



VELFERÐARRÁÐUNEYTIÐ

Ministry of Welfare

REGULATION on foreign nationals' right to work, No. 339/2005.

SECTION I

General provisions.

Article 1

Scope.

This Regulation applies to the right of foreign nationals to work in Iceland. Section III of the Foreign Nationals' Right to Work Act, No. 97/2002, and Article 3 of this Regulation applies to exemptions from the requirements regarding work permits.

Article 2

Definitions.

Terms are used in this Regulation as follows:

1. *Work permit:* A permit granted by the Minister of Social Affairs to a foreign national, allowing him/her to work in Iceland, or to an employer, allowing him/her to employ a foreign national.
2. *Temporary work permit:* A temporary permit granted to an employer, allowing him/her to employ a foreign national.
3. *Specialist work permit:* A temporary permit granted to a foreign national in connection with specialised tasks.
4. *Permanent work permit:* A permit with no time restriction, granted to a foreign national and allowing him/her to work in Iceland.
5. *Student or au-pair work permit:* A work permit granted to foreign students attending a recognised educational establishment within the general educational system in Iceland or in connection with au-pair engagements.
6. *Full-time studies:* A 75-100% continuous programme of study, practical or theoretical, at a recognised educational establishment within the general educational system in Iceland lasting at least six months. The term is also used to refer to a 75-100% programme of third-level education and any other programme of education that makes demands regarding previous studies that are comparable with those made for third-level education. Short individual courses are not regarded as programmes of study.
7. *Employer:* An individual or company operating a business in Iceland, irrespective of the operational form or ownership of the enterprise.
8. *Residence permit:* A permit conferring the right to permanent residence under Article 15 of the Foreign Nationals Act.
9. *Foreign national:* An individual who does not hold Icelandic citizenship.
10. *Closest relatives:*
 - a. Spouse.
 - b. Cohabiting partner.

- c. Registered partner, in cases where the partners are able to demonstrate that they have lived together in a registered partnership or a partnership that can be verified by some other means, for at least two years and intend to continue to live together.
- d. Descendants under the age of 18.
- e. Dependent relative of the foreign national, or his/her spouse, in the ascending line.

Article 3

Foreign nationals who are exempt from the requirement regarding work permits.

The following shall be exempt from requirements regarding work permits:

- a. Citizens of member states of the Agreement on the European Economic Area and the Convention establishing the European Free Trade Association.
- b. A spouse of a wage earner who is a citizen of a member state of the Agreement on the European Economic Area and the Convention establishing the European Free Trade Association, and also their children who are under the age of 21 or are supported by them, see item *a* of paragraph 1 of Article 10 of Regulation No. 1612/68/EEC on freedom of movement for workers within the European Economic Area; *cf.* also the Workers' Rights regarding Employment and Residence within the European Economic Area Act, No. 47/1993.
- c. A relative in the ascending line of a worker who is a citizen of a member state of the European Economic Area and the Convention establishing the European Free Trade Association, and of his/her spouse in the ascending line, see item *b* of paragraph 1 of Article 10 of Regulation No. 1612/68/EEC on freedom of movement for workers within the European Economic Area; *cf.* also the Workers' Rights regarding Employment and Residence within the European Economic Area Act, No. 47/1993.
- d. A foreign national who has been Icelandic citizen since birth, but has lost his Icelandic citizenship.
- e. A foreign spouse of an Icelandic citizen, and his/her children aged up to 18.
- f. A foreign national in the private service of envoys of foreign states.

Article 4

Foreign nationals who are exempt from the requirement regarding work permits due to the shortness of their stay in the country.

