



FÉLAGS- OG
TRYGGINGAMÁLARÁÐUNEYTIÐ

Ministry of Social Affairs and Social Security

**Act on the rights and obligations of foreign undertakings that post workers temporarily in Iceland and on their workers' terms and condition of employment, No. 45/2007,
as amended by Act No. 88/2008 and Act No. 96/2010.**

Article 1

Scope.

This Act applies to undertakings that are established in other Member States of the European Economic Area, other EFTA States or the Faroe Islands, which post their workers temporarily in Iceland in connection with the provision of services:

- a. on the account of the undertaking and the worker being under its direction under a contract concluded with a user undertaking on the provision of services in Iceland,
- b. on the account of the undertaking, to an establishment or undertaking owned by the same undertaking group in Iceland, or
- c. on the account of the undertaking and the worker being hired out for a fee in order to carry out work at the workplace of the user undertaking under its direction.

The requirement is that an employment relationship must at all times exist between the undertaking and the worker during the period in which he works in Iceland.

Articles 8-11 shall not apply to temporary-work agencies (*cf.* item c of paragraph 1 of this Article). This Act shall not apply to the crews of merchant ships.

Article 2

Administration.

The Minister of Social Affairs shall be in charge of administration in the area covered by this Act. The Directorate of Labour shall attend to the application of this Act at the administrative level.

Article 3

Definitions.

For the purposes of this Act, the following terms are defined as follows:

1. *Undertaking*: Undertaking is an individual, company or other party that runs a business operation and is established in another Member State of the European Economic Area, another EFTA State or the Faroe Islands and provides services in Iceland under the Agreement on the European Economic Area, the Convention Establishing the European Free Trade Association or the Agreement between the Government of Iceland on the one hand and the Government of Denmark and the Domestic Administration of the Faroe Islands on the other hand.
2. *User undertaking*: User undertaking is an individual, company, public body or other party that runs a business operation and purchases services from an undertaking (*cf.* item 1).
3. *Worker*: A worker who normally works outside Iceland, but is posted temporarily in Iceland on the account of an undertaking (*cf.* item 1) in connection with the provision of its services.

Article 4

Terms and condition of employment.

In the event of the posting of workers in Iceland in the sense of this Act, the following legislation, and regulations issued thereunder, shall apply to their terms and conditions of employment, irrespective of the foreign legislation covering other aspects of the employment relationship between the worker and the relevant undertaking:

1. Article 1 of the Working Terms and Pension Rights Insurance Act, No. 55/1980, with subsequent amendments, regarding minimum wages and other wage-related issues, overtime payments, the right to vacation pay, maximum working hours and minimum rest periods.
2. The Act on Working Environment, Health and Safety in the Workplace, No. 46/1980, with subsequent amendments.
3. The Holiday Allowance Act, No. 30/1987, with subsequent amendments.
4. Article 4 of the Vessel Inspection Act, No. 47/2003.
5. Section VI of the Air Traffic Act, 60/1998.
6. Articles 11, 29 and 30 of the Maternity, Paternity and Parental Leave Act, No. 95/2000.
7. The Act on the Equal Status and Equal Rights of Women and Men, No. 96/2000, and also other legal provisions proscribing discrimination.

Paragraph 1 of this Article shall apply without prejudice to more favourable terms and condition of employment for worker according to his employment contract with the relevant undertaking, or a collective agreement or legislation in the state in which he normally works.

Payments that relate specifically to the employment shall be calculated as part of the worker's minimum wages. However, the undertaking may not calculate payments in connection with expenses for which it has made disbursements to cover the worker's travel, board and lodging as part of the minimum wage demands under item 1 of paragraph 1 of this Article.

Article 5

Entitlement to wages in the event of illness and accidents.

Worker shall be entitled to receive wages in the event of illness and accidents while he works in Iceland in connection with the provision of services.

Worker shall acquire entitlements through his work in Iceland for the same undertaking such that for each month worked during the first twelve months, two days shall be paid at regular wages. If the worker works for more than one year in Iceland, the accumulation of entitlement to wages in the event of illness and wage payments shall be in accordance with Article 5 of the Act No. 19/1979, Respecting Workers' Right to Advance Notice of Termination of Employment and to Wage on Account of Absence through Illness or Accidents.

Entitlement to wages in the event of illness is an aggregate entitlement during each twelve-month period, irrespective of the type of illness.

If worker is absent from work as a result of an accident that occurs at work, or on his direct route to or from work, and also if he falls ill with an occupational disease, he shall retain his daytime wages for three months in addition to their entitlement under paragraph 2 of this Article.

Regular wages here refers to full wages for daytime work in addition to regular permanent overtime work. Daytime wages here refers to regular wages, based on 8 hours' daytime work per day or 40 hours per week in the case of full-time employment.

