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# Labor Market and Employment Law

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## 1. Labor market

### 1.1 Main characteristics of the Swiss labor market

The Swiss labor market is characterized, on the whole, by fairly liberal labor laws, few and flexible regulations as well as outstanding social and economical stability.

In addition to a well-trained and highly motivated work force, low taxation and generally attractive labor costs, a characteristic feature of *Switzerland* as a business location is the great flexibility of the labor market. A key to the mobility of the Swiss labor market, and thus another secret of *Switzerland's* success, is the principle of decentralization, which is firmly anchored in the country's political, social and economic organization. The Swiss labor market is typified by local, and in some cases implicit, regulations, which are, by their very nature, adaptable in both period of applicability and content. One reason for this situation is the industrial peace, which is a historical legacy and endures to this day. This is the foundation for the coexistence and mutual trust which prevails between employees and employers, and for the non-explicit and non-comprehensive character of many regulations.

Thanks to the flexibility of its labor market, *Switzerland* has one of the lowest unemployment rates in the world. Despite a recent rise, it currently stands at only 3.6% (status August 2005), compared with a standardized unemployment rate of 6.5% for the *OECD* area and 8.6% for the euro area. *Switzerland's* labor-force participation rate currently stands at 82%, which tops the international league table and compares with, for example, 78% in the *USA* and 70% in the *EU* countries.

The overall productivity of the Swiss work force likewise comes out top in international comparisons. On average, Swiss employees work 1,861 hours per annum, the highest in *Europe*; the comparable figures for *Germany* and the *UK* are 1,646 and 1,710 hours, respectively. With a GDP of around 74,033 US dollars per head of the working population (status 2003), *Switzerland* ranks No. 4 in the world. The reasons for *Switzerland's* outstanding performance are the good working morale, a long working week, excellent infrastructure and the almost complete absence of strikes. The comparatively short-notice period of between one and three months further enhances the recruitment flexibility of Swiss companies.

### 1.2 Switzerland's work force

*Switzerland's* work force is also characterized by excellent educational qualifications, a very high level of motivation and strong company loyalty. According to *IMD's "World Competitiveness Yearbook 2003"*, *Switzerland* ranks top with regard to work motivation. Employees generally are dedicated to the objectives of their employer, and therefore productivity as well as work quality are correspondingly high. The relations between employees and management are generally very good, mostly characterized by a willingness on both sides to settle disputes by negotiation rather than by industrial action. As a result, strikes are extremely rare in *Switzerland*. The understanding that the first priority in industrial disputes is to find a settlement within the company was established by the 1937 pact between the employers' associations for the engineering and metalworking industry, on the one hand, and the trade unions of Swiss metalworkers and watchmakers, on the other.

*Switzerland's* educational system ranks among the best in the world and produces an exceptionally well-qualified and skilled work force at all levels. According to international research, the Swiss educational system offers students an excellent preparation for coping with the needs of a competitive economy. Swiss universities and institutes of technology are world-renowned for

their excellence and high academic standards. As a result of the high-quality educational system and the presence of four official languages (German, French, Italian and Romansh), a large part of the Swiss population is fluent in several languages.

The high quality of the Swiss educational system and the attractive labor market offer a strong incentive to foreign managerial staff and workers to move to *Switzerland* with their families. In 2003, 22% of the working population – a total of 886,000 persons – were of foreign nationality. The majority of foreign employees in *Switzerland* are from *EU member states* (58%). The highest proportion is from *Italy* (21%), closely followed by the states of the former *Yugoslavia* (20%), then *Portugal* (10%), *Germany* (9%) and *France* (5%).

### 1.3 Labor costs

The level and structure of salaries and wages reflect the high level of productivity of the service-oriented, high-value-added Swiss economy.

Although salaries seem relatively high, the overall labor costs are much lower than in competing countries. *Switzerland* therefore continues to be a very **cost-effective business location**. Owing to longer working hours than in other countries and the high motivation of the Swiss work force, ancillary labor costs remain fairly moderate and comparatively low. For example, the unemployment insurance contribution is only 2% of gross earnings, compared with 6.5% in *Germany*; the cost is split equally between employee and employer.

