

Collective Dismissals Step Plan (Switzerland): Chart

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A Chart setting out the steps required for a lawful collective dismissals (or mass dismissal or collective redundancy) process in Switzerland, and the approximate timeframe when each step is required.

Introduction

A collective dismissal (or mass dismissal or collective redundancy) scenario occurs in Switzerland when the employer gives notices of termination of employment for reasons that do not pertain personally to the employees (that is, a reason not related to the conduct or performance of the employees), within a period of 30 calendar days, and which affects at least:

- Ten employees in a business usually employing 21 to 99 employees.
- Ten percent of the workforce in a business usually employing 100 to 299 employees.
- Thirty employees in a business usually employing 300 or more employees.

(Article 335d, *Code of Obligations (CO)*.)

An employer contemplating a collective redundancy triggers certain information and consultation obligations (Article 335f et. seq., CO).

As soon as such an intention exists the employer must inform the employee representative body or, if there is no such body, all employees in writing.

The employer must send a copy of the respective information letter to the competent cantonal labour office. With this letter, the consultation procedure starts. Swiss law does not provide for a minimum period of the consultation phase. Its length depends on the individual circumstances and is usually around 10 to 14 calendar days.

The employer can issue individual termination notices (see *Practice Note, Notice of Termination (Switzerland)*) only after both:

- The end of the consultation phase.
- The delivery of the outcome letter to the competent labour office (see below).

The employment relationships will only end after the applicable notice periods expire, and in any event no earlier than 30 calendar days after the delivery of the outcome letter to the competent labour office (Article 335g paragraph 4, CO).

The date of termination of employment is usually the end of the month, if not agreed otherwise. For example, if the applicable notice period is three months to the end of a month and the notice is served on 15 August, the notice period runs from 1 September to 30 November. See *Practice Note, Individual Employee Termination (Switzerland)*.

If, however, at least 30 employees are made redundant within 30 calendar days in a business usually employing at least 250 employees, there is also an obligation to negotiate a social plan (which normally deals with matters such as severance compensation, support in finding alternative work, and so on) (Article 335i, CO). In such cases, the employer must negotiate with one of the following, as applicable:

- The employee organisations that are party to a potential applicable collective bargaining agreement (CBA).
- The employee representative body.
- Directly with the employees if there is no employee representative body.

If the parties cannot agree on a social plan, the matter goes to an arbitration court. The court's determination on the content of the social plan is legally binding (Article 335j, CO).

If the employer violates its statutory consultation obligations, the termination notices issued for collective redundancy can be challenged by affected employees as being abusive terminations (see [Practice Note, Individual Employee Termination \(Switzerland\): Protection Against Abusive Termination](#)). In such case, the employer may be ordered by a judge to pay affected employees a penalty of up to two months' salaries.

Collective Dismissals Step Plan

The following step plan sets out the steps and actions required to undertake a lawful collective redundancy (or collective dismissal or mass dismissal) process in Switzerland.

The steps or actions stated are required by local law, unless stated otherwise. If a step or action is only considered best practice, this is expressly stated.

An employer should check whether any additional steps or actions are required by any applicable CBA (for example, holding an information meeting).

The time-line refers to the days before the issuing of the notice of termination, rather than the days prior to the date of termination of employment.

Time-line	Step	Actions
Calendar days before issuing the notice of termination of employment on the grounds of redundancy. Note, payment in lieu of notice is not a recognised concept under Swiss law.		
40 to 30 days	Establish ground(s) for redundancy proposal.	Management and decision makers should justify the potential collective redundancy situation and, as best practice, evidence or substantiate business reasoning at this stage of the collective redundancy procedure.

