

# COVID-19: New ordinance on the nationwide suspension of debt enforcement

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## The new ordinance in a nutshell:

- **Based on Art. 62 of the Federal Act on Debt Enforcement and Bankruptcy (DEBA), debts cannot be enforced throughout Switzerland from 19 March to 4 April 2020.**
- **Due to the subsequent statutory debt enforcement holiday, the same effects continue until 19 April 2020.**
- **If the end of a limitation period falls within the period of the debt enforcement holiday or suspension of debt enforcement proceedings, the limitation period shall be extended until the third day following its expiry.**
- **The legal effect of requests for debt collection and continuation of enforcement proceedings only unfolds after the suspension and debt enforcement holiday.**
- **The suspension is for a temporary period only and the Swiss Federal Council will soon decide on measures to better protect the interests at stake.**

On 16 March 2020, in view of the accelerated spread of the coronavirus, Switzerland declared an "extraordinary situation" under the Epidemics Act, causing a near shut down and allowing the government to adopt severe measures to protect the public.

By way of an establishment of a new ordinance on the suspension of debt enforcement under Article 62 DEBA, the Swiss Federal Council has ordered that debts cannot be enforced throughout Switzerland from 19 March 2020 to 4 April 2020. Immediately afterwards, the statutory debt enforcement holiday begins. This has the same effects and lasts until 19 April 2020. The new ordinance entered into force on 19 March 2020 at 07.00 CET.

During the suspension period, no debt enforcement actions (e.g. service to the debtor of orders to pay and threats of bankruptcy, execution of seizures, awards setting aside the objection against the continuation of debt enforcement proceedings ["Rechtsöffnungsurteile"]) may be undertaken, except in the case of attachment proceedings, enforcement of a bill of exchange, or if measures cannot be postponed.

### **Practical consequences**

Holidays for debt enforcement and suspension of debt enforcement proceedings do not hinder the running of the limitation period. However, if, for a debtor, creditor or a third party, the end of a limitation period falls within the period of the debt enforcement holiday or suspension of proceedings, the limitation period shall be extended until the third day following its expiry. In calculating the three-day period, Saturdays, Sundays and officially recognised public holidays are not counted.

Requests for debt collection and continuation of debt enforcement proceedings can still be submitted to the debt collection office during the suspension. However, the legal effect only unfolds after the suspension and debt enforcement holiday.

### **Measures in favour of the Swiss economy**

With the suspension of debt enforcement proceedings and limitation periods, the Federal Council is responding to the fact that the extraordinary measures, in particular the closure of restaurants and shops, will put numerous companies in financial difficulties. The suspension order brings some relief in this respect. However, this instrument is not suitable for dealing with these difficulties in the long term. The Federal Council has therefore limited the suspension to a temporary period and will soon decide which measures can better protect the interests at stake. In addition, on 13 March 2020, the Federal Council decided to cushion economic difficulties with up to CHF 10 billion in emergency aid. The result of the examination of further measures to ease the burden on companies will be announced by the Federal Council on 20 March 2020.

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No legal or tax advice

This legal update provides a high-level overview and does not claim to be comprehensive. It does not represent legal or tax advice. If you have any questions relating to this legal update or would like to have advice concerning your particular circumstances, please get in touch with your contact at Pestalozzi Attorneys at Law Ltd. or one of the contact persons mentioned in this Legal Update.

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