

Act on Control of Services and Items that may have Strategic Significance

No 58/2010, 14 June

Date of effect: 17 June 2010. Amendment 126/2011 took effect 30 September 2011. Amendment 81/2015 took effect 23 July 2015. Amendment 71/2019 took effect 5 July 2019.

Article 1

Objectives

The objectives of this Act are to strengthen international security and secure respect for human rights in accordance with international commitments by, inter alia, controlling, banning and/or subjecting to authorisation the export of items that may be used, directly or indirectly, to commit acts of terrorism or repression or for strategic purposes and by controlling services and investments related to such items.

This Act lays down rules on the secure keeping of items and information concerning items referred to in para. 1 and on services and investments related to such items, as well as on penalties and administrative remedies against violations of this Act.

Article 2

Scope

This Act applies to Icelandic and foreign nationals in accordance with the provisions of the General Penal Code No 19/1940 on criminal jurisdiction and, in addition, impose criminal liability on Icelandic nationals for acts committed abroad, even if such acts are not punishable under the laws of the State where the violations occurred.

The Act applies to legal persons registered or incorporated in accordance with Icelandic law, wherever they operate or are situated. Where a legal person is registered or incorporated abroad this Act applies to its activities to the extent that they are undertaken within Icelandic jurisdiction.

If a subject matter falls under the competence of a particular Minister by law this Act does not prevent the Ministry from granting an authorisation or setting rules based on this Act, provided consultations are held with the Ministry concerned or its subsidiary organs, as appropriate, on granting such authorisation or setting such rules. However, the Police Commissioner shall grant export authorisations for weapons covered by the Weapons Act, having consulted [the Ministry]. 1)

1) Act 126/2011, Article 528.

Article 3

Definitions

For the purposes of this Act:

1. A party shall mean a natural or legal person, including governments, corporations, consortiums, institutions, funds and organisations.
2. Defence related products shall mean weapons and ammunition of strategic significance, military vehicles, military equipment, military supplies, military technology, paramilitary equipment, and spare parts for the aforementioned items.
3. An item refers, inter alia, to goods, equipment, software and technology. Military goods are included.

4. Dual-use items shall mean items which can be used for both civil and military purposes, and shall include all items which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices.
5. Brokering shall mean intermediation in negotiating for the purchase, sale or supply of items or services, where the intermediary is neither a party to legal instruments concerning the transaction in his own name or in the name of the contracting parties. Brokering applies, inter alia, to trade between parties in foreign countries.
6. Export shall mean export and transit, including re-export, within the meaning of the Customs Act No 88/2005, whether or not for consideration. This also applies to sharing of software and technology by electronic means, facsimile or by telephone to a destination abroad.
7. Services refer, inter alia, to trade, brokering, supply, transport, financing, assistance, consultancy services and training, whether or not for consideration.

Export, import, service and investment authorisations pursuant to this Act, hereinafter referred to as “authorisations”, can be general, global or individual authorisations:

- a. General authorisations shall mean authorisations available to all parties vis-à-vis certain countries who respect its conditions of use. They shall be published in the Government Gazette, B Series.
- b. Global authorisations shall mean authorisations granted to one party, in respect of a type or category, which may be valid vis-à-vis one or more specified end recipients and/or in one or more specified countries.
- c. Individual authorisations shall mean authorisations granted to one party vis-à-vis a party in another country and covering one or more items, types of services or types of investments.

Article 4

Imports and Exports Subject to Authorisation

No one may export defence related products or dual-use items without an authorisation granted by the Minister, without prejudice to Article 2, para. 3, 2nd sentence. Lists of such defence related products and items shall be published in the Government Gazette, B Series. The lists shall be updated in conformity with the relevant obligations and commitments that Iceland has accepted as a member of international non-proliferation regimes for defence related products and dual-use items and of export control arrangements, or as a party to international agreements, as applicable.

The Minister may decide that an export authorisation is required for equipment which could be used for internal repression in other countries.

In addition to what is indicated in para. 1 and 2, it is not allowed to export items which the exporter knows, may assume or the Ministry informs him are or may be intended, in their entirety or in part, for military use, for terrorist acts or for the purpose of internal repression, and the export is in breach of Iceland’s international obligations or threatens its defence or security interests or those of its allies. The same applies to items if the exporter has been informed by the Ministry that the items in question are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons, or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons.