The following foreign nationals shall be exempt from the requirements regarding work permits for periods of up to four weeks each year in Iceland:

- a. Scientists, scholars and lecturers, as regards teaching or comparable activities.
- b. Artists, with the exception of instrumental performers who enter into employment in catering establishments. The exemption under this item does not apply to dancers who appear in night-clubs, *cf.* item *i* of Article 9 of the Hotel and Catering Establishment Act, No. 67/1985, with subsequent amendments.
- c. Sport coaches.
- d. Representatives on business visits for companies that do not have branches in Iceland.
- e. Drivers of passenger coaches registered in foreign countries, providing that the vehicles are carrying foreign tourists to Iceland.
- f. Journalists and reporters from foreign news media who are in the service of companies that are not established in Iceland.
- g. Employees, consultants and instructors working on the assembly, installation, supervision or repair of equipment. This applies mainly to instances in which the equipment is covered by a seller's guarantee and the guarantee is subject to the condition that installation, testing and temporary supervision is to be in the hands of specialised employees of the seller or others approved by the seller for the purpose.

Article 5

Notifications.

An employer who receives a foreign national into his/her service, sends the foreign national for whom he/she is responsible to Iceland to work for him/her or engages a foreign national to work in Iceland shall notify the Icelandic Directorate of Immigration of this in writing in accordance with

Article 110 of the Regulation No. 53/2003, on foreign nationals, *cf.* Article 54 of the Foreign Nationals Act.

SECTION II

Application for, and granting of, a work permit.

Article 6

General.

The Directorate of Labour shall be responsible for granting work permits on behalf of the Minister of Social Affairs.

A work permit grants the right to work in Iceland under the laws and regulations applying to the Icelandic labour market.

The work permit shall have been issued before a foreign national comes to Iceland for the first time to work. Exemptions from this rule may be made if the person for whom the work permit is sought is the cohabiting spouse or registered partner of an Icelandic citizen or a citizen of a member state of the European Economic Area or the Convention establishing the European Free Trade Association. The same shall apply to the spouse, cohabiting spouse, registered spouse or child under the age of 18 of a foreign national who has received a residence permit or a permit to stay in Iceland that is not subject to restrictions under the Foreign Nationals Act. Furthermore, exemptions may be granted when substantial considerations of fairness, other than those stated in this Article, apply.

Article 7

Applications for a work permit.

An employer who wishes to receive a temporary work permit in order to engage a foreign national for work shall apply for it on a special form from the Directorate of Labour. The application shall be submitted with all materials and certificates required by the Directorate of Labour as a demonstration that the applicant meets the conditions set by the Foreign Nationals' Right to Work Act and this Regulation. The same shall apply when a foreign national applies for a permanent work permit or a work permit under Article 10 of the Foreign Nationals Right to Work Act.

The Icelandic Directorate of Immigration shall receive applications for work permits and send them to the Directorate of Labour.

Article 8

Confirmation of a granted work permit.

The Directorate of Labour shall announce its decisions on the granting and refusal of work permits to the Icelandic Directorate of Immigration.

When the Directorate of Labour decides to grant a work permit on the basis of an application, and when the conditions of the Foreign Nationals' Right to Work Act and this Regulation have been met, the Directorate shall announce its decision to the employer and the Icelandic Directorate of Immigration. On receipt of this notification, the Icelandic Directorate of Immigration shall issue a document confirming that the permit has been granted.

When the Directorate of Labour rejects an application for a work permit, it shall notify the employer of this decision in writing. The Directorate's notification shall draw the attention of the employer to his/her right of appeal under Article 24 of the Foreign Nationals' Right to Work Act. The Directorate of Labour shall send the Icelandic Directorate of Immigration a copy of the notification.

SECTION III

A temporary work permit.

Article 9

A temporary work permit.

An employer may be granted a temporary work permit to engage a foreign national to work, after the conditions of items *a-f* of paragraph 1 of Article 7 of the Foreign Nationals' Right to Work Act and Section III of this Regulation have been met and in accordance with government policy at any given time.

When assessing whether the conditions of item *a* of paragraph 1 of Article 7 of the Act have been met, the Directorate of Labour shall give attention to the following considerations, amongst others:

- a. conditions on the domestic labour market,
- b. the Icelandic government's undertakings under the Agreement on the European Economic Area,
- c. the long-term effects of the issue of temporary work permits on the domestic labour market,
- d. the qualifications of the worker for whom the work permit is sought, when qualifications are specified as a condition of engagement,
- e. other matters that may be of significance concerning the granting of a work permit.

