



Important information concerning stand construction

Foreign exhibition stand builders and the Posted Workers Act

Foreign exhibition stand builders who are sent to Switzerland by their employer to carry out work are subject to the provisions of the Swiss Posted Workers Act (EntsG; SR 823.20). The Swiss Posted Workers Act sets out to prevent situations where work is performed by companies sending employees to Switzerland and this leads to abusive undercutting of the wages and working conditions in Switzerland. To this end, the Swiss Posted Workers Act specifies that certain regulations applicable in Switzerland in this respect are also applicable to workers posted from the EU and third countries.

Compliance with minimum wages and working conditions

Under the Swiss Posted Workers Act, foreign employers who post workers to Switzerland for a specific period of time in order to perform work in Switzerland are required to guarantee that these workers will benefit from at least the same wages and working conditions that are laid down in Federal Acts, Ordinances issued by the Federal Council, collective agreements deemed to be universally valid and standard contracts of employment in Switzerland. The list of standards to be complied with and the areas affected correspond to those in the European Posting of Workers Directive. The areas concerned are: minimum wages, work time and rest period, minimum duration of holidays, occupational safety and health protection at the workplace, the protection of pregnant women, new mothers, children and young people, as well as equality of treatment for women and men.

Collective Agreement for the Carpentry Trade

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. It is valid until 31 December 2016. 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

**MCH Group
Global Live Marketing**

MCH Group AG
CH-4005 Basel
+41 58 200 20 20
info@mch-group.com
www.mch-group.com

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):

<http://www.zpk-schreinergerwerbe.ch/de/gav-und-ave-archiv/gav-ave-dokumente>

Joint and several liability of the main contractor

The Posted Workers Act makes provision for the joint and several liability of the main contractor. This means that the main contractor 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 the 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).

Further information may be found at: www.seco.admin.ch

Notification duties of the foreign employer

Nationals of the EU-25/EFTA member states and workers posted to Switzerland from companies having their head office in a EU-25/EFTA member state do not require a permit for stays of less than 90 days per calendar year. No later than eight days prior to workers being posted to Switzerland, however, the employer must notify the relevant office (Basel-Stadt: Amt für Wirtschaft und Arbeit – Office of Economy and Labour) in writing of the following details insofar as the work lasts more than eight days per calendar year (for certain types of work, notification is required irrespective of the duration of the work):

- the identity of the people being sent to Switzerland;
- the gross hourly wage of the persons being sent to Switzerland;
- the start and duration of the work;
- the type of work to be carried out in Switzerland;
- the location at which the work is being performed;
- the address of a contact person appointed by the employer.

Nationals of the EU-2 states (Bulgaria and Romania) may also benefit from this regulation under certain circumstances. Nationals of third-party states must also provide details of their residency status in the country from which they are being posted. An online notification form is available on the following website: https://www.bfm.admin.ch/bfm/de/home/themen/fza_schweiz-eu-efta/meldeverfahren.html

Proof of self-employment

Self-employed exhibition stand builders are not bound by the minimum working and wage conditions as per the Posted Workers Act or the Collective Agreement for the Carpentry Trade. Foreign exhibition stand builders who state that they are self-employed must provide proof of this to the competent inspection body upon request. The concept of self-employment is determined in accordance with Swiss law. The Directive issued by the State Secretariat of Economic Affairs, SECO, on 1 January 2013 "Procedure for Verifying the Self-Employment of Foreign Service Providers" is decisive here (www.seco.admin.ch). In the event of an on-the-spot inspection, a self-employed service provider must always be able to produce the following documents:

- a copy of the notification as per Article 6 of the Swiss Posted Workers Act or a copy of the permit issued, if the exercise of the gainful activity in Switzerland is subject to the notification process or requires a permit as per the legislation governing foreigners;

- EU/EFTA member states: a certificate as per Article 19 Paragraph 2 of Directive (EU) No. 987/2009 of the European Parliament and Council ("Form A1"); third countries: confirmation from the state in question, respectively its social insurance scheme, that the service provider is recognised as a self-employed person;
- a copy of the contract with the client or party ordering the work, or written confirmation from the client or party ordering the work, for the job or the work contract that is to be executed in Switzerland (in German, French or Italian).

The inspection body can demand additional information and documents. The following additional documents are suitable for furnishing proof of self-employment:

- Confirmation from the Tax Office of the country in which the service provider is based to the effect that the service provider has a VAT or turnover tax number;
- Proof of insurances (e.g. business liability insurance, accident insurance, loss of earnings insurance);
- List of other or previous clients or parties who have ordered work from them (with a copy of the invoice, if possible);
- Statements of expenses paid by the service provider (accommodation, food, travel costs);
- Business registration, entry in the register in the state in which the service provider is based, internet presence, advertising material;
- Vouchers for rented business premises, own company vehicles, etc.

Checks and sanctions

Compliance with these requirements and obligations is subject to strict checks by special commissions. In the event of violations, fines of up to CHF 5000 can be imposed on the guilty stand construction company, together with inspection costs, penalties, back payment of wages, work interruptions and a ban of up to 5 years on the provision of services in Switzerland. The State Secretariat of Economic Affairs, SECO, keeps a list of employers who have violated the provisions of the Swiss Posted Workers Act and who have been banned from providing services in Switzerland. This list can be consulted by the public at www.seco.admin.ch

Important addresses

We recommend the following addresses for further information on the above topics:

- Swiss Federal Administration (www.entsendung.admin.ch)
- State Secretariat for Economic Affairs SECO, Holzikofenweg 36, CH-3007 Bern (www.seco.admin.ch)
- The Basel Office of Employment and Labour: Amt für Wirtschaft und Arbeit Basel-Stadt (AWA), Utengasse 36, CH-4005 Basel (www.awa.bs.ch)
- The Zurich Office of Employment and Labour: Amt für Wirtschaft und Arbeit Zürich (AWA), Walchenstrasse 19, CH-8090 Zürich (www.awa.zh.ch)
- The Central Joint Committee for the Carpentry Trade: Zentrale Paritätische Berufskommission, Geschäftsstelle, Gladbachstrasse 80, CH-8044 Zürich (www.zpk-schreinergewerbe.ch)

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MCH Group Ltd.
Messeplatz
CH-4005 Basel