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Swiss construction law revision 2026: key changes for international projects

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How will the 2026 revision of Swiss law affect international construction projects? This article provides a practical overview of the new mandatory rules on warranty and defect notification under the Swiss Code of Obligations, highlighting the implications for contract drafting, risk allocation and dispute resolution. International contractors and employers should be aware of these changes to ensure compliance and avoid unexpected liabilities when working on projects governed by Swiss law.

Introduction

On 1 January 2026, a significant partial revision of the Swiss Code of Obligations came into effect, introducing important changes to the legal framework governing contracts of sale and work – changes that are particularly relevant for the construction and plant engineering sectors.

For international stakeholders, understanding these recent changes is essential, as Swiss law, frequently chosen for its neutrality, predictability and well-developed jurisprudence, often governs major

infrastructure and construction contracts worldwide. Switzerland's stable legal environment and arbitration-friendly framework further enhance its appeal for cross-border construction and engineering projects.

This article provides a practical guide to the new Swiss warranty and defect notification rules introduced by the 2026 revision, with a focus on their implications for contract drafting, risk allocation and dispute resolution in construction and plant engineering projects.

Background and objectives of the revision

The 2026 revision of the Swiss Code of Obligations is the culmination of a lengthy legislative process aimed at modernising and improving the legal framework for contracts of sale and work, with a particular focus on the construction sector. The primary motivation for the revision was to strengthen the rights of buyers and employers (owners), who were often seen as disadvantaged under the previous regime, especially when it came to asserting claims for defects.

A key objective was to simplify and clarify the rules on defect notification. Under the old law, parties were required to provide notification of defects 'immediately', a standard that frequently led to uncertainty and disputes over whether claims had been made in time. The revision now introduces a clear 60-day notification period in many cases, providing greater legal certainty and reducing the risk of losing rights due to procedural missteps.¹

The legislative process involved extensive consultation with industry stakeholders, legal experts and political representatives. While more far-reaching proposals, such as abolishing notification deadlines altogether or extending limitation

periods, were considered, the final revision represents a balanced compromise. It balances the interests of employers with those of contractors and suppliers, aiming to enhance fairness and predictability without undermining legal certainty.

Overall, the revision aims to align Swiss contract law more closely with the practical needs of the construction and engineering sectors, making it more accessible and reliable for both domestic and international parties.

Key changes in warranty and defect notification

The 2026 revision introduces several important changes to Swiss contract law, particularly affecting warranty rights and the handling of defects in construction contracts.

Extended notification periods

One of the most significant changes introduced by the 2026 revision is the establishment of a clear 60-day period for providing notification of defects, replacing the previous requirement for notification 'immediately' or 'without undue delay'. This new rule applies to both contracts of sale and contracts for work, and is particularly relevant where goods or services are integrated into construction projects. The extended period gives parties more time to identify and report defects, thereby reducing the risk of losing warranty rights due to procedural delays.²

The statutory 60-day notice period for defects applies specifically to contracts for the sale of goods intended for incorporation into immovable works, contracts for the sale of property, contracts for works relating to immovable works, contracts for works involving movable items incorporated into immovable works that cause

defects and contracts for works produced by architects or engineers used as the basis for construction. For other contracts, such as those involving movable goods or works not incorporated into immovable works, the obligation to notify defects ‘immediately’ remains unchanged.

The 60-day notification period begins when the defect is discovered. Importantly, a defect is considered ‘discovered’ not only when the employer actually becomes aware of it but also when it should have been detected through proper inspection. Thus, both actual knowledge and grossly negligent ignorance can trigger the start of the period. The period for obvious defects begins upon acceptance of the work, while for hidden defects, it starts upon their discovery. However, notification must always be provided within the applicable limitation period for warranty claims. This means that if a defect is discovered shortly before the end of the limitation period, notification must still be provided before the limitation period expires, even if the 60 days have not yet elapsed. General contractors who are not themselves owners of the property can also rely on the extended period in their dealings with subcontractors.

It is important to note that this 60-day period is relatively mandatory: contractual agreements that seek to shorten the notification period to the detriment of the employer are invalid, though parties remain free to agree on a longer period if they wish, further enhancing protection for the employer.

This extension of the notification period significantly strengthens the position of employers, and takes into account the practical realities of complex construction projects, where defects may only become apparent after some time or following the installation of components. The new 60-day period gives all parties

sufficient opportunity to carefully examine and report any defects, without the risk of prematurely losing their rights.

Mandatory free rectification

A cornerstone of the 2026 revision is the introduction of a non-waivable right to the free rectification of defects in buildings and other immovable works. Under the revised Swiss Code of Obligations, parties can no longer contractually exclude or limit this right in advance. This addresses previous practices where developers or contractors would exclude warranty rights, leaving employers with limited recourse in the event of defects.³

The new rule ensures that, whenever a defect arises in an immovable work, the contractor is obliged to remedy it at no cost to the employer. This protection applies regardless of whether the contract attempts to exclude or restrict the right to rectification; such clauses are now invalid.

Importantly, this right is mandatory for defects in buildings: it cannot be waived or limited by prior agreement. However, the law allows for a waiver only after a defect has been discovered and a dispute has arisen, reflecting the principle that parties should not be deprived of essential protections before they are aware of a problem.

Codification of case law on substitute performance

The 2026 revision brings welcome clarity to the right of substitute performance after acceptance of the work. Under the revised Swiss Code of Obligations, if the contractor fails to remedy a defect within a reasonable period, the employer is entitled to have the defect rectified by a third party and to claim the associated costs from the contractor, provided certain conditions are met.

