

English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.

Ordinance on the Use of «Switzerland» or «Swiss» for Watches

of 23 December 1971 (Status as of 1 January 2019)

The Swiss Federal Council,

on the basis of Article 50 paragraph 2 of the Trade Mark Protection Act of 28 August 1992¹ (TmPA),²

ordains:

Art. 1³ Definition of «watch»

¹ The term «watch» means the following:

- a. time-measuring devices intended to be worn on the wrist;
- b. devices whose main function is to measure time and whose movement:
 - 1. does not exceed 60 mm in width, length or diameter, or
 - 2. does not exceed 14 mm in thickness measured with the plate and bridges.

² When determining the width, length, diameter and thickness, only the technically necessary dimensions are taken into consideration.

³ The component that enables the watch to be worn is not included in the definition of the term «watch» specified in paragraph 1.

Art. 1a⁴ Definition of a Swiss watch

A watch is considered to be a Swiss watch if:

- a. at least the following elements of its technical development are carried out in Switzerland:
 - 1. for exclusively mechanical watches: the mechanical construction and prototyping of the watch as a whole,

AS **1971** 1908

¹ SR **232.11**

² Amended by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

³ Amended by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

⁴ Inserted by No I of the O of 27 May 1992 (AS **1992** 1229). Amended by No I of the O of 17 June 2016, with the exception of let. a, in force since 1 Jan. 2019 (AS **2016** 2593). See also the transitional provision of this amendment at the end of the text.

2. for watches that are not exclusively mechanical: the mechanical construction and prototyping of the watch as a whole, as well as the design of the printed circuits, the display and the software;
- a^{bis}. its movement is Swiss;
- b. its movement is cased up in Switzerland;
- c. the final inspection of the watch is conducted by the manufacturer in Switzerland; and
- d. at least 60 per cent of the manufacturing costs are incurred in Switzerland.

Art. 2 Definition of a Swiss movement⁵

¹ A movement is considered to be a Swiss movement if:⁶

- a.⁷ at least the following elements of its technical development are carried out in Switzerland:
 1. for exclusively mechanical watch movements: the mechanical construction and prototyping of the watch movement as a whole,
 2. for watch movements that are not exclusively mechanical: the mechanical construction and prototyping of the watch as a whole, as well as the design of the printed circuits, the display and the software;

a^{bis}.⁸ it is assembled in Switzerland;

b. it is inspected by the manufacturer in Switzerland;

b^{bis}.⁹ at least 60 per cent of the manufacturing costs are incurred in Switzerland; and

c.¹⁰ the constituent parts made in Switzerland, excluding the cost of assembling them, represent at least 50 per cent of the value of all of the constituent parts.¹¹

² To calculate the value of the constituent parts made in Switzerland in accordance with paragraph 1 letter c, the following rules apply:

a.¹² ...

a^{bis}.¹³ the cost of the dial is included if the dial:

1. performs an electronic function for the watch, and
2. is used to equip the watch with an electro-optical display or a solar module;

⁵ Amended by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

⁶ Amended by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

⁷ Amended by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593). See also the transitional provision of the 17.6.2016 amendment at the end of the text.

⁸ Inserted by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

⁹ Inserted by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

¹⁰ Amended by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

¹¹ Amended by No I of the O of 27 May 1992, in force since 1 July 1992 (AS **1992** 1229).

¹² Repealed by No I of the O of 17 June 2016, with effect from 1 Jan. 2017 (AS **2016** 2593).

¹³ Inserted by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

- b. assembly costs may be taken into consideration if a certification procedure provided for in an international treaty ensures that, as a result of close industrial cooperation, foreign and Swiss constituent parts are equivalent in quality;
- c.¹⁴ the assembly costs taken into consideration may not exceed the value of the foreign constituent parts recognised as being equivalent that are incorporated into the Swiss movement concerned.

³ The provisions of the Additional Agreement of 20 July 1972¹⁵ to the Agreement concerning products of the clock and watch industry between the European Economic Community and its Member States and the Swiss Confederation applies.¹⁶

Art. 2a¹⁷ Definition of Swiss constituent parts

Constituent parts are considered to be Swiss if:

- a. they are inspected by the manufacturer in Switzerland; and
- b. at least 60 per cent of their manufacturing costs are incurred in Switzerland.

