



Information sheet

for Ski- or Snowboard Courses* in the Framework of the Freedom of Services in the European Union

Provision of ski- or snowboard instruction in the Province of Salzburg as a commercial activity is regulated by the Salzburg Ski- and Snowboard School Law and requires, in principle, a ski- or snowboard school license under such law.

However, under **the freedom of services** in the European Union, provision of ski- or snowboard instruction in the Province of Salzburg as a commercial activity without the otherwise required license of the provincial government is possible provided that **the following conditions are met:**

1. The service provider must be duly established and authorised to provide ski instruction in an EU or EEA member state, or a beneficiary country under an international treaty, or in another federal province, i.e. actually carry out such activity there. Also, the service provider must not be banned from performing such activity as at the moment of the obligatory notification and the provision of such services.
2. The provision of services must be temporary; the provision of ski- and snowboard instruction may not be connected with any permanent activity, or any frequent, regular or continuous activity such that it would already represent an established business.
3. The following applies with regard to the instructors' training:
 - In any case, the instruction must be provided under the lead and responsibility of a person present on site who demonstrates that his/her level of qualification equals that of a state-certified ski instructor, or a qualified snowboard instructor, or another comparable level of qualification.
 - The instructors engaged by the service provider must have qualifications equivalent to state-certified ski instructor/qualified snowboard instructor, provincial ski instructor/snowboard instructor, or provincial ski instructor Anwärter (i.e. basic level)/snowboard instructor Anwärter (basic level).

* These regulations apply analogously also to ski accompaniment (ski guiding) performed as a commercial activity; however, a qualification comparable with that of a ski guide is required to accompany/guide clients beyond the proximity of the marked slopes.



- If the ski- or snowboard instruction is provided by a single authorised individual, such individual must have a qualification equivalent to the highest level of the state-certified ski instructor or qualified snowboard instructor, or another comparable, equivalent training.

Intended ski- or snowboard instruction in the Province of Salzburg is to be notified **in writing to the Salzburg Professional Ski- and Snowboard Instructor Association 4 weeks** before taking up the provision of services using the **form** provided for the purpose. In case of repeated provision of the services, such notification is to be made repeatedly **on an annual basis**.

The following **supporting documents in German**, or translated into German by a sworn translator, shall be attached to the annual notification:

- Evidence of the service provider's state citizenship, or the ski- or snowboard school's seat
- Evidence that the service provider, or the ski- or snowboard school, is duly established and authorised to perform such activities, and is not banned, even temporarily, from performing them, in the member state of origin as at the moment of such submission (decisions, official certificates, official confirmations)
- Evidence of the service provider's professional qualifications (i.e. qualifications of the person on whose behalf and under whose lead and responsibility the services are provided)
- Evidence of the engaged instructors' professional qualifications
- Evidence of sufficient liability insurance.

Upon receipt of the notification of intended provision of services, you shall receive

1. as soon as possible, information from the Salzburg Professional Ski- and Snowboard Instructor Association on whether your notification is complete, then,
2. within one month, a communication from the Salzburg provincial government on whether professional qualifications shall be verified or, possibly, whether any supporting documents are required for such verification, and within what time the relevant decision may be made,
3. within two months from submission of complete supporting documents, a decision of the Salzburg provincial government regarding the verified professional qualifications.

Please note that the submission of the notification and required evidence by itself does not establish permissibility of the activity; **the actual activity must then also comply with all**



statutory conditions for taking the benefit of the freedom of services and be performed in accordance with the (verified) notification. Otherwise – irrespective of the notification – such activity is impermissible and can be terminated in the framework of inspections performed by the authorities. Moreover, an impermissible activity identified by the inspecting bodies shall be notified to the competent administrative penal authority.

Furthermore, the following conditions must be observed by all ski courses in the Province of Salzburg:

- The instructors shall inform the course participants as to proper behaviour in the ski terrain, climbing assistance and alpine dangers.
- All instructors shall carry along material necessary to render first aid and must render first aid in the event of an accident, including to persons other than course participants.
- Division of the groups is regulated by § 13 (3) of the Salzburg Ski- and Snowboard School Law whereby, as a principle, there must not be more than 12 pupils in one group. In case of ski descents beyond the area of marked slopes, the number of pupils must be reduced to ensure their security and under no circumstance may exceed eight pupils.
- Operation of the local ski- and snowboard schools may not be impaired.
- All engaged instructors and leaders are obliged to comply with the requirements of the inspecting bodies, authorised to verify compliance with the law, for provision of information, provision of first aid and follow-up assistance, as well as the requirement for self-identification.

Information:

SBSSV Salzburg Professional Ski- and Snowboard Instructor Association
Flugplatzstraße 52/11
5700 Zell am See
AUSTRIA

Tel.: +43 (0) 6542 22040

E-Mail: info@sbssv.at

Web: www.sbssv.at



Appendix

Excerpts from the Salzburg Ski- and Snowboard School Law, LGBI No. 83/1989, as amended

§ 3 (1, 2 (f), 3 and 4):

Authorisation to Provide Ski Instruction

§ 3

(1) Ski instruction may be provided as a commercial activity only on the basis of a ski school license under § 6.