### 1.4 Reforms in the Swiss labor market

A cornerstone of the success of Swiss labor market policies was the reorientation of employment policy in the 1990s. This was prompted by the rise – dramatic by Swiss standards – in unemployment rates, from 0.5% in 1990 to over 5% in 1997. In view of this trend, a reorientation was indispensable. The **shift from a passive to an active labor market policy** was completed with the revision of the *Federal Unemployment Insurance Law Act (Arbeitslosenversicherungsgesetz; Loi fédérale sur l'assurance-chômage obligatoire et l'indemnité en cas d'insolvabilité)* in 1995. Among the most important innovations was the creation of the *Regional Employment Centers* at the end of the 1990s. These are specifically responsible for job placement and advice for the unemployed.

Another reason for the success of Swiss labor market policies is that, compared with other *European countries*, the **entitlement to unemployment benefit** is quite restrictive, which helps to keep the cost of unemployment insurance low. Although unemployment benefits – at 70% to 80% of normal salary – are relatively high compared with other countries, there is a general waiting period before payments start and they are paid for a maximum period of only 150 days. Unemployed workers also have to prove that they have actively been searching for work, with a minimum of ten job applications expected every month.

The start of the second transitional phase of the *Bilateral Agreements* on June 1, 2004, marked a further increase in the flexibility and openness of the Swiss labor market. The prospect of greater cross-border labor mobility in relation to *EU countries* is set to increase the efficiency of the Swiss labor market still further.

## 2. Labor law

### 2.1 Legal basis

Swiss labor law draws on three main sources of legislation: the *Swiss Code of Obligations (CO; Obligationenrecht; Code des obligations)*, the *Federal Labor Act (Arbeitsgesetz; Loi sur le travail)* and the *Federal Act Governing the General Applicability of Collective Labor Agreements (Bundesgesetz über die Allgemeinverbindlicherklärung von Gesamtarbeitsverträgen; Loi fédérale permettant d'étendre le champ d'application de la convention collective de travail)*.

The most important legislation on employment contracts is the *Swiss Code of Obligations (articles 319 to 362 CO)*, which regulates individual employment contracts, special employment contracts like the apprenticeship contract, traveling salesman's contract and the homework contract, collective employment contracts, standard employment contracts and, in part, social security.

The *Federal Labor Act* contains minimum provisions for maximum weekly working hours, minimum breaks and holidays as well as for security at the workplace and the protection of female employees and minors. The *Federal Labor Act* applies generally for all public and private corporations except for, at least partially, federal, cantonal and local government, including public-law institutions.

The *Federal Act Governing the General Applicability of Collective Labor Agreements* provides that collective employment contracts may be declared applicable to all employers and employees in designated industries provided that certain circumstances apply.

### 2.2 The employment contract

#### 2.2.1 Conclusion of an individual employment contract

Generally, no specific form is required for an employment contract under Swiss law. An employment contract may also be concluded orally or even be deemed concluded if the employer accepts the employee, for a given time, to undertake work whose performance, under the given circumstances, is only to be expected against payment of wages.

The employment contract must be made in writing only where it is legally required for certain forms of contract (e.g. apprenticeship contracts or temporary work contracts) or where it is stipulated in a collective employment contract. **Despite the free form of individual employment contracts in general, numerous individual agreements are only valid in written form** – as a legal safeguard, but also for the protection of the employee. Examples include: non-competition agreements, agreements on overtime work, entitlement to pro rata commissions, or salary payment in the event of illness or accident.

If the term of the employment contract is not for a fixed period of time, the first month is considered a **probationary period**, unless determined otherwise by agreement or a standard employment contract or collective employment contract. However, the probationary period must not exceed three months.

#### 2.2.2 Collective employment contract

The collective employment contract is a written agreement concluded between one or more employers or their representatives and the workers' associations (trade unions). It contains provisions on labor relations between employer and employee, and provisions applicable to its parties as to the conclusion, content and termination of individual employment relationships. A collective employment contract must be observed where employee and employer belong to an association or

trade union signatory to it, or where its applicability has been otherwise agreed. If it has been declared generally applicable by the competent authority, it is applied to the entire industry concerned, regardless of membership of an association or trade union. The most important collective employment contracts are those applying to the hotel and restaurant trade, and the construction and metal industries.

