



## Important legal changes as of January 01 / July 01, 2021

**Changes to various federal decrees have come or will come into force on 01 January / 01 July 2021. We have selected the most important changes and summarized them briefly for you.**

### **Paternity leave**

The federal vote of September 27, 2020 showed Swiss voters speaking out in favor of changing the law on compensation for loss of earnings and thus introducing a two-week paid paternity leave. The legal changes - particularly in the Act on Compensation for Loss of Income (EOG) and the Code of Obligations (OR) - came into force January 1, 2021.

Fathers whose children are born after December 31, 2020 are entitled to paid paternity leave. The two-week paternity leave must be taken within six months after the birth of the child. The leave can be taken flexibly in weeks or days.

In principle, the employer is not obliged to continue to pay wages. The employee is compensated through the compensation for loss of earnings. The compensation corresponds to 80% of the average income. Accordingly, the claim of the employee is assessed according to the provisions of the EOG. It is important to note that in order to finance paternity leave, the EO contribution rate will be increased from 0.45 to 0.5 percent as of January 1, 2021.

Taking paternity leave can lead to tensions between the interests of the employer and the employee. In addition, complex legal questions may arise depending on the constellation. In such case, we recommend to contact us in good time.

### **Entry into force of the federal law on the support of care-giving relatives**

The new federal law on improving the compatibility of employment and family care will be passed in two stages. The first stage, which came into force on January 1, 2021, regulates, among other things, the continued payment of wages during short absences from work.

Employees are now entitled to a maximum of three days paid leave per case and a maximum of ten days per year to care for sick or injured family members or partners.

In the second stage, which comes into force on July 1, 2021, the 14-week paid leave for the care of seriously ill or injured children will come into force. This leave will be compensated by the income compensation scheme.

### **Amendment of the Federal Law on Supplementary Benefits (ELG)**

As of January 01, 2021, the new provisions on supplementary benefits came into force. The aim of the reform was to reduce the rising expenses, especially in connection with the high health costs in old age. For this reason, heirs must now pay reimbursement for the deceased's supplementary benefits that were received in the last ten years before the death of the recipient of supplementary benefits. The reimbursement is due on the portion of the inheritance that exceeds the amount of CHF 40,000.00. The surviving spouse is exempt from this regulation.

### **New traffic rules and signalization regulations**

As of January 1, 2021, various new road traffic regulations came into force.

For example, the zipper merging principle will now apply in rolling traffic, i.e. motorists must allow vehicles to enter from the diminishing lane.

A new regulation has been created, under which motorists in traffic jams have to form an escape route between the left and right lanes for rescue vehicles.

Now it is also permitted to drive past on the right-hand side of the freeway in parallel convoy traffic. However, overtaking on the right, i.e. swerving out into the right lane and then immediately swerving in again, will still be prohibited.

In slow-moving traffic, cyclists and moped drivers are now allowed to turn right at red lights, provided this is indicated accordingly. Children up to 12 years of age may use the sidewalk with their bicycle, as long as there is no cycle path or cycle lane. Up until the change, this was only permitted for kindergarten children.

In addition, the scope of application "Parking for a fee" is extended to all vehicles, so that fee-paying parking spaces can also be introduced for motorcycles, mopeds and fast e-bikes. The maximum speed limit for light motor vehicles with trailers up to 3.5 tons was also increased. Previously it was 80 km/h and now has been increased to 100 km/h.

In zones where the speed limit is 30 km/h it is now possible to deviate from the principle of right of way and to establish priority cycle lanes.

### **Federal law and ordinance on public procurement (BöB/VöB) were revised**

The revised Federal Procurement Law came into force on January 1, 2021. The main feature of the revised law and ordinance is the paradigm shift from price competition to quality competition. An example of this is the new Art. 41 BöB, according to which the contract is no longer to be awarded to the "most economically advantageous" bid, as was previously the case, but to the "most advantageous" bid. This change means a departure from the favoring of the price criterion to a holistic evaluation of the offer.

The award criteria were also renewed in the new Art. 29 BöB, with particular emphasis on sustainability, innovative content, plausibility of the bid and reliability of the price. The future will show how the individual criteria are to be applied in specific cases.

### **Modernization of the commercial register**

Now the AHV insurance number will be used in the commercial register to identify natural persons. In addition, the new regulations provide simplifications for companies. For example, the so-called "Stampa declaration" as a separate document has been abolished. In addition, the assignment of Stampa shares of a GmbH between shareholders is partially exempted from formal requirements.

Now the cost and equivalence principle will apply to the commercial register with regard to the levying of fees. As a result, the fees will be reduced by about one-third.

From now on, authorized persons (in particular lawyers) can also submit a registration for a legal entity.

In addition, as part of the proposal to modernize the commercial register, numerous provisions were transferred from the Commercial Register Ordinance to the relevant laws. The revised Commercial Register Ordinance, which came into force on January 1, 2021, should be leaner and limited to the implementing provisions.

Further information on the revision of the commercial register can be found in the current issue of krfacts "Revision of the Commercial Register Law: New Regulations from January 1, 2021", which is available for download on our website.

### **Revised Expropriation Act**

As of January 1, 2021, new provisions in the Federal Law on Expropriation came into force. The new provisions take, among other things, the changed circumstances in the expropriation procedure into account. As expropriation under federal law is currently almost exclusively assessed in connection with planning approval procedures, the independent expropriation procedure is hardly ever applied.

The compensation for cultivated land is newly three times the maximum value of the compensation according to the farmers' land law. This price has been increased so that agricultural land is not expropriated too cheaply in the interests of economic management.

### **Modernization in civil protection and civil defense**

The totally revised Civil Protection Act and the ordinances on population protection and civil defence strengthen leadership, coordination and operational capability of civil protection in the event of a crisis. For civil protection, it entails in particular a reduction in compulsory service and a more flexible service system. The totally revised Federal Act and the associated ordinances came into force on January 1, 2021.

### **Changes to the withholding tax**

Changes in the levying of withholding taxes also came into force on January 1, 2021. The changes are of particular importance for employers, since in the future it will no longer be possible to deduct tax in the employer's canton of domicile, but rather in the employee's canton of residence.

### **Revised Law on International Arbitration**

On January 01, 2021, the revision of the 12th chapter of the Federal Act on Private International Law (IPRG) entered into force. At the same time, some provisions on domestic arbitration in the Code of Civil Procedure (CCP) were amended. The aim of the revision was to maintain the attractiveness of the Swiss arbitration venue in the long term. Party autonomy has been further strengthened in line with international developments, e.g. by allowing arbitration clauses in articles of association of legal entities and foundations as well as in unilateral legal transactions (e.g. wills) (Art. 178 para. 4 CO and Art. 358 para. 2 CCP). In addition, it will be permissible in the future to submit legal briefs in English to the Federal Supreme Court in the context of challenges to arbitral awards.

### International automatic exchange of information in tax matters

The amendments to the Federal Act (AIAG) and the Ordinance (AIAV) on the International Automatic Exchange of Information in Tax Matters are based on the recommendations of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum). The amendments include the abolition of the exemption for condominium ownership associations and an adjustment of the applicable due diligence obligations. In addition, the amounts are now reported in US dollars and a document retention requirement is introduced for reporting Swiss financial institutions. The amendments to the AIAG and the AIAV came into force on January 1, 2021.

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