

The logo for 'kr facts' features the letters 'kr' in a white, stylized font inside a white circle, followed by the word 'facts' in a large, white, sans-serif font. The background is a dark red color with a blurred image of a building facade.

Important changes in the law from 1 January / 1 July 2020

Various changes to federal legislation will enter into force on 1 January / 1 July 2020. Below is a selection of the most important changes which we have summarised for you.

Code of Obligations – partial amendment of the law on limitation periods

The amended law on limitation periods will come into force on 1 January 2020. A distinction must in principle be drawn between relative and absolute limitation periods. The relative period starts to run at the time the injured party becomes aware of the loss and the identity of the person liable to pay compensation. The period is currently one year for claims under tort or unjust enrichment, which is generally considered to be too short. The new law therefore provides for a new relative limitation period of three years. This means that injured parties will have more time in order to bring their claims. Another important change is the absolute limitation period for personal injury claims of twenty years. As a result, persons who have suffered injury that takes some time to come to light (including in particular asbestos victims) should no longer see their claims dismissed on limitation grounds.

Shipping law – amendment of the Domestic Shipping Act

Since 2014, under the law on recreational sailing any person with a blood alcohol concentration in excess of 0.5 per millilitre or a breath alcohol concentration of 0.25 mg alcohol per litre of breath (mg/l) has been deemed to be incapable of piloting a recreational sailing vessel, which is analogous to the situation under road traffic law. As of 1 January 2020, the prohibition on piloting a vessel under the influence of alcohol or narcotic substances will not apply to persons involved in piloting a rubber dinghy of up to 4 metres in length, a boat of up to 2.5 metres in length, a beach boat or a paddle boat. However, the requirement that a vessel may only be piloted by a person who is in a proper state to do so will remain. If there is any doubt as to the fitness of a person to pilot a vessel, he or she will be subject to an investigation into his or her fitness to pilot a vessel. This examination may now also involve a blood alcohol test. A person will be deemed to be unfit to pilot a vessel if he or she has a blood alcohol concentration of 1.6 per millilitre or a breath alcohol concentration of 0.8 mg/l.

Administrative law – amendment of the Ordinance on the Register of Public Law Restrictions on Land Ownership

As of 1 January 2020 the Register of Public Law Restrictions on Land Ownership (RPLRO) will be available in all cantons. Owners of real estate and any person with an interest will have easy access to the Register of Public Law Restrictions on Land Ownership in Switzerland. Relevant information concerning real estate will be collected online on the cantonal RPLRO portals and made readily accessible. This will include e.g. project zones for the federal road network, ground water protection zones and polluted sites.

The law on therapeutic products – integrity, transparency and the duty to pass on discounts and amendments to the law on medicinal products

On 1 January 2020 new rules on integrity and transparency within the Federal Act on Medicinal Products and Medical Devices (TPA) and the Ordinance on Integrity and Transparency in the context of Therapeutic Products (OITTP) will enter into force. The new provisions in Articles 55 and 56 of the amended TPA along with the implementing provisions in the OITTP will replace the previous rules concerning the offer and acceptance of non-cash benefits within Article 33 TPA. In addition, Switzerland is reviewing its law on medicinal products in line with various new EU legislation. The previously applicable Medical Devices Ordinance (MedDO) is being completely overhauled. In addition, new implementing provisions will be adopted in relation to *in vitro* diagnostics. It is therefore anticipated that Article 55 of the amended TPA will be amended once again in the first half of 2020. After the two amendments have come into force, the provision of non-cash benefits will be prohibited in relation to prescription drugs and medicinal devices where this could be liable to influence the choice of treatment. In addition, price discounts and rebates in relation to the purchase of therapeutic products will have to be declared transparently to the authorities. Any beneficial arrangements will have to be declared to the Federal Office of Public Health (FOPH) if so requested. The FOPH will be required to monitor compliance with the new rules and to impose sanctions where appropriate. However, certain therapeutic products with a low risk potential for patients will be exempted from this requirement of transparency.

New rules on the duty to pass on discounts within the Federal Act on Health Insurance (HInsA) and the Ordinance on Health Insurance (HInsO) will also enter into force on 1 January 2020. The new rule contained in Article 56(3^{bis}) HInsA governs the possibility for insurers and service providers to agree on the partial passing on of discounts. The HInsO also contains – along with implementing provisions – new rules on invoicing. Service providers (physicians, hospitals and pharmacists) may now allocate part of the discounts (e.g. discounts on the purchase of drugs) to improving the quality of treatment.