Art. 2b¹⁸ Definition of assembly in Switzerland

A watch movement is considered to have been assembled in Switzerland within the meaning of Article 2 paragraph 1 letter a^{bis} if all of the constituent parts are assembled in Switzerland. Only the subassembly of the following constituent parts may be carried out abroad:

- a. for exclusively mechanical watch movements: the gear trains;
- b. for watch movements that are not exclusively mechanical:
 - 1. the electronic modules,
 - 2. the electro-optical display modules,
 - 3. the energy collecting module,
 - 4. the regulating organ,
 - 5. the gear trains,
 - 6. the motor or motors, including the rotors and coils they are made of.

Art. 2c¹⁹ Relevant manufacturing costs

Excluded from the calculation of the manufacturing costs are:

- a. costs for natural products which, due to natural conditions, cannot be produced in Switzerland;
- b. costs for materials which, for objective reasons, are not available in Switzerland in sufficient quantities, up to their unavailability rate;

¹⁴ Inserted by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

¹⁵ SR **0.632.290.131**

¹⁶ Inserted by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

¹⁷ Inserted by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

¹⁸ Inserted by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

¹⁹ Inserted by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

- c. packaging costs;
- d. transport costs;
- e. costs for the commercialisation of the goods, as well as costs for marketing and customer service;
- f. the cost of the battery.

Art. 2d²⁰ Materials unavailable in sufficient quantities in Switzerland

If the watchmaking industry publishes information in accordance with Article 52*k* of the Trade Mark Protection Ordinance of 23 December 1992²¹ about materials that are not available in sufficient quantities in Switzerland, it shall ensure that such information is objectively justified. In the event of disagreement within the industry, it will consult with independent third parties.

Art. 3²² Requirements for using «Switzerland» or «Swiss» and the Swiss cross²³

¹ The following may be used exclusively for Swiss watches and Swiss watch movements:

- a. the designation «Switzerland»;
- b. designations such as «Swiss», «Swiss product», «Made in Switzerland», «Swiss quality» and other designations containing «Switzerland» or «Swiss» or designations that could be confused with them;
- c. the Swiss cross and other signs that could be confused with it.²⁴

^{1bis} Swiss indications of source for specific activities in accordance with Article 47 paragraph 3^{ter} TmPA²⁵ are only permitted if the indication is not understood by the relevant public as an indication of source for the product as a whole.²⁶

² If the watch is not Swiss, the designations specified in paragraph 1 may still be placed on Swiss movements, provided that they are not visible to the buyer.

³ The indication «Swiss movement» may be placed on watches that contain a Swiss movement. The word «movement» must be written in full and must be of the same typeface, size and colour as the designation «Swiss».

⁴ Paragraphs 1 and 3 also apply when these designations are used either in translation or with the indication of the actual origin of the watch, or with the addition of words such as «kind», «type», «style» or other combinations of words.

²⁰ Inserted by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

²¹ SR **232.111**

²² Amended by No I of the O of 27 May 1992, in force since 1 July 1992 (AS **1992** 1229). See also the final provision of this amendment at the end of the text.

²³ Amended by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

²⁴ Amended by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

²⁵ SR **232.11**

²⁶ Inserted by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

⁵ In addition to the placing of these designations on the watch or its packaging, the following constitute use:

- a. the sale, the offering for sale or the placing on the market of watches bearing such a designation;
- b. the placing of these designations on shop signs, advertisements, prospectuses, invoices, business letters or business papers.

