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CORONAVIRUS SUPPORT MEASURES IN SWITZERLAND



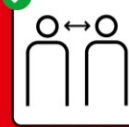
Se laver soigneusement
les mains.




Éviter les poignées
de main.




Tousser et éternuer dans
un mouchoir ou dans le
creux du coude.



Garder ses distances.





En cas de fièvre et de
toux, rester à la maison.




Toujours téléphoner avant
d'aller chez le médecin ou
aux urgences.

www.ofsp-coronavirus.ch

 Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

 Bundesamt für Gesundheit BAG
Office fédéral de la santé publique OFSP
Ufficio federale della sanità pubblica UFSP
Ufficio federal de sanadad publica UFSP



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CORONAVIRUS SUPPORT MEASURES

Preamble: Competencies between Confederations and Cantons

1. Unemployment insurance: short-time working compensation (STWC)
2. Loss of earnings compensation
3. Measures taken concerning the health care system
4. System-related measures (personal scope and financing)
5. Implications of coronavirus in the employment contract
6. Loans of the Swiss Confederation

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PREAMBLE: COMPETENCIES BETWEEN CONFEDERATION AND CANTONS

In a normal situation	In case of epidemics
<ul style="list-style-type: none"> • Area of social policy (labour, health, social protection): concurrent competence of the federal state and the cantons (Section 8 of the Federal Constitution of the Swiss Confederation); • Social insurances: the federal state is alone competent for legislation. • Healthcare: federal state competent for funding (through sociale insurances); cantons competents for providing and organisation. 	<ul style="list-style-type: none"> • The Federal Council may order the necessary measures for all or part of the country (art. 185 al. 3 Constitution; Art. 7 Epidemics Act) • Competence of the Federal Council to legislate and to take measures throughout the country • The cantons are responsible for their implementation and the enforcement of federal law • The cantons have to pay for most of the measures taken.

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1. UNEMPLOYMENT INSURANCE: SHORT-TIME WORKING COMPENSATION (STWC)

□ **Ordinary regime**

- Short-time working refers to a temporary reduction or complete suspension of work at a company, whereby the contractual employment relationship remains in place. This is usually for financial reasons. For example, loss of work as a result of measures taken by the authorities or for other reasons beyond the control of the employer.
- Each employee has the right to not accept the short-term working compensation. The employer must continue to pay these employees their full salaries.
- Purpose : Unemployment insurance (UI) covers employers affected by short-time working for a proportion of their salary costs for a certain period. STWC therefore offers an alternative to the risk of redundancies.
- The short-time working compensation is paid to the employer after the waiting period. It amounts to 80% of the loss of earnings attributable to the reduction in working hours.

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1. UNEMPLOYMENT INSURANCE: SHORT-TIME WORKING COMPENSATION (STWC)

Adjustments by the Federal Council

Measures concerning the beneficiaries

Measures concerning procedures

Persons in temporary employment or apprenticeships (Art. 4 O COVID-19 unemployment insurance)

Entrepreneurs and their spouses (Art. 2 and 5 O COVID-19 unemployment insurance)

Workers on call (Art. 8f O COVID-19 unemployment insurance)

Persons at risk

No waiting period (Art. 3 O COVID-19 unemployment insurance)

No notice period (Art. 8b O COVID-19 unemployment insurance)

Less detailed justification (Art. 7 O COVID-19 unemployment insurance)

The measures will end on 31 August 2020, but the Federal Council has already removed some measures on 30 May 2020 !