(2) No license is needed for ski instruction provided:

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f) through persons who are citizens of an EU or EEA member state, or a beneficiary country under an international treaty, as well as through ski schools from other federal provinces and foreign ski schools (§ 2 (7)) on the following conditions:

1. The service provider is duly established and authorised to provide ski instruction in an EU or EEA member state, or a beneficiary country under an international treaty, or in another federal province.
2. Ski instruction is provided in accordance with the freedom to provide services guaranteed under EU law or an international treaty, or – as regards Austrians or ski schools domiciled in other federal provinces - in a framework similar in nature and extent. And:
3. The persons providing ski instruction must evidence that the level of their training is equivalent to that of a state-certified ski instructor (§ 18). This shall not apply where ski instruction is provided under the lead of a ski instructor present on site possessing such qualification; in such event, the engaged ski instructors shall have a training at least comparable with that otherwise required under this law (§ 12).

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(3) Intended ski instruction under paragraph 2, (f) shall be notified in writing to the Salzburg Professional Ski- and Snowboard Instructor Association on an annual basis before the commencement of such instruction. The following shall be attached to the first-time notification submitted no later than four weeks before the start of ski lessons, as well as to any subsequent notifications to be submitted only in case of a change:

- a) evidence of the service provider's state citizenship, or, as the case may be, the seat of the ski school;
- b) evidence that the service provider is duly established and authorised in an EU or EEA member state or another federal province to provide ski lessons and that, as at the moment of submission of such evidence, it is not, even temporarily, banned from performing such activity;
- c) evidence of the service provider and the engaged ski instructors' professional qualifications;
- d) evidence of sufficient liability insurance.

(4) The provisions of § 13 (3 and 4) and 14, shall apply analogously to the persons providing ski lessons on the basis of paragraph 2.



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§ 3a Snowboarding

§ 3a

(1) Snowboard instruction shall mean any snowboarding skills training and knowledge mediation, irrespective of whether performed in the form of a training programme or course, occasionally or once only (e.g. by the hour).

(2) The activity of a snowboard guide shall include guiding or accompanying winter sport guests during snowboarding, even if no snowboard instruction is provided.

(3) § 2 (3 through 7), shall apply analogously to the following terms: commercial activity, (foreign) snowboard school, engaged instructor and snowboard instructor.

(4) Snowboard instruction may be provided as a commercial activity only on the basis of a ski school license (§ 6) or snowboard school license. § 3 (2 through 5) shall apply to exceptions analogously.

§ 4 (1 and 2) Authorisation to Act as Ski Guide

§ 4

(1) Acting as a ski guide as a commercial activity shall require a license under § 22.

(2) The provisions of §3 (2 through 4), regarding exceptions, shall apply analogously; only persons evidencing qualification comparable with that required for a ski guide may guide or accompany clients beyond the close proximity of a marked ski slope in the sense of § 24 (1). § 13 (3 and 4) shall apply analogously to persons acting as ski accompaniment on the basis of these provisions.

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§ 13 (3 and 4) Ski School Operation

§ 13

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(3) Ski pupils shall be divided into homogeneous groups according to their skiing skills. A group may not consist of more than twelve pupils. Only exceptionally and briefly, if there are special reasons, the number of pupils in one group may be up to 15 persons. In case of descent off the marked slopes area, the number of pupils must be reduced to ensure their security; under no circumstance may such number exceed eight pupils.

(4) A ski school's activity shall be performed in a manner ensuring that due operation of other ski schools is not impaired.

§ 14 Provision of First Aid

§ 14

(1) The head of a ski school and ski instructors engaged by such ski school are obliged to provide first aid in the event of an accident incurred by their ski pupils. For this purpose,

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they shall carry along, during the provision of ski instruction, material necessary for the provision of first aid.

(2) In case of an accident incurred by a winter sports person other than a ski pupil, if the arrival of a rescue service (e.g. alpine rescue, ski patrol) cannot be expected within a reasonable time, the ski school head and such school's instructors are obligated to provide first aid to a reasonable extent. If necessary, such accident shall be notified to the local security force, the alpine rescue or the competent ski patrol without delay.

(3) Criminal law provisions regarding failure to provide first aid shall not be affected by the foregoing provisions.

§ 32 (1, first sentence, 2, 4 and 5):

Supervision of Ski Schools, Snowboard Schools, Ski Guides and Snowboard Guides

§ 32

(1) The Association supervises the observance of the provisions of this Law. ...

