



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Federal Department of Home Affairs FDHA
Federal Social Insurance Office FSIO
International Affairs

Social Security for Posted Workers

CH - EFTA

September 2017

Who is the target audience?

The brochure is aimed at workers posted:

- between Switzerland and a Member State of the European Free Trade Association (EFTA)¹, insofar as the worker is a Swiss, Icelandic, Liechtenstein or Norwegian national.

The brochure does not concern workers posted:

- between Switzerland and an EU Member State². See brochure "[Social Security for Posted Workers – CH - EU](#)";
- between Switzerland and Liechtenstein or Norway, if the worker is not a Swiss, Icelandic, Liechtenstein or Norwegian national. See brochure "[Social Security for Posted Workers – Contracting States \(outside EU/EFTA\)](#)";
- between Switzerland and non-EU/EFTA Member States, with which Switzerland has concluded a social security agreement³. See brochure "[Social Security for Posted Workers – Contracting States \(outside EU/EFTA\)](#)";
- between Switzerland and countries with which Switzerland has not concluded a social security agreement. See brochure "[Social Security for Posted Workers – Non-contracting States](#)"⁴.

¹ The EFTA Member States are: Iceland, Liechtenstein, Norway and Switzerland.

² The EU Member States are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Spain, Slovakia, Slovenia, Sweden, and the United Kingdom.

³ Switzerland has concluded social security agreements with the following non-EU/EFTA Member States: Australia, Canada (incl. Quebec), Chile, China, former Yugoslavia (Bosnia and Herzegovina, Serbia, Montenegro), India, Israel, Japan, Macedonia, Philippines, Republic of San Marino, South Korea, Turkey, Uruguay and the United States of America.

⁴ This brochure also concerns postings between Switzerland and Iceland if the posted worker is not a Swiss, Icelandic, Liechtenstein or Norwegian national.

Introduction

As of 1 January 2016, [Regulation \(EC\) No. 883/2004](#) applies to all social security matters that concern the relationship between Switzerland and Iceland, Liechtenstein or Norway, according to revisions to the EFTA Convention. It replaces Regulation (EEC) No. 1408/71.

The purpose of Regulation (EC) No. 883/2004 is to coordinate European social security systems. It regulates, among other things, the temporary posting of workers abroad.

Postings authorised under Regulation (EEC) No. 1408/71 shall remain valid until the end of the permitted time period. It should be noted that the duration of postings permitted under the Regulation (EEC) No. 1408/71 will be counted when determining the maximum duration of a posting authorised under Regulation (EC) No. 883/2004.

1) Regulation (EC) No. 883/2004

Material scope

The Regulation governs the following statutory social security schemes:

- sickness and maternity benefits;
- disability benefits;⁵
- old-age benefits;⁵
- survivors' benefits;⁵
- benefits in respect of accidents at work and occupational disease;
- unemployment benefits;
- family benefits.

However, the Regulation does not apply to private insurance plans or to coverage resulting from industrial agreements (collective labour agreements).

Personal scope

Regulation (EC) No. 883/2004 protects individuals who are or were subject to the social security legislation of Switzerland or of an EFTA Member State, as well as (in relation to certain benefits) their family members.

With regard to relations between Switzerland and Iceland, Liechtenstein or Norway, the Regulation applies to the citizens of one of these States.

Bilateral social security agreements provide for the posting between Switzerland and Liechtenstein or Norway of employees who are not Swiss, Icelandic, Liechtenstein or Norwegian nationals (see page 2).

Determination of the applicable legislation

To avoid gaps in insurance cover or the double payment of social security contributions, Regulation (EC) No. 883/2004 sets out which State's social security legislation applies to workers.

⁵ As far as Swiss legislation is concerned, the Regulation also applies to benefits provided by the compulsory occupational old-age, survivors' and invalidity benefit plan (BVG - LPP).

With few exceptions, every individual is subject to the social security legislation of only one Member State (Article 11, para. 1), as a general rule the one of their State of employment (Article 11, para. 3a).

