



EU/EFTA service providers in Switzerland Note relating to providing services as a

Ski Instructor

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Introduction

Under the Agreement on the Free Movement of Persons (AFMP¹), professionals legally established in the EU/EFTA may provide services in Switzerland for a maximum period of 90 days each calendar year.

They benefit from an accelerated procedure for verifying their professional qualifications, governed by Directive 2005/36/EC² and the DRPA³. Before services can be provided, a **preliminary declaration** must be made to **SERI**.

This note explains how to pursue the profession, its main purpose being to explain when a verification procedure for qualifications is necessary and when it is not.

1. Scope of activity

The profession of snow sports instructor is regulated in Switzerland, so holders of foreign professional qualifications must have their qualifications recognised or verified **before** starting to provide services, provided the services fall within the categories defined by the legislation.

Due to its federalist system, Switzerland has two tiers of legislation. A federal act governs ski instruction outside the areas that are the responsibility of the ski lift operators. The cantons are free to enact their own legislation and thus to regulate the profession in the areas not covered by federal legislation.

The profession of snow sports instructor covers the professional teaching of the following disciplines:

¹ Agreement of 21 June 1999 between the Swiss Confederation of the one part, and the European Community and its Member States, of the other, on the free movement of persons, RA 0.142.112.681.

² Directive 2005/36/CE of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 255, 30.9.2005, p. 22, in the version in force under the Agreement on the Free Movement of Persons and the revised EFTA Convention.

³ Federal Act of 14 December 2012 on the Declaration Requirement and the Verification of Service Provider Qualifications in Regulated Professions, SR 935.01.

- alpine skiing,
- cross-country skiing,
- Telemark skiing,
- snowboarding,
- snowshoeing to difficulty level WT3⁴

2. Scope of federal legislation

The Federal Act on Mountain Guides and Organisers of Other High-Risk Activities⁵ and its ordinance⁶ apply throughout the territory of the Confederation. It lays down certain criteria and defines which activities can only be carried out by mountain guides.

a. *Criteria*

At federal level, the Ordinance on High-Risk Activities sets out the following criteria:

- Nature of the activity: to fall within the scope of the Ordinance, and thus be subject to a declaration requirement, the activity of a ski instructor must:
 - be carried out outside the area that is the responsibility of ski lift operators;
 - be carried out primarily on Swiss territory. Thus, where a course starts and finishes in another country but passes temporarily through Switzerland, it does not constitute a service that is subject to a preliminary declaration requirement;
 - generate revenue of at least 2300 francs a year.⁷ This income must originate solely from the pursuit of the gainful professional activity. No account may be taken of income related to the pursuit of activities as part of an association or related to a school education (e.g. for an alpine club, sports club or hiking club, or as a school or university teacher).
- Duration of the activity: service providers may pursue their professional activity without authorisation in Switzerland for one to ten days in any calendar year (SERI does not require a preliminary declaration) provided:
 - they are not permanently established in Switzerland,
 - they are authorised to pursue the activity concerned on a professional basis in a member state of the EU or EFTA.
 - they do not use a commercial unit in Switzerland.

From the eleventh day, the person pursuing the activity is obliged to follow the preliminary declaration procedure, which is carried out on the SERI website.

After pursuing the activity for 90 days, a procedure for recognising the diploma must be conducted at the relevant SERI office, and if the conditions are met, a licence to operate has to be issued by the canton concerned.

⁴ Below the treeline, the activity may be freely pursued; above level WT4, instructors must have a mountain guide licence.

⁵ Federal Act on Mountain Guides and Organisers of other High-Risk Activities (SR 935.91).

⁶ Ordinance on Mountain Guides and Organisers of other High-Risk Activities (SR 935.911; hereafter: Ordinance).

⁷ Art. 2 of the Ordinance on High-Risk Activities.

- Regarding the difficulty of terrain, activities carried out below the treeline are not regulated. However, even in such cases, the organisers of high-risk activities remain subject to a duty of care that requires them to cease or modify their activities when below the treeline if they realise that they are unable to guarantee their clients' safety or that the terrain is too difficult.

b. Activities reserved to mountain guides acting alone

Snow sports instructors must also ensure that they do not pursue activities that are reserved to mountain guides. Snow sports instructors may ski outside the areas for which ski lift operators are responsible on condition that:

- they do not cross glaciers and that a general and reasonable evaluation of the situation in the specific case indicates no more than a slight avalanche risk,
- the use of additional technical equipment such as ice axes, crampons or ropes is not necessary and
- above the treeline, proposed activities do not exceed:
 - in the case of ski and snowboard touring, the rating of 'not very difficult', abbreviated (from the French) to PD;
 - for off-piste descents, the rating 'rather difficult', abbreviated to AD.