If worker receives wages during absence resulting from illness or accidents in accordance with his employment contracts, collective agreements or the laws of his home country, he shall be paid the difference in wages if his entitlement under this provision is more to his advantage.

If the undertaking so requests, the worker shall submit to it a medical certificate regarding the illness or accident, demonstrating that he has been unfit for work due to the illness or accident. The undertaking shall pay for the medical certificate and the cost of obtaining it, providing that it is notified of the illness on the first day of absence due to illness.

The provisions of this Article shall apply without prejudice to more advantageous entitlements that the worker may have according to his employment contract with the relevant undertaking or according to a collective agreement or legislation in the state where he normally works.

Article 6

Exemptions.

In the case of initial assembly and/or first installation of goods, where this is an integral part of a contract for the supply of goods and is necessary in order to be able to use the goods, and is carried out by the skilled or specialist workers of the supplying undertaking, items 1 and 3 of paragraph 1 of Article 4 and Article 5 shall not apply, if the period of posting does not exceed eight days.

Paragraph 1 of this Article shall not apply to work of any type in the field of construction work, such as the erection, maintenance, repair, modification or demolition of buildings.

In calculating the length of time during which a worker has been working in Iceland under paragraph 1 of this Article, all periods which he has worked in Iceland during the previous twelve months shall be taken into account. For the purpose of such calculations, account shall be taken of any previous periods for which the post has been filled by another posted worker.

Article 7

Accident insurance covering death, permanent injury and temporary loss of working capacity.

Worker who works in Iceland for a period of two continuous weeks or longer shall be insured while at work against death, permanent injury and the temporary loss of working capacity. The insurance shall cover accident that occur at work and on a normal route between the worker's workplace and the dwelling place in Iceland, and shall take effect when two weeks' continuous working period in Iceland have been completed.

Insured worker who stop his work in Iceland temporarily shall retain his entitlement to insurance cover. If he does not work in Iceland for twelve months or longer, his entitlement to insurance cover shall be subject to paragraph 1 of this Article.

Compensation for death shall be as follows:

1. If the deceased person is not survived by a spouse or a child under the age of 17 years, and was not supporting a parent aged 67 years or older, compensation for death shall be 7,500 euros.
2. If the deceased person is not survived by a spouse, but is survived by one or more children under the age of 17 years, or was demonstrably supporting one or more parents aged 67 years or older, compensation for death shall be 28,000 euros.
3. If the deceased person is survived by a spouse, the compensation paid to the spouse shall be 39,000 euros.
4. If the deceased person is survived by a child, adopted child or fosterchild under the age of 17 years, the compensation paid to each child shall be 7,500 euros.

Compensation may only be paid under one of the items of paragraph 3 of this Article. However, compensation under item 4 may be paid in addition to compensation under items 2 and 3 of paragraph 3.

Compensation for permanent injury (medically disability) shall be paid as a proportion of an insured sum of 68,000 euros in such a way that each disability percentage point in the range 26-50% shall count double and each disability percentage point in the range 51-100% shall be count quadruple.

Per diem allowances for temporary loss of working capacity shall be 150 euros per week, and shall be paid from a date four weeks after the date of the accident until the injured person becomes fit for work again after the accident, though not for more than 48 weeks. Twenty euros shall be added to this *per diem* allowance each week for each child under the age of 17 years being supported by the injured person.

Compensation shall not be paid to worker under this provision if he receives compensation for his injury from legally-prescribed accident insurance under the Traffic Act, i.e. irrespective of whether or not this is paid by liability insurance or the driver's and owner's accident insurance. If the employer is liable to pay compensation to a worker who is insured against accidents under this provision, then compensation

and *per diem* allowances that may be paid to the worker shall be deductible in full from the compensation that the undertaking may be required to pay. *Per diem* allowances shall be paid to the undertaking as long as it pays the worker wages in respect of the accident.

The Minister of Social Affairs shall issue regulations containing further provisions on this accident insurance, including its scope, the definition of disability, those entitled to receive compensation and the review of monetary amounts.

This provision shall apply without prejudice to more advantageous insurance cover that the worker may have according to his employment contract with the relevant undertaking, a collective agreement or legislation in the state where he normally works.

Article 8

Undertakings' obligation to provide information.