One exception to this rule concerns posted workers who are sent to work in another Member State for a limited period of time (Article 12).

2) Posting

“Posting” refers to the act of an employer sending an employee to work on its behalf in another State for a limited period of time. For self-employed workers, it implies that they move temporarily to another State in order to pursue a similar activity there.

Posted workers therefore remain subject to the social security legislation of the posting State (i.e. the sending country) for the period that they are posted abroad. This concerns all branches of social security.

A posting must satisfy the following conditions:

a. Temporary nature

A posting is only permitted for a limited period of time. In principle, a worker should not be posted for more than 24 months.

If more than 24 months is required, the posting State and the State of employment (i.e. the country where the worker is posted) may conclude a special agreement and consent to an extension.

A temporary interruption of the worker’s activities (due to ill-health, holidays or if called back by the employer) is not regarded as an interruption to the posting.

b. Habitual and significant activities in the posting State

The posting company must have ordinarily carried out substantial economic activities for a certain period of time in the country from which the worker is posted. A permanent establishment with not only administrative staff and annual reports detailing the company’s turnover achieved in the posting country, for example, are signs of this.

Self-employed persons wishing to avail of the posting arrangements must have already pursued substantial economic activities in the posting State for a certain period of time.

c. Prior social security cover in the posting State

Immediately prior to their posting, workers must have been insured under the social security scheme of the posting State.

As a guide, workers who have been affiliated to the social security system of the posting State for at least one month prior to their posting are deemed to have satisfied the minimum period of prior insurance. For self-employed workers, this period is two months.

d. The posted worker is not sent to replace another posted worker

An employer may not post a worker to replace another worker whose posting has come to an end.

e. Nationality of the posted worker

As far as postings between Switzerland and Iceland, Liechtenstein or Norway are concerned, provisions of Regulation (EC) No. 883/2004 apply exclusively to Swiss nationals and citizens of an EFTA Member State.

However bilateral social security agreements provide for the posting between Switzerland and Liechtenstein or Norway of employees who are not Swiss, Icelandic, Liechtenstein or Norwegian nationals (see page 2).

f. Direct relationship between posted worker and employer

A direct relationship of subordination must exist between the posted worker and the employer for the entire duration of the posting. To qualify as a direct relationship, certain criteria must be stipulated in the employment contract. A direct relationship exists when the posted worker continues to be subject to the authority of the employer, and when the latter has sole power to terminate the contract of employment (dismissal), has responsibility for recruitment and retains the power to determine the general nature of the work that its employee will perform during the posting.

While posted employees must work in the interests and on behalf of their employer, their salary may be paid by a third party.

g. Self-employed workers: pursuit of similar activities

The nature of the activity that posted self-employed workers will temporarily pursue abroad must be similar (in the same sector) to the activity that they ordinarily pursue in the posting State.

3) Postings from Switzerland to an EFTA Member State

Certificate of posting

An employer wishing to post an employee, or a self-employed worker who wishes to avail of posting arrangements, for a maximum period of 24 months must submit an [application to remain subject to Swiss social insurance legislation during the temporary exercise of a professional activity abroad](#)⁶ to the competent Swiss AVS/AHV compensation fund. If posting requirements are met, the AVS/AHV compensation fund will issue an [attestation A1](#)⁶ (previously an E 101 form) to the employer (who will forward it to the posted worker) or to the self-employed worker.

Extension of the term of posting

Should a period of 24 months be insufficient, an employer may, in the interests of the posted worker, apply to the Federal Social Insurance Office (FSIO - Effingerstrasse 20, 3003 Bern) for an [application to remain subject to Swiss social insurance legislation during the temporary exercise of a professional activity abroad](#)⁶. The FSIO will then negotiate a special agreement in accordance with Article 16 of Regulation (EC) No. 883/2004 with the competent authority in the State of temporary employment. If such a special agreement is reached, the FSIO issues the employer with a confirmation that the posted worker remains subject to the Swiss social security legislation for the duration of the extended period. The same procedure applies to self-employed workers.