The table below⁸ indicates which terrains are reserved for mountain guides. The colours have the following meanings:

- Green: not subject to the federal legislation, therefore not regulated unless the cantons have additional legislation (see point 3 below).
- Orange: regulated activities, so subject to the SERI declaration procedure according to the criteria above;
- Red: activities reserved to mountain guides, which therefore may not be carried out by persons who do not have the required qualifications.

⁸ Annex 2, no 3 of the Ordinance on High Risk Activities.

Touring	Off-piste descents	Rating	Gradient	Exposure	Terrain	Bottlenecks during descent
		F (+)	Up to 30°	No risk of sliding out of control	Tame, hilly, smooth ground	No bottlenecks
		PD (- +)	30° or more	Generally open slopes with some short steep sections. Opportunity to avoid obstacles (quick turns required)	Short with few steep sections	
		AD (- +)	35° or more	Risk of sliding a long distance, opportunities to brake (risk of injury)	Unavoidable short steep sections, some obstacles on moderately steep terrain requiring quick reactions (short turns required)	Short but steep
		D (- +)	40° or more	Risk of sliding a long distance, occasionally down steep slopes (risk of death)	Steep slopes cannot be avoided. Numerous obstacles requiring a good skiing technique	Long and steep. Short turns possible for good skiers
		TD (- +)	45° or more	Risk of sliding down steep slopes (risk of death)	Terrain generally very steep, often interspersed with rock steps. Numerous obstacles and	Long and very steep. Side-slipping and jump turns required.
		ED (- +)	50° or more	Very steep slopes or couloirs, no opportunity to stop during the descent	Long, with a succession of very steep sections, descent by side-slipping and jump turns only.	
		EX	55° or more	Extreme slopes and couloirs	Rappelling sometimes required cross certain sections	

Ski tours with difficulty ratings of F and PD that take place above the treeline are regulated and require a declaration to SERI within the scope of the criteria defined above.

The ratings PD and AD for ski descents off-piste are subject to the same rules.

Difficulty ratings AD (tour category) or D (off-piste descent category) and higher are reserved solely to mountain guides. Snow sports instructors are not permitted to carry out any commercial activities on terrain in these categories.

3. Scope of application of cantonal law

a. Legislative situation

In certain cantons, additional regulations must be observed.

The legislation in the cantons of Vaud⁹, Valais¹⁰, Graubünden¹¹ and Jura¹² specifically regulate the activities of snow sports instructors working on slopes accessible by ski lift. They make the activities of snow sports instructors dependent either on authorisation or on meeting certain requirements.

In addition, certain cantons that regulated these activities adapted their legislation when the Federal Act on High-Risk Activities came into force, simply by referring to the federal legislation. The cantons concerned are Glarus¹³ and Uri¹⁴, while Obwalden¹⁵, Schwyz¹⁶, Zug¹⁷ and Zurich¹⁸ specifically provide information online based on the Federal Act.

b. Additional regulations in the cantons of Vaud, Jura, Valais and Graubünden

The scope of the cantonal regulations was revised in the Canton of Vaud, which, from 1 November 2014, in addition to activities covered by the Federal Act on High-Risk Activities, also regulates all teaching of snow sports to minors (under 18 years of age) and the activities of businesses and schools that teach these classes. This means that any ski instructor who provides a service teaching minors must make a preliminary declaration to SERI, even if they do not leave the area for which the ski lift operators are responsible.

In the Canton of Vaud, snow sports instructors – who require different levels of qualification depending on whether they teach as an employee or on a self-employed basis¹⁹ – must in addition have a clean criminal record when it comes to offences of violence or sexual offences against minors and must take a continuous professional development course every two years. Managers of snow sports schools require a licence (valid for two years) and must have completed the required training at Swiss Snowsports or the Swiss Association for Snowboard Schools. Like the snow sports instructors, they must not have a criminal record for the offences mentioned above. The required level of training is as follows: in addition to the off-piste and touring modules (VT) and tourism/law (TR), instructors are required to complete two multidisciplinary internships of 40 days each (P1 and P2), as well as being able to teach a second discipline to beginners (ZG).