(2) The Association uses adequately equipped, specially trained inspecting bodies to promote its supervising powers, especially for purposes of inspecting ski schools, snowboard schools, ski guides and snowboard guides, ski (snowboard) club courses, courses organized by ski (snowboard) schools from other federal provinces or other countries, as well as inspecting persons providing ski instruction in the framework of exercising the freedom of services, with regard to their observing the provisions of this Law applicable in the Province of Salzburg and regulating their activities. Such inspecting bodies shall submit to the Association a report on each inspection carried out. Should shortcomings be identified in the framework of its supervising activities, the Association shall demand that such shortcomings be remedied within a reasonable time. Paragraph 1, last sentence, shall be applied. In case of a suspected administrative offence, the Association shall notify competent district administrative authorities.

(3)

(4) Notwithstanding further powers the inspecting bodies may have under other regulations (e.g. the Administrative Penal Act (*Verwaltungsstrafgesetz, VStG*)), they are authorised in areas within their competence to

1. stop persons suspected of having committed an administrative offence falling within the scope of such bodies' competence, check their identity and question them about the relevant circumstances;
2. demand provision of information, submission of documents and any other cooperation necessary for the exercise of the bodies' tasks from all domestic and foreign ski (snowboard) school heads, ski (snowboard) instructors, instructors engaged by clubs or other ski (snowboard) courses, as well as from ski guides or snowboard guides;
3. in the interests of the entrusted group's security and protection, suspend an activity carried out by persons caught in the very act of committing an administrative offence under this Law, with immediate effect and without prior proceedings. The intervening inspecting body shall accompany the group to safety using appropriate climbing assistance or, if this is not possible given the position of the group, via suitable descent to the valley;
4. collect payment of provisional surety from persons caught in the very act of committing an administrative offence under this Law if
 - a) the offender is unknown to the inspecting body, fails to submit a proof of his/her identity which cannot be immediately ascertained by other means;



- b) there is a well-founded suspicion that he/she would attempt to avoid law enforcement;
- c) law enforcement or execution of sentence could be significantly hindered; or
- d) law enforcement or execution of sentence could give rise to a cost disproportionate to the importance of the relevant object of penal law protection and the intensity of its disruption by the relevant act.

The amount of such provisional surety may not exceed the maximum impending penalty. Should the offender fail to pay such provisional surety in cases described under letters c) or d), the inspecting body may seize valuable property evidently belonging to the offender, especially sports equipment (skies, snowboard), the value of which does not exceed the maximum impending penalty, as alternative provisional surety. Maximum possible consideration must be shown towards such person in the process. A confirmation of the payment of provisional surety or seizure of property shall be issued immediately. The provisional surety, along with the offence notification, shall be submitted to the district administrative authorities without delay. It shall be released upon termination of the proceedings, execution of the sentence imposed on the accused, or if forfeiture thereof is not pronounced within twelve months. Forfeiture shall be pronounced as soon as it becomes clear that law enforcement or execution of sentence is not possible. §§ 17 and 37 (4, last sentence) of the VStG shall apply analogously;

- 5. to detain persons caught in the very act of committing an administrative offence under this Law for the purposes of bringing them before the competent district administrative authority provided that
 - a) the conditions set out above in sub-paragraph 4 (a) or b)), are met and the offender fails to pay the provisional security, or
 - b) despite a warning, the offender continues, or re-attempts, to carry out a punishable act.

Each detained person shall be handed over to the competent district administrative authorities or set free, if the grounds for detention have ceased to exist, without delay. § 36 of the VStG shall apply analogously.

(5) Persons captured under paragraph 4 (subparagraphs 1 through 5), must comply with the requirements of the inspecting bodies under these provisions.

§ 33 (1 and 2) Penal Provisions

§ 33

- (1) An administrative offence is committed by a person
 - 1. providing or offering ski- or snowboard instruction as a commercial activity, or performing or offering services as a ski- or snowboard school instructor or a ski- or snowboard guide as a commercial activity, without proper license(s);
 - 2. providing or offering ski- or snowboard instruction as a commercial activity, or performing or offering services as a ski- or snowboard school instructor or a ski- or snowboard guide as a commercial activity, despite an existing official ban;
 - 3. providing or offering ski- or snowboard instruction as a commercial activity, or performing or offering services as a ski- or snowboard school instructor or a ski- or snowboard guide as a commercial activity, without having submitted the relevant complete notification required under § 3 (3) or, where appropriate, in connection with § 3a (3), §4 (2), or §4a (2), or without evidencing the required qualifications;
 - 4. breaching the provisions of §§ 10 (1 through 3), 11, 12 (1, 2 and 4), 13 (1, 3 and 4), 14 (1 and 2), 15b, 21, 24, 25, 26 (3), 27 (2, 3 and 5), or 32 (5);

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such person is punishable with a fine of up to €10.000 in the cases set out under sub-paragraphs 1 and 2,
and a fine of up to € 5.000 in the cases set out under sub-paragraphs 3 and 4.
An alternative custodial sentence of up to one week shall be imposed should such fine be uncollectable.

(2) In addition to the fine, a temporary ban from performing activities as an instructor or ski- or snowboard guide for a period of maximum two years shall be imposed where, given the circumstances, it is to be expected that the offender's continuing instructor- or ski guide activities would be detrimental to the interests of the ski sport or tourism.

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