

Law to
mitigate the consequences of
the COVID-19 pandemic in civil, insolvency and criminal procedure law

Dated 27 March 2020

The Bundestag passed the following law
its:

Article 1

Temporary Law

Suspension of the obligation to file for
insolvency and to limit directors' liability in the event
of insolvency caused by the COVID-19 pandemic
(COVID-19 Insolvency Suspension Act
– COVInsAG)

§ 1

Suspension of the obligation to file for insolvency

The obligation to file for insolvency pursuant to Section 15a of the Insolvency Code and Section 42 (2) of the German Civil Code is suspended until September 30, 2020. This does not apply if the insolvency is not due to the consequences of the spread of the SARS CoV-2 virus (COVID-19 pandemic) or if there are no prospects of eliminating an existing insolvency. If the debtor was not insolvent on December 31, 2019, it is assumed that the insolvency is due to the effects of the COVID-19 pandemic and that there are prospects of eliminating an existing insolvency. If the debtor is a natural person, Section 290 (1) number 4 of the Insolvency Code shall apply with the proviso that the delay in opening insolvency proceedings between March 1, 2020 and September 30, 2020 is not followed by a refusal of Residual debt discharge can be supported. Sentences 2 and 3 apply accordingly.

§ 2

consequences of the suspension

(1) Insofar as the obligation to file for insolvency is suspended pursuant to Section 1, 1. Payments made in the ordinary course of business, in particular those payments which serve to maintain or resume business operations or to implement a restructuring plan, shall be deemed to be with the diligence of a prudent and conscientious manager within the meaning of section 64 sentence 2 of the law relating to limited liability companies, section 92 subsection 2 sentence 2 of the German Stock Corporation Act, section 130a subsection 1 sentence 2, also in conjunction with Section 177a sentence 1 of the Commercial Code

and § 99 sentence 2 of the cooperative law;

2. the repayment of a new loan granted during the suspension period up to September 30, 2023 and the provision of collateral to secure such loans during the suspension period are deemed to be disadvantageous for non-creditors; this also applies to the return of shareholder loans and payments on claims from legal transactions that correspond economically to such a loan, but not their security; Section 39 (1) number 5 and Section 44a of the Insolvency Code do not apply in this respect to insolvency proceedings relating to the debtor's assets that were applied for by September 30, 2023;

3. The granting of credit and collateral during the suspension period are not to be regarded as an immoral contribution to delaying insolvency;

4. Legal acts that have granted or enabled the other party to obtain security or satisfaction that it was able to claim in the manner and at the time are not contestable in later insolvency proceedings; this does not apply if the other party was aware that the debtor's restructuring and financing efforts were not suitable for eliminating an insolvency that had occurred. The same applies to

because of

b) Payments by a third party on the instructions of the debtor

c) the provision of a security other than that originally agreed, if this is not worth more;

d) the shortening of payment terms and e) the granting of payment facilities.

(2) Paragraph 1 numbers 2, 3 and 4 also applies to companies that are not subject to an application obligation and to debtors that are neither insolvent nor overindebted.

(3) Paragraph 1 numbers 2 and 3 shall apply in the case of loans granted by the Kreditanstalt für Wiederaufbau and its financing partners or by other institutions as part of government aid programs on the occasion of the COVID-19 pandemic, even if the Credit is granted or secured after the end of the suspension period and opened for its repayment.

§ 3

reason for opening
creditor bankruptcy filings

In the case of creditor insolvency applications filed between March 28, 2020 and June 28, 2020, the opening of insolvency proceedings requires that the reason for opening already existed on March 1, 2020.

§ 4

ordinance authorization

The Federal Ministry of Justice and Consumptionerschutz is authorized to extend the suspension of the obligation to file for insolvency pursuant to Section 1 and the regulation on the opening reason for creditor insolvency applications pursuant to Section 3 to a maximum of March 31, 2021 by statutory order without the consent of the Bundesrat if this is due to continued demand for available public aid, ongoing financing difficulties or other circumstances appear necessary.

