



OPENING UP SHOP

HUMBERT HEINZEN LERCH is a member of L&E Global, the alliance of employment counsel worldwide

Switzerland is a modern market economy with low unemployment, highly skilled labor force, and a per capita GDP among the highest in the world. Switzerland's economy constitutes a highly developed service sector, led by financial services, and a manufacturing industry that specializes in high-technology, knowledge-based production. Its economic and political stability, transparent legal system, vibrant infrastructure, efficient capital markets, and low corporate tax rates make Switzerland one of the world's most competitive economies to do business in.

Humbert Heinzen Lerch is a Swiss boutique law firm based in Zurich with a strong focus on workplace law, providing a full range of employment law services for businesses and individuals both nationally and internationally, including social security, data protection, immigration and employment litigation. The team consists of seasoned lawyers who have accumulated years of experience with business law firms and as in-house counsels of international corporations. A selected network with tax experts, fiduciary and auditing companies and specialized law firms abroad

ensures optimal handling of international and cross-border transactions and disputes. We would be delighted to have the opportunity to assist with your organization's expansion into Switzerland. We have created a comprehensive package of materials and training modules allowing any organization to open quickly and in a cost effective manner while still ensuring compliance with Swiss regulations and best practices.

I. LABOUR AND EMPLOYMENT REQUIREMENTS

A) EMPLOYER POLICY REQUIREMENTS

In order to be legally compliant, employers are required by legislation to create and implement the following policies. For industrial enterprises (only) it is mandatory to have a written occupational health and safety policy which has to be approved by the competent labour inspectorate.

Larger companies (including its Swiss branches and subsidiaries)

are by mandatory law expected to have a policy against sexual harassment and bullying / mobbing at the work place and a program to implement the policy

There are a number of policies that employers should create. These policies will help an organization manage employee relations and mitigate the risk of legal liability in the future:

- A policy on the use of private email and internet is strongly advisable if there are any

restrictions and/or any monitoring of such.

- Code of Conduct, including
 - o Sexual harassment, mobbing
 - o Anti-bribery (depending on the industry)
 - o Non-discrimination
- Policy on use of private email and internet
- Policy on expenses / travel / use of business card
- Company Car Policy

This guide is intended as general information only. For legal advice and assistance with your business needs, please contact our Swiss firm, Humbert Heinzen Lerch.



- Participation of employees (in case of an elected staff representative body which is not mandatory)
- Work time regulation

While not a policy itself, many employers in Switzerland decide to put all of the foregoing policies and procedures within a unified employee “handbook” that contains all the information every employee would need in the employment relationship.

Our firm has prepared precedent policies which can be efficiently modified for your organization.

b) EMPLOYEE TRAINING REQUIREMENTS

According to Swiss labour legislation, the employer is obliged to take all measures to prevent accidents at work and occupational diseases that are necessary in the light of general experience, applicable according to the state of the art and appropriate to the given circumstances. The employer must involve employees in the prevention

of occupational accidents and diseases. If the employer has entrusted an employee with certain occupational safety tasks, he must provide him or her with appropriate training and further training and must give him or her clear instructions and competences. Depending on the industry, there are different specific provisions dealing with such training requirements.

c) EMPLOYMENT AGREEMENTS

In Switzerland, unless otherwise agreed in a Collective Agreement, an employment contract does not necessarily have to be concluded in writing with the following exceptions:

- Apprenticeship Agreements
- Employment contract with personnel assigned to client company (personnel lending)
- Commercial traveler’s contract

However, the employer has to provide the employee at least the following information in writing:

- the names of the contracting parties;
- the date of the beginning of the employment relationship;
- the employee’s function;
- the salary and any additional benefits;
- the length of the working week.

Moreover, certain agreements between employer and employee are only valid if concluded in writing, including the following:

- post-termination restrictive covenants (non-competition, non-solicitation)
- Notice periods in deviation from statutory law
- Probation period in deviation from statutory law
- Inclusion of overtime compensation in base salary
- Compensation of overtime by time off (as opposed to monetary compensation)
- Agreement on daily sickness insurance

Our firm has prepared countless employment agreements in various languages.