The comments of the trade union under item *b* of paragraph 1 of Article 7 of the Act shall not be binding for the Directorate of Labour when it decides whether or not to grant a work permit. The trade union or national federation giving comments in connection with a work permit shall also give special reasons in support of negative comments.

Article 10

Health insurance.

When applying for a temporary work permit, the employer shall demonstrate that the employee is covered by health insurance by submitting an insurance policy document for at least ISK 2,000,000 from an insurance company that holds an operating licence in Iceland.

Article 11

Satisfactory health certificates.

A satisfactory health certificate relating to the person for whom a temporary work permit is sought shall be submitted with the application. In the case of a certificate issued abroad, an Icelandic or English translation by a legally authorised translator shall also be submitted. The health certificate shall be based on a medical examination of the worker involved, and shall state whether the worker has an infectious disease. The Directorate of Labour shall send the certificate to the State Epidemiologist, who shall evaluate it in terms of measures against infectious diseases, cf. the Infectious Diseases Act and the procedural rules observed by the physician. The health certificate may not be more than three months old when the application is received by the Directorate of Labour.

The State Epidemiologist shall inform the Directorate of Labour of the outcome of his evaluation according to paragraph 1 of this Article within two weeks of receiving the certificate. When, in the opinion of the State Epidemiologist, a further medical examination in Iceland is necessary, the Directorate of Labour shall make it a condition that the foreign national undergoes a medical examination within four weeks of his arrival in Iceland. In cases where the foreign national has spent more than three consecutive months during the past 10 years in areas where serious infectious diseases are endemic, special medical examinations are required under the procedural rules of the State Epidemiologist.

This provision shall not affect the worker's obligation to comply with instructions that the Epidemiologist may give on the basis of the Infectious Diseases Act, e.g. as regards public measures to control infectious diseases.

Costs associated with health certificates shall be paid by the party applying for the work permit.

Article 12

Legally-protected occupations.

When an employer applies for a permit to engage a foreign worker for a job that is subject to formal professional qualifications or an operating licence according to law, the application shall be submitted with a certificate from the relevant Icelandic authority stating that the worker meets the requirements in force regarding the professional qualifications or operating licence applying to the relevant job.

If the laws and regulations applying to the relevant professional's qualifications permit workers to carry out specific tasks without the required professional qualifications, then the conditions of paragraph 1 of this Article shall not apply, providing that it can be seen from the documents relating to the case that the exemption provisions of the laws or the Regulation applies to the job for which a work permit is sought.

Article 13

Work-related qualifications.

When an employer applies for a permit to engage a foreign worker for a job in which certain aspects of the job call for the worker to be in possession of specific work-related qualifications, such as a driving licence covering special categories of vehicle, or a machine-operating licence, the Directorate of Labour shall make it a condition for the granting of the work permit that the foreign national demonstrates his/her ability and/or has his/her licences recognised in Iceland in accordance with the rules applying to the licences. The employer shall ensure that the employee applies to the relevant authority in charge of issuing the licences within one week of his arrival in Iceland. In other respects, the rules applying to such licences shall be observed, including as regards when the worker is permitted to begin work on those aspects of the job that call for work-related qualifications.

Furthermore, the Directorate of Labour shall notify the relevant supervisory authority of the grant of the work permit.

This provision shall not apply to jobs within legally-protected occupations.

Article 14

Work permits for the foreign national's closest relatives.

Exemptions may be made from the conditions of items *a* and *e* of paragraph 1 of Article 7 of the Foreign Nationals' Right to Work Act when temporary work permits are sought for the closest relatives of a foreign national who has received a residence permit and a permanent work permit. The condition for this shall be that a permit to stay in Iceland must have been granted previously for the foreign nationals involved in accordance with the provisions of the Foreign Nationals Act applying to residence permits for relatives.

