



COVID-19: Easing Lockdown Measures and the legal implications

Since 11 May 2020, measures have been gradually eased in the wake of the COVID-19 pandemic and the way back to normality has been paved. In addition, politicians have taken up various issues relating to the COVID-19 pandemic and developed appropriate solutions. These circumstances have legal implications for various issues. In this krfacts special issue, individual topics are addressed and the effects of the relaxation and changes - as of 17 June 2020 - are briefly described.

A. LABOUR LAW

The Ordinance on Measures for Unemployment Insurance in Connection with Coronavirus (SR 837.033) remains in force until 31 August 2020. Easing lockdown measures will take place gradually. From 1 June 2020, certain measures originally provided for will cease to apply. In particular, the entitlement to short-time work compensation of persons in a similar position to that of employers, spouses working in the enterprise or their registered partners and apprentices will no longer apply. The pre-registration period of ten days for short-time work compensation will be reintroduced from 1 June 2020.

B. HEALTH LAW

In Switzerland, there are only a few infections confirmed by tests. The spread of the new coronavirus can therefore be controlled by tracing infection chains (contact tracing). However, the hygiene and conduct rules issued by the authorities must still be observed.

The SwissCovid app for smartphones (Android/iPhone) should help to contain the new coronavirus. It supplements the classic "contact tracing", i.e. the tracing of new infections by the cantons. It thus helps to interrupt transmission chains. The function of the app will be tested intensively by selected persons in the pilot phase over the coming weeks. After the pilot phase it will be made available to the general public. The app is voluntary and uses Bluetooth technology to anonymously measure time and distance to other smartphones. The app remembers if a contact was longer than 15 minutes and closer than 2 meters. If a person (who uses the app) is found to have the new corona virus, they can enter an unlock code into the app. This warns other app users who were in their vicinity during the infection phase. In the June session, the National Council and the Council of States stipulated that people can be tested free of charge if they receive a notification from the SwissCovid app because they have been near an infected person for too long. Parliament still has to approve the legislation on the SwissCovid App in the final vote of the June session.

Health care institutions have also developed protection concepts, partly in cooperation with the health care organizations. When visiting such an institution, it is important to clarify in advance which measures must be observed in accordance with the protection concept.

C. REAL ESTATE LAW

I. Tenancy law

1. General

The COVID-19 Ordinance on Rent and Lease (SR 221.213.4) was due to expire on 31 May 2020. An extension of the Ordinance was rejected by Parliament. This ordinance is therefore no longer in force at the present time.

2. Rent adjustments details

In the spring session, Parliament decided that farms that had to close as a result of the measures taken in the wake of the COVID-19 pandemic would receive a 60% reduction in rent due for this period. Moreover, businesses that did not close down completely but have had to restrict their business activities as a result of the measures will also benefit from a reduction in rent. Existing agreements between landlords and tenants should not be affected by this.

It is now up to the Federal Council to draft a law to this effect. The Federal Council announced that a draft law could be dealt with earliest in the winter session of this year.

II. Condominium Ownership Law

For the question of holding general meetings of condominium owners, please refer to the comments on the subject of company meetings (section E).

III. Private building law and the law on work and service contracts

Furthermore, when including the SIA standard 118, Art. 96 para. 1 SIA 118 must be observed. If the measures continue to have an effect on the scheduled execution of the contract, these contractual deadlines must be extended appropriately if the execution of the work is delayed through no fault of the Contractor. The precondition is that the Contractor has taken all possible and additional precautions to prevent the delay.

If the parties have not included the SIA standard 118 in their contractual relationship, any delay caused by the COVID-19 measures is assessed in accordance with the Swiss Code of Obligations.

For further explanations and examples, reference can be made to the krfacts special edition on [real estate](#) of 9 April 2020.

D. INSOLVENCY LAW

As far as insolvency law is concerned, the Federal Council has not yet made any changes. This means that the COVID-19 Ordinance on Insolvency Law (SR 281.242) is still valid. In principle, the ordinance will apply for six months from its entry into force, i.e. until 20 October 2020, until which time, among other things, COVID-19 deferral and the waiver by the board of directors of a notice of over-indebtedness - if the relevant conditions are met - will continue to be possible. More information on the individual instruments can be found in the krfacts special edition on [insolvency law](#) of 21 April 2020.

E. ASSEMBLY OF COMPANIES

The Federal Council banned the staging of public and private events until 5 June 2020. Since 6 June 2020, public and private events with up to 300 people are permitted again. This may require security concepts or attendance lists. Distance and hygiene regulations must still be observed.

With regard to events organised by companies, Article 6f of the COVID-2 Ordinance (SR 818.101.24) stipulates that, irrespective of the expected number of participants and without observing the invitation deadline, the organiser may order that participants may exercise their rights exclusively by written or electronic means or by a designated independent proxy. The order must be communicated in writing or published electronically at least four days before the event. The provision is expected to remain in force until 30 June 2020, i.e. the order must be issued by then and is also valid if the day of the meeting is held after 30 June 2020.

The provisions are also applicable to association and floor owner meetings.

Further details on this possibility of restricting participation rights can be found in the krfacts special issue of assembly of companies of 11 May 2020.

F. CONTRACT LAW AND CREDIT

The COVID-19 measures of the Confederation may continue to have an impact on existing contractual relationships. In this sense, it should also be noted that due to these COVID measures, contractual or legal provisions regarding "force majeure" may apply.

Applications for joint and several guarantee credits in accordance with the COVID-19 Joint and Several Guarantee Ordinance (SR 951.261) may continue to be submitted until 31 July 2020 under the necessary conditions. Accordingly, the criminal law provisions on the misuse of the loans will continue to apply.

Further information on the subject of [contract and credit law](#) and [white-collar crime law](#) can be found in the krfacts special issues of the same name of 21 and 9 April 2020.

G. PROCEDURAL LAW

The standstill periods due to COVID-19, both in debt collection and bankruptcy law and in civil and administrative proceedings, each ended on 19 April 2020, taking into account the usual legal standstill periods. No extension of the COVID-19 standstill was foreseen. Therefore, the normal

provisions will apply again, e.g. in civil proceedings the standstill of time from 15 July to 15 August (Art. 145 ZPO).

H. FURTHER QUESTIONS

Due to the changing situation and the different individual needs, we recommend that you contact us with your legal questions.

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