

## COVID-19: The impacts on Switzerland immigration and advice to employers

The outbreak of Coronavirus COVID-19 has impacted businesses around the world. Of significant concern is how to manage the resulting impact to employees, especially those holding immigration permission.

For a summary of all COVID-19 related immigration/mobility changes worldwide, please visit [Fragomen's COVID-19 microsite](#).

### OVERVIEW

Switzerland has strengthened its border control and entry restrictions. In implementing the new measures effective as of 18 March 2020, the Federal Council is pursuing two aims:

- ▶ Firstly, it wants to slow the spread of the pandemic by restricting travel to essential journeys. The priority is to ensure public safety
- ▶ Secondly, by allowing an exemption for cross-border commuters, it seeks to safeguard the continued provision of basic services to the population. Switzerland's healthcare system is dependent on cross-border commuters

The Swiss authorities have put in place an entry ban for all travellers until 15 April 2020 (with possibility of extension), except for those travelling from Liechtenstein and those categories referred to in the FAQ directly below.

### What exceptions exist to the border closure?

If you are coming from a high-risk country, the border control authority will not allow you to enter Switzerland, unless you meet **at least one** of the following requirements:

1. You are a Swiss citizen
2. You hold a travel document and a residence permit in accordance with paragraph 2 of the ordinance i.e. a Swiss residence permit (an L, B or C permit), a cross-border permit (a G permit), an assurance of a residence permit (final approval for a short term work permit), a D visa issued by Switzerland or a C visa issued by Switzerland for the purpose of attending "professional consultations" as a health sector specialist or for making an "official visit" of vital importance
3. You, as an EU/EFTA national with rights under the Agreement on Free Movement of Persons, have a work-related reason for entering Switzerland and have official documentation to confirm this (a notification/registration attestation)
4. You are simply travelling directly through Switzerland to another country that you are permitted to enter
5. You are transporting goods for commercial purposes and have a delivery order for your merchandise
6. You need to enter Switzerland because of a serious emergency, for example, a death in the family

7. You are a specialist in the healthcare sector and need to enter Switzerland for important professional reasons. You must be able to prove that you meet the requirements mentioned above. The assessment of whether a situation is an “emergency” as defined in point (6) is a matter for the border control authority.

#### **What applies in emergency situations, for example in the event of death?**

In situations of extreme necessity, it is possible to enter Switzerland despite the entry ban. The following circumstances in particular are considered to be important reasons:

- ▶ Death of a close family member living in Switzerland, such as a father, mother, brother, sister or child
- ▶ If medical treatment started in Switzerland cannot be postponed because the life of the person concerned would otherwise be at risk
- ▶ If spouses or minor children of foreign nationalities (holding a Swiss permit or visa) wish to return to their Swiss spouse or parent(s) because of the current situation. EU nationals under 21 and Non-EU nationals under 18 are considered minor children
- ▶ Urgent official visits within the framework of Switzerland’s international obligations

#### **Which countries are defined as ‘high risk’?**

All countries except Liechtenstein.

#### **How many cross-border commuters are affected?**

Around 330,000 cross-border commuters mainly from Italy, Germany, France and Austria work in Switzerland. They may continue to enter the country with a valid cross border permit (G permit) but will be subject to Schengen border controls.

#### **Which rights under the FMPA (Free Movement of Persons Agreement) are restricted?**

- ▶ For people with existing residence permits or with cross-border commuter permits or registration confirmations, nothing changes
- ▶ People who wish to enter Switzerland for the first time and do not have a permit are restricted in their FMPA rights. In addition, entry is no longer possible for stays of up to 90 days for which no permit was previously required. It is also no longer possible to stay for the purpose of receiving a service
- ▶ In principle, no new applications for permits will be processed and therefore no permits will be issued for people who are not already in Switzerland
- ▶ New permits can be issued if there are important public interests related to the activities (in particular to maintain basic services in Switzerland)

#### **What about employees from third countries - can they still enter the country?**

- ▶ People who already have an entry authorization or a registration confirmation may still enter
- ▶ Due to the Federal Council’s decision not to issue Schengen visas or national visas to citizens of third countries until 15 June 2020, applications for workers newly arriving from third countries will be suspended until further notice
- ▶ People who had their work authorisations approved and final decisions issued prior to and including 18 March 2020 should still be able to collect their entry visas at the indicated Swiss Embassy abroad in order to enter Switzerland (noting entry ban provisions)
- ▶ People already holding a visa but unable to enter Switzerland due to the current situation will be able to obtain a new one once the situation has been resolved

- ▶ Specialists in the health sector, such as doctors, nurses or researchers, are exempt from this, as their employment is of great importance in Switzerland. Applications can still be submitted and processed for these persons

For further advice and clarification on specific cases, please contact your Fragomen representative who will be able to assist on a case-by-case basis.

