



Guidelines for completing the registration form for employees posted to Switzerland

These guidelines also apply by analogy to other persons subject to registration

A. General

1. What is this about?¹

One speaks about posting employees to Switzerland when an employer based abroad sends employees with whom he is bound by a contract of work to Switzerland for a limited period of time with a view to their:

- a) providing a service at the expense of and under the management of the employer as part of a service contract between the employer and the recipient in Switzerland of the service
- b) working in a subsidiary or a business owned by the employer's corporate group.

2. Who is subject to registration?

The duty to notify applies to employers headquartered in an EU-25/EFTA² state who post employees to Switzerland to provide service the completion of which takes less than ninety working days³ within a calendar year.

Employers are required to notify the competent cantonal authorities of both the posting of employees and the kind of service provided.

Employers who post employees to Switzerland for them to provide service in one of the following sectors are required to notify the competent Swiss authorities from the first day of providing service, irrespective of the duration of service and the nationality of employees:

- a) building, civil engineering, or building-related trades
- b) the hotel and catering industry
- c) industrial or domestic cleaning services
- d) surveillance and security services
- e) itinerant street traders, with the exception of people who sell goods at fairs or operate a circus
- f) sex industry

¹ You will find the most important points summarized on page 8 and 9

² The EU-25/EFTA comprises the long-standing EU member states (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxemburg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom), Cyprus and Malta, the new EU member states (the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia), and the EFTA states (Iceland, Liechtenstein, Norway, and Switzerland).

³ Under the Agreement on the Free Movement of Persons, the 90 days apply to the posting company and not the employees themselves. For instance, a company that sends three active employees **at the same time** for five days will have used five days of the 90 days available. However, if it posts three employees at different times for five days, it will have used 15 days. This means that the **posting periods** in Switzerland are essential for the calculation of the 90 days.

Service provided by employees posted to Switzerland in other sectors is subject to notification if performance of service takes **more than eight days** in a calendar year; that is, service that takes longer than eight days to complete within a calendar year must be notified from the ninth day onwards.

For example: Four service orders, each of which takes three days to complete = twelve working days. The third service and following services thus become subject to notification. Please note: Meeting the deadline mentioned under point 4 is compulsory.

For employers with their headquarters in Bulgaria and Romania (EU-2), a regulation applies until 31 May 2016 in accordance with the agreement on the free movement of persons. Employers posting employees in one of the four “special” sectors must undergo the employment and residence authorisation procedure from the first day of work. The sectors concerned are *construction, civil engineering and building-related trades; landscape planning, industrial and private cleaning services, and surveillance and security services*. In the other “general” service sectors the same registration procedure applies as for employers based in an EU-25/EFTA state.

For example: In case of posting employees in commercial cleaning in private households or in the hospitality industry the registration process is compulsory from the first day on⁴.

Employers whose posting of prospective employees is subject to an authorisation procedure in accordance with legislation on foreign nationals in Switzerland are not under any obligation to register. This concerns any employer with headquarters in an EU/EFTA⁵ state posting workers *for a period of more than 90 working days* as well as employers with their headquarters in a non-EU or EFTA state irrespective of the duration of the assignment.

3. Purpose of registration

The purpose of registration is to allow the Swiss labour market authorities and the immigration office to be notified of the entry into Swiss territory of foreign-national workers. It enables the Swiss authorities to carry out routine checks on any persons prohibited from entering Switzerland and also, in the course of the assignment, to check compliance with the employment conditions applicable to posted employees.

4. Deadline for registration

Registration should be carried out at the latest eight days before the beginning of the assignment, using the official registration form which is available on the internet. The work may start at the earliest eight days after the registration of the assignment (for example, a person who is registered on 21 July may only begin work on 29 July). The official registration form is available on www.bfm.admin.ch, www.seco.admin.ch, or www.entsendung.admin.ch. In exceptional cases, if registration is not possible on the internet, the form can be sent by post-mail or faxed to the cantonal authorities.

In emergencies (breakdown/repairs, accident, natural disasters, etc.), registration may be made, exceptionally, at shorter notice, at the latest, however, on the day of commencement of work in Switzerland. Reasons for late registration should be indicated under point 7 of the form.

⁴ Bulgaria and Romania. Details on when a work permit is required can be found on www.entsendung.admin.ch > Schweizer Behörden > Arbeitsbewilligung or Meldepflicht.

⁵ This applies to all EU/EFTA_member states, including Bulgaria and Romania.

B. How should the form be completed?

-> All sections of the form should be completed.

1. Details relating to the company

- **Employer:** Details of natural persons or legal entities with whom or which the employee being posted holds an employment contract.
- **Business sector:** Details of the company's sector of activity (e.g. carpentry, IT, structural works, machine industry, security service, etc.).
- **Road, house number, post code, town, country:** The company's exact postal address should be given.
- **Person in charge:** The person's name of the foreign company in charge of the posting and whom the Swiss authorities can contact if a problem arises regarding the registration procedure or later during the assignment should be given. The person should have the authority to represent the employer.
- **Telephone, fax, email** Personal contact details for the person in charge should be given.

