

Information for recruitment agencies established outside Switzerland [overview]

Legal basis

In Switzerland, private sector recruitment is an activity governed by the Federal Act of 6 October 1989 on Recruitment and the Hiring of Services [http://www.admin.ch/ch/d/sr/c823_11.html] and, as such, is subject to authorization (licence).

Under this Act, recruitment agencies established outside Swiss territory are not authorized to recruit for jobs in Switzerland. Neither are they allowed to recruit job seekers in Switzerland for jobs abroad.

Agencies established outside Swiss territory involved in recruitment activities with relevance to Switzerland are liable to fines of up to CHF 100 000 [Article 39 paragraph 1 subparagraph a RSA]. In addition, any persons who, in their capacity as an employer, should have recourse to the services of a non-authorized agency are liable to fines of up to CHF 40 000 [Article 39 paragraph 2 subparagraph a RSA].

Agencies established outside Swiss territory have two possibilities

1) Work in conjunction with a recruitment agency based in Switzerland that has cantonal and federal licenses:

If you are in the field of recruitment working in conjunction with a recruitment agency based in Switzerland that has cantonal and federal authorization, your activities would then be lawful. But from the job seeker a provision for the placement service can be asked only up to the maximum amount allowed (5% of the first gross annual salary) according to the federal law (in the Ordinance on Fees, Commissions and Sureties under the Act on the Employment Service and the Hiring of Services, GV-AVG; http://www.admin.ch/ch/d/sr/c823_113.html) and must be shared between the Swiss recruitment agency and your agency.

The Swiss recruiter has to be involved in the process from the beginning, he shall do all activity regarding the labor supplying in Switzerland. Every placement shall be processed through a Swiss based and authorized agency, foreign recruiter shall not have direct contacts with Swiss employers. Instructions on recruitment shall be given by the Swiss employer to the authorized agency. This latter may then forward the information to its foreign partner, which can then publish offers. They shall expressly refer to the fact that the placement will be processed by a Swiss based and authorized agency. The selection of candidates has to be forwarded at its early stage to the Swiss partner agency, which will take over the process in accordance with the client's instructions.

For offers published in newspapers, on the web or on your website: you shall advertise under your own name and mention your partner in Switzerland; you have to indicate that all preselected applications will be forwarded to the Swiss partner and be processed by your Swiss partner according to Swiss law.

You will find a list of authorized recruitment (hiring) agencies on the following website: <http://www.avg-seco.admin.ch/WebVerzeichnis/ServletWebVerzeichnis>. It provides research opportunities in the three official languages of Switzerland.

2) Set up a base in Switzerland:

The recruitment agency sets up a base in Switzerland, registers in the Swiss Commercial Register, procures all licenses (licence for placement issued by the Canton in which the base is set up and federal license for placement) and eventually provides the placement service between job seeker and Swiss employer through the Swiss base.

In terms of the Federal Act on Recruitment and the Hiring of Services, RSA, article 3 of the RSA [http://www.admin.ch/ch/d/sr/823_11/a3.html] has to be fulfilled,

i.e. the company

- has to be registered in the *Swiss Commercial Register*• [article 3 paragraph 1 subparagraph a RSA];
- must have *suitable premises*•• [article 3 paragraph 1 subparagraph b RSA];
- and may not engage in any commercial activity which could put at risk the *interest of job seekers*••• [article 3 paragraph 1 subparagraph c RSA].

i.e. the person in charge must be

- Swiss citizen or *foreigner with a resident permit** [article 3 paragraph 2 subparagraph a RSA],
- qualified to provide *professional placement services*** [article 3 paragraph 2 subparagraph b RSA],
- of *good reputation**** [article 3 paragraph 2 subparagraph c RSA].

•The enterprise has to be registered in the Swiss Commercial Register. The activity of placement has to be mentioned concretely as business objective or must follow from a generic term. The name of the person in charge must be registered.

••The placement agency must have suitable offices; this criterion will be examined under the angle of rules applicable to data protection.

•••The interest of job seekers could be put at risk, if the recruiter brings his recruitment activity in connection with other business activities which could restrain the freedom of choice of the job seeker or the future employer or put them in a supplementary dependence.

*Due to the freedom of movement of people EU/EFTA citizens are also allowed as person in charge [Permit B EU/EFTA]. EU/EFTA citizens with permit G EU/EFTA are allowed as well; in this case the person in charge must have an employment contract for an unlimited or a long dated period.

**Normally, the fulfilling of this condition is not a problem, due to the fact that a foreign recruiter has already the required knowledge, except for the acquaintance of Swiss laws. This absence of knowledge is not an impediment to get the licence. In this case you would get the licence under the condition to absolve an HR education of several months.

***The person in charge will be asked to produce a certificate of good character [Leumundsausweis] which is normally issued by the residents' registration office. Also will

he/she have to submit a debt registry extract [Betreibungsregisterauszug], a criminal record extract [“Strafregisterauszug”] and a confirmation issued by the tax authorities which attests the lack of tax debts [“Bestätigung der Steuerbehörden betreffend Steuerschulden”]

The person in charge will have to submit the following documents

Form application [Bewilligungsgesuch];

Form person in charge [verantwortliche Person];

CV, evidence of formal qualifications (copy), certificates of employment (copy);

Readable copy of a valid identity document, residence or work permit;

Debt registry extract [Betreibungsregisterauszug]. It is possible to apply online for this document: https://www.e-service.admin.ch/eschkq/cms/content/betreibung/betreibungsauskunft_de. [It is similar to documents issued by <http://www.experian.com/> or http://www.equifax.com/home/en_us].

Criminal records extract [Strafregisterauszug]: https://www.e-service.admin.ch/crex/cms/content/strafregister/strafregister_en/;

certificate of good character [as far as the authority of the cantonal or municipal administration issues this kind of certificate];

Confirmation issued by the tax authorities which attests the lack of tax debts [Bestätigung der Steuerbehörden betreffend Steuerschulden].

Procedure to get the licence for recruitment activities in Switzerland

The application has to be submitted in writing to the competent cantonal licensing authority. To find the addresses of the cantonal authorities please click on http://www.treffpunkt-arbeit.ch/dateien/Private_Arbeitsvermittlung/Adressen_kantonaler_Amtsstellen_DE.pdf. The application for the federal licence can be lodged with the same cantonal authority at the same time. The form to fill in is available on the homepage of the cantonal authority.

The official documents to submit have to be not older than six month.

Information about setting up a company in Switzerland

<http://www.kmu.admin.ch/index.html?lang=de>

<https://www.startbiz.ch/en/home.html>

Swiss Commercial Register

http://zefix.admin.ch/zfx-cgi/hrform.cgi/hraPage?alle_eintr=on&pers_sort=original&pers_num=0&language=4&col_wid th=366&amt=007. Find the address of the cantonal commercial register by clicking the cantonal blazon.

Some business links

British-Swiss Chamber of Commerce <http://www.bscc.co.uk/>

Canadian-Swiss Chamber of Commerce <http://www.canswiss.ch/>

Swiss-American Chamber of Commerce <http://www.amcham.ch/>

Swiss-Canadian Chamber of Commerce <http://www.swisscanadianchamber.com/index.html>

Swiss-Maltese Chamber of Commerce <http://www.maltacham.ch/index.php/en/>

For further information see http://www.treffpunkt-arbeit.ch/dateien/Private_Arbeitsvermittlung/MerkblattAV_e.pdf or contact info.pavv@seco.admin.ch

This document provides only an overview. For the analysis of individual cases the applicable rules are authoritative.