



## **Information concerning tourism activities from other states and other countries**

Ski instructor activity within the scope of tourism activities by ski schools and ski instructors from another country or another state is permissible if

- a) the tourism activities are temporary and occasional,
- b) adequate liability insurance exists (minimum insurance cover EUR 6 million) the geographical scope of which covers Tyrol and which also covers the deployed teaching staff in the case of tourism activities of ski schools, and
- c) the guests had been admitted
  - 1. in the relevant country or state or
  - 2. in the ski school area stated in the registration (see registration obligation).

**Explanation:** When assessing the temporary or occasional nature of tourism activities, attention must be paid in particular to the duration, frequency, regularity and continuity of the stays. The requirement for temporary and occasional activity will be met in any case if the duration of the stay does not exceed 14 days in the specific instance and 28 days in total in a calendar year.

In the context of tourism activities ski instructors may only be active or be deployed if they

- a) are qualified as defined by the explanation below \*)
- b) have the knowledge of German language essential for the safety of guests
- c) are entitled to carry out their work as a ski instructor independently according to their professional qualification in accordance with a).

### PROFESSIONAL REQUIREMENTS FOR PRACTICE IN TOURISM ACTIVITIES

The activity as a ski instructor in the context of tourism activities may be carried out

- by persons who have the **Euro Test** and **Euro Security** as proof of the safety-related knowledge and skills of training at **diploma level** to guarantee the safety of guests and third parties in the organised ski area (slopes and ski routes designated as open) and in the off-piste area on variants in the immediate vicinity of ski lifts;
- by persons who do **not** have such safety-related knowledge and skills of a training at **diploma level**, but **only** in the organised ski area on slopes **designated as open** **if a ski instructor with the Euro Test and Euro Security (diploma level) is on site who supervises compliance with the duties of the ski instructors on site.**

#### Duty of registration:

The intended activity as a ski instructor in the context of tourism activities must be registered in writing to **the Tiroler Schilehrerverband (Tyrolean Ski Instructors Association)** at the **latest three weeks** before the first commencement of the activity by the ski instructor, or if the relevant activity is carried out in the context of a ski school, by the ski school.

- ▶ **The registration must be complete which means that it is accompanied by all necessary documents.**
- ▶ **Please use the form "Meldung im Ausflugsverkehr" (Registration in tourism activities)!**

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#### \*) Explanation for a)

Persons are professionally qualified if they have a training as a ski instructor which, taking professional practice into account in the theoretical and practical spheres essential to guarantee proper practice of the profession, confers the knowledge and skills essential to guarantee the safety of guests and the parties.

**Guest admission in Tyrol – statement of ski school area:**

1. If guests are admitted in Tyrol, the ski school area in which the guest admission is planned must be notified in writing to the Tiroler Schilehrerverband at least two weeks beforehand.
2. Every intended change of the stated ski school area must also be notified in writing to the Tiroler Schilehrerverband at least two weeks beforehand. The existing ski school area and the new ski school area must be stated in the notification.

**Annual duty of registration:**

The registration must be repeated annually if the activity as a ski instructor is to continue in the context of tourism activities. The registration must, if applicable, include a declaration that the requirements on which the certificates in accordance with point a) are based are still fulfilled and the details of the liability insurance in the second sentence of the paragraph concerning the duty of registration are still correct. The certificates must be attached to the notification again if the requirements on which they are based have changed. Furthermore, the information relating to the liability insurance must be corrected if it changes.

**Subsequent duty of registration:**

The following must be notified to the Tiroler Skilehrerverband by 31 May each year in respect of the period from 1 May of the previous year to 30 April of the current year:

- a) the municipalities in whose area activity as a ski instructor has taken place in the context of tourism activities,
- b) the times during which activity as defined by point a) took place; here the day of the start and end of the activity in the relevant municipality must be stated,
- c) the number of groups and guests in the individual groups.

