production of nuclear energy may be granted.

*5. Transitional provision to Art. 95 (Private economic activity)*

Until the enactment of federal legislation, the Cantons must mutually recognise their education or training qualifications.

*6. Transitional provision to Art. 102 (National economic supply)*

<sup>1</sup> The Confederation shall guarantee the national supply of bread grain and baking flour.

<sup>2</sup> This transitional provision remains in force until 31 December 2003 at the latest.

*7. Transitional provision to Art. 103 (Structural policy)*

For no more than ten years from the date on which the Constitution comes into force, the Cantons may retain existing regulations that make the opening of new businesses dependent on establishing a need, in order to guarantee the existence of important parts of a specific branch of the hotel and restaurant industry.

*8. Transitional provision to Art. 106 (Gambling)*

<sup>1</sup> Article 106 comes into force on the commencement of a new Federal Act on Gambling and Casinos.

<sup>2</sup> Until that date, the following provisions apply:

- a. The opening and operation of casinos are prohibited.
- b. The cantonal governments may, subject to certain limitations required in the public interest, authorise entertainment gambling as was customary in Kurstaals until the spring of 1925, provided such activities appear necessary in the opinion of the licensing authority in order to maintain or promote tourism and are organised by a Kurstaal operator serving this purpose. The Cantons may also prohibit this form of gambling.
- c. The Federal Council shall issue an ordinance on the limitations required in the public interest. No stake may exceed 5 francs.
- d. Any cantonal licence is subject to the approval of the Federal Council.
- e. One quarter of the gross receipts from gambling activities must be remitted to the Confederation, which shall allocate this part, without deduction for its own administrative costs, to the victims of storm damage as well as to charitable institutions.
- f. The Confederation may also take suitable measures in relation to lotteries.

9. *Transitional provision to Art. 110 para. 3 (National Day of the Swiss Confederation)*

<sup>1</sup> Until the amended federal legislation comes into force, the Federal Council shall regulate the details.

<sup>2</sup> The National Day of the Swiss Confederation shall not be included in the calculation of the number of the public holidays in accordance with Article 18 paragraph 2 of the Employment Act<sup>84</sup>.

10. ...<sup>85</sup>

11. *Transitional provision to Art. 113 (Occupational Pension Scheme)*

Insured persons who belong to the generation working at the time of the introduction of the occupational pension scheme and therefore do not contribute for the full period shall receive the statutory minimum benefits, according to their income, within 10 to 20 years of the Act coming into force.

12. *Transitional provision to Art. 126<sup>86</sup> (Financial management)*

<sup>1</sup> The excess spending in the financial accounts of the Confederation must be reduced by means of economies until the accounts are essentially balanced.

<sup>2</sup> The excess spending must not exceed CHF 5 billion in the fiscal year 1999 and CHF 2.5 billion in the fiscal year 2000; in the fiscal year 2001, it must be reduced to a maximum of 2 per cent of revenues.

<sup>3</sup> If the economic situation so requires, the absolute majority of the members of each of the two Councils may extend the deadlines in paragraph 2 by means of an ordinance for a maximum of two years.

<sup>4</sup> The Federal Assembly and Federal Council shall take account of the requirements of paragraph 2 when drawing up the budget and the long-term financial plan as well as when considering any legislative proposals that have financial implications.

<sup>5</sup> In implementing the budget, the Federal Council shall make use of any opportunities to make savings. It may suspend guarantee credits and payment authorisations that have already been approved. The foregoing does not apply to statutory rights and legally enforceable guarantees of payment.

<sup>6</sup> If the requirements of paragraph 2 are not met, the Federal Council shall stipulate the amount that must additionally be saved. To this end, it shall:

- a. decide on additional economies that fall within its powers;
- b. apply to the Federal Assembly for the legislative amendments required in order to make additional economies.

<sup>84</sup> SR **822.11**

<sup>85</sup> Repealed by the popular vote on 28 Nov 2004, with effect from 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951)

<sup>86</sup> This relates to Art. 126 in the version of 18 April 1999.

<sup>7</sup> The Federal Council shall assess the total amount of the additional economies in order that the requirements are fulfilled within a maximum additional period of two years. The economies apply both to payments made to third parties as well as to the federal administration sector.

<sup>8</sup> The Federal Assembly shall decide on the proposals of the Federal Council in the same session and enact legislation in accordance with Article 165 of the Constitution; with regard to the amount, they shall be bound by the savings planned by the Federal Council in terms of paragraph 6.

<sup>9</sup> If the excess spending in a subsequent fiscal year again exceeds 2 per cent of revenues, it must be reduced to the target value the following year. If the economic situation so requires, the Federal Assembly may extend by ordinance this deadline by a maximum of two years. In all other respects, the procedure follows paragraphs 4–8.