Article 2

Law on
measures in society,
Cooperative, association, foundation and
home ownership law to combat the effects of the
COVID-19 pandemic

§ 1

public limited companies;
partnerships limited by shares; European
companies (SE); Mutual insurance
associations (1) Decisions on the participation of

shareholders in the general meeting by means of electronic communication pursuant to Section 118 (1) sentence 2 of the Stock Corporations Act (electronic participation), voting by means of electronic communication pursuant to Section 118 (2) of the Stock Corporations Act (postal voting), the participation of members of the Supervisory Board by means of video and audio transmission in accordance with Section 118 (3) sentence 2 of the German Stock Corporation Act and the approval of video and audio transmission in accordance with Section 118 (4) of the German Stock Corporation Act, the Management Board of the company can also without authorization from the statutes or rules of procedure.

(2) The Executive Board can decide that the meeting will be held as a virtual general meeting without the physical presence of the shareholders or their proxies, provided that 1. the video and audio transmission of the entire meeting

collection is done

2. shareholders can exercise their voting rights by means of electronic communication (postal voting or electronic participation) and by issuing a power of attorney,
3. the shareholders are given the opportunity to ask questions by way of electronic communication,
4. the shareholders who have exercised their voting rights in accordance with number 2, in deviation from Section 245 number 1 of the German Stock Corporation Act, waiving this

the requirement to appear at the general meeting, an opportunity to object to a resolution of the general meeting is granted.

The Board of Directors decides at its dutiful, free discretion which questions to answer and how; it can also stipulate that questions must be submitted by electronic communication no later than two days before the meeting.

(3) Notwithstanding Section 123 Paragraph 1 Sentence 1 and Paragraph 2 Sentence 5 of the German Stock Corporation Act, the Executive Board can decide to convene the General Meeting no later than the 21st day before the day of the meeting. Contrary to Section 123 (4) sentence 2 of the German Stock Corporation Act, proof of shareholdings in listed companies must refer to the beginning of the twelfth day before the meeting and, in the case of bearer shares in the company, must be sent to the address specified in the invitation by the fourth day at the latest be received before the general meeting, unless the management board stipulates a shorter period for receipt of the proof by the company in the convening of the general meeting; Deviating provisions of the Articles of Association are irrelevant. In the case of a convocation with a shortened notice period pursuant to sentence 1, the notification pursuant to Section 125 (1) sentence 1 of the Stock Corporations Act must be sent no later than twelve days before the meeting and the notification pursuant to Section 125 (2) of the Stock Corporations Act must be sent to the at the beginning of the twelfth day before the meeting Annual General Meeting entered in the share register. Contrary to Section 122 (2) of the German Stock Corporation Act, supplementary requests in the aforementioned case must be received by the company at least 14 days before the general meeting.

(4) Deviating from Section 59 (1) of the German Stock Corporation Act, the Management Board can also decide, without being authorized by the Articles of Association, to pay a deduction on the balance sheet profit to the shareholders in accordance with Section 59 (2) of the German Stock Corporation Act. Sentence 1 applies accordingly to an advance payment on the compensation payment (Section 304 of the German Stock Corporation Act) to outside shareholders within the framework of a company contract.

(5) The board of directors can decide that the general meeting should take place within the financial year in deviation from section 175 (1) sentence 2 of the German Stock Corporation Act.

(6) The decisions of the Management Board in accordance with paragraphs 1 to 5 require the approval of the Supervisory Board. Contrary to Section 108 (4) of the German Stock Corporation Act, the Supervisory Board can pass the resolution on the approval in writing, by telephone or in a comparable manner without the physical presence of the members, irrespective of the provisions in the Articles of Association or the rules of procedure.

(7) Notwithstanding the provision in Section 243 (3) number 1 of the Stock Corporation Act, contesting a resolution of the General Meeting cannot be based on violations of Section 118 (1) sentences 3 to 5, (2) sentence 2 or (4) of the Stock Corporation Act, the violation of form requirements for notifications according to § 125 of the German Stock Corporation Act and not based on a violation of paragraph 2, unless intent can be proven to the company.

(8) The above paragraphs shall apply accordingly to companies that have the legal form of a limited partnership based on shares. For a European Company under Regulation (EC)

Council No. 2157/2001 of 8 October 2001 on the statute for a European company (SE) (OJ L 294 of 10.11.2001, p. 1), which was last amended by Regulation (EU) No. 517/2013 (OJ L 158 of 10.6.2013, p. 1), paragraphs 1 to 7 apply with the exception of paragraph 5 accordingly. In a company according to Section 20 of the SE Implementation Act of December 22, 2004 (BGBl. I p. 3675), which was last amended by Article 9 of the Act of December 12, 2019 (BGBl. I p. 2637), (company with a monistic system) the decisions according to paragraphs 1 to 4 are made by the board of directors; Paragraph 6 does not apply to such a company.