Any undertaking intending to provide services in Iceland for a total of more than ten working days in any twelve-month period (*cf.*, however, Article 9), shall submit the following information to the Directorate of Labour not later than [the same day as operations in Iceland commence]¹⁾ on each occasion:

1. The name of the undertaking, with information on its establishment in its home country, stating the name of the senior management of the undertaking, its address in its home country, the type of service to be provided and its VAT number, or other comparable data covering its operations in its home country, stating that the undertaking operates legally in its home country in the relevant occupational sector in accordance with the laws of that country, together with the name of the user undertaking and its ID number or other comparable means of identification.
2. A survey list of the workers who will be working in Iceland on the undertaking's account, stating their names, dates of birth, addresses in their home country, nationality, [information as to whether the workers in question are covered by social security in their home country]¹⁾, their dwelling place and the intended period of their stay in Iceland, and their occupational qualifications, where appropriate.
3. The validity of workers' work permits in the home country in the case of workers who are not nationals of the Member States of the European Economic Area or EFTA States or the Faroe Islands.
4. Confirmation that workers are covered by accident insurance under Article 7 while in Iceland.
5. Any other information that may be requested by the Directorate of Labour, such as copies of service contracts and employment contracts, in order to establish that the undertaking does demonstrably provide a service under the Agreement on the European Economic Area, the Convention establishing the European Free Trade Association or the Agreement between the Government of Iceland on the one hand and the Government of Denmark and the Domestic Administration of the Faroe Islands on the other hand, and that the workers are employees of the undertaking.

The Directorate of Labour shall issue the undertaking with a written confirmation that it has received the materials under items 1-3 of paragraph 1 of this Article which the undertaking is obliged to deliver to the user undertaking [not later than two working days after the commencement of the undertaking's operations in Iceland]¹⁾ (*cf.* Article 11).

The undertaking shall inform the Directorate of Labour of any changes that may occur to information it has already submitted to the directorate under paragraph 1 of this Article.

The Directorate of Labour shall submit the information specified in items 1-3 of paragraph 1 of this Article, and in paragraph 3 of this Article, to the relevant authorities as appropriate, particularly to the tax authorities, the National Social Security Institute, the Directorate of Immigration, the Occupational Safety and Health Authority and the National Registry.

The Directorate of Labour shall maintain a register of those undertakings that provide it with information on their operations in Iceland under this Act.

¹⁾ Act No. 96/2010, Article 1.

Article 9

Exemption from undertakings' obligation to provide information.

In cases involving service that consists of specialist assembly, installation, monitoring or repairs of equipment, and that is not intended to take more than four weeks in any twelve months, the undertaking is not required to provide the Directorate of Labour with information as provided for under Article 8. If the undertaking's service lasts more than four weeks in any twelve months, the provisions of this Act shall apply to its operations in Iceland.

Notwithstanding the provisions of paragraph 1 of this Article, the undertaking shall provide the Directorate of Labour with information for monitoring purposes under Article 13 of this Act.

Article 10

Special representative.

Undertakings providing services in Iceland for a total of more than four weeks in any twelve months shall have a representative in Iceland. [The representative may be one of the undertaking's workers who are temporarily employed in Iceland.]¹⁾ It shall not be necessary to nominate a representative if fewer than six workers normally working in Iceland on the undertaking's account.

The undertaking shall inform the Directorate of Labour of the name and ID number or date of birth, and also the domicile or dwelling place, of its representative in Iceland [on the same day as]¹⁾ its operations in Iceland commence. If the undertaking changes representative while its operations in Iceland are in progress, it shall inform the Directorate of Labour of the change without unreasonable delay.

The undertaking's representative shall represent it and be responsible for providing the authorities with information under this Act, and also the information that the undertaking is obliged to provide under Article 2 of the Working Terms and Pension Rights Insurance Act, No. 55/1980, with subsequent amendments. In addition, the representative shall be empowered to receive notifications of official decisions or, as appropriate, summons, in a manner that shall be legally binding for the undertaking.

¹⁾ ...
¹⁾ Act No. 96/2010, Article 2.

Article 11

Obligations of user undertakings.

[Not later than two working days following the commencements of its operations in Iceland]¹⁾, the user undertaking shall request written confirmation as provided for under paragraph 2 of Article 8 to the effect that the undertaking has met its obligation under Article 8 to submit information to the Directorate of Labour.

Where an undertaking in the field of construction work of any type, such as work involving the erection, maintenance, repair, modification or demolition of buildings, has entered into a contract with one or more undertakings (*cf.* item 1 of Article 3) as a sub-contractor for the provision of the service, partially or in its entirety, the first-mentioned undertaking shall deliver to the original user undertaking a written confirmation as provided for in paragraph 2 of Article 8 in respect of all the undertakings involved in the provision of the service. The same shall apply to a prime contractor in the field of construction work of any type which is established in Iceland and has entered into a contract with one or more undertakings (*cf.* item 1 of Article 3) as sub-contractors for the provision of the service, partially or in its entirety.

If an undertaking does not comply with a request from a user undertaking as provided for under paragraph 1 of this Article, the user undertaking shall report this to the Directorate of Labour, submitting information on the undertaking's name, the name of its senior manager, its address in its home country and the type of service to be provided. If the name of the undertaking's senior manager is not known, then the name of the person who represented the undertaking when the service contract was made shall be stated.