### **Why has Switzerland stopped issuing visas?**

The Federal Council has confirmed that all non-essential travel must be stopped to slow down the spread of the virus. The suspension of issuing visas and the restrictions on border crossings aim to achieve this goal.

### **Can you still travel abroad and back if you are resident in Switzerland?**

Whether you will be allowed to enter neighbouring countries is a matter for the authorities in those countries. Switzerland will not stop anyone from leaving the country. Anyone wishing to enter Switzerland from abroad must be able to present one of the following documents:

- ▶ For Swiss citizens: A Swiss ID card or passport
- ▶ For citizens of other countries: One of the documents mentioned above (see “What exceptions exist to this border closure”)

### **Will it still be possible to travel through Switzerland?**

Yes, transit traffic will not be restricted, neither will the movement of goods.

### **How long will the measures imposed at the Swiss borders remain in place for?**

The ordinance will remain valid for as long as necessary, but for a maximum of six months.

### **What happens to people who have their work and residence authorisations coming to an end?**

Foreign workers who currently hold valid work and residence authorisations in Switzerland will be able to get them extended during this period. Cantonal authorities will be processing these requests but with some delays to be expected. Employers need to take into consideration all upcoming expiries until the end of the year to prepare for the right course of action.

If due to the current coronavirus situation, you are unable to leave Switzerland or the Schengen area before the expiry of the validity of your visa (overstay) or residence permit, you may stay in Switzerland until travel and air traffic returns to normal. This is also the case if you are unable to leave before the expiry of the maximum valid stay of 90 days within the permit-free framework or if you have no other means of return.

An overstay in the Schengen area due to these circumstances will not be treated as an overstay by the Swiss border control authorities and no penalties will apply. Individuals stuck in Switzerland need to be notified to the Cantonal Migration authority. Please get in touch with your Fragomen contact to determine next steps.

### **Are cantonal authorities open?**

Most cantonal authorities are currently closed to the public but have implemented different ways of working for their staff e.g., remote working, reduced working hours or shifts. This means that most authorities and communes are still able to support immigration matters, albeit at a lower capacity and hence longer processing times are to be expected.

## **What happens for foreign workers who used the online notification (PWN) process to obtain work authorization for Switzerland?**

Where foreign workers will no longer be travelling to Switzerland to perform their planned work activities, the authorities should be notified so that the days which would have been used can be cancelled and recovered. Please contact your Fragomen representative to determine next steps.

## **Should we start processing extension/renewal applications earlier than usual?**

Extension/renewal applications can be filed three months before the expiration of the permit, at the earliest. However, we would still recommend that you plan early and start looking at your population for all upcoming expiries this year. Assuming that the cantonal authorities will face significant backlogs, when we progress beyond the COVID-19 crisis, it will be essential to file as early as possible.

## **Should we proceed in preparing applications for initial work and residence applications, ready for 16 June 2020?**

Good planning is essential. We cannot guarantee whether processing will re-commence on 16 June 2020. We anticipate it will, given this seems to be the longest 'suspension' introduced globally in response to COVID-19. Switzerland will want to return to business as usual at the first opportunity it deems it safe to do so from a public health perspective. On the basis processing does re-commence on 16 June 2020, we need to consider the authorities' processing times which will likely mean that the earliest possible start dates would be early August 2020. We recommend that you plan all case initiations to allow for document collection and case preparation stages with a view to having 'submission ready' applications for 16 June 2020. In a worst-case scenario, should there be an extended suspension period, we would update the supporting Assignment Letter/Employment Contracts.

## **Should labour market testing continue until 15 June 2020, where it is a requirement of the work permit application?**

The Swiss authorities' approach is not yet clear in this regard. If the current job postings did not last for at least 2-3 months we would recommend that you keep the postings open until 15 June 2020.

## **We need to re-file the application as of 16 June 2020. Will we need to provide a fresh set of documents?**

No, most documents can be re-filed in their current form. However, you will be required to amend the start dates in Assignment Letters and/or Employment Contracts. Government issued documents such as PCCs must have been issued no more than six months prior to lodgment date in order to be deemed valid.

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