40 to 30 days	Plan before commencing the formal collective redundancy process.	<p>As best practice:</p> <ul style="list-style-type: none"> Managers involved in the redundancy process should familiarise themselves with the employer's legal obligations. Ensure the relevant line managers are available to hold the meetings and provide necessary support to employees at risk of redundancy. However, at this stage only a few people should be involved and, where appropriate, enter into a non-disclosure agreement (NDA).
40 to 30 days	Consider pool of potentially affected employees, selection criteria, and any alternative vacancies (if required or intended by the employer).	<p>There are no statutory redundancy selection criteria and no specific requirements regarding the objectivity of any selection criteria, save that the selection criteria are objective and not discriminatory. If applicable, a CBA may set out specific criteria and mandatory steps.</p> <p>In the event that selection is necessary in the circumstances, or is mandated due to an applicable CBA, the following practical steps are recommended:</p> <ul style="list-style-type: none"> Consider the appropriate or required pool of employees that are at risk of redundancy. Establish objective selection criteria (that is, in the event redundancies are to occur, the criteria for determining the employees to be made redundant). In addition, many employers consider alternative employment vacancies.
Around 40 to 30 days	Prepare for optional information meeting.	Holding an information meeting before sharing the information letter is not mandatory, but is best practice.

		<p>If the employer is to hold such an information meeting, the employer must invite either:</p> <ul style="list-style-type: none"> • The employee representative body. • If there is no such body, <u>all</u> employees (not only potentially affected employees). <p>The information meeting can be held remotely.</p>
Around 40 to 30 days	Prepare mandatory information letter.	<p>The information letter must be provided to the employee representative body or, where there is no such body, all employees (Article 335f paragraph 3, CO).</p> <p>The information letter must include the statutory minimum required content, namely:</p> <ul style="list-style-type: none"> • The reason, or reasons, for contemplated collective redundancy. • Number of total headcount of the employer (business). • Number of potentially affected employees. • Time frame within which termination notices will be issued. <p>(Article 335f paragraph 3, CO.)</p> <p>The information letter must be signed wet-ink or through qualified electronic signatures by persons authorised to sign for the company (ideally according to the Swiss commercial register). If applicable, the information letter is normally dated the same day as the information meeting or shortly after.</p> <p>A copy of the information letter must also be sent to the competent labour office (Article 335f paragraph 4, CO).</p>

Around 30 to 25 days	If applicable, send invitations to the optional information meeting.	<p>There is no special form requirement for an invitation to the information meeting. The employer however must ensure all members of the employee representative body or, if there is no such body, all employees receive it.</p> <p>It is important that all communication, prior to the conclusion of the consultation period (see below), implies a final decision on the contemplated collective redundancy has not yet been taken and is subject to the outcome of the consultation procedure, and the employees' rights are fully preserved.</p>
Around 25 to 20 days	Hosting the optional information meeting.	<p>An information meeting is normally held by the management, legal department, or human resources. The information provided in the meeting should not go beyond the information provided in the information letter (which is handed over at or sent out just before or after the information meeting, see below).</p>
Around 25 to 20 days	<p>Distribute the information letter to the employee representative body or, if there is no such body, all employees.</p> <p>Send a copy of the information letter to the competent cantonal labour office.</p>	<p>Distribution of the information letter is mandatory (Article 335f paragraph 3 and 4, CO).</p> <p><u>Employee Representatives or Employees</u></p> <p>The information letter must be provided to either:</p> <ul style="list-style-type: none"> • The employee representative body. • If there is no employee representative body, the information letter must be distributed to <u>all</u> employees (not only the affected employees). <p>The information letter is in both cases distributed either:</p> <ul style="list-style-type: none"> • By hand against confirmation of receipt (for example, at the optional information meeting). • Sent by registered mail (in the event, there is no optional

