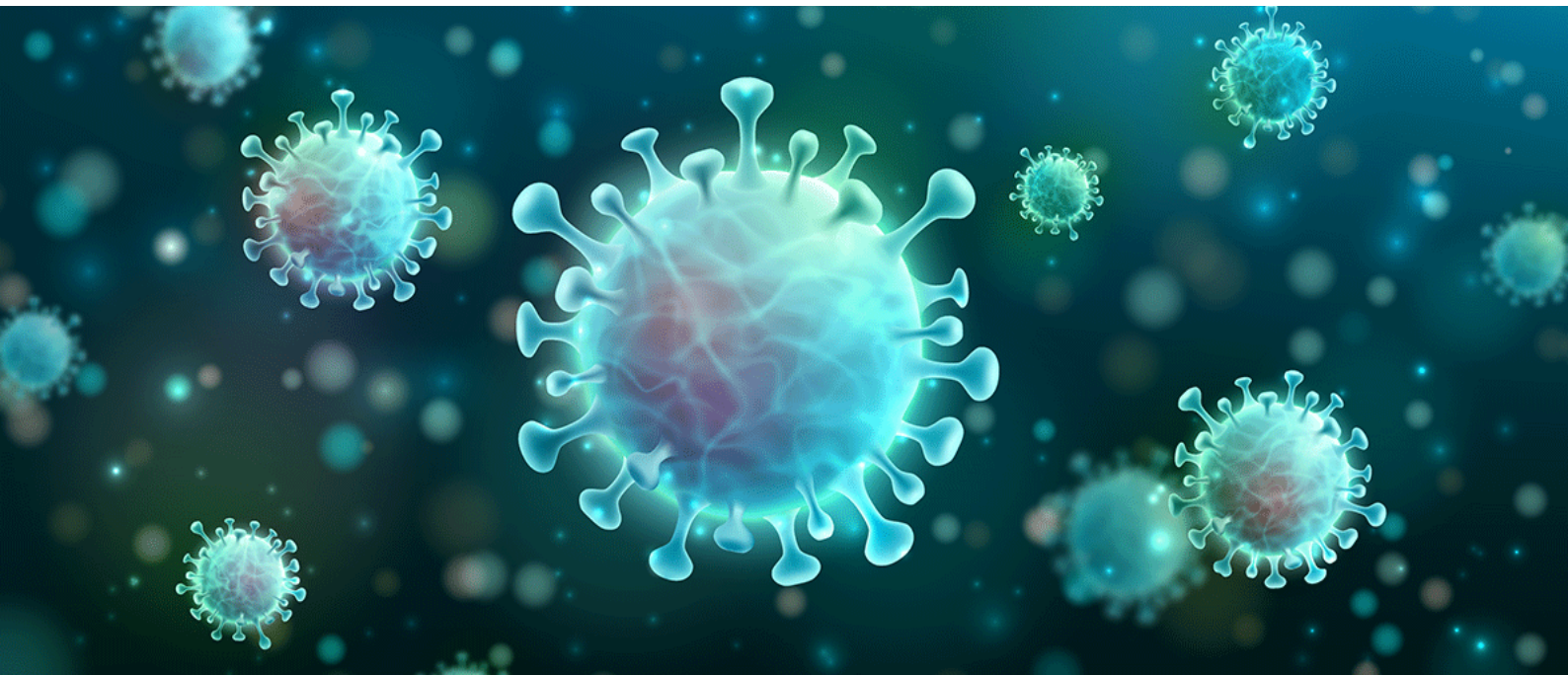


# Coronavirus - Information for companies and employers



Due to the ongoing spread of the coronavirus, all schools in Switzerland have been closed. Furthermore, the Swiss Federal Council announced further drastic measures on 16 March 2020, such as the closure of all restaurants, bars, shops and leisure facilities (fitness centers, swimming pools etc.). In order to support the economy in these difficult times, the Swiss authorities is making up to CHF 10 billion available, inter alia, for short-time working compensation.

An overview of the most important questions concerning official measures and compensation for short-time work can be found in this document.

**1. Does an employer have to continue paying salaries to his employees if they have to stay at home to look after their children due to school closures?**

Basically, in this case it has to be distinguished whether the child of the employee is sick or not:

a) In the event of sickness of the child  
According to doctrine and practice, the care of sick relatives, in particular the care of the sick child by the

parents, falls under Art. 324a para. 1 of the Swiss Code of Obligations (CO) ["Employee prevented from working by personal circumstances for which he is not at fault"]. That means, if the employee's child is sick and the employee must stay at home, the salary must be paid for a limited period of time.

For general staff, Art. 36 para. 3 of the Labour Act stipulates that on presentation of a medical certificate the employer must release them from work for

up to 3 days to care for the sick child. In more serious cases and if the care of the sick child cannot be delegated, a longer entitlement to remain absent from work may exist.

b) Without sickness of the child  
In case the child is not sick, but schools, kindergartens and daycare centers are closed by the authorities and the employee has to look after the child, it is controversial whether this case falls under Art. 324a CO.

Some experts as well as the State Secretariat for Economic Affairs (SECO) are of the opinion that even in such a case the salary should continue to be paid for a limited period of time. Parents are, however, obliged to minimize absences by means of appropriate organization, for example by taking turns in childcare.

On the other hand, the Zurich Labour Court ruled in 2010 in connection with swine flu and the associated closure of a daycare center that an epidemic-like situation existed and that the mother's absences from work could, therefore, not be regarded as a "personal circumstance" if she had to look after the healthy child. Hence, the Zurich Labour Court completely denied the obligation of the employer to continue to pay salaries in this case.

## 2. Are employees entitled to salary if the company is closed down on official measures?

In principle, the employer bears the operational and economic risk. If the company is closed down due to an official measure, employees are entitled to continued payment of salaries. However, due to the duty of loyalty, employees may, exceptionally, be obliged to make up for lost working hours without additional compensation. If possible and reasonable, the employer may oblige employees to work from home. Under certain circumstances, the employer may also claim compensation for short-time work in such a case.

## 3. Can all companies apply for short-time work compensation, just with reference to the coronavirus?

A general reference to the coronavirus is not sufficient to justify a claim for short-time work compensation. Employers must provide a plausible explanation why the loss of work or revenue to be expected in their company is caused by the occurrence of coronavirus. Therefore, the loss of work must be adequately related to the occurrence of coronavirus. This is, for example, the case when a company is closed down by the authorities.

## 4. What are the requirements to be able to claim compensation for short-time work?

Short-time work compensation covers loss of working hours due to official measures or other circumstances for which the employer is not responsible. Closure of companies by the authorities or loss of work or earnings due to the coronavirus are generally covered in this respect. Furthermore, it is required that the companies affected cannot avoid these losses by taking appropriate, economically viable measures or cannot hold a third party liable for the damage.

## 5. What are the facilitations decided by the Swiss Federal Council with respect to the application for short-time working compensation in connection with the coronavirus?

Until 30 September 2020, the waiting period for the payment of short-time working compensation is reduced to one day (from 3 days). This means that companies will only have to bear the loss of one day's work before they receive short-time working compensation.

## 6. Where can companies apply for short-time work compensation?

Companies must submit the application form for advance notification of short-time work ("Formular zur Voranmeldung von Kurzarbeit") to the competent cantonal authority. The authority of the canton in which the company or business unit is located is responsible for processing the application.

We will be happy to support you with the filing of the application for short-time work compensation and to assist you in the current crisis.

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## Contacts



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