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**Professional designation**

The activity as a ski instructor in the context of tourism activities will be carried out under a professional designation which in any case contains the word "ski instructor" or, if the relevant activity is carried out in the context of a ski school, the word "ski school" and the family name or surname as well as the first name of the ski instructor or proprietor of the ski school. In the case of ski schools with a special focus, an indication of the type of service offered must be included.

However, the tourism activities may instead take place under the professional designation of the country or state in which the ski school or ski instructor is domiciled. This professional designation must be stated in a way that prevents confusion with the professional designation under the Tyrol *Schischulgesetz* (Ski School Act). Ski schools and ski instructors from other states may use this professional designation only in the (in an) official language of the relevant state. If there is no professional designation in the relevant country or state, a designation may be stated that indicates the relevant professional qualification. Ski

schools and ski instructors from other states may use this professional designation only in the (in an) official language of the relevant state.

#### **Statutory obligations for an activity in the context of tourism activities.**

- The ski school proprietor must allocate his guests to receive ski instruction in a group commensurate with their skiing ability. A number of persons in a group must not exceed twelve. The maximum number may be exceeded by a maximum of three on a short-term basis if there are compelling reasons. The maximum number of twelve also applies for groups in which guests are accompanied when skiing on ski slopes, ski routes or cross-country skiing trails. When leading or accompanying ski tours, the ski school proprietor must specify the maximum number of guests to be led or accompanied, taking into account their ability and the degree of difficulty of the planned ski tour so that the physical safety of guests is guaranteed.
  - During their activity in the context of tourism activities teaching staff must
    - a) ensure that the physical safety of guests is not jeopardised,
    - b) bring the materials necessary to render First Aid,
    - c) render First Aid immediately in the case of an accident in the context of the ski school and, if necessary, ensure that a doctor is called and that the patient is conveyed by the emergency service or, if the emergency service cannot be activated in time, undertake the transport himself.
  - If the instructors become aware of an accident or an avalanche in the context of tourism activities, they must immediately notify the nearest rescue centre and the ski school proprietor, instigate the necessary rescue measures themselves and participate in assistance and rescue measures insofar as this is possible without jeopardising the safety of their guests.
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#### **Prohibited practice of an activity as ski school/ski instructors:**

- If an activity as a ski instructor takes place
  - without full and punctual registration and/or
  - without compliance with the necessary professional requirements and/or
  - without safety-related knowledge at diploma level (= Euro Test, Euro Security) and without a person from the ski school with these qualifications (Euro Test, Euro Security) being present on site supervising the ski instructors and/or
  - without notifying the ski school area planned for guest admission and/or
  - exceeding the maximum group number and/or
  - using an unacceptable professional designation and/or
  - without complying with the subsequent duty of registration and/or
  - without complying with the annual duty of registration:

an administrative offence is committed which is punishable by the district administrative authority with a fine of up to € 3,000.

There are a number of consequences of a prohibited activity as a ski school/ski instructor with non-compliance with statutory provisions:

- A prohibited activity as a ski school/ski instructor constitutes an administrative offence which is punishable by the district administrative authority with a fine of up to € 3,000 (per instance). In such a case it is not only the carrying out of such an activity that is punishable but even the mere offering of it (e.g. in travel prospectuses as part of an all-in package etc.).
- Furthermore, in a case of injury there may be consequences under criminal and civil law - both in Austria and in the country of origin of the guest/guests. Guests who suffer injury may hold the travel organiser liable if persons were employed who did not have the necessary entitlement and qualification. The liability amounts may be considerable and may include for example lost earnings of a guest who is seriously injured and unable to work for a substantial period of time or a case of death with survivors entitled to maintenance. Compensation for pain and suffering, costs of treatment and therapy etc. can be substantial.
- Attention is drawn to the possibility that legal action may be instigated for an injunction or an action for compensation under the law against unfair competition with all the associated (court) costs.