⁶ www.bsv.admin.ch > Publikationen & Service > Weisungen, Kreisschreiben etc. > Vollzug Sozialversicherungen > International > Formulare > CH-EU/EFTA: Bescheinigungen > A1: Unterstellung.

If it can be reasonably anticipated from the beginning that the temporary posting duration will extend beyond 24 months, an employer may, in the interests of the posted worker, apply directly to the FSIO for a special agreement covering the whole duration of the posting.

According to current practice, a special agreement is only negotiated with the competent authority in the State of employment if the total posting period is no more than five or six years.

Obligation to inform and inspections

Posted workers and their employer must inform the competent institutions in the posting State of any important changes that may occur while the worker is posted abroad.

The authorities may carry out inspections at any point to ensure compliance with the posting requirements, namely relating to the continued existence of the direct relationship between the employer and the posted employee.

Effects of the posting

All rights and obligations of Swiss social security legislation shall remain applicable for the entire duration of the temporary posting abroad. This means that posted workers and their employer must continue to pay into the following Swiss social security schemes: old-age and survivors' insurance (AVS/AHV), invalidity insurance (AI/IV), income compensation allowances scheme (APG/EO), unemployment insurance (AC/ALV), occupational benefit plan (LPP/BVG), accident insurance (AA/UV) and family allowances (LAFam/FamZG). Self-employed workers also continue to pay into the applicable compulsory Swiss social security schemes.

Posted workers, and accompanying family members who are not in gainful employment, remain subject to the Swiss social security legislation. They remain affiliated to the compulsory sickness insurance scheme in Switzerland (LAMal/KVG). They also continue to qualify for Swiss family allowances.

Posted workers are not obliged to pay contributions to the social security system in their State of temporary employment. As such, they do not qualify for any benefits administered by that State.

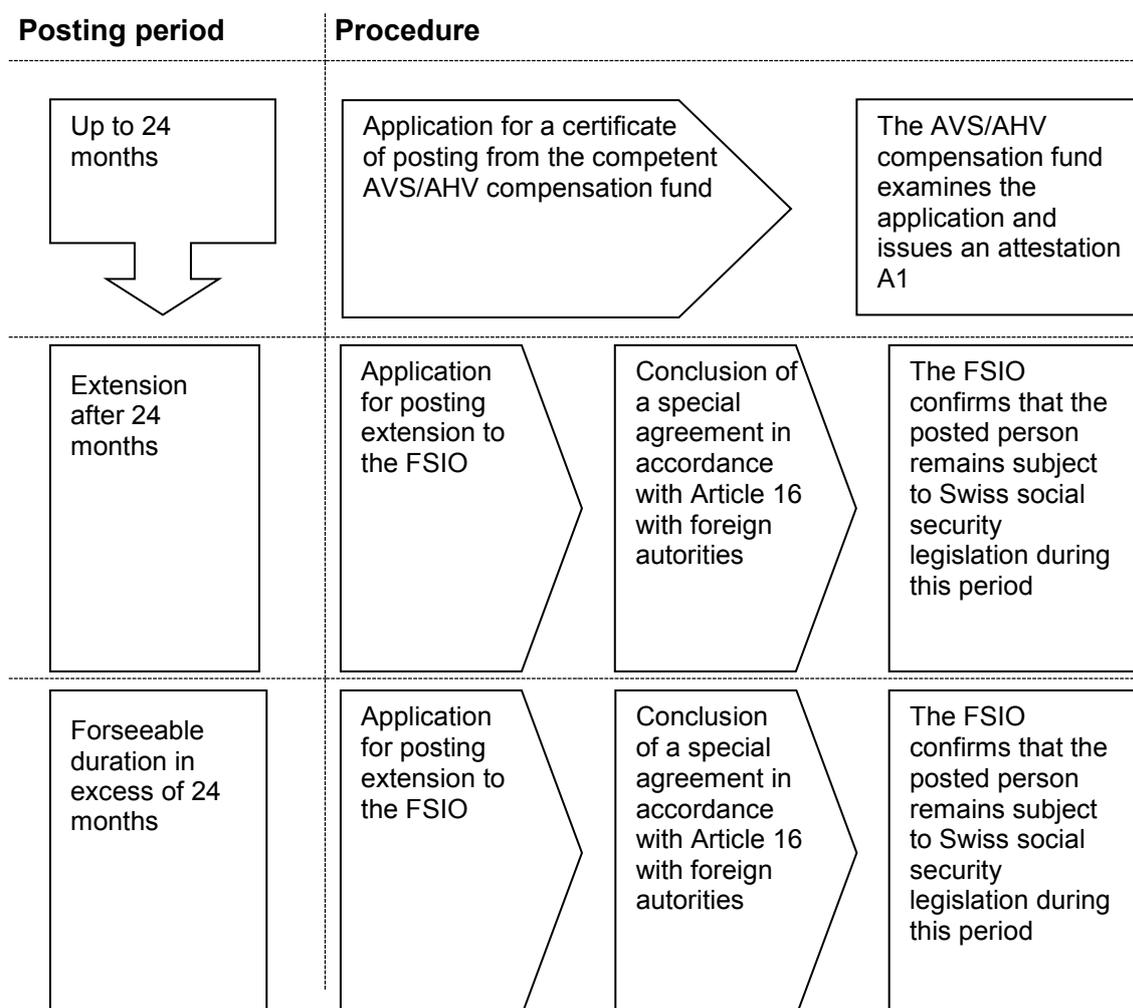
Continued insurance cover after completion of the posting