		<p>information meeting, or some employees do not attend the information meeting, or the employer prefers to not hand out the information letter).</p> <p>The registered letter is deemed to have been delivered on the day of delivery or on the day after an attempted, but unsuccessful delivery.</p> <p>As an exception to the above, if the employer knows the employee is away or absent (for example, on vacation, in hospital, or similar), it is likely deemed date of delivery would be the actual date of delivery or at least the date after the employee's absence.</p> <p>For employees based (permanently or temporarily) abroad, delivery usually takes several days. For these employees, it is best practice to also send the information letter by email (attached as pdf) with send and read confirmation.</p> <p><u>Labour Office</u></p> <p>A copy of the information letter must be sent to the labour office, and the employer must be able to prove that it has been delivered to the labour authority. Therefore, as best practice, the copy to the labour office should be delivered through one or both of the following:</p> <ul style="list-style-type: none"> • By registered mail. • By e-mail (if accepted by the labour office and against confirmation of receipt). <p>Normally, as best practice, the labour office is informed orally by telephone in advance, before receiving the copy of the information letter.</p>
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<p>Around 25 to 20 days</p> <p>The consultation period should be at least 10 to 14 calendar days (depending on the individual case).</p>	<p>Launch the consultation procedure .</p>	<p>The mandatory consultation period starts with the delivery of the information letter (Article 335f paragraph 1, CO). The employer should set a deadline in the information letter for the submission of employee proposals. The consultation period should be at least 10 to 14 calendar days (depending on the individual case).</p> <p>During the consultation period the employee representative body or, if there is no such body, all employees must be given the opportunity to submit proposals on how:</p> <ul style="list-style-type: none"> • Terminations of employment may be avoided. • The number of terminations of employment may be reduced. • The consequences of any terminations of employment may be mitigated. <p>(Article 335f paragraph 2, CO.)</p> <p>This step is mandatory.</p> <p>During the consultation period proposals should be collected, documented in writing, and continuously internally evaluated by the employer. The employer can also start working on the outcome letter regarding the conclusion of the consultation procedure.</p> <p>Meetings between the parties during the consultation period are not required, but are common.</p>
	<p>Start social plan negotiations, if required.</p>	<p>Social plan negotiations are required if notices of termination are issued to at least 30 employees within 30 calendar days in a business usually employing at least 250 employees (Article 335i, CO).</p> <p>These negotiations, if required, usually start during the</p>

		consultation period. The duration of the social plan negotiations depends on the individual case.
Around 15 to five days	Draft the outcome letter.	<p>The outcome letter concerns the outcome of the consultation procedure and the employer's final decisions.</p> <p>The employer must thoroughly consider the proposals of the employee representative body or employees, as applicable, but is not obliged to implement them. If and to the extent the proposals are not implemented, and the collective redundancies are to proceed, the employer must provide the reasons and justifications in the outcome letter.</p>
Around 15 to five days	<p>Select employees to be made redundant and prepare individual termination notices.</p> <p>The employer can also prepare mutual termination agreements.</p>	<p>If the employment agreement, employee regulations, or similar, require written form for a termination, the termination notice must be signed by persons authorised to sign the termination notices on behalf of the employer. The signatures must be wet-ink or through a qualified electronic signature.</p> <p>Even if there is no written form requirement, it is recommended and best practice to issue a written termination notice. Stating the reason for termination is not required for the notice of termination to be effective, but can be a sensible approach.</p>
Around 15 to five days	<p>If applicable, both:</p> <ul style="list-style-type: none"> • Prepare for the outcome meeting. • Prepare and send invitation to such meeting. 	<p>An outcome meeting to address the outcome of the consultation procedure is not mandatory, but is best practice.</p> <p>If such outcome meeting is held and if there is no employee representative body, all employees must be invited (not only those affected).</p> <p>The outcome meeting could be held remotely.</p> <p>The outcome meeting should align to the outcome letter.</p>
Around ten to five days	Issuing the outcome letter:	The outcome letter is mandatory (Article 335g paragraph 1 and 2, CO).

- The outcome letter must be delivered to the competent labour office.
- A copy of the outcome letter must also be distributed to the employee representative body, and if there is no such body, all employees.

It is best practice that there is a gap of two to three days between the end of the consultation period and the delivery of the outcome letter. This helps avoid giving the impression that employee proposals have not been thoroughly considered or the employer's decision had been predetermined.

If there is an outcome meeting, the outcome letter is to be sent out shortly before or shortly after the meeting.

The outcome letter must be delivered to both the employee representative body or, where there is no such body, all employees (see below), and to the labour office. However, the employer can only start issuing individual termination notices once the outcome letter is delivered to the labour office (as set out below).

Labour Office

The outcome letter must be provided to the labour office, and the employer must be able to prove that it has been delivered to the labour authority. Therefore, the outcome letter should be delivered to the labour office either by one or both of the following:

- Registered mail
- Email (if accepted by the labour office and against confirmation of receipt).

The labour office is not required to confirm receipt. However, it often confirms receipt by email or by letter.