(9) Subsections 1 and 2, subsection 3 sentences 1 and 3 and subsections 4 to 7 shall apply mutatis mutandis to mutual insurance companies within the meaning of Section 171 of the Insurance Supervision Act.

§ 2

Limited Liability Companies

Contrary to Section 48 (2) of the law on limited liability companies, shareholder resolutions can be made in text form or

by casting votes in writing, even without the consent of all shareholders.

§ 3

cooperatives

(1) Contrary to Section 43 (7) sentence 1 of the Cooperatives Act, resolutions by the members can also be passed in writing or electronically if this is not expressly permitted in the articles of association. In this case, the board of directors must ensure that a list of the members who participated in the adoption of the resolution is attached to the minutes in accordance with Section 47 of the Cooperatives Act. The way in which the vote was cast must be noted for each member who was involved in the adoption of the resolution. Notwithstanding the provisions in Section 51 Paragraphs 1 and 2 of the Cooperatives Act, contesting a resolution of the General Assembly cannot be based on violations of the law or of member rights that are attributable to technical faults in connection with the passing of resolutions pursuant to sentence 1, unless because the cooperative is accused of intent or gross negligence.

(2) Deviating from Article 46 Paragraph 1 Sentence 1 of the Cooperative Society Act, the meeting can be convened online on the cooperative society's website or by direct notification in text form.

(3) Notwithstanding Section 48 Paragraph 1 Sentence 1 of the Cooperatives Act, the annual financial statements can also be approved by the Supervisory Board.

(4) The board of directors of a cooperative may Approval of the Supervisory Board after dutiful Discretionary payment on account of an expected payment of a disputed property

of a member who has left or make a dividend payment that is expected to be made to a member; Section 59 (2) of the German Stock Corporation Act applies accordingly.

(5) A member of the board of directors or the supervisory board of a cooperative shall remain in office even after his term of office has expired until his successor is appointed. The number of members of the board of directors or the supervisory board of a cooperative may be less than the minimum number specified by law or the articles of association.

(6) Meetings of the board of directors or the supervisory board of a cooperative as well as joint meetings of the board of directors and the supervisory board can also without a basis in the Articles of Association or in the Rules of Procedure, by circulation in text form or as a telephone or video conference.

§ 4

conversion right

Contrary to Section 17 (2) sentence 4 of the Transformation Act, it is sufficient for the admissibility of the entry if the balance sheet was drawn up for a key date no more than twelve months before the registration.

§ 5

associations and foundations

(1) A member of the board of directors of an association or a foundation remains in office after the end of his term of office until he is dismissed or until his successor is appointed.

(2) Deviating from § 32 paragraph 1 sentence 1 of the According to the German Civil Code, the board of directors can also enable members of the association without authorization in the articles of association

1. Participate in the general meeting without being present at the meeting place and exercise member rights by means of electronic communication or
2. to cast their votes in writing before the general meeting without attending the general meeting.

(3) Contrary to Section 32 (2) of the German Civil Code, a resolution without a meeting of members is valid if all members have participated, at least half of the members have cast their votes in text form by the date set by the association and the resolution was passed with the required majority.

§ 6

homeowners associations

(1) The last appointed administrator within the meaning of the Homeownership Act remains in office until he is dismissed or until a new administrator is appointed.

(2) The business plan last approved by the apartment owners shall continue to apply until a new business plan is approved.

§

7 transitional regulations

(1) Section 1 is only applicable to general meetings and payments on account of the balance sheet profit that take place in 2020.

(2) Section 2 only applies to shareholders' meetings and resolutions that take place in 2020.

(3) Article 3 paragraphs 1 and 2 apply to general and representative assemblies that take place in 2020, Article 3 paragraph 3 applies to annual financial statements that take place in 2020, Article 3 paragraph 4 applies to advance payments made in the year take place in 2020, Section 3 (5) applies to appointments of members of the management board or supervisory board that expire in 2020 and Section 3 (6) applies to meetings of the management board or the supervisory board of a cooperative or their joint meetings that take place in 2020.

(4) Section 4 only applies to registrations made in 2020.