The Minister may decide that an authorisation be required for the import to, or transit in, Iceland of items that can be used, in their entirety or in part, in connection with the development, production, handling, operation, maintenance, storage, detection,

identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons. Such authorisation may only be granted if it is established that such import or transit is not in breach of international agreements to which Iceland is a party.

Article 5

Services and Investments Subject to Authorisation

No one may provide services in connection with export of items referred to in Article 4, without an authorisation granted by the Minister, provided further rules have been set regarding such authorisation.

The Minister may decide that an authorisation be required for the brokering of items referred to in Article 4, irrespective of whether they are exported or not.

The Minister may decide that an authorisation be required for investment abroad in operations associated with the development, production, handling, operation, maintenance, storage, detection, identification, dissemination, provision, collection, use, ownership, transport, brokering or trade in items listed in Article 4, if the country concerned is not a party to international cooperation on export control that the Minister deems sufficient.

[The combined share of foreign parties in an Icelandic company that manufactures items that are subject to Article 4 or provides a service subject to this Article can at no time exceed 49% except with the authorisation of the Minister. This provision does not restrict rights according to international agreements Iceland is party to.] 1)

1) Act 81/2015, Article 5.

Article 6

Licensing Conditions

The Minister may set conditions in connection with the issuance of import, export, services and investment authorisations pursuant to this Act, including concerning disclosure of terms of sale, payment terms, credit terms, transport routes, document handling and statements about end-users and/or end use of goods and services.

The Minister may at any time alter the conditions of authorisations, once an authorisation has been issued, or revoke authorisations at any time, temporarily or permanently, when:

- a. the premises for the issuance of an authorisation are no longer valid,
- b. the holder of the authorisation has not met the conditions of the authorisation, or
- c. in case of urgent necessity in which case the holder of the authorisation shall return the authorisation to the Ministry without delay.

If a general import, export, services or investment authorisation has been issued and the holder of the authorisation becomes aware, or may assume, because of later events or other reasons, that the export, import, services or investment is in breach of Iceland's international obligations, the holder may not use the authorisation.

A party in question may at any time request that the Minister's decision on the conditions of authorisations, altering such conditions, revocation or rejection of an authorisation application be reconsidered in accordance with Article 24 of the Public Administration Act No 37/1993.

Article 7

Keeping of Items and Information

Exporters, importers and holders of items referred to in Article 4 shall ensure their secure keeping. The Minister may set further rules on this matter. Exporters, importers and holders of items, referred to in Article 4, and service providers and investors, referred to in Article 5, shall keep detailed information and records on their exports, imports, ownership, stock, sale, brokering, provision and transport, as applicable, for at least ten years. They shall include, inter alia:

- a. a description of items, services and/or investments,
- b. quantities,
- c. names and addresses of recipients, if applicable,
- d. end-users' identity and/or end-use of items and services, if known.

The Minister may set further rules on this matter.

Article 8

Obligation to Provide Information

Exporters of items, referred to in Article 4, and service providers and investors, referred to in Article 5, shall provide the Ministry with all necessary information and assistance in order to implement this Act and rules adopted on the basis thereof. The Ministry shall forward information provided under this Article to the National Commissioner of Police, as appropriate.

The Ministry, and public authorities it may designate, can request, inter alia:

- a. access to all data and records related to the enforcement of this Act,
- b. access to all relevant office accommodations and all related operational facilities,
- c. copies and translations of material referred to in sub-para. a, and
- d. assistance in the processing and interpretation of material referred to in sub-para. a.

If the Ministry's requirements are not met under this Article, the Ministry may impose a daily penalty on the party or parties upon which requirements have been made until they are fulfilled. A decision on a daily penalty shall be notified to the party concerned in writing and in a verifiable manner. A daily penalty can be imposed of up to ISK 100.000 per day. The Ministry's decision on a daily penalty is enforceable according to Article 1, para. 1, point 6 of the Enforcement Act No 90/1989.

Article 9

Notification Requirements

Exporters, importers and holders of items referred to in Article 4 shall notify the Ministry of exports, imports and holdings, in accordance with further rules set by the Minister.