After the posting abroad is completed, the worker concerned is subject to the social security legislation of the State of employment.

If the worker continues to work for an employer in Switzerland and is paid by this employer, he may continue Swiss old-age, survivors' and invalidity insurance, unemployment insurance and occupational benefit plan coverage.⁷

⁷ In order to remain covered by the Swiss AVS-AHV/AI-IV/APG-EO/AC-ALV schemes, the employee must have completed a continuous insurance period of at least five years. As regards continued insurance when working in an EFTA Member State, insurance periods acquired in an EFTA State are taken into account to determine the calculation of the minimum insurance period. The employer and the employee must submit a joint application to the competent compensation fund for continued insurance cover.

Posting from Switzerland to an EFTA Member State: an overview



4) Social security cover when posted from Switzerland to an EFTA Member State

Workers who are posted from Switzerland and their surviving dependents are entitled to Swiss social security benefits in the event of occupational accident and disease, unemployment, old-age, death and disability. They also continue to qualify for Swiss family allowances.

Workers who are posted from Switzerland and accompanying family members who are not gainfully employed continue to be affiliated to the Swiss compulsory health insurance (LAMal/KVG) and accident insurance schemes for the entire posting period.

a. Health and maternity insurance cover when the posted worker continues to be domiciled in Switzerland

As regards sickness and maternity, posted workers whose domicile⁸ continues to be in Switzerland are entitled to all medically necessary care taking into account the nature of this care

⁸ The place where the centre of a person's interests is located is deemed to be its domicile. Often posted workers must inform the Swiss municipality where they are domiciled of their departure abroad. However, this declaration does not automatically

and the length of their stay in the State of employment. To this end posted workers apply to their sickness insurer in Switzerland for a European Health Insurance Card. The same applies to their family members who are accompanying them and who are not gainfully employed.

Medical care in the EFTA Member State where the posted worker is temporarily employed is granted in accordance with the legislation of that State. The costs of repatriation for medical reasons to Switzerland are generally not covered. Therefore, it may be appropriate to take out private supplementary insurance cover to this end.

b. Health and maternity insurance cover when the posted worker takes up domicile in the State of employment

When posted workers decide to take up domicile⁸ in their State of employment, they should request a S1 form from their sickness insurer in Switzerland with regard to health and maternity insurance cover. This form allows them to register with the health insurance in their State of domicile and thus entitles them to all medical care provided for in the relevant national legislation. This means that they will be treated in the same way as individuals who are insured in the country concerned.

The same procedure applies to accompanying family members who are not in gainful employment.