(5) Section 5 only applies to appointments of association or foundation board members that expire in 2020 and to general meetings of associations taking place in 2020.

§ 8

ordinance authorization

The Federal Ministry of Justice and Consumer Protection is authorized to issue an ordinance without the consent of the Bundesrat to extend the validity of Sections 1 to 5 in accordance with Section 7 until December 31, 2021 at the latest if this is due to the ongoing effects of the COVID-19 pandemic appears necessary in the Federal Republic of Germany.

Article 3

Change of the
Introductory Act to the Code of Criminal Procedure

Section 10 of the Introductory Act to the Criminal Procedure Code in the revised version published in the Federal Law Gazette Part III, structure number 312-1, which was last amended by Article 2 of the law of November 20, 2019 (Federal Law Gazette I p. 1724). summarized as follows:

„§ 10

inhibition of
Interruption periods
due to infection control measures

(1) Irrespective of the duration of the main hearing, the interruption periods specified in Section 229 (1) and (2) of the Code of Criminal Procedure are suspended as long as the main hearing is being held due to protective measures to prevent the spread of infections with the SARS-CoV-2 virus (COVID 19 pandemic) cannot be carried out, but for a maximum of two months; these periods end at the earliest ten days after the end of the suspension. The court shall determine the beginning and end of the suspension by means of an incontestable decision.

(2) Paragraph 1 applies accordingly to the period for the pronouncement of judgment specified in Section 268 Paragraph 3 Clause 2 of the Code of Criminal Procedure."

Article 4

Further amendment of
the Introductory Act to the Code of Criminal
Procedure as of March 27, 2021

Section 10 of the Introductory Act to the Criminal Procedure Code in the revised version published in the Federal Law Gazette Part III, Section number 312-1, which was last amended by Article 3 of this Act, is repealed.

Article 5

Change of the
Introductory Act to the
Civil Code

Article 240 of the Introductory Act to the Civil Code in the version published on September 21, 1994 (BGBl. I p. 2494; 1997 I p. 1061), which was last amended by Article 2 of the law of March 19, 2020 (BGBl. I p. 541) has been changed is worded as follows:

"Article 240

Contractual regulations on the
occasion of the COVID-19 pandemic

§ 1

Moratorium

(1) A consumer has the right to refuse performance until June 30, 2020 to fulfill a claim in connection with a consumer contract that is a continuing obligation and was concluded before March 8, 2020, if the consumer as a result of circumstances attributable to the spread of infection with the SARS-CoV-2 virus (COVID-19 pandemic), it is not possible to provide the benefit without jeopardizing his reasonable livelihood or the reasonable livelihood of his dependents would. The right to refuse performance exists in relation to all significant continuing obligations. Significant continuing obligations are

those that are required to provide services of reasonable general interest.

(2) A micro-enterprise as defined in Commission Recommendation 2003/361/EC of 6 May 2003 on the definition of micro-enterprises and small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36) has the right to receive benefits to satisfy a claim related to a contract that is a continuing obligation and was concluded before 8 March 2020, until June 30, 2020 if, as a result of circumstances attributable to the COVID-19 pandemic,

1. the company cannot provide the service
or

2. the company would not be able to provide the service without jeopardizing the economic basis of its business.

The right to refuse performance exists in relation to all significant continuing obligations. Significant continuing obligations are those that are required to cover the provision of benefits for the appropriate continuation of one's business.

(3) Paragraph 1 shall not apply if it is unreasonable for the obligee to exercise the right to refuse performance, since non-performance of the performance would endanger the economic basis of his business. Paragraph 2 does not apply if it is unreasonable for the creditor to exercise the right to refuse performance, since non-performance would jeopardize his reasonable subsistence or the reasonable subsistence of his dependents or the economic basis of his business. If the right to refuse performance is excluded according to sentence 1 or 2, the debtor has the right to terminate the contract.

- (4) Paragraphs 1 and 2 also do not apply in connection
1. with rental and lease agreements pursuant to Section 2, with loan agreements and 2. with claims under labor law.

(5) Paragraphs 1 and 2 may not be deviated from to the detriment of the debtor.

§ 2

Restriction on termination of leases and tenancies

(1) The landlord cannot terminate a lease for land or rooms solely for the reason that the tenant does not pay the rent in the period from April 1, 2020 to June 30, 2020 despite the due date, provided that the non-performance is due to the effects of COVID-19 pandemic is based. The connection between the COVID-19 pandemic and non-performance must be made credible. Other termination rights remain unaffected.

