

LAW ON CORPORATION

TITLE XI NON-STOCK CORPORATIONS

CORPORATION CODE OF THE PHILIPPINES
Sec. 87-95



Sec. 87. Definition. – For the purposes of this Code, a non-stock corporation is one where no part of its income is distributable as dividends to its members, trustees, or officers, subject to the provisions of this Code on dissolution: *Provided, That*, any profit which a non-stock corporation may obtain as an incident to its operation shall, whenever necessary or proper, be used for the furtherance of the purpose or purposes for which the corporation was organized, subject to the provisions of this Title.

The provisions governing stock corporations, when pertinent, shall be applicable to non-stock corporations, except as may be covered by specific provisions of this Title.

Definition

Non-stock corporation – one where no part of its income is distributable as dividends to its members, trustees, or officers.

Sec. 88. Purposes. – Non-stock corporations may be formed or organized for charitable, religious, educational, professional, cultural, fraternal, literary, scientific, social, civic service, or similar purposes, like trade, industry, agricultural and like chambers, or any combination thereof, subject to the special provisions of this Title governing particular classes of non-stock corporations.

Distinction between a stock corporation and a non-stock corporation Point of Comparison	Stock Corporation	Non-Stock Corporation
Membership	Ownership of stock	Consent of the associates

Solicitation of gifts, donations or contributions by non-stock corporations

A certificate of registration must be secured from the Insurance Commissioner otherwise the articles of incorporation cannot be filed.

Sec. 89. Right to vote. – The right of the members of any class or classes to vote may be limited, broadened or denied to the extent specified in the articles of incorporation or the by-laws. Unless so limited, broadened or denied, each member, regardless of class, shall be entitled to one vote.

Unless otherwise provided by the articles of incorporation or the by-laws, a member may vote by proxy in accordance with the provisions of this Code.

Voting by mail or other similar means by members of non-stock corporations may be authorized by the by-laws of non-stock corporations with the approval of, and under such conditions which may be, prescribed by, the Securities and Exchange Commission.

Voting by proxy may be denied in articles or by-laws

The law makes voting by proxy merely directory in the case of non-stock corporations and even allows the articles of incorporation or by-laws thereof to deny proxy voting.

If proxy voting may be denied outrightly in the articles or by-laws of non-stock corporations, it necessarily follows that the qualifications or limitations on who should be appointed proxies may also be made therein.

Sec.90. Non-transferability of membership. – Membership in a non-stock corporation and all rights arising therefrom are personal and non-transferable, unless the articles of incorporation or the by-laws otherwise provide.

Sec.91. Termination of membership. –Membership shall be terminated in the manner and for the causes provided in the articles of incorporation or the by-laws. Termination of

membership shall have the effect of extinguishing all rights of a member in the corporation or in its property, unless otherwise provided in the articles of incorporation or the by-laws.

Sec.92. Election and term of trustees. – Unless otherwise provided in the articles of incorporation or the by-laws, the *board of trustees of non-stock corporations*, which may be *more than fifteen (15) in number* as may be fixed in their articles of incorporation or by-laws, shall, as soon as organized, so classify themselves that the term of office of one-third (1/3) of their number shall expire every year; and subsequent elections of trustees *comprising one-third (1/3) of the board of trustees* shall be held *annually* and trustees so elected shall have *a term of three (3) years*. Trustees thereafter elected to fill vacancies occurring before the expiration of a particular term shall hold office only for the unexpired period.

No person shall be elected as trustee unless he is a member of the corporation. Unless otherwise provided in the articles of incorporation or the by-laws, officers of a non-stock corporation may be directly elected by the members.

Three-year term for trustees in non-stock corporation

The term of trustees in non-stock corporation is three (3) years **except** educational corporations where the term is five (5) years.

Elections of directors by regions in non-stock corporations not allowed

The Securities and Exchange Commission in an opinion stated that the “Election of members of the Board of Directors of a non stock corporation by zones or regions would violate the law which requires that at all elections of directors, there must be present a majority of the members entitled to vote. ”

Sec.93. Place of meetings. – The by-laws may provide that the members of a non-stock corporation may hold their regular or special meetings at any place even outside the place where the principal office of the corporation is located: *Provided*, That proper notice is sent to all members indicating the date, time and place of the meeting; and *Provided*, further, That the place of meeting shall be within the Philippines.

Supporting papers required to be submitted to the Securities and Exchange Commission:

1. LETTER OF UNDERTAKING addressed to the Commission signed by at least a majority of the incorporators or by a duly authorized representative, to the effect that the association will change its corporate name in the event another person, firm or entity has acquired a prior right to use the same name or similar to it. (3 copies)
2. MODUS OPERANDI or a detailed explanation as to how the association shall carry out its objectives signed by atleast a majority of the incorporators or by a duly authorized representative. (3 Copies)
3. RESOLUTION of the Board signed by atleast a majority of the Directors or certified under oath by the Secretary in the following tenor to wit: (3 Copies)

“RESOLVED, that the corporation or associatin will comply with the S.E.C. REQUIREMENTS FOR NON-STOCK CORPORATION dated May 24, 1963 , in the course of its operation.”

4. LIST OF MEMBERS of the association containing their manual signature and attested by the Acting Secretary, if the incorporators are the present members so far, state such fact in writing and further state that the list of additional members who will be admitted in accordance with the by-laws of the association shall e submitted to the Commission from time to time. (3 Copies)

Sec. 94. Rules of distribution. – In case dissolution of a non-stock corporation in accordance with the provisions of this Code, its assets shall be applied and distributed as follows:

1. All liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefore.
2. Assets held by the corporation upon a condition requiring return, transfer or conveyance, and which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements.
3. Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more corporations, societies or organizations engaged in activities in the Philippines substantially similar to those of the dissolving corporation according to a plan of distribution adopted pursuant to this Chapter.
4. Assets other than those mentioned in the preceding paragraphs, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the by-laws, to the extent that the articles of incorporation or the by-laws, determine the distributive rights of members, or any class or classes of members, or provide for distribution.
5. In any other case, assets may be distributed to such persons, societies, organizations or corporations, whether or not organized for profit, as may be specified in a plan of distribution adopted pursuant to this Chapter.

Sec. 95. Plan of distribution of assets. – A plan providing for the distribution of assets, not inconsistent with the provisions of this Title, may be adopted by a non-stock corporation in the process of dissolution in the following manner:

The board of trustees shall, by majority vote, adopt a resolution recommending a plan of distribution and directing the submission thereof to a vote at a regular or special meeting of members having voting rights. Written notice setting forth the proposed plan of distribution or a summary thereof and the date, time and place of such meeting shall be given to each member entitled to vote, within the time and in the manner provided in this Code for the giving of notice of meetings to members. Such plan of distribution shall be adopted upon approval of at least two-thirds (2/3) of the members having voting rights present or represented by proxy at such meeting.

Distribution of assets of non-stock corporations to the members on dissolution is *not forbidden*, **unless** it holds its assets upon some trust, public or private, in which case the claims of the state, the beneficiaries, or of the founder and his successors may have to be considered.

A non-stock (non-profit) corporation may not ordinarily organize as a stock corporation, authorized to issue shares of stock, but *may issue membership certificates which do not entitle to the holder to dividends.*