<sup>10</sup> This provision remains in effect until it is replaced by constitutional measures to limit the federal deficit and federal debt.

*13.<sup>87</sup> Transitional provision to Art. 128 (Duration of tax levy)*

The power to levy the direct federal tax shall be limited until the end of 2020.

*14.<sup>88</sup> Transitional provision to Art. 130 (Duration of tax levy)*

The power to levy value added tax shall be limited until the end of 2020.

*15. Transitional provision to Art. 131 (Beer tax)*

Until a federal act comes into force, the beer tax shall be levied in accordance with the current law.

16. ...<sup>89</sup>

**Art. 197<sup>90</sup>** Transitional provisions following the adoption of the Federal Constitution of 18 April 1999

*1. Accession of Switzerland to the United Nations*

<sup>1</sup> Switzerland shall accede to the United Nations.

<sup>87</sup> Adopted by the popular vote on 28 Nov. 2004, in force since 1 Jan. 2007 (Federal Decree of 19 March 2004, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 2 Feb. 2006, – AS **2006** 1057 1058; BBI **2003** 1531, **2004** 1363, **2005** 951).

<sup>88</sup> Adopted by the popular vote on 28 Nov. 2004, in force since 1 Jan. 2007 (Federal Decree of 19 March 2004, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 2 Feb. 2006, – AS **2006** 1057 1058; BBI **2003** 1531, **2004** 1363, **2005** 951).

<sup>89</sup> Repealed by the popular vote on 28 Nov 2004, with effect from 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBI **2002** 2291, **2003** 6591, **2005** 951)

<sup>90</sup> Adopted by the Popular Vote on 3 March 2002 (Federal Decree of 5 Oct. 2001, Federal Council Decree of 26 April 2002 – AS **2002** 885; BBI **2000** 2453, **2001** 1183 5731, **2002** 3690).

<sup>2</sup> The Federal Council shall be authorised to submit an application to the Secretary General of the United Nations (UN) requesting Switzerland's accession to the organisation, together with a declaration on the acceptance of the obligations contained in the UN Charter<sup>91</sup>.

*2.<sup>92</sup> Transitional provision to Art. 62 (School education)*

From the date on which the Federal Decree of 3 October 2003<sup>93</sup> on the New System of Financial Equalisation and the Allocation of Tasks between the Confederation and Cantons comes into force, the Cantons shall, until they have their own approved special-needs school strategies, but for a minimum of three years, assume responsibility for the current payments made by the Invalidity Insurance for special needs education (including the special needs pre-school education in accordance with Art. 19 of the Federal Act of 19 June 1959<sup>94</sup> on Invalidity Insurance).

*3.<sup>95</sup> Transitional provision to Art. 83 (National roads)*

The Cantons shall construct the national roads listed in the Federal Decree of 21 June 1960<sup>96</sup> on the National Road Network (in its version valid on the commencement of the Federal Decree of 3 Oct. 2003<sup>97</sup> on the New System of Financial Equalisation and the Allocation of Tasks between the Confederation and Cantons) in accordance with the regulations of and under the supervision of the Confederation. The Confederation and Cantons shall share the costs. The share of the costs borne by the individual Cantons shall be determined by the burden imposed on them by the national roads, their interest in these roads, and their financial capacity.

*4.<sup>98</sup> Transitional provision to Art. 112b (Promoting the rehabilitation of people eligible for invalidity benefits)*

From the date on which the Federal Decree of 3 October 2003<sup>99</sup> on the New System of Financial Equalisation and the Allocation of Tasks between the Confederation and Cantons comes into force, the Cantons shall assume responsibility for the current payments made by the Invalidity Insurance to institutions, workshops and residential homes until they have an approved strategy on people with disabilities that also regulates the granting of cantonal contributions towards the construction

<sup>91</sup> SR **0.120**

<sup>92</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>93</sup> AS **2007** 5765

<sup>94</sup> SR **831.20**

<sup>95</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>96</sup> SR **725.113.11**

<sup>97</sup> AS **2007** 5765

<sup>98</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>99</sup> AS **2007** 5765

and running of institutions that accept residents from outside the relevant canton, but for a minimum of three years.

5.<sup>100</sup> *Transitional provision to Art. 112c (Aid for elderly people and people with disabilities)*

The current payments under Article 101<sup>bis</sup> of the Federal Act of 20 December 1946<sup>101</sup> on the Old-Age and Survivors' Insurance for assistance and care in the home for elderly people and people with disabilities shall continue to be paid by the Cantons until cantonal regulations on the financing of assistance and care in the home come into force.

7.<sup>102</sup> *Transitional Provision to Art. 120 (Non-human gene technology)*

Swiss agriculture shall remain free of gene technology for a period of five years following the adoption of this constitutional provision. In particular, the following may neither be imported nor placed on the market:

- a. genetically modified plants that are capable of propagation, parts of plants and seeds that are intended for agricultural, horticultural or forestry use in the environment;
- b. genetically modified animals that are intended for the production of food-stuffs and other agricultural products.