This legislative change codifies well-established Swiss case law, which had already recognised the employer’s right to substitute performance even after formal acceptance of the work.⁴ Previously, the legal basis for this right was found in court decisions rather than in the statutory text, sometimes leading to uncertainty in practice.

To exercise this right, the employer must generally give the contractor an opportunity to remedy the defect within a reasonable time. Only if the contractor fails to act, or refuses to do so, may the employer proceed with substitute performance and seek reimbursement. The costs recoverable are limited to what would have been necessary for proper rectification by the contractor.

This change is particularly relevant for complex construction and plant engineering projects, where timely and effective remedies for defects are critical to project success.

Unwaivable five-year limitation period

Another major change introduced by the revision is the mandatory five-year warranty period for defects in immovable works, such as buildings and other structures permanently attached to the ground. This period is now strictly mandatory and cannot be contractually shortened to the detriment of the employer.⁵ The aim is to provide greater certainty and protection for those commissioning construction projects, ensuring that claims for defects remain valid for a substantial period after completion. This extended limitation period is particularly important for complex projects, where certain defects may only become apparent several years after handover.

Practical implications for construction and plant engineering

The 2026 revision of Swiss contract law brings significant changes for construction and plant engineering projects, both domestically and internationally.

Contract negotiation and drafting

The new mandatory provisions require parties to carefully review and update their standard contract templates and internal procedures to ensure compliance and manage risk effectively. Clauses that previously limited defect notification periods, excluded free rectification or shortened warranty periods will no longer be enforceable. International contractors and employers should pay particular attention to these changes when negotiating contracts governed by Swiss law, as failure to adapt may result in unenforceable terms and unexpected liabilities.

Risk allocation

The strengthened rights of employers, especially the mandatory 60-day notification period and the non-waivable right to free rectification, shift the balance of risk in construction contracts. Contractors must be prepared for longer periods of potential liability and should adjust their project management and quality assurance processes accordingly. This may require enhanced documentation, more rigorous inspection procedures and proactive defect management throughout the project lifecycle.

Dispute resolution

The clearer rules on defect notification and warranty periods are likely to reduce disputes

over procedural issues, such as whether a claim was made in time. However, parties should remain vigilant in documenting defects and maintaining transparent communications, as failure to comply with the new requirements can still result in the loss of rights. In practice, this means ensuring that all notifications are timely, detailed and properly archived. Effective record-keeping and prompt responses to identified defects will be essential to safeguard contractual entitlements because, as always, these fundamentals remain critical to avoiding unnecessary conflict and preserving your position.

International relevance

Given the widespread use of Swiss law in cross-border construction and engineering contracts, these changes will affect not only Swiss parties but also international stakeholders. Companies operating globally should ensure that their legal teams and contract managers are familiar with the new rules and adapt their practices to avoid unintended exposure or unenforceable contract terms. An awareness of these mandatory provisions is crucial for risk management and successful project delivery in an international context.

Transitional provisions

The revised provisions of the Swiss Code of Obligations apply only to contracts concluded on or after 1 January 2026. Earlier contracts remain governed by the previous legal framework, even if the new rules would be more favourable to a party.⁶

There are no special transitional rules; the law in force at the time of contract conclusion determines its content and validity. Mandatory rights or protections introduced by the revision do not retroactively affect existing agreements. For

ongoing or long-term projects, it is crucial to determine which version of the law applies. Only contracts entered into from 1 January 2026 onwards benefit from the new protections and obligations.

However, there is an important exception: the new mandatory limitation periods also extend to contracts concluded under the previous regime where a shorter limitation period was agreed and had not yet expired as of 1 January 2026. This ensures that parties cannot circumvent the new protections by relying on previously agreed shorter limitation periods that have not yet expired.

Conclusion

The 2026 partial revision of the Swiss Code of Obligations marks a major step forward in modernising the legal framework for construction and plant engineering contracts. By introducing extended notification periods, mandatory rights to free rectification and unwaivable warranty periods, the new provisions strengthen the position of employers, while providing greater clarity and predictability for all parties.

For international stakeholders, these changes reinforce Switzerland's reputation as a reliable jurisdiction for cross-border construction projects. However, the mandatory nature of many provisions means parties must carefully review and update their contract templates and procedures to ensure compliance.

Ultimately, the revision enhances legal certainty and fairness in Swiss construction law, making it more accessible and attractive for international business. Practitioners and companies are well advised to familiarise themselves with the new rules and adapt their practices to take full advantage of the improved protections and clearer regulations now in force.

Notes

- 1 See Arts 201(1), 219a and 367(1bis) of the revised Swiss Code of Obligations (the 'revCO'), which govern the sale of goods integrated into immovable works, the sale of real property and works relating to immovable structures, respectively.
- 2 The revised 60-day period applies, in particular, under Arts 201(1), 219a, 367(1bis) and 370(4) of the revCO. See also Swiss Federal Supreme Court decision 4A_55/2012 of 31 July 2012, cons 5.1, which, under the former law, applied a seven-day period running from the time the defect became known.
- 3 Mandatory free rectification for defects affecting an immovable work is set out in Art 368 (2bis) of the revCO, which renders any contractual waiver agreed in advance invalid.
- 4 Substitute performance after acceptance is expressly incorporated via Art 368(2) sentence 2 of the revCO referring to Art 366(2) of the revCO. See also Swiss Federal Supreme Court decision 107 II 50 of 27 January 1981, cons 3.
- 5 See Art 371(2) of the revCO (five-year limitation for immovable works) and Art 371(3) sentence 1 of the revCO (prohibition of contractual shortening).
- 6 Pursuant to Arts 1–4 of the Final Title of the Swiss Civil Code, the revised warranty provisions apply exclusively to contracts concluded on or after 1 January 2026; earlier contracts remain governed by the previously applicable law.

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