

Employment Law in Switzerland

Insights

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Switzerland is a democratic country with a population of almost 8 million people, located in the heart of Europe and comprised of 26 cantons, also known as districts, that operate utilizing three official languages: French, German and Italian. Each canton has its own constitution, legislature, government and courts. Due to Switzerland's advanced infrastructure, skilled workforce, and unlike many of its European counterparts, its ability to maintain a growing and stable economy, it is a very attractive place for employers to do business.

Employment law in Switzerland is significantly more liberal than this area of law in most other European countries. Nevertheless, there are federal and local employment and labor laws that govern contracts, wage and hour, discrimination, terminations, lay-offs and privacy. Any company conducting business in Switzerland or considering doing so should be familiar with the various laws which govern the employment relationship. The purpose of this article, which is the first in a series, is to provide an introduction to the key elements of employment law in Switzerland. This article will cover the sources of law governing the employment relationship, the various types of employment contracts, wage and hour law, and laws pertaining to holidays and time off.

I. Sources of Law

Employment law in Switzerland is governed by several sources of law including: (1) the Swiss Code of Obligations (*Code des obligations Suisse*), Articles 319 to 343, comprised of Switzerland's mandatory and discretionary labor relationship rules applicable to the employer; (2) the Federal Act on Equal Treatment of Women and Men, which prohibits discrimination on the basis of gender in both private and public employment relationships; (3) Federal Labor Statutes, which contain provisions primarily focused on ensuring the health and safety of employees working in specified industries; and (4) the Federal Statute on the Information and Consultation of Employees in the enterprises.

II. Employment Contracts

Written contracts in Switzerland, although recommended, are not required by law; as such contracts may be oral or written. The following terms of employment should be included in any written contract:

- Title of position;
- Start date;

- Whether there is a probationary period, governed by Article 335c of the Swiss Code of Obligations, which can vary from one to three months;
- The length of the contract, specifying whether the term of employment is fixed or permanent;
- The annual salary governed by Articles 322, 323, 323b of the Swiss Code of Obligations;
- Notice provisions applicable to the termination of the employment relationship governed by Articles 334, 335 and 337 of the Swiss Code of Obligations;
- The amount of vacation time governed by Article 329 of the Swiss Code of Obligations; and
- Standard working hours governed by Article 9 of the Federal Labor Law.

Employment relationships in certain industries such as the machine industry and pharmaceutical industry are governed by collective agreements negotiated by trade unions, companies and industry associations. The terms of these agreements contain mandatory provisions required by the federal government and are binding for all employers in the applicable sector.

III. Wage and Hour Law

There is no statutory minimum wage in Switzerland and in May of 2014 voters rejected a proposal to institute one; however, collective bargaining agreements and employment agreements can include a set minimum wage. Pursuant to the Federal Statute on Employment, non-management level employees are prohibited from working more than forty-five to fifty hours per week depending on the particular employment sector. Overtime is compensated at a surcharge, typically 125% of the regular rate of pay, or by time off unless contractually excluded. Additionally, employers are required to provide employees with a rest break in the amount of fifteen minutes after five-and-a-half hours of work and thirty minutes after seven hours of work. Employers must also provide employees with at least one day off per week, typically Sunday.

IV. Holiday Requirements

Pursuant to Article 329 of the Code of Obligations, each employee is entitled to four paid weeks off per year unless a longer entitlement is contractually provided for. Employees who are twenty years of age or younger are entitled to five paid weeks off per year. Employees are entitled to unpaid public holidays in addition to the four weeks. Public holidays include the Swiss Nation Day (August 1), cantonal and local public holidays.