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In the planning of an activity as a ski school/ski instructor in the context of tourism activities we recommend paying attention to the registration periods and obligations as well as the provisions of tax and social insurance law. Staff at the Tiroler Skilehrerverband will be pleased to provide information in response to all questions relating to tourism activities.

We wish all foreign ski schools and ski instructors visiting in the context of tourism activities a pleasant and interesting time in Tyrol.

## **TIROLER SKILEHRERVERBAND**

Public body

## **Additional information relating to further provisions of law to be considered in the context of tourism activities:**

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A further point in connection with temporary and occasional provision of skiing tuition is the provisions of the **Lohn- und Sozialdumping-Bekämpfungsgesetz (LSD-BG) (Law Combating Wage and Social Dumping)**. The aim of this law is to ensure equal terms of pay for all employees working in Austria. Furthermore, fair competition between domestic and foreign companies is to be insured.

This means that the same basic wages must be paid to employees seconded from another country to Austria as for Austrian employees. This means that foreign ski instructors must receive at least the same collectively agreed wages that Austrian ski instructors receive. With the LSDB-G a corresponding wage control was introduced which operates in accordance with the same standards and conditions as for Austrian ski instructors. It is normally carried out on site by the agents of the tax authorities (Financial Police). If an offence is ascertained, a notification is conveyed to the district administrative authority which may issue a penalty with an order. Insofar as employees are subject to the Austrian social insurance obligation, checks are carried out by the health insurance institutions. In this case too notification is conveyed to the district administrative authority in the case of violation.

### ▶ Concerning individual provisions:

#### **Acts of obstruction in connection with wage control**

Anyone who does not convey the necessary documents for the wage control commits an administrative offence and may be punished by the district administrative authority in respect of each employee with a fine of EUR 500 to EUR 5,000 and in a repeated case with a fine of EUR 1,000 to EUR 10,000.

Anyone who refuses access to production sites, operating premises and external workplaces or common rooms of employees and associated entryways or who refuses to issue information or who makes the control difficult or hinders it in any way commits an administrative offence and may be punished by the district administrative authority with a fine of EUR 1,000 to EUR 10,000 and in repeated case with a fine of EUR 2,000 to EUR 20,000.

Anyone who refuses to allow inspection of the documents commits an administrative offence and may be punished by the district administrative authority in respect of each employee with a fine of EUR 1,000 to EUR 10,000 and in a repeated case with a fine of EUR 2,000 to EUR 20,000.

#### **Failure to keep wage documents available**

Anyone who, as an employer, fails to keep wage documents available commits an administrative offence and may be punished by the district administrative authority in respect of each employee with a fine of

EUR 1,000 to EUR 10,000 and in a repeated case with a fine of EUR 2,000 to EUR 20,000. If more than three employees are involved the fine in respect of each employee may be EUR 2,000 to EUR 20,000 and in a repeated case EUR 4,000 to EUR 50,000.

### **Underpay**

Anyone who, as an employer, employs or has employed an employee without paying him at least the remuneration due under the law, ordinance or collective agreement, taking into account the classification criteria, commits an administrative offence and may be punished by the district administrative authority with a fine. In the case of underpay that includes several consecutive wage periods, one administrative offence is deemed to be committed. Payments that exceed the remuneration due under the law, ordinance or collective agreement shall be offset against any underpayments in the relevant wage period.

If no more than three employees are affected by the underpayment, the fine in respect of each employee shall be EUR 1,000 to EUR 10,000 and in a repeated case EUR 2,000 to EUR 20,000. If more than three employees are affected the fine in respect of each employee shall be EUR 2,000 to EUR 20,000 and in a repeated case EUR 4,000 to EUR 50,000.

Apart from the administrative penalties, competitors may bring actions under the law against unfair competition if foreign companies pay wages below the Austrian level.

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### **Note:**

All information is issued without any guarantee. The Tiroler Skilehrerverband accepts no liability.