2. Start of work, type of service

- **Start and end of work:** In the event of continuous assignments in Switzerland, details of the exact dates of the start and expected end of the work of posted employees and/or odd days of work (up to a maximum of three months or 90 days of actual work) should be given. If the work is spread out over the year, all the dates of actual work must be shown.
- **Purpose of the service:** Exact description of work to be carried out according to the contract awarded to the company by the service recipient (e.g. construction of a house, installation of a computer server, security service during an event, etc.)

3. Place of activity, contact address

- **Places of activity:** Exact description of the place where the service will be provided. This can be the building site or the exact address of the client, etc. The form is valid only for the canton where the service is carried out.
- **Contact person:** Details of a person in Switzerland whom the Swiss authorities can contact during the posting. This may be a posted employee (e.g. overseer), one of the employer's permanent representatives in Switzerland, the architect conducting the work, the foreman, etc.
In any event, the person must be made aware of having

been appointed as a contact person for the Swiss authorities, and must therefore be able to answer any questions asked by these authorities.

- Telephone, fax, email Please give the personal contact details for the contact person.

4. Personal data relating to posted employees

- Surname, first name as on passport or identity card: The employee's surname(s) and first name(s) as stated in the identity papers must be given in full, if necessary indicating which first name is normally used.
- Date of birth, gender: Exact details as contained in the person's identity papers.
- Nationality Please indicate the nationality of the posted employee.
- Activity carried out Exact description of the type of work carried out by the employee posted to Switzerland (e.g. installing windows, designing websites, etc.).
- Function Precise description of the function in which the worker is posted in Switzerland (security guard, skilled worker, team leader).
- Social security number in the country of domicile Please indicate the number in full under which an employee is registered with the social security authorities of his or her country of domicile. This means that employees can be differentiated from one another should they have the same name.
- Residential status in the posting state The date from which a posted employee who is not a national of the state from which s/he is being posted has been registered with the authorities in the posting state should be given. The posted person must have been integrated into the regular employment market of one of the EU-25/EFTA states for at least 12 months.

These details should be provided for all employees on a posting. If several employees are posted, the "Registration of additional posted employees" form should be used and each employee registered individually. If one or more employees are posted during an ongoing assignment (to replace a sick employee, increase the size of the team, change in the periods notified), a new form must also be completed and sent to the Swiss authorities before the persons concerned enter Switzerland.

Any questions regarding this form may be sent by email to the following address:
online-support@bfm.admin.ch

5. Confirming registration

If registration is made by electronic means (registering online, internet), the employer receives a certificate confirming that the registration has been submitted by electronic means. If the registration forms are sent to the cantonal authorities by post or fax, a certificate is only issued on request and after payment of a fee of CHF 25 per registration. Although this confirmation is not compulsory, it can be useful for the employer to have a document certifying that he has duly registered posted workers.

6. Address of authorities to whom the registration is to be sent

If registration is by electronic means, the form is automatically sent to the appropriate cantonal authorities of the place where the service is provided. If the forms are sent by post, the address of the authorities to whom the form must be sent must be indicated (details of the authorities are available on www.bfm.admin.ch). The authorities in this instance are always the cantonal authorities of the place where the service is provided.

7. Employer's declaration

Under this point, the employer declares that he has taken note of the applicable legal provisions and that he will strive to meet them.

If registration is by electronic means, only the "Yes" button needs to be activated to give this confirmation.

If the registration is sent by post, the employer must complete an attached declaration, sign it, indicate the place and date and send it together with the registration forms. This declaration is also included in these guidelines on the following page:

The Federal Act on Posted Workers can be found on the following website: http://www.admin.ch/ch/f/rs/c823_20.html

Employer's declaration

(in accordance with Article 6, paragraph 2 of the Posted Workers Act)

The undersigned employer hereby confirms that he has taken note of the Federal Act of 8 October 1999 on Workers posted to Switzerland, in particular Articles 2 and 3 of the said Act, and undertakes to comply with the minimum employment and salary conditions applicable to all the employees posted to Switzerland for the duration of the assignment.

.....

(Place, date)

.....

(Valid signature and seal of employer)

Extracts from the Federal Posted Workers Act of 8 October 1999

Art. 2 Minimum employment and salary conditions

¹Employers shall guarantee posted employees at least the employment and salary conditions as laid down in the federal acts and ordinances, collective employment agreements and standard model employment contracts stated to be generally applicable in accordance with Art. 360a of the Code of Obligations in the following areas:

1. Minimum pay
2. Working hours and rest periods
3. Minimum allocation of leave
4. Health, safety and hygiene at work
5. Protection of pregnant women, women who have recently given birth, children and young people
6. Non-discrimination, in particular equal treatment of men and women.

²If collective employment agreements that have been declared generally binding provide for salary guarantees such as leave, public holidays or child allowances, contributions to compensation funds or similar institutions, such provisions also apply to employers who post workers to Switzerland. This provision is not applicable if the employer can prove that he is paying, for the same period, contributions into such an institution in the state where he is based.