The mandatory law of the Confederation and of the Cantons of Switzerland has priority over collective employment contracts. Provisions deviating in favor of the employee may, however, be established, if the mandatory law does not provide otherwise.

### 2.2.3 Standard employment contract

The standard employment contract, contrary to what its name suggests, is not a contract but an official decree issued by the competent authority. It establishes key provisions as to the conclusion, subject-matter and end of specific kinds of employment relationship similar to those contained in collective employment contracts.

The practical significance of standard employment contracts is where it has not yet been possible to conclude collective employment contracts. At present, apart from the farming industry and domestic service, this applies particularly to teaching staff in homes and residential schools, nursing staff and junior doctors.

## 2.3 Termination of an employment relationship

### 2.3.1 Ordinary termination

If an employment contract has been entered into for an indefinite term, **either contractual party may give notice of termination** subject to a certain period of notice and observance of the agreed date of termination of employment. Under Swiss law, **notice periods** must not differ for the employer and the employee; in cases where an agreement states different notice periods for the employer and the employee, the longer period is valid for both parties. The party giving notice is, upon request, obliged to state the reasons for giving notice.

An employment contract may be concluded for a fixed term; therefore it ends on the expiry of the agreed period unless the parties agree upon continuation of the employment contract. In a case where the contract is tacitly continued after the term, it is deemed to have become an indefinite contract, which cannot be terminated prematurely.

### 2.3.2 Notice periods

During the **probationary period**, the employment relationship may be terminated at any time with a notice period of seven days.

If the **employment relationship has lasted less than one year**, and unless otherwise determined by agreement, standard employment contract or collective employment contract, it may be terminated at the end of the month following the date of notice.

In the **second up to and including the ninth year of service**, the employment relationship may be terminated with a notice period of two months and thereafter with a notice period of three months.

### 2.3.3 Termination without notice

For valid reasons, both contracting parties, the employer as well as the employee, may at any time terminate the employment relationship **without notice, i.e. with immediate effect**. A valid reason is considered to be any circumstance under which the terminating party cannot, in good faith, be expected to continue the employment relationship with loyalty and trust. Whether or not a valid reason exists, is a decision to be made largely at the court's discretion.

Immediate dismissal without notice is an extraordinary measure and may therefore be resorted to only under very serious circumstances, namely if the offending act actually destroys the trust between the two parties. A valid reason for immediate dismissal without notice explicitly stated in the *Code of Obligations* is the impairment of wages because of insolvency of the employer.

### 2.3.4 Abusive notice of termination

In *Switzerland*, an employment relationship shall not be terminated for unlawful reasons (so-called "abusive notice of termination"). In such cases, employee and employer have the right to sue the other party for damages.

The **notice of termination of an employment relationship is considered abusive** if given for one of the following reasons:

- because of a quality inherent in the personality of the other party (e.g. sex, race, age)
- because the other party exercises a constitutional right (e.g. religion or membership in a political party)
- solely to frustrate formation of claims of the other party or because the other party asserts, in good faith, claims arising out of the employment relationship (e.g. claim for a bonus payment)
- because the other party performs compulsory Swiss military service, civil defense service, or Red Cross service, or a legal duty not voluntarily assumed
- because of the employee's affiliation, or non-affiliation, to a union, or lack thereof, or because the employee performs work for a union
- while the employee is an elected representative of an employee or labor organization, unless the employer proves grounds for notice
- in connection with a mass dismissal without prior consultation with the employees' representative body or, if there is none, the employees

The party who serves an abusive notice must pay the other party an indemnity; the amount will be determined by the court considering all circumstances, but will not exceed six-months' wages of the employee.

### 2.3.5 Notice of termination at an improper time

Upon termination of the probationary period, a notice of termination at a so-called "*improper time*" is null and void. However, any notice given prior to the respective period is effective, but the notice period does not run during the time when the giving of notice would be ineffective.