Sickness and maternity insurance cover when being posted from Switzerland to an EFTA Member State: an overview

Situation	Procedure	Insurance cover in the country of occupation
<p>Domicile in Switzerland</p> <p>Health insurance cover in Switzerland (LAMal/KVG)</p>	<p>Obtaining a European Health Insurance Card from the competent Swiss sickness insurer</p>	<p>Entitlement to all <i>medically necessary</i> benefits in the State of employment.</p>
<p>Domicile in the State of employment</p> <p>Health insurance cover in Switzerland (LAMal/KVG)</p>	<p>Request for a S1 form from the competent Swiss sickness insurer</p> <p>Submission of S1 form to the competent sickness insurance institution in the State of employment. Registration as person entitled to benefits</p>	<p>Entitlement to <i>all</i> medical benefits in the State of employment.</p>

⁸ imply a change to the place where the centre of interests of this person is located. The general assumption is that the domicile of workers on short-term postings is not moved to their State of temporary employment.

5) Postings from an EFTA Member State to Switzerland

As a general rule, the above explanations apply equally to workers posted from an EFTA Member State to Switzerland. The procedural formalities are simply reversed.

The foreign employer or self-employed worker must request an A1 attestation from the competent institution in the given EFTA Member State. This institution shall issue the applicant with an A1 attestation. The applicant transmits a copy of it to the posted employee. A1 attestations must be kept at the disposal of the AVS/AHV compensation fund which would be competent if Swiss social security legislation were applicable.

Requested extensions in accordance with Article 16 of Regulation (EC) No. 883/2004 are to be submitted to the competent authority in the given EFTA Member State (cf. Annex). It will endeavour to conclude a special agreement with the Federal Social Insurance Office.

Consequences of the posting

All rights and obligations as set out in the social security legislation of the posting State remain applicable for the entire duration of the posting to Switzerland. This means that the posted workers and their employer are therefore exempt from paying contributions to the following compulsory Swiss social security schemes: old-age and survivors' insurance (AVS/AHV), invalidity insurance (AI/IV), income compensation allowances scheme (APG/EO), unemployment insurance (AC/ALV), occupational benefit plan (LPP/BVG), accident insurance (AA/UV) and family allowances (LAFam/FamZG).

Accompanying family members who are not gainfully employed are subject to the same social security legislation as the posted worker.

Workers who are posted to Switzerland and accompanying family members who are not gainfully employed are exempt from the compulsory sickness insurance scheme in Switzerland (LAMal/KVG).

6) Importance of the certificate of posting

The certificate of posting (A1 attestation or equivalent FSIO certificate) confirms that the posted worker continues to be subject to the social security legislation of the posting State and is thus not subject to the provisions of social security legislation in the State of temporary employment.

The social security authorities of the State of temporary employment are bound by the certificate of posting insofar as it is not withdrawn or declared invalid by the competent institution in the posting State.

If the competent institution in the State of employment doubts the accuracy of the information provided on the certificate of posting, the issuing institution must carry out inspections and, if need be, withdraw the certificate.

Posted workers must be in possession of a certificate of posting for the entire duration of their temporary employment abroad. It is recommended that an application for such a certificate is submitted as early as possible.

7) Further information

Further information is available on the FSIO website www.bsv.admin.ch (>Topics >International affairs).

This brochure provides only an overview. Only the relevant legal provisions and agreements shall apply for the assessment of individual cases.

Annex

Below is a list of the competent authorities in each EFTA Member State who are in charge of concluding special agreements pursuant to Article 16 of Regulation (EC) No. 883/2004.

IS

Velferdarraduneyti
(Ministry of Welfare)
Hafnarhusinu vid Tryggvagotu
150 Reykjavik
ICELAND
www.velferdarraduneyti.is

LI

Amt für Gesundheit
Fachbereich Internationales
Aulestrasse 51
Postfach 684
9490 Vaduz
LIECHTENSTEIN
www.ag.llv.li

NO

NAV National Office for Social
Insurance Abroad
Postboks 8138, Dep.
0033 Oslo
NORWAY
www.nav.no