

PROJECT WORK IN SWITZERLAND

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INTRODUCTION

Many UK firms accept projects in Switzerland and have to send their employees to Switzerland in order to fulfil their contractual obligations.

However, due to the fact that Switzerland is not part of the EU, working in Switzerland – even for short periods – is subject to some restrictions and formalities. Furthermore, the applicable regulations may have an impact on the pricing which any UK firm tendering for a project in Switzerland should be aware of.

REGISTRATION PROCESS

According to the treaty on the free movement of persons between Switzerland and the EU, UK companies may send employees to Switzerland for up to 90 working days per calendar year without the need of obtaining a work permit. Hence, any UK company can send employees to Switzerland on 90 single days per calendar year. It is important to note that the 90 days are on an aggregate basis for the company and not per employee. The rule only applies to EU citizens and third country nationals who have had a valid EU work permit for at least 12 months.

In order to control compliance with the rules, Switzerland has implemented an online registration process. Registration has to take place at least 8 days before the start of work in Switzerland, except in case of emergencies. No registration is required for work lasting no more than 8 days per calendar year (on an aggregate company basis) except for construction, hospitality, cleaning and

security services as well as itinerant workers (including itinerant traders, pedlars, market-traders, stall-keepers, circus and fairground workers) where registration 8 days in advance is always compulsory.

PROHIBITION OF EMPLOYEE LENDING

It needs to be noted that only a company's own employees can be posted, not temporary workers hired from an agency due to the fact that employee lending from abroad into Switzerland is prohibited. Furthermore, the employment of employees solely for the purpose of sending them to a project in Switzerland is in most cases also qualified as prohibited employee lending.

In particular in the IT industry, it needs to be ensured that the services are exactly described in the service agreement and that such service does not qualify as mere employee lending.

COMPLIANCE WITH LOCAL SALARY STANDARDS

During the project work in Switzerland, the UK company has to comply with mandatory working conditions (e.g. health and safety standards, maximum working hours, minimum breaks), minimum vacation requirements (generally 20 days on an annual basis) and last but not most importantly with the minimum salary requirements set forth by Swiss law, in governmental working conditions or collective bargaining agreements. If no minimum salary requirements are set forth formally, the minimum Swiss market conditions have to be complied with. The Swiss government has established a commission which is monitoring

the working conditions and checks are made regularly by special commissioners.

EXPENSES

In addition to the compliance with local salary requirements, the UK company needs to pay expenses in relation to the assignment of its employees, in particular the actual costs for food and housing or hotel accommodation in Switzerland.

REMEDIES

In case of non-compliance UK companies can receive a fine of up to CHF 5,000. In case of severe or repeated breaches a company can be banned from providing services into the Swiss market.

SUMMARY

Taking into account the mandatory compliance with Swiss minimum salary standards, any UK company tendering for project work in Switzerland needs to familiarise itself with the additional costs resulting from a potential assignment and include such costs in its offer for the project.

Moreover, it is important to track the days spent in Switzerland. In case the 90 days have already been used for other projects or are not sufficient for a project, a formal work permit needs to be obtained for at least part of the workforce. At the moment, the process of obtaining a work permit can take up to three months so timing is of great importance.

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