II. CORPORATE LAW REQUIREMENTS

A) CORPORATION (SA/AG)

The most common form chosen by companies when incorporating a legal entity in Switzerland is the Corporation (or Joint Stock Company AG/SA). The formation of a corporation in Switzerland requires the following:

- **Incorporators:** Three persons or entities must act as incorporators and initial shareholders; they need not be Swiss citizens or residents
- **Capital:** a corporation must have a share capital of at least CHF 100,000
- **Articles of Incorporation:** This must state the company's name, domicile, purpose, share capital, and the basic organization of the corporation
- **Board of Directors:** The majority of the members must be Swiss citizens or citizens of a member state of the EU or the EFTA and must be domiciled in Switzerland
- **Auditors:** The incorporators must appoint one or more auditors. At least one auditor must have its domicile in Switzerland

After an incorporators' meeting has been held, an application for the registration of the corporation must be filed with the Office of the Commercial Register alongside the following documents:

- The notarised deed of incorporation
- A certified copy of the Articles of Incorporation
- Declarations of acceptance from the initial board members and auditors

- A confirmation by a Swiss bank that the initial share capital has been paid in
- A board resolution concerning the constitution of the board of directors

The application must be signed by all the persons authorized to act on behalf of the corporation who have signatory power for the corporation. The corporation becomes a legal entity once it has been registered in the Commercial Register.

Registration in Switzerland is as 6-stage process, which is as follows:

- 1) In the presence of a notary public, draft the articles of association, who will notarise the signatures on the form, and authenticate the articles of association and deed of incorporation. This takes 7 days and costs approximately 0.1% of capital.
- 2) Deposit the capital into a bank account. This takes a day.
- 3) Submit the deed which certifies the articles of association to the local commercial register, which takes 9 days and costs approximately 600 CHF plus 0.02% of capital.
- 4) After receiving an assessment in the mail, pay stamp tax at either the post office or a bank. This takes 1 day and costs approximately 1% of capital.
- 5) Register with the Federal Tax Administration for VAT. This takes one day.

- 6) Register employees with the social insurance system. This takes one day.

B) LIMITED LIABILITY COMPANY (GMBH/SARL)

Since the reform of its regulations, the Limited liability company (GmbH/Sarl) has also enjoyed increasing popularity in Switzerland. Its formation requires a minimum shareholders' equity of CHF 20,000. At least one managing director must be a Swiss resident (not a Swiss national), and the company must have a minimum of two original shareholders. These founders are permitted to perform the duties of governing bodies. Whereas these businesses are less expensive to establish than a limited company, it is more difficult to transfer shares. The incorporation of a Limited Liability Company requires two persons or legal entities acting as incorporators and initial quota holders. Incorporation procedures for LLC's are the same as for corporations.



III. PAYROLL AND BENEFITS PROVIDERS

In Switzerland, many employers outsource payroll and benefit responsibilities to third party companies. This reduces the administrative burden faced by the company by outsourcing payroll deductions and benefit administration to qualified companies who specialize in these areas. We would be happy to recommend payroll providers to fit your business's requirements.

We are pleased to offer our services for all of the required work identified above and assist your organization to open in Switzerland. Any portion of the

work can be conducted on the basis of a blended rate of CHF 350 Swiss Francs per hour in addition to any required disbursements and tax. As an alternative, all of the above work can be offered for a project budget of CHF 20'000 Swiss Francs plus disbursements and tax. If you have any questions, please contact

André Lerch
Partner, Humbert Heinzen Lerch

+41 (0)43 399 89 99
Lerch@hhl-law.ch

We look forward to working with you.



L&E Global CVBA is a civil company under Belgian Law that coordinates an alliance of independent member firms. L&E Global provides no client services. Such services are solely provided by the member firms in their respective jurisdictions. In certain circumstances, L&E Global is used as a brand or business name in relation to and by some or all of the member firms. L&E Global CVBA and its member firms are legally distinct and separate entities. They do not have, and nothing contained herein shall be construed to place these entities in, the relationship of parents, subsidiaries, agents, partners or joint ventures. No member firm has any authority (actual, apparent, implied or otherwise) to bind L&E Global CVBA or any other member firm in any manner whatsoever.

This L&E Global publication is intended for informational purposes only. Nothing in the document is to be considered as either creating an attorney client relationship between the reader and L&E Global, or any of the law firms that are part of the L&E Global alliance and/or named in the publication, or as rendering of legal advice for any specific matter. Readers are responsible for obtaining such advice from law firms of L&E Global upon retaining their services. The independent law firms of L&E Global are not responsible for the acts or omissions of each other, nor may any firm or any of its partners or other employees, act as agent for any other L&E Global firm. Absent the express agreement and consent of the parties involved, no L&E Global firm has the authority to obligate or otherwise bind any other L&E Global firm.