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2. LOSS OF EARNINGS COMPENSATION

Ordinary regime

- For people unable to work because of illness:
 - No compulsory social security cover; depends on the employment relationship (possibility of optional insurance cover)
- For other situations:
 - Nothing planned before the health crisis


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2. LOSS OF EARNINGS COMPENSATION

❑ **Adjustments by the Federal Council**

- **Vector:** Loss of earnings compensation in case of military service or maternity leave: Loss of Earnings Compensation Act (LECA; CC 834.1)
- **Legal basis :** Ordinance of 20 March 2020 on measures to compensate for Loss of Earnings during the Coronavirus Pandemic (COVID-19) (OLECA; CC 830.31)
- Personnes concernées:
 - **Quarantine** Compensation (art. 2 OLECA COVID-19)
 - Compensation **for parents** (art. 2 OLECA COVID-19)
 - Compensation for **self-employed Workers** (art. 2 al. 3 – 3bis OLECA COVID-19)
 - Compensation for **managers who are employees of their own company and who are in the event industry** (art. 2 al. 3ter OLECA COVID-19)



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2. LOSS OF EARNINGS COMPENSATION

❑ **Adjustments by the Federal Council**

- Form: **daily allowance insurance paid at the request of the person entitled, monthly** by the **Compensation Office** (art. 4 et 8 OLECA COVID-19)
- Amount: 80% of the **old-age and survivors' insurance (OASI)** income submitted in 2019 (art. 5 OLECA COVID-19)
- Not paid when teleworking
- End: Entitlement to allocations expires no later than September 16 2020 (art. 6 OLECA COVID-19)
- Coordination: Subsidiary payment of social insurance benefits, private insurance benefits and wages that continue to be paid by employers, to the STWC (art. 2 al. 4 OLECA COVID-19)




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3. MEASURES TAKEN CONCERNING THE HEALTH CARE SYSTEM

Health insurance

- Covers the provided care if in the list of benefits
- Patient has to pay a (high) share of the costs (deductible, retention fee + hospital contribution)
- No cover for loss of salary

Problems:

- Screening tests?
- Hospital?
- Masks?
- Etc...

Accident insurance

- Covers occupational disease
- Full care coverage
- Covers 80 % of the salary in case of incapacity

Problem:

- For which workers?


Military Insurance

- If illness caught while on duty
- Full care coverage

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4. SYSTEM-RELATED MEASURES : FINANCING OF SOCIAL INSURANCE SCHEMES


- **First pillar pensions schemes (old-age and survivors, disability, income compensation allowance in the event of service or maternity, unemployment)**
 - Under normal conditions, contributions are due by employers and workers. Employers collect and pay both types of contributions are paid at set terms to the competent compensation office; self-employed workers pay their own contributions (art. 34 RAVS). In case of financial setbacks, deferments of payments can be required (art. 34b RAVS). In case of default of payment at due date, default interests start running. Warnings are issued and forced execution proceedings can be enforced (art. 34a RAVS).
 - Deferment of payments can be granted **on request**.
 - Individual decision taken by competent decentralised authorities for perception of said contributions (cantonal/federal or union compensation offices).
 - Petitioner shall commit to planned steady payments set by said compensation office and put down a first payment on the spot.
 - Non-payment on agreed date causes waiver revocation and forced execution of all due contributions, with default interests.
 - **COVID-19 Measures:** emergency provisions, with **retroactive effect**. Ground rule: contributions remain due (Directive COVID-19, §1) and general interruption of default interests on unpaid contributions from 21st March to 30th June 2020 (art. 41^{bis} al. 1^{er} RAVS; Ordonnance COVID-19 du 20.03.20 [RO 2020 875]). Adaptation of the amount of advance payments on request.

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4. SYSTEM-RELATED MEASURES : FINANCING OF SOCIAL INSURANCE SCHEMES




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- Petitioner shall credibly demonstrate their loss of income (self-employed) or diminution of total wage bill in direct connection with COVID-19.
- Special suspension of default interests until 20th September 2020 (art. 41^{bis} al. 1^{bis} RAVS).
- General suspension of warning proceedings on unpaid contributions from 21st March to 30th June 2020 (Directive COVID-19, §4)
- Suppression of forced execution proceedings from March 19th to April 19th 2020 (Directive COVID-19, §5 and Ordinance on art. 62 LP [RS 281.241]).