The following four situations are considered "**improper time for notice**" by the employer:

- during the other party's performance of compulsory Swiss military service, civil defense service, or Red Cross service and, in case such service lasts more than twelve days, during the four weeks prior to and after the service

- in the case of full- or part-time absence from work due to illness or accident, as long as the employee is not at fault for the illness or accident (in the first year of employment, during 30 days; from the second to the fifth year of employment, during 90 days; and from the sixth year of employment, during 180 days)
- during pregnancy and the 16 weeks following lying-in of an employee
- during the employee's participation, with the consent of the employer, in a foreign aid service assignment abroad ordered by the competent federal authority

“**Improper time for notice**” by the employee is the period of four weeks prior to and after a supervisor, whose functions the employee is able to perform, or the employer himself is performing compulsory Swiss military service or civil defense service.

#### 2.4 Obligations upon termination of the employment relationship

Upon termination of the employment relationship, all claims arising from it become due. Each party must make restitution for everything received during the period of the employment relationship from the other party, or from a third party for their account.

Upon termination of the employment relationship of an employee of at least 50 years of age and with 20 or more years of service, the employee is entitled to receive severance pay. The amount of the severance pay may be determined by written agreement, standard employment contract or collective employment contract, but it must not be less than an amount equal to the employee's wages for two months.

#### 2.5 Salary

There are no statutory minimum wages in *Switzerland*. However, some collective employment contracts stipulate minimum wages for certain sectors, for example the hotel and gastronomy segment. Under Swiss law, employees are entitled to a special level of remuneration for work performed at night, on Sundays and on public holidays. For regular night work, Swiss labor law provides for a compulsory pay increase of 10%.

The employee is only entitled to a special allowance (bonus) on certain occasions such as Christmas or the end of the fiscal year if agreed between the employer and the employee.

#### 2.6 Working hours

Under Swiss law, the maximum weekly working time for white-collar employees such as employees in industrial undertakings, office staff and technical personnel is 45 hours. The upper limit for all other employees is 50 hours per week. Special working hours apply for pregnant women and nursing mothers.

If the performance of overtime becomes necessary, the employee is obliged to work the extra hours as far as he is able and can be expected, in good faith, to do. Under Swiss law, overtime, which is defined as working hours over and above the agreed or customary working time, must, as a general rule, be remunerated at the rate of 125% of the regular wage or, by agreement with the employer, be offset by equivalent time off. However, the employer and the employee may make different written agreements.

#### 2.7 Free time and vacation

A Swiss employer is obliged to give his employees one day off every week, normally Sunday. Different arrangements such as several consecutive days off, or two half days instead of one day off, may be made with the employee's consent.

In *Switzerland*, annual leave, during which employees receive full payment, is a fundamental right which employees are granted by law. The minimum period for adult employees is four weeks per year and five weeks for employees and apprentices up to and including the age of 20. This minimum period may be extended by contractual agreement. While the employment relation lasts, mandatory vacation time must not be replaced by monetary compensation.

#### 2.8 Female employees

##### 2.8.1 Equal rights for men and women

Since 1981 the *Swiss Federal Constitution* has stipulated that “men and women shall have equal rights” and that they are “entitled to equal pay for equivalent work”. However, imbalances remain, especially in terms of fair pay, in *Switzerland* as well as in other *European countries*.

In 1996 the *Swiss Federal Act on Equality of Women and Men (Gleichstellungsgesetz; Loi sur l'égalité)* entered into force. This law applies to all areas of working life, prohibiting any direct or indirect discrimination on the basis of sex. A number of measures to combat sexual discrimination are likewise included.

As regards employees' protection, women in *Switzerland* enjoy the same rights as men. In addition, special provisions apply to pregnant women and nursing mothers.

The *Swiss Federal Office for Equality between Women and Men* was established in 1988 by the *Swiss Federal Council* to promote the achievement of equal rights between the sexes in all areas of life and to work towards the elimination of all forms of direct and indirect sexual discrimination.

##### 2.8.2 Maternity insurance

After overcoming several political hurdles, the *Swiss Maternity Insurance scheme entered into force on July 1, 2005*. Under this scheme, employed and self-employed women who have paid mandatory insurance under the terms of the *Old-Age and Survivors Insurance Act (Bundesgesetz über die berufliche Alters-, Hinterlassenen- und Invalidenvorsorge; Loi fédérale sur la prévoyance professionnelle vieillesse, survivants et invalidité)* for the nine months prior to giving birth and were in paid employment for at least five months will receive 80% of their average wage, up to a maximum of Sfr. 172 per day, for a period of 14 weeks after childbirth. This also applies to women working for cash in the employment of their spouse.