(2) Paragraph 1 cannot be used to the detriment of Mieter to be deviated from.

(3) Paragraphs 1 and 2 shall apply accordingly to leases.

(4) Paragraphs 1 to 3 are only valid until June 30th applicable in 2022.

§ 3

Loan regulations

(1) For consumer loan agreements that were concluded before March 15, 2020, the lender's claims for repayment, interest or principal payments that fall due between April 1, 2020 and June 30, 2020 shall become effective upon the due date be deferred for a period of three months if the consumer experiences a loss of income due to the exceptional circumstances caused by the spread of the COVID-19 pandemic, which means that the provision of the service owed is unreasonable for him. is not reasonable

performance of the service, in particular if his reasonable livelihood or the reasonable livelihood of his dependents is at risk. The consumer is entitled to continue to make his contractual payments on the originally agreed service dates within the period specified in sentence 1. If he continues to make the payments in accordance with the contract, the deferral regulated in sentence 1 is deemed not to have taken place.

(2) The contracting parties can make agreements that deviate from paragraph 1, in particular with regard to possible partial payments, interest and repayment adjustments or debt restructuring.

(3) Terminations by the lender due to late payment, due to a significant deterioration in the financial circumstances of the consumer or the value of a security provided for the loan are excluded in the case of paragraph 1 until the end of the deferral. This may not be deviated from at the expense of the consumer.

(4) The lender should offer the consumer a discussion about the possibility of an amicable settlement and about possible support measures. For this can also remote communication agents are used.

(5) If no agreement is reached for the period after June 30, 2020, the contract term will be extended by three months. The respective due date of the contractual services is postponed by this period. The lender provides the consumer with a copy of the contract, in which the agreed contract changes or the contract changes resulting from sentence 1 and from paragraph 1 sentence 1 are taken into account.

(6) Paragraphs 1 to 5 do not apply if the deferral or exclusion of termination is unreasonable for the lender, taking into account all the circumstances of the individual case, including the changes in general living conditions caused by the COVID-19 pandemic.

(7) Paragraphs 1 to 6 shall apply mutatis mutandis to compensation and recourse among joint and several debtors pursuant to Section 426 of the Civil Code.

(8) The Federal Government is authorized to change the personal scope of subsections 1 to 7 and in particular micro-enterprises within the meaning of Article 2 (3) of the Annex to Recommendation 2003/361/EC by statutory order with the consent of the Bundestag and without the consent of the Bundesrat Commission of 6 May 2003 on the definition of micro, small and medium-sized enterprises.

§

4 Authorization to issue

ordinances (1) The Federal Government is authorized to issue a statutory ordinance without the consent of the Bundesrat 1. to extend the duration of the right to refuse performance pursuant to § 1 until September 30, 2020 at the latest,

2. to enforce the limitation of termination on payment arrears contained in § 2 paragraphs 1 and 3

3. the period up to September 30, 2020 specified in Section 3 (1) and the extension of the contract term to up to to extend to twelve months

Article 6

entry into force, expiration

(1) Article 1 shall come into force on March 1, 2020.

if it is to be expected that social life, the economic activity of a large number of companies or the employment of a large number of people will continue to be significantly affected by the COVID-19 pandemic remains chemically impaired.

(2) Article 2 enters into force on the day after the promulgation and expires at the end of December 31, 2021.

(3) Article 3 shall come into force on the day following its promulgation.

(2) The Federal Government is authorized to extend the deadlines specified in subsection 1 beyond September 30, 2020 by means of a statutory ordinance with the consent of the Bundestag and without the consent of the Bundesrat if the impairments persist even after the statutory ordinance pursuant to subsection 1 has come into force."

(4) Article 4 shall come into force on March 27, 2021.

(5) Article 5 comes into force on April 1, 2020.

(6) Article 240 of the Introductory Act to the Civil Code expires on September 30, 2022.

The constitutional rights of the Federal Council are preserved.

The above law is hereby executed. It is to be announced in the Federal Law Gazette.

Berlin, March 27, 2020

The federal president
Steinmeier

The Federal Chancellor Dr.
Angela Merkel

The Federal Minister of Justice
and Consumer Protection
Christina Lambrecht