If an exporter, importer, service provider or investor is aware, or may assume, that an item that he or she wishes to export, import, provide services or invest in connection with such item, cf. Article 5, is or may be intended for use, in its entirety or in part, for military use, terrorist acts or internal repression, he or she shall notify the Ministry thereof, which decides if an authorisation should be granted, as appropriate. The same applies for items that he or she is aware of, or may assume, are intended for use, in their entirety or in part, in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons.

The Minister may adopt rules providing that missile launches within Icelandic territorial airspace shall be notified.

Article 10

Confidentiality

[Employees of the Ministry, and parties it may designate under Article 8, are subject to confidentiality pursuant to Chapter X of the Administrative Procedures Act.] 1) The confidentiality obligation does not apply to the extent necessary:

- a. to achieve the aims of this Act, including police investigations and prosecutions,
- b. between parties responsible for the enforcement of this Act, including archiving of documents, or
- c. as regards consultations or cooperation with other inspection or cooperating authorities in Iceland or abroad.

1) Act 71/2019, Article 5.

Article 11

Rights and Obligations that are Inconsistent with this Act

It is forbidden to fulfil agreements or other rights and obligations that are inconsistent with this Act and rules adopted on the basis thereof. This applies whether these rights and obligations arose before or after the entry into force of the Act or the rules in question, unless otherwise indicated therein.

Failure to fulfil rights and obligations pursuant to para. 1 does not lead to liability for damages.

Article 12

Authority to Grant Exemptions

The Minister may grant exemptions from a ban enforced under this Act if valid reasons apply. Conditions may be set with respect to each exemption to ensure that the objective of the ban is not undermined or its purpose deviated from.

When a decision is made to grant an exemption under this Article account shall be taken of relevant obligations and commitments that Iceland has accepted as a member of international non-proliferation regimes for defence related products and dual-use items and export control arrangements, or as a party to international agreements, as applicable.

Article 13

Penalties

A party which violates an order or a ban set out in the provisions below or a regulation adopted for their further elaboration may be fined unless more severe penalties apply pursuant to other laws:

- a. Article 7 on Keeping of Items and Information,
- b. Article 9 on Notification Requirements.

A party which violates an order or a ban set out in the provisions below or a regulation adopted for their further elaboration may be fined or imprisoned for up to four years unless more severe penalties apply pursuant to other laws. In very serious cases fines or prison sentences of up to six years may be imposed:

- a. Article 4 on the Prohibition of Imports and Exports subject to Authorisation,
- b. Article 5 on Services and Investments subject to authorisation,
- c. Article 6, para. 1 on Licensing Conditions.

Where a violation referred to in para. 2 results from gross negligence, fines or a prison sentence of up to one year may be imposed.

If a violation is committed in the course of activities of a legal person and for its benefit that legal person may be fined regardless of whether guilt is proven of its representative or employee.

Where a representative or an employee is found guilty of a violation, the legal person may, concurrently with the imposition of the representative's or employee's penalties, be subjected to a fine if the violation was for its benefit.

Items which have been used in connection with a violation, have been created by a violation or are otherwise related to a violation, may be confiscated in accordance with the provisions of the General Penal Code. Further, proceeds of a violation may be confiscated, or an amount equivalent to the proceeds, in whole or in part thereof.

An attempt to violate, or participation in violations of, regulations set according to this Act is punishable according to the General Penal Code.

Article 14

Further Rules etc.

[The Minister] 1) is responsible for the enforcement of this Act and may:

- a. adopt further rules 2) relating thereto,
- b. [publish in the original foreign language lists of items or services referred to in Article 4 and 5, in the Government Gazette, B Series, refer to it on the website of the United Nations Security Council or the Official Journal of the European Union, or publish it on the website of the Ministry for Foreign Affairs, which count as lawful publication], 3)
- c. waive fees for the issuing of export authorisations, cf. Article 11, point 50 of the Additional Treasury Income Act No 88/1991, when items covered by this Act are transported temporarily to or from Iceland for the purpose of testing, for exhibition or for other purposes.

1) Act 126/2011, Article 528.

2) Reg. 361/2016, cf. 189/2017, 1012/2017, 994/2018 and 794/2019.

3) Act 81/2015, Article 6.

Article 15

Entry into force.

The present Act shall enter into force forthwith. ...

*[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.]*