### 3. Work and residence permits

#### 3.1 Introduction

Since the *Bilateral Agreements* between *Switzerland* and the *European Union* entered into force on June 1, 2002, *Switzerland* has had a dual recruitment system. Depending on the applicant's country of origin, i.e. whether the applicant is an *EU/EFTA citizen* or from *non-EU/EFTA countries* (the “*third-country nationals*”), the requirements for obtaining a work and/or residence permit, and the necessary procedure, are different.

The **Bilateral Agreements** between *Switzerland* and the *European Union* included the *Agreement on Free Movement of Persons (Personenfreizügigkeitsabkommen; Accord sur la libre circulation des personnes)*, which has resulted in a significant relaxation of the procedure for obtaining work and/or residence permits for **EU and EFTA citizens**. The Swiss labor market is being opened up to nationals of *EU/EFTA countries* in stages over a twelve-year period. **Full implementation of freedom of movement should be achieved by mid-2014**. The first two-year transition period ended on May 31, 2004. Since June 1, 2004, citizens of *EU/EFTA member states* have no longer needed work permits, but until June 1, 2007, they will require residence permits to be able to work.

The *Agreement on the Free Movement of Persons* will be extended to the *new EU member states* which joined on May 1, 2004 (*Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic, Hungary, Malta and Cyprus*). The widening of the Agreement was dependant on the coming into force of a *Supplementary Protocol*. Citizens of the *new EU member countries* can expect to find a relaxation of the procedure for obtaining work and/or residence permits from the beginning of 2006. However, the liberalization of the labor market for the *new EU member states* is also to be introduced in stages. Entry into force of the *Supplementary Protocol* is expected to be followed by a transition period of up to seven years. Up to the inception of the *Supplementary Protocol*, citizens of the new EU countries were treated as "third-country nationals".

For **third-country nationals**, the entry into force of the *Agreement on the Free Movement of Persons* resulted in a more restrictive entry policy for specialist and qualified workers. In the specific area of international transfer of managerial personnel within a group of companies or for project-specific activities, for example in the IT field, the granting of work and residence permits is generally straightforward, although justification and documentation may result in a time-consuming application process of up to eight weeks. Despite the stricter conditions of entry for third-country nationals, it is true to say that the Swiss economy not only needs workers from third countries, but is dependent on qualified or specialized professionals from those countries.

### 3.2 Conditions for the granting of work and residence permits

*EU/EFTA nationals* receive a work and residence permit as long as the ceiling for the number of permits has not been reached. They must also produce a contract of employment from a Swiss employer, a posted-worker certificate from the foreign employer, or proof of self-employment.

**Third-country nationals** only receive a work and residence permit when the criterion of quota availability is fulfilled. Third-country applicants have to prove that they offer qualified or specialized labor and that no Swiss or *EU/EFTA* national is willing or able to do the job. The priority status accorded to labor from *Switzerland* and the *EU/EFTA member countries* does not apply in the case of executives or key staff of international companies who come to *Switzerland* as part of a company executive transfer or, in the case of highly qualified specialists, whose presence in *Switzerland* is vital for the fulfillment of special assignments. Moreover, exceptions are granted in regard to the recruitment priorities in certain sectors, e.g. tourism, healthcare, the arts, domestic service and catering, as long as the required admission criteria can be met.

### 3.3 Types of permits

Every foreign citizen who pursues gainful employment in *Switzerland* that lasts longer than four months, or who is not in *Switzerland* as a tourist, requires a residence card for foreigners. There are different types of residence card, depending on the purpose of the stay and the duration of the permit.

#### 3.3.1 Short-term residence permit (Permit L)

Short-term residents are foreigners who are resident in *Switzerland* for a limited period and for a particular purpose, with or without gainful employment.

Short-term residence permits for *EU/EFTA nationals* (*L EU/EFTA*) are granted when the applicant has a fixed-term employment contract for more than four months and less than twelve months. The period of validity of the short-term permit is identical with the term of the employment contract. The permit can be extended to an overall duration of no more than 364 days and renewed any number of times, without interruption, as long as an employment contract exists. The holder of a short-term residence permit has a right to occupational and geographic mobility, in other words the *L EU/EFTA* permit authorizes the holder to change his or her job, profession and canton without first asking permission. The change to a self-employed occupation does require permission, however, and presupposes the issue of a new *L EU/EFTA* residence permit for self-employed persons.