The user undertaking shall provide the trade union shop steward at the workplace, or the relevant trade union in cases where there is no shop steward at the workplace, with a written confirmation as provided for under paragraph 2 of Article 8 (*cf.* paragraph 1), if the shop steward or trade union so requests.

¹⁾ Act No. 96/2010, Article 3.

Article 12

Monitoring.

The Directorate of Labour shall monitor the application of this Act and of regulations issued hereunder.

If the Directorate of Labour receives a reasoned complaint that an undertaking has violated the provisions of this Act, it shall be obliged to investigate the matter further. If the directorate comes to the conclusion that the undertaking has violated the provisions of this Act, it shall demand that the undertaking operate in conformity with the law.

Article 13

Information for monitoring purposes.

Undertaking shall provide the Directorate of Labour with the information and materials that the directorate considers necessary for monitoring the application of this Act, including service contracts, employment contracts and other materials regarding terms of service.

User undertaking shall also provide the Directorate of Labour with the information and materials concerning the business between the parties that the directorate considers necessary in order to monitor the application of this Act, including service contracts.

Employees of the Directorate of Labour may not use their position in order to obtain information about these operations other than that which is necessary, or may be necessary, for monitoring purposes. Furthermore, they may not provide other parties with information regarding the operations, workers or other parties if they have received this information for the purpose of their monitoring and there is reason to consider that this information should be kept secret (*cf.*, however, Articles 8 and 14).

Article 14

Release of employment contracts.

The Directorate of Labour shall release copies of worker's employment contract to the trade union in the relevant occupational sector in the region in which the undertaking's worker works if the trade union so requests, providing that there is a suspicion of a violation of a valid collective agreement.

Article 15

Temporary suspension of operations.

If the Directorate of Labour has demanded that an undertaking comply with the law and no rectification has been made by the deadline set, the directorate may demand that the police intervene to stop work temporarily or to close down the undertaking's operations in Iceland temporarily until the situation has been rectified.

[Article 15 a.

Per diem fines.

If an undertaking does not comply with this Act, the Directorate of Labour may demand that the undertaking in question rectify the situation within a reasonable period, failing which it will be subjected to *per diem* fines.

The decision to impose *per diem* fines as provided for in paragraph 1 of this Article shall be announced in writing in a verifiable manner to the undertaking concerned. *Per diem* fines may amount to as much as ISK 100,000 per day. When the amount of a fine is determined, factors including the number of employees at the undertaking and the scope of its operations shall be taken into account.

Per diem fines shall be made over to the State Treasury.

Decisions taken by the Directorate of Labour to impose *per diem* fines shall be enforceable.]

¹⁾ Act No. 96/2010, Article 4.

Article 16

Venue.

Worker employed by an undertaking (*cf.* item 1 of Article 3) may institute legal proceedings in Iceland in connection with failure by his employer to discharge its obligations under Articles 4-6 of this Act.

Article 17

Appeals.

Appeals may be lodged with the Ministry of Social Affairs against decisions taken by the Directorate of Labour within three months of the date on which the parties involved are informed of the decision. Appeals shall be regarded as having been submitted to the ministry by the deadline if a letter presenting the appeal is received by the ministry, or has been committed to the postal service, before the deadline.

The Ministry of Social Affairs shall seek to deliver its ruling within two months of the date on which it receives matters for adjudication.

In other respects, procedure shall be in accordance with the provisions of the Administrative Procedure Act.

Article 18

Punishments.

Violations of this Act or of regulations issued hereunder shall be punishable by fines, except where heavier punishments are prescribed in other statutes.

Fines shall be paid to the State Treasury.

...¹⁾

¹⁾ *Act No. 88/2008, Article 233.*

Article 19

Regulations.

The Minister of Social Affairs may issue regulations concerning the application of this Act in further detail, including collaboration and the exchange of information between the competent institutions within the Member States of the European Economic Area, EFTA States or the Faroe Islands.

Article 20

Incorporation of a directive.

This Act is enacted in order to incorporate Directive 96/71/EC of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services.

Article 21

Commencement.

This Act shall take immediate effect. ...

Undertaking which already provides services in Iceland at the time of commencement of this Act shall fulfil the requirements of Article 7 by 1 June 2007, at the latest, if it is providing services in Iceland at that date.

Undertaking which already provides services in Iceland at the time of commencement of this Act shall fulfil the conditions of Articles 8, 10 and 11 by 1 May 2007, at the latest, if it is providing services in Iceland at that date.

Article 22

...

*[This translation is published for information only.
The original Icelandic text is published in the Law Gazette.
In case of a possible discrepancy, the original Icelandic text applies.]*