

SWITZERLAND
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1. Are there any laws that govern a layoff of employees? If so, what do the laws require?

Mass layoffs are governed by Art. 335d et seq. of the Swiss Code of Obligations. A mass layoff is a significant reduction in force which has nothing to do with the individuals involved but is based on operational requirements of an enterprise. It concerns: more than 10 employees in enterprises usually employing more than 20 and less than 100 persons; at least 10% of all employees in enterprises usually employing more than 100 and less than 300 persons; or at least 30 employees in enterprises usually employing at least 300 persons.

The formal requirements are as follows: consultation of an employee's representatives or, if there are none, the employees; written disclosure of the reasons for dismissal, number of employees to be dismissed, and the time period; granting the right to all employees to make suggestions on how to avoid the mass layoff or limit the number of employees to be dismissed; and notification to the Labor Office.

2. Are there any formal requirements for terminating an employee or groups of employees?

The employment relationships of the group of employees affected end 30 days after notification to the Labor Office.

3. Are there special legal requirements for a layoff caused by redundancy in the workforce?

No.

4. Are there employment laws that laid-off employees can use to challenge their inclusion in the layoff?

Any laid-off employee can challenge the mass layoff stating that the formal requirements have not been fulfilled (including the individual right to make suggestions how to limit the number of employees and the right to be heard).

5. What sanctions or penalties may be imposed against employers for violating any of the requirements mentioned in Nos. 1-4 above?

The terminations of the employment relationships might be declared null and void with the consequence that the employer must make continuous salary payments and additional penalties of salary payments.

6. What are the one or two most common mistakes that employers make that lead to liability for a layoff?

The most common mistakes are not abiding by the formal requirements by insufficiently consulting with employees and failing to notify the Labor Office in a timely manner.

- 7. What other employment issues are likely to arise from a layoff in your jurisdiction that you have not addressed in your answers to the previous questions?**

Short-time work is a valid alternative in Switzerland to avoid a mass layoff if an underemployment in an enterprise is expected to be of a limited period only. The employer has to request governmental subsidization and has to consult the employees. Acceptance of any employee affected by short-time work is required.