*EU/EFTA* nationals starting a new job with a Swiss employer, self-employed service providers from an *EU/EFTA member state* and seconded employees can reside in *Switzerland* for the purpose of gainful employment for three months of any calendar year without a residence permit. However, these persons are under an **obligation to register**. Obligatory registration is fulfilled when the appropriate form is submitted to the responsible cantonal labor-market authorities. Several registrations from the same employer in *Switzerland* can be submitted online to the Federal Office for Migration. The registration procedure is obligatory for all jobs in *Switzerland* lasting longer than eight days and no more than 90 days.

**Third-country nationals** can be issued with a short-term residence permit for a stay of no more than one year, as long as the ceiling for the number of third-country nationals has not been reached. The period of validity of the permit is identical with the term of the employment contract. In exceptional cases this permit can be extended to an overall duration of no more than 24 months, provided the holder works for the same employer throughout this time. After a period of residence of 24 months, an application must be made to convert the short-term residence permit into a year-round residence permit (Permit B). Third-country nationals in possession of a short-term residence permit are not allowed to change their employer in *Switzerland*. Changes of canton are subject to permission.

#### 3.3.2 Year-round residence permit (Permit B)

Year-round residence permits are granted when the period of residence in *Switzerland* is to be longer than one year.

A year-round residence permit (*B EU/EFTA*) is granted to **EU/EFTA nationals** when the term of the employment contract is one year or more. The initial period of validity of the permit is five years. The holder of a *B EU/EFTA* residence permit has the right to occupational and geographic mobility: therefore changes of job, profession and canton are not subject to permission. A prerequisite for the granting of a *B EU/EFTA* permit is that the ceiling for the number of year-round residence permits has not been reached. If the quota of year-round residence permits has been used up, the authorities grant short-term residence permits with a period of validity of 364 days, renewable after expiry of the permit.

As a rule, the period of validity of the year-round residence permit for **third-country nationals** is initially limited to one year. Once granted, the permit can normally be renewed on an annual basis, provided that the holder works for the same employer in *Switzerland* throughout this time. Third-country nationals in possession of a year-round residence permit are not usually permitted

to change employer in *Switzerland*. Any changes of job, profession or canton are subject to permission.

### 3.3.3 Cross-border commuter permit (Permit G)

Cross-border commuters are foreign nationals who are resident in a foreign border zone and gainfully employed in the neighboring border zone in *Switzerland*. The border zones are those regions which are specified in the cross-border commuter treaties between *Switzerland* and its neighboring countries.

For EU/EFTA nationals, the border zones in *Switzerland* will remain as defined until March 31, 2007. All EU/EFTA nationals can be cross-border commuters as long as they have, or move to, a place of residence in the border zone of a neighboring country. They must return to their principal place of residence in the border zone at least once a week. Any change of job or change of the place of work must be notified to the appropriate cantonal authorities.

**Third-country nationals** can obtain a cross-border commuter permit only if they are in possession of a long-term residence permit in one of *Switzerland's* neighboring countries and have ordinarily resided in the border zone of the neighboring country for at least six months. In principle, the initial permit is granted for a period of one year and is valid only for the border zone of the canton issuing it. The cross-border commuter must have the authorization of the labor-market authorities if he or she wishes to change place of work or profession.

### 3.3.4 Settlement permit (Permit C)

Settled foreign nationals are foreign nationals who have been granted a settlement permit after five or ten years' continuous stay in *Switzerland*. Citizens of EU and EFTA countries are normally granted the settlement permit after five years' continuous residence in *Switzerland*. Third-country nationals may be granted the settlement permit after ten years' continuous residence. There is a special arrangement for citizens of the USA and Canada. They are granted the settlement permit already after a five-year continuous period of residence in *Switzerland*. Training periods do not count towards the five- or ten-year residence periods.

The settlement permit is indefinite and must have no conditions attached. However, the Permit C, granted to settled residents, is valid for only five years. The purpose of this five-year period is simply to enable the Swiss authorities to check whether the permit holder is still resident in *Switzerland*. Foreigners with settlement permits are on an equal footing with Swiss citizens in terms of economic and employment rights, provided Swiss citizenship is not a prerequisite for the activity in question.