Art. 4²⁷ Placing the designation of origin
a. on watch cases

¹ A watch case is considered to be Swiss if:

- a. at least one essential manufacturing process is carried out in Switzerland (i.e. stamping, machining or polishing);
- b. it is assembled in Switzerland;
- c. it is inspected in Switzerland by the manufacturer; and
- d. at least 60 per cent of the manufacturing costs are incurred in Switzerland.²⁸

² The designations specified in Article 3 paragraphs 1 and 4 may only be placed on watch cases intended for watches within the meaning of Article 1a.²⁹

³ The indication «Swiss case» or a translation thereof may be placed on Swiss cases intended to be fitted to watches that are not Swiss watches within the meaning of Article 1a. Where such indications are placed on the exterior of the case, the origin of the watch or the watch movement must be visibly indicated on the watch.³⁰

4-5 ...³¹

Art. 5³² b. on watch dials

¹ The designations specified in Article 3 paragraphs 1 and 4 may only be placed on dials intended for watches within the meaning of Article 1a. ...³³

² The indication «Swiss dial» or a translation thereof may be placed on the back of Swiss dials intended for watches that are not Swiss within the meaning of Article 1a.

²⁷ Amended by No I of the O of 18 Oct. 1978, in force since 1 Jan. 1979 (AS **1978** 1620).

²⁸ Amended by No I of the O of 17 June 2016, in force since 1 Jan. 2017 (AS **2016** 2593).

²⁹ Amended by No I of the O of 29 March 1995, in force since 1 May 1995 (AS **1995** 1218).

³⁰ Amended by No I of the O of 29 March 1995, in force since 1 May 1995 (AS **1995** 1218).

³¹ Repealed by No I of the O of 29 March 1995, with effect from 1 May 1995 (AS **1995** 1218).

³² Amended by No I of the O of 27 May 1992, in force since 1 July 1992 (AS **1992** 1229).

³³ Second sentence repealed by No I of the O of 29 Mar. 1995, with effect from 1 May 1995 (AS **1995** 1218).

Art. 6³⁴ c. on other constituent parts of the watch

¹ The designations specified in Article 3 paragraphs 1 and 4 may only be placed on constituent parts intended for watches within the meaning of Article 1a.

² Swiss movement-blanks that are exported and watch movements manufactured using such blanks may bear the indication «Swiss parts».

Art. 7³⁵ Samples and collections of samples

Notwithstanding Article 3 paragraph 2 and Articles 4 to 6, watch cases, dials, watch movements and other constituent parts may bear Swiss designations of origin if they are:³⁶

- a. exported individually as samples or collections of samples;
- b. manufactured in Switzerland and
- c. not intended for sale.

Art. 8³⁷ Criminal provision

Any breach of this Ordinance is subject to the criminal provisions of the TmPA.

Art. 9³⁸ Commencement

This Ordinance comes into force on 1 January 1972.

³⁴ Inserted by No I of the O of 18 Oct. 1978 (AS **1978** 1620). Amended by No I of the O of 29 March 1995, in force since 1 May 1995 (AS **1995** 1218).

³⁵ Inserted by No I of the O of 18 Oct. 1978, in force since 1 Jan. 1979 (AS **1978** 1620).

³⁶ Amended by No I of the O of 27 May 1992, in force since 1 July 1992 (AS **1992** 1229).

³⁷ Originally Art. 6. Amended by No I of the O of 23 Dec. 1992, in force since 1 April 1993 (AS **1993** 312).

³⁸ Originally Art. 7.

Final Provision of the Amendment of 27 May 1992³⁹

Undertakings that have already lawfully and consistently used one of the designations protected under Article 3 paragraphs 1 and 4 prior to this amendment coming into force are authorised to continue to use this designation for five years after this amendment has come into force, even if the casing up and final inspection are carried out by the manufacturer abroad.

Transitional Provisions to the Amendment of 17 June 2016⁴⁰

¹ Watches and watch movements manufactured between 1 January 2017 and 31 December 2018 that do not fulfil the conditions specified in Article 1a letter a and Article 2 paragraph 1 letter a may be placed on the market for the first time with an indication of source that complies with the law in force at the time of manufacture only until 31 December 2020.

² The calculation of the manufacturing costs of a watch may exclude the costs of watch cases and watch glass that:

- a. a manufacturer already had in stock prior to 31 December 2016; and
- b. were incorporated into a watch prior to 31 December 2018.

³⁹ AS 1992 1229

⁴⁰ AS 2016 2593

