



Important information concerning stand construction

Minimum working and wage conditions for stand constructors

According to the "Swiss Federal Act on Employees Sent To Switzerland" (SR 823.20), foreign employers who send employees to Switzerland for a limited period of time in order to carry out work must guarantee these employees at least the working and wage conditions that are laid down for Switzerland by federal legislation, ordinances of the Swiss Federal Council, collective agreements that have been declared to be generally binding, and normal contracts of employment.

On 24 April 2012, the Swiss national government declared that the Collective Agreement for the Carpentry Trade would be generally binding, and brought it into force in German-speaking Switzerland on 1 June 2012. This "Collective Agreement 2012 – 2015 for the Carpentry Trade" negotiated between the two sides of industry, i.e. the Swiss Association of Master Carpenters (Verband Schweizer Schreinermeister) and the Swiss trade unions UNIA and SYNA, also includes exhibition stand construction.

Through the Swiss Federal Council declaring this agreement to be generally binding, the conditions and provisions for the carpentry trade that have been negotiated by the two sides of industry are now binding, in the same way as a law, on all exhibition stand constructors who have their head office in Switzerland, and also on all foreign exhibition stand constructors who engage in stand construction work in German-speaking Switzerland. The provisions relate, in particular, to minimum wages, wage supplements for evening, night and Sunday work, working hours and rest periods, overtime, wages if employees are prevented from working, reimbursement of expenses, compensation for holidays and public holidays, occupational safety, and protection of health at the workplace. The following link will take you to the specific provisions, including the annotations (in German and Italian):

www.zpk-schreinergewerbe.ch/index.php/gav-und-ave-archiv

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Joint and several liability of the main contractor

On 15 July 2013, the joint and several liability of main contractors was introduced into the "Swiss Federal Act on Employees Sent to Switzerland". The joint and several liability means that main contractors can be made liable for their sub-contractors' non-compliance with the working and wage conditions.

Exhibition stand construction work comes under the construction and construction-related sector. If work is carried out by subcontractors in this sector, then the main contractor is also liable under civil law for the subcontractors' non-compliance with the net minimum wages and the working conditions. The main contractor is jointly and severally liable for all the subcontractors who come after them in the order chain.

The main contractor can only exempt themselves from this liability if they can show that, each time work is passed on, they have taken all due care required by the circumstances with regard to observation of the wage and working conditions. This is the case, in particular, if the main contractor:

- has the subcontractor show him, in a credible manner, that the subcontractor is observing the minimum working and wage conditions;
- in the contract for work concluded with the subcontractor, makes any subcontracting to second and third subcontractors subject to his agreement and specifies that he is entitled to information on the working and wage conditions;
- takes organizational measures to ensure that, in the event of work being further subcontracted, he is entitled to check, in advance, each subcontractor who will be performing the work (building site check).

For further information see: www.seco.admin.ch

Notification duties of the foreign employer

Employees and self-employed service providers sent to Switzerland from EU/EFTA member states do not require authorisation if they are staying in Switzerland for a maximum of three months or 90 days per calendar year. They are, however, obliged to notify the "Amt für Wirtschaft und Arbeit Basel-Stadt" (AWA) in writing of the following details prior to the start of their work in Switzerland (at least eight days beforehand):

- the identity of the people sent to Switzerland;
- the wages of the people sent to Switzerland (gross hourly wage);
- the start and duration of the work;
- the nature of the work being carried out in Switzerland;
- the location at which the work is being carried out.

Employees and self-employed service providers coming to Switzerland from EU/EFTA member states can register under the following link:

www.bfm.admin.ch/content/bfm/de/home/themen/fza_schweiz-eu-efta/meldeverfahren.html

Proof of self-employment

Self-employed service providers from abroad who claim to work on a self-employed basis must provide evidence of this to the competent control organ if so requested. The concept of self-employment is defined on the basis of Swiss law to this end. The decisive directive here is the Directive of the State Secretariat for Economic Affairs SECO of 1 January 2013 on the "Procedure for verifying the self-employed economic activity of foreign service providers" (www.seco.admin.ch). In the event of an on-the-spot check, a self-employed service provider is required to show the following documents:

- a copy of the notification as per Article 6 of the Act on Employees sent to Switzerland or a copy of the authorization granted, if their work in Switzerland is subject to the notification procedure or authorization procedure as per the legislation governing foreigners;

- EU/EFTA member states: a certificate as per Article 19 Paragraph 2 of Regulation (EC) No. 987/2009 of the European Parliament and the Council ("Form A1"); third countries: confirmation from the state in question or the social security system that the service provider is recognized as self-employed;
- a copy of the contract with the principal or the person placing the order, or written confirmation from the principal or person placing the order of the assignment or work contract to be fulfilled in Switzerland (in French, German or Italian).

The bodies exercising control may request further information and documents. The following additional documents may be used as evidence of self-employed economic activity:

- confirmation from the tax office of the country in which the self-employed person is based that the service provider has a VAT or turnover tax number;
- insurance documents (e.g. business liability insurance, accident insurance, loss of earnings insurance);
- list of other or earlier principals or parties who have ordered services (with a copy of the invoice if possible);
- accounts for expenses paid by the service provider (accommodation, meals, travel costs);
- business registration, register entry in the country in which the self-employed person is based, internet website, advertising material;
- vouchers for rented business premises, own company vehicles, etc.

Checks and sanctions

Special commissions have been appointed to strictly monitor compliance with these requirements and obligations. In the event of non-compliance, the guilty exhibition stand construction companies can be subjected to fines of up to CHF 5000, the cost of controls, contract penalties, payment of back-pay, interruption of their work, and bans of up to 5 years on providing services in Switzerland.

The State Secretariat for Economic Affairs, SECO, keeps a list of those employers who have violated the provisions of the Act on Employees sent to Switzerland and who have been banned from providing services in Switzerland. This list can be viewed by the public at www.seco.admin.ch

Important addresses

For further information on the topics set out above, we recommend that you contact the following addresses:

- Swiss Federal Administration (in German) (www.entsendung.admin.ch)
- State Secretariat for Economic Affairs SECO, Holzikofenweg 36, CH-3007 Bern (www.seco.admin.ch)
- Amt für Wirtschaft und Arbeit Basel-Stadt (Basel Office of Economic Affairs and Labour) - AWA, Utengasse 36, CH-4005 Basel (www.awa.bs.ch)
- Zentrale Paritätische Berufskommission (Joint Committee for the Carpentry Trade), Geschäftsstelle, Gladbachstrasse 80, CH-8044 Zürich (in German) (www.zpk-schreinergerbe.ch)

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