### 3.3.5 Residence without gainful employment

In contrast to residence for the purpose of gainful employment, the *Agreement on the Free Movement of Persons* has no provisions for a transitional arrangement for non-employed EU/EFTA nationals. The relevant provisions of the *Agreement on the Free Movement of Persons* have been applicable since June 1, 2002. EU/EFTA nationals who are not economically active have a right to a residence permit in *Switzerland*, without age limits, if they can provide the following:

- proof of sufficient financial means to cover the cost of living in *Switzerland* and
- proof of adequate health and accident insurance

For third-country nationals the situation is different. A minimum age of 55 applies for the granting of a residence permit without gainful employment – which is why this is also known as a “pensioner permit”. Pensioners may be granted residence permits if they fulfill the following criteria:

- they are over 55 years of age
- they have close relations to *Switzerland*
- they are not gainfully employed in *Switzerland* or abroad
- they make *Switzerland* their main residence and
- they have the necessary financial means

Third-country nationals who do not satisfy all five of the above criteria may be granted a residence permit when compelling reasons exist. Such reasons may be of a cultural, economic or fiscal nature.

### 3.3.6 Residence without a permit

EU/EFTA and third-country nationals who enter *Switzerland* as tourists or visitors do not require a residence permit as long as their stay does not exceed three months. After three months, the stay must be interrupted for at least one month. The overall period of residence in *Switzerland* may not exceed six months in any calendar year. Furthermore, citizens of both EU/EFTA and third countries may engage in gainful employment in *Switzerland* for eight days in any calendar year without a permit. However, it should be noted that, for citizens of certain countries, an entry visa is necessary even for short stays in *Switzerland*.

### 3.4 Self-employment

EU/EFTA nationals who enter *Switzerland* to take up self-employment are initially granted a residence permit with a period of validity of only six months. During the so-called “settling-in period”, proof of gainful self-employed activity must be provided. If this proof is forthcoming, an EU/EFTA residence permit with a period of validity of five years is granted.

It is greatly in *Switzerland's* interest that foreign nationals come to the country to establish businesses. Applications for work and residence permits from self-employed third-country nationals are judged on the basis of whether the relevant economic sector is already oversupplied and whether the new business will create jobs for Swiss citizens. It is in any case advisable to discuss such applications beforehand with the responsible cantonal authorities.

### 3.5 Immigration of family members

All foreign nationals in possession of a residence permit with a period of validity of more than four months are allowed to bring their dependents with them. The period of residence permitted to family members is identical with that of the holder of the residence permit.

The circle of family members authorized to reside in *Switzerland* is wider for permit holders from EU/EFTA countries than it is for third-country nationals. In the case of EU/EFTA nationals who hold a work and/or residence permit, spouses, children and grandchildren under 21 years of age, as well as parents and grandparents may take up residence in *Switzerland*.

On the other hand, third-country nationals whose family members are also nationals of third countries may enter *Switzerland* only with spouses and children under 18 years of age. If the de-

pendents of third-country nationals hold citizenship of a member country of the EU or EFTA, the right of residence is subject to the provisions of the *Agreement on the Free Movement of Persons*.

### 3.6 Looking for jobs in Switzerland

Job vacancies in *Switzerland* are advertised in the press or in specialist publications. In addition, many companies publicize vacancies on their websites. Personnel recruitment agencies are often engaged to fill vacancies in managerial positions.

EU/EFTA citizens are recommended to consult the *EURES* website (see [www.eures.ch](http://www.eures.ch)), which contains valuable information for EU/EFTA citizens looking for work in *Switzerland*.

### 3.7 Concluding remarks

Applications for work and residence permits should be submitted to the responsible authorities in the canton where the employment is to be located. Applications from EU/EFTA citizens should be addressed to the *Cantonal Aliens Police*, and applications from third-country nationals to the relevant *Cantonal Labor Office*. The scope of the application forms and the length of the procedure vary considerably depending on the applicant's nationality. Many cantons issue the necessary permits for EU/EFTA citizens within a few days. Depending on the canton, the procedure for dealing with applications from third-country nationals may take between three weeks and three months.

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