Commencement Date: 1 January 2000<sup>103</sup>

<sup>100</sup> Approved in the popular vote on 28 Nov 2004, in force since 1 Jan. 2008 (Federal Council Decree of 3 Oct 2003, Federal Council Decree of 26 Jan. 2005, Federal Council Decree of 7 Nov. 2007 – AS **2007** 5765 5771; BBl **2002** 2291, **2003** 6591, **2005** 951).

<sup>101</sup> SR **831.10**

<sup>102</sup> Adopted by the popular vote on 27 Nov. 2005 (Federal Decree of 17 June 2005, Federal Council Decree of 19 Jan. 2006 – AS **2006** 89; BBl **2003** 6903, **2004** 4937, **2005** 4039, **2006** 1061). Nos. 2–6 are reserved for the transitional provisions on the restructuring of the financial equalisation and division of tasks between the Confederation and Cantons (NFE), adopted by the popular vote on 28 Nov. 2004.

<sup>103</sup> Federal Decree of 28 Sept. 1999 (AS **1999** 2555; BBl **1999** 7922)

## Final Provisions of the Federal Decree of 18 December 1998

### II

<sup>1</sup> The Federal Constitution of the Swiss Confederation of 29 May 1874<sup>104</sup> is repealed.

<sup>2</sup> The following provisions of the Federal Constitution, which must be re-enacted as statute law, continue to apply until the corresponding statutory provisions come into force:

*a. Art. 32<sup>quater</sup> para. 6<sup>105</sup>*

Hawking and other forms of itinerant sale of spirits are prohibited.

*b. Art. 36<sup>quinquies</sup> para. 1 first sentence, 2 second–last sentence and 4 second sentence<sup>106</sup>*

<sup>1</sup> For the use of first and second class motorways, the Confederation shall levy an annual charge of 40 francs on each Swiss and foreign motor vehicle and trailer with a total weight not exceeding 3.5 tonnes. ...

<sup>2</sup> ... The Federal Council may exempt specific vehicles from the charge and issue special regulations, in particular for journeys made in border areas. Such regulations must not result in vehicles registered abroad being treated more favourably than Swiss vehicles. The Federal Council may impose fines for contraventions of the regulations. The Cantons shall collect the charge for vehicles registered in Switzerland and monitor compliance of all vehicles with the regulations.

<sup>4</sup> ... The charge may be extended by federal act to further categories of vehicle that are not liable to pay the heavy vehicle charge.

*c. Art. 121<sup>bis</sup> para. 1, 2 and para. 3 first and second sentence<sup>107</sup>*

<sup>1</sup> If the Federal Assembly decides to submit a counter-proposal, voters shall be asked three questions on the same ballot paper. Each voter has the unrestricted right to state:

1. whether he or she prefers the popular initiative to the existing law;

<sup>104</sup> [BS 1 3; AS 1949 1511, 1951 606, 1957 1027, 1958 362 768 770, 1959 224 912, 1961 476, 1962 749 1637 1804, 1964 97, 1966 1672, 1969 1249, 1970 1649, 1971 325 905 907, 1972 1481 1484, 1973 429 1051 1455, 1974 721, 1975 1205, 1976 713 715 2003, 1977 807 1849 2228 2230, 1978 212 484 1578, 1979 678, 1980 380, 1981 1243 1244, 1982 138, 1983 240 444, 1984 290, 1985 150, 151 658 659 1025 1026 1648, 1987 282 1125, 1988 352, 1991 246 247 1122, 1992 1578 1579, 1993 3040 3041, 1994 258 263 265 267 1096 1097 1099 1101, 1995 1455, 1996 1490 1491 1492 2502, 1998 918 2031, 1999 741 743 1239 1341]

<sup>105</sup> Art. 105

<sup>106</sup> Art. 86 para. 2

<sup>107</sup> Art. 139 para. 6



2. whether he or she prefers the counter-proposal to the existing law;
3. which of the two proposals should come into force in the event that the People and the Cantons prefer both proposals to the existing law.

<sup>2</sup> The absolute majority shall be calculated separately for each question. Unanswered questions shall not be taken into consideration.

<sup>3</sup> If both the popular initiative and the counter-proposal are accepted, the result of the third question shall be decisive. The proposal that receives the greater number of votes from the People and from the Cantons on this question shall come into force.

...

### III

The Federal Assembly shall adapt amendments to the Federal Constitution of 29 May 1874 to the new Federal Constitution as regards their form. The decree issued to this effect shall not be subject to a referendum.

### IV

<sup>1</sup> This Decree must be submitted to a vote of the People and the Cantons.

<sup>2</sup> The Federal Assembly shall determine its commencement date.