- **Occupational benefit pensions schemes :**
 - Normal circumstances (art. 66 LPP)
 - Contributions are due by both the employer and the employee.
 - Employer collects and pays both type of contributions to the provident institution they depend on.
 - COVID-19 Measures
 - Employers are allowed to fund workers' contributions through reserve funds, should they face financial constraint (Ordonnance COVID-19 prévoyance professionnelle [RS 831.471], in derogation of art. 65e LPP).
 - 6-months enforcement, from March 26th 2020.
 - Potential long-term measures: Passing of new legislation related to the financing of the Foundation of the BVG Contingency Fund (see Message du CF du 01.07.20) ?
 - Creation of a special account at Swiss National Bank absolved from negative interest rates.
 - Still to be discussed at Parliament.


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4. SYSTEM-RELATED MEASURES : PERSONAL SCOPE, INTERNATIONAL CONTEXT



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- Under normal conditions, applicable legislation is that of the State of activity. Actual presence on territory matters when country of residence differs from country of activity.
- **COVID-19 Measures:** Fiction of actual presence on Swiss territory during travel bans and consequential teleworking (basis: art. 1a al. 1 let. b LAVS; Directive COVID-19, Part 2).
 - UE/EFTA countries: fiction upheld until 22nd June. Lack of European agreement so far, decisions on bilateral basis. For FSIO, fiction remains until decided otherwise.
 - France-Switzerland: until 31st December
 - Austria-Switzerland: until 31st December
 - Germany-Switzerland: until 31st December
 - Italy-Switzerland: until 31st October
 - Bilateral conventions: depends on situation in other Member State.
 - Other countries: fiction remains for all insurance schemes, but Sickness-Insurance.

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5. IMPLICATIONS OF CORONAVIRUS IN THE EMPLOYMENT CONTRACT

Ordinance on Measures to Combat the Coronavirus (COVID-19)

- Closure of public establishments, except those used to cover the daily needs of the population, but ALL employers are obliged to respect the recommendations of the FOPH concerning hygiene and social distancing. → Art. 6 al. 2 O-2 COVID 19.
- Increased protection of vulnerable persons. → Art. 10c O-2 COVID 19.
- Gradual of establishments from 27 April 2020: 3 phases of relaxation. Return to near-normality from 6 June 2020.

Salary entitlement

- The employer is released from paying the salary if the employee is prevented from performing his or her work due to the measures related to COVID-19. This is considered an extraordinary situation that exceeds the business risk borne by the employer. The employer is therefore relieved of the payment of wages during this period.

Protection from termination in case of coronavirus


- Self-confinement does not constitute a case of non-faulty impediment to work for a cause inherent in the person of the worker. Therefore, he does not benefit from any period of protection against leave. However, the leave given to an employee suffering from coronavirus must be considered to have occurred at an inopportune time and therefore has no effect (Art. 336c para. 2 CO).

Parental leave during the epidemic

- According to the law, if the employee is prevented from working through no fault of his own for the fulfilment of a legal obligation (in particular the obligation to provide maintenance for the father and mother in accordance with Art. 276 CC) the employer must pay him the salary in accordance with Art. 324a CO, but for a limited period of time.
- Parents have to avoid prolonged absences by organising themselves differently as soon as possible.

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6. LOANS OF THE SWISS CONFEDERATION

- One of the major measure established by the Swiss Government
- Concern small and medium company
- Provide liquidity to company in need
- Maximum 10% of the turnover, higher limit at 20 million Swiss francs
- Swiss Confederation as guarantor
- Two types of loans : < 500'000 with 0% interest rate, guaranteed at 100% by the Swiss Confederation and > 500'000 with 0,5% interest rate, guaranteed at 85% by the Swiss Confederation and 15% by the bank
- Not taken into account to calculate an over-indebtedness until March 2022
- New and temporary measure, which will end the 26th of September 2020 if not extended

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THANK YOU FOR YOUR ATTENTION!



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