Employee Representatives or Employees

It is also mandatory that a copy of the outcome letter is distributed to the employee representative body, or if there is no such

		<p>body, all employees (not only those affected) (Article 335g paragraph 1, CO). The letter can be distributed either:</p> <ul style="list-style-type: none"> • Handing them out against confirmation of receipt. • Sending by registered mail (for proof of sending).
Day one	Redundancy termination notice.	<p>Confirm the decision to dismiss the individual employees as redundant and specify the termination date.</p> <p>To ensure delivery before the end of the month, the termination notice should be communicated, delivered, or both, around one week before the end of the month (delivery in any case needs to take place before the end of the month).</p> <p>Holding a termination meeting with the individual employee is in general not mandatory, but best practice.</p> <p><u>Meeting</u></p> <p>At the meeting, the termination should be communicated verbally, and the employee is then presented with the written termination notice letter, a copy of which they are asked to sign as confirmation of receipt. In case of an online meeting, the termination is communicated verbally and then sent to the employee by email (attached as pdf) and the employee is asked to confirm receipt by e-mail.</p> <p>It is recommended to have a second person present at the meeting as a witness to confirm that the termination was communicated and that the notice of termination was handed over or sent to the employee. If the employee refuses to sign the confirmation of receipt, the company representatives should date and sign the notice letter (or a scan or copy of it) with the remark "confirmation refused"</p>

		<p>by employee". A copy of this document can be given or sent to the employee.</p> <p><u>No Meeting</u></p> <p>Alternatively, when there is no termination meeting (in person or online), the termination notice should be sent to the employee either:</p> <ul style="list-style-type: none"> • By email as a PDF copy. • By registered mail. <p>Potential form requirements in the employment agreement or similar regarding the issuing of the termination notice need to be observed (for example, the termination notice needing to be sent by registered mail).</p> <p>See Practice Note, Notice of Termination (Switzerland): Service and Receipt of Notice.</p> <p><u>No Individual Termination Agreement</u></p> <p>If the employer is not offering an individual termination agreement (which often provides for an agreed garden leave), the termination notice letter should confirm whether the employee is to:</p> <ul style="list-style-type: none"> • Work during their notice period. • Spend their notice on garden leave. <p>Payment in lieu of notice is not a recognised concept under Swiss law.</p>
After day one	Offer of individual termination agreement (if the employer intends or is required to do so under an applicable social plan or similar).	<p>Unless provided for in a social plan or similar, proposing a termination agreement to an employee is not mandatory. However, in a collective redundancy it is best practice to offer an individual termination agreement providing for certain benefits.</p>

		<p>Termination agreements usually provide for a full release of claims and a fixed end date of employment (at the end of the contractual notice period), in exchange for redundancy benefits above the employee's contractual entitlements until the expiry of the notice period (for example, garden leave, severance, outplacement support, and so on).</p> <p>For more detail, see Practice Notes:</p> <ul style="list-style-type: none"> • Notice of Termination (Switzerland): When Notice Cannot be Given. • Individual Employee Termination (Switzerland): Termination Agreements.
Written objection provided during the notice period; and claim within 180 calendar days after the end of the employment relationship	Appeal process.	<p>If an employer violated its statutory collective redundancy consultation obligations, affected employees may challenge the termination notices issued in the context of the collective redundancy as being abusive or unfair (Article 336 paragraph 2, CO). In such cases, the judge can order the employer to pay affected employees a penalty of up to two monthly salaries (Article 336a paragraph 3, CO). Alternatively, employees could challenge the ground for the redundancies as abusive.</p> <p>To challenge the termination as abusive (see Practice Note, Individual Employee Termination (Switzerland): Protection Against Abusive Termination) the employee must raise a written objection against the termination within the notice period and then must file a litigation claim within 180 calendar days after the end of the employment relationship (Article 336b, CO).</p> <p>In any event, the termination of the employment is valid, even if it is later ruled to be unfair.</p>

		However, if the employer can establish the grounds for redundancy through corresponding documentation (or also witness statements) there are in general no grounds for an abusive termination and corresponding compensation claims provided that the statutory consultation obligations have been fully observed.
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