^{2bis}If a collective employment agreement that has been declared generally binding provides for a compulsory contribution towards advanced training expenses, these provisions also apply to employers who post employees to Switzerland if the posting lasts longer than 90 days.

^{2ter}If a collective employment agreement that has been declared generally binding provides for cover payment by the employer of a financial guarantee, these provisions also apply to employers who post employees to Switzerland.

^{2quater} If a collective employment agreement that has been declared generally binding stipulates that co-managed bodies responsible for ensuring the application of the agreement may impose a contractual penalty under the agreement, these provisions also apply to employers who have posted employees to Switzerland that are in breach of Article 2.

³ Payments made in connection with the posting are considered to be part of the salary provided they are not paid as a reimbursement of expenses directly linked to the posting, such as travel expenses, accommodation or meals.

⁴ Minimum employment and salary conditions must be complied with throughout the duration of the assignment.

⁵ The Federal Council may enact provisions under which the employer must prove that he is paying social contributions.

Art. 3 Accommodation

The employer must ensure posted workers have accommodation which meets the normal standards of hygiene and comfort. Deductions for accommodation and food expenses should not exceed the standard rates for the area.



The main points

- The posting of workers to Switzerland by employers based abroad is regulated by the Federal Act of 8 October 1999⁶ on the Minimum Conditions of Employment and Salary applicable to Workers Posted to Switzerland (EntsG), and related measures, and by the Federal Ordinance on Workers posted to Switzerland (EntsV), of 21 May 2003⁷.
- The duty to notify applies to **employers headquartered in an EU-25/EFTA state** who post employees to Switzerland to provide service the completion of **which takes less than ninety working days within a calendar year**.
- An employer who posts workers to Switzerland must register the workers in question with the Swiss authorities, using the official form available on the websites www.bfm.admin.ch, www.seco.admin.ch or www.entsendung.admin.ch. Online registration is the usual procedure. In exceptional cases, the registration can be sent to the appropriate cantonal authorities by post or fax. **Registration is compulsory if the assignment in Switzerland lasts for more than eight days of actual work per calendar year**, apart from the exceptions given below.
- If service is provided in one of the following sectors, notification **is compulsory from the first day** of providing service and irrespective of the duration of service.
 - a. building, civil engineering or building-related trades
 - b. hotel and catering industry
 - c. industrial or domestic cleaning services
 - d. surveillance and security services
 - e. itinerant traders (with the exception of people who sell wares at a stall or run a
 - f. circus)
 - g. sex industry

Service provided by employees posted to Switzerland in other sectors is subject to notification if performance of service takes **more than eight days** in a calendar year.

- Any employer who posts workers to Switzerland is bound by law to comply with certain basic standards. These apply mainly to minimum wage, length of work and rest periods/breaks, leave, health and safety at work, etc.
- Depending on the business sector (including the related trades) and the canton in which the service is provided, the employer may be required to pay a deposit. The deposit will be refunded when the assignment is completed, the enforcement costs have been paid and no control procedure is pending.
- For more information, see www.entsendung.admin.ch
- During the assignment in Switzerland, the Swiss authorities may carry out checks and penalise employers who do not comply with the legal requirements. Sanctions range

⁶ RS 823.20

⁷ RS 823.201

from a fine to a ban on offering their services in Switzerland for a maximum of five years.

- Registration forms must be received at the **latest eight days before** the start of the work in Switzerland, other than in exceptional situations (accident, breakdown/repairs, etc.) where the deadline may be shorter. The work may start at the earliest eight days after notification of the assignment.
- The employer or his representative in Switzerland must have the documents certifying compliance with the employment and salary conditions (employees' work schedule, pay slip, etc.) ready to show to the monitoring bodies if necessary. He must also allow Swiss monitoring bodies to have free access to the place of work of the posted employees and to the offices that he is occupying in Switzerland.
- The minimum provisions relating to pay and leave are not applicable to short assignments (see Art. 3, Posted Workers Ordinance) or assembly and initial installation work (see Art. 4, Posted Workers Ordinance). Exceptions: in the building, civil engineering and building-related trades sectors and the hotel and catering industry sector, these minimum provisions are always applicable even to short assignments, assembly or initial installation (Art. 4, para 3, Posted Workers Act).

Specific regulations for employers with their headquarters in an EU-2 states, Bulgaria and Romania

A regulation applies for Bulgaria and Romania until May 31st 2016 in accordance with the Protocol to the agreement on the free movement of persons. These employers having their headquarters in Bulgaria or Romania and posting workers in one of the four "special" sectors must undergo the employment and residence authorisation procedure irrespective of the duration of the assignment. These sectors are building, civil engineering and building-related trades, services relating to culture and landscape planning, industrial cleaning services, and surveillance and security.

In the other "general" service sectors, the registration procedure applies under the same conditions as for employers based in an EU-25/EFTA state.

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