In the **canton of the Jura**, ski instructors must successfully complete a ski instructor course in order to obtain a licence. This licence must be renewed each year by doing a two-day refresher course. The activities of an assistant instructor are also regulated; after successfully completing the preparatory course, they can teach skiing for two years under the supervision of the manager of a ski school.

⁹ Act on the Exercise of Economic Activities (LEAE ; RSV 930.01).

¹⁰ Federal Act on Mountain Guides and Organisers of other High-Risk Activities (LGAR ; RSVs 935.2).

¹¹ Act on Mountain and Snow Sports (Bündner Rechtsbuch 947.100) and implementing provisions for the Act on Mountain and Snow Sports (Bündner Rechtsbuch 947.200).

¹² Ordinance on Ski Teaching in the canton of Jura (RSJu 935.221).

¹³ Act on Commercial Activities, Art. 10 (GS IX/B/25/1).

¹⁴ Implementing regulations for the Federal Act on Mountain Guides and Organisers of other High-Risk Activities (High-Risk Activities Regulations, RiskR) (Urner Rechtsbuch 70.2322).

¹⁵ http://www.ow.ch/de/verwaltung/dienstleistungen/welcome.php?dienst_id=4105

¹⁶ http://www.sz.ch/xml_1/internet/de/application/d4/d29130/d1592/p27918.cfm

¹⁷ <http://www.zg.ch/behoerden/volkswirtschaftsdirektion/amt-fur-wirtschaft-und-arbeit/risikoaktivitaeten>

¹⁸ <http://www.awa.zh.ch/internet/volkswirtschaftsdirektion/awa/de/arbeitsbedingungen/gewerbebewilligungen1/risikoaktivitaeten.html>

¹⁹ Regulations on Snow and Hiking Sports, Art 10 (RSV 935.25.21).

In the **canton of Valais**, snow sports instructors wishing to operate in skiing areas must provide proof of having completed an initial training course (federal professional diploma or Swiss Snow sports +VT +TR²⁰ instructor or SSBS instructor) to obtain a licence and must provide a guarantee that they comply with the obligations imposed by the federal legislation.

In the **canton of Graubünden**, persons who teach and supervise snow sports in areas that fall within the responsibility of ski lift operators – in return for direct or indirect payment – require training as a mountain guide, snow sports instructor or equivalent. In addition to the activities of snow sports instructors mentioned above, the canton of Graubünden also regulates the sport of skwalling. The profession is also open to mountain guides. The cantonal licence is needed for all teaching or guiding activities carried out using snow sports equipment, even on prepared pistes or cross-country trails²¹.

4. Other obligations

The service provider is also required to obtain professional indemnity insurance (cover: CHF 5 million)²² or to provide equivalent financial guarantees²³.

The law in certain cantons also requires instructors to be covered by a third party liability insurance (Vaud²⁴, Valais²⁵ and Graubünden²⁶).

In every case, persons who intend to provide services must also notify the **State Secretariat for Migration** (www.bfm.admin.ch > Notification Procedure CH-EU/EFTA) and follow the *notification procedure for activities of short duration*: <https://meweb.admin.ch/meldeverfahren/login.do>

The foregoing requirement also applies to activities above that are not subject to declaration.

5. Who is the service provider?

Providing services is any economic activity, either performed independently or not subject to an employment contract with a Swiss employer, which is temporary in character (limited to 90 days' work in any calendar year) and carried out in Switzerland in return for remuneration by a person established in a country of the European Union or EFTA. For more information, SERI provides a more detailed explanation of the concept of service provider on its website.

Persons who are not service providers in terms of the AFMP do not benefit from the accelerated procedure for verifying qualifications. They must have their qualifications recognised in accordance with Title III of the Directive 2005/36/EC by contacting the SERI section responsible for the recognition of foreign qualifications.

²⁰ See the course programme: http://www.snowsports.ch/fileadmin/autoren/files/education/ausfuehrungsbestimmung_schneesportlehrerausbildung_de.pdf

²¹ Implementing provisions for the Act on Mountain and Snow Sports, Art. 3 para. 1 let. g (RS/GR 947.200).

²² Art. 20 para. 1 of the Ordinance.

²³ Art.20 para. 2 of the Ordinance.

²⁴ Regulations on Snow Sports, Mountain Sports and Hiking, Art. 3 para. 1 let. b (RSV 935.25.1).

²⁵ Act on Mountain Guides and Organisers of other High-Risk Activities, Art. 12(RSV_s 935.2).

²⁶ Gesetz über das Berg- und Schneesportwesen, art. 7 (RS 947.100).