Tax law – amendment of the Real Estate Costs Ordinance

The Real Estate Costs Ordinance makes provision concerning the new deductions from direct federal tax for home owners as of 1 January 2020. It will be possible to deduct, amongst other things, energy-saving investments and demolition or dismantling costs in relation to the construction of a replacement new-build property. Expenses may be distributed over three consecutive tax periods if they cannot be deducted in full for tax purposes during the year in which they were incurred. The tax deduction for demolition or dismantling work covers the costs of dismantling equipment, demolishing the existing building and removing and disposing of construction waste. On the other hand, the costs of soil decontamination and earth movement work, woodland clearance, planning work and excavation work in relation to a replacement new-build property are not deductible. Demolition or dismantling costs can only be claimed against tax if a replacement new-build property is erected on the same land within a reasonable period of time, and provided that the new building is used for a similar purpose by the same taxpayer who commissioned the demolition or dismantling work.

Tax Law – enactment of the Federal Act on Tax Reform and OASI Funding

The changes in the law on tax reform and the OASI financing (TROF) will come into force on 1 January 2020. The reform of corporate tax will abolish the beneficial tax arrangements for certain types of companies (holding companies, domiciliary companies and mixed companies) at cantonal and municipal level. However, a number of countermeasures have been put in place in order to ensure that Switzerland continues to be an attractive place to do business. The draft legislation concerning OASI will also make an important contribution to securing pensions. OASI contributions will be increased by 0.3%, with the contribution rate increasing by 0.15% each for both employers and employees.

Tax law – amendment of the Fixed Penalties Act

Until now, fixed penalties have only been issued in relation to breaches of the Road Traffic Act and certain types of misdemeanours under the Narcotics Act. From the start of 2020, it will also be possible to impose fixed penalties for minor breaches of other legislation. The Fixed Penalties Ordinance and the schedules of fines will now specify which offences may be punished under the fixed penalty procedure in the future, along with the associated fines. Fines may not exceed a maximum amount of CHF 300.00. The new Fixed Penalties Act, the Fixed Penalties Ordinance and the corresponding schedules of fines will come into force on 1 January 2020.

Criminal law / civil law – enactment of the Federal Act on the Improvement of Protection for the Victims of Violence

The victims of domestic violence and stalking will receive greater protection in the future. First of all, any victim who launches an action before the civil courts in relation to violence, threatening behaviour or stalking will no longer be required to pay any court costs. In addition, future court rulings concerning protective measures will be notified to the cantonal crisis intervention unit, the Child and Adult Protection Authority (KESB) as well as to other authorities and third parties. Furthermore, in the future prosecutors will only be able to suspend prosecutions involving common assault, repeated acts of aggression, threatening behaviour or coercion between persons in a relationship if this course of action appears to be appropriate with a view to stabilising or improving the circumstances of the victim. The decision concerning the continuation of the prosecution will no longer be exclusively dependent upon the victim's wishes as this person may, under certain circumstances, be placed under pressure by the accused. However, if there is any suspicion of recurring violence between persons in a relationship, it will no longer be possible to suspend the proceedings. Prosecutors will now be able to order the accused person to attend a violence prevention training course for the duration of the suspension. Finally, the authorities must decide whether to discontinue or resume the proceedings before the end of the suspension period, which is limited to six months. The Federal Council has made provision for the corresponding changes to civil and criminal law to take effect from 1 July 2020.

In order to enable better monitoring of restraining orders or prohibitions on establishing contact under Article 28b of the Civil Code courts may in future require a potentially violent person to wear an electronic armband or ankle tag. The data recorded may subsequently be assessed in the event of any allegation by the victim that the person being monitored has failed to comply with the ban. The provisions on the electronic monitoring of civil law restraining orders or prohibitions on establishing contact will only come into force on 1 January 2022.

Property law – amendment of the Land Register Ordinance

New provisions will apply in relation to electronic access to Land Register data from 1 July 2020. The Federal Council has made detailed changes to the Land Register Ordinance regarding the arrangements applicable to electronic access. Cantons may now allow in particular interested authorities and property owners to access documentation electronically.

Basic rights – amendment of the Gender Equality Act

The Federal Council has set 1 July 2020 as the date of entry into force of the amendments to the Gender Equality Act along with the related Ordinance on the Improved Enforcement of Equal Pay. Companies with 100 or more employees will be required to carry out the first internal company pay equality analyses by the end of June 2021 at the latest. Analyses will have to be examined by an independent body (auditor) and employees must be informed of the result. The Ordinance makes provision amongst other things concerning auditor training criteria. The amendment of the Gender Equality Act and the related Ordinance will therefore automatically cease to apply on 1 July 2032. Whilst they remain in force, pay equality analyses will have to be repeated every four years unless the first analysis establishes that no unexplainable systematic salary difference between men and women can be identified. If this is the case, it will not be necessary to carry out any further analyses.

Company law – amendment of the Federal Act on the Implementation of Recommendations of the Global Forum on Transparency and Exchange of Information for Tax Purposes

The Federal Act on the Implementation of Recommendations of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) entered into force on 1 November 2019. According to the Act, bearer shares will only be permitted in the future in a few exceptional cases. Changes have also been made to the shareholders' existing duty to report. We reported on these changes in our October 2019 krfacts issue.

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