Article 15

Work permits for asylum seekers and persons who have been served with deportation orders.

A temporary work permit may be granted to engage a foreign national who has applied for asylum while a decision on his asylum application is pending, and also to engage a foreign national whose application for asylum or a residence permit has been finally refused, pending the application of their deportation orders, if there are strong humanitarian reasons for doing so. The condition for this shall be that the foreign national shall previously have been granted a provisional permit to stay in Iceland under the Foreign Nationals Act. When a work permit is granted under this provision, exemptions may be granted from the conditions of items *a*, *b* and *e* of paragraph 1 of Article 7 of the Foreign Nationals' Right to Work Act.

The Directorate of Labour shall inform the collaborative committee on foreign nationals' right to work, *cf.* Article 25 of the Foreign Nationals' Right to Work Act, of work permits granted under paragraph 1 of this Article.

Article 16

Period of validity of a temporary work permit.

A work permit granted for the first time shall not be valid for more than one year, though at no time for longer than the period of engagement according to the employment contract.

A temporary work permit for a domestic worker shall normally not be granted for periods longer than six months at a time. An applicant for a permit for a domestic worker shall demonstrate the ability to pay wages and wage-related expenses associated with the engagement.

Article 17

Extension of a temporary work permit.

Providing that the conditions of items *a-c* of paragraph 1 of Article 7 of the Foreign Nationals' Right to Work Act have been met, the period of validity of a temporary work permit may be extended by up to two years at a time, though at no time for longer than the period of engagement according to the employment contract.

When an extension is applied for, the Directorate of Labour may demand that the employer submits materials concerning wage payments and the payment of the legally-prescribed wage-related expenses for the foreign national.

Article 18

Change of employer.

If the conditions of the Foreign Nationals' Right to Work Act and this Regulation are met, an employer may be granted a permit to engage a foreign national who has come to Iceland to work for another employer. A temporary work permit shall be applied for in accordance with Article 7 of the Act before the foreign national begins work for the new employer, and a declaration from the previous employer stating that the employment relationship has been terminated, with the reasons why, shall be submitted with the application. Where there are cogent reasons for so doing, the Directorate of Labour may waive the requirement that a declaration from the previous employer is submitted with the application.

Article 19

Work permit for specialised worker.

In special circumstances, a temporary work permit may be granted to a foreign national whom it is planned to send to Iceland in the service of a company that does not have a branch in Iceland, providing that the conditions of item *g* of Article 15 of the Foreign Nationals' Right to Work Act and of item *g* of Article 4 of this Regulation do not apply.

The conditions for granting a work permit under paragraph 1 of this Article are as follows:

- a. That a signed employment contract exists between the foreign company and the employee, guaranteeing him/her wages and other terms of service that are equal to those enjoyed by domestic workers, *cf.* the Employees' Terms of Service and Obligatory Pension Rights Insurance Act.
- b. That the foreign worker is covered by health insurance in Iceland and that he/she enjoys protection comparable with the terms of the Social Security Act, *cf.* Article 10 of this Regulation.
- c. That guarantees are submitted for the payment of the cost of transporting the worker to his home country after the conclusion of the employment period.
- d. That a satisfactory health certificate is submitted, *cf.* Article 11 of this Regulation.

A service agreement with a company in Iceland shall exist. This agreement shall include a statement that a condition for the transaction is that an employee of the foreign company executes the service. The reasons for the requirement that the foreign national involved carries out the work to which the agreement relates shall be stated either in the service agreement or in the application based thereon.

In the case of a job that requires formal job qualifications or an operating licence according to law, the application shall be submitted with a certificate from the relevant Icelandic authority stating that the employee meets the requirements regarding the job qualifications or operating licence for the job involved, *cf.* Article 12 of this Regulation.

A work permit shall not normally be granted for periods longer than six months on the basis of the same service agreement. The work permit shall have been issued before the foreign national comes to Iceland.

The Directorate of Labour shall notify the collaborative committee on foreign nationals' right to work, *cf.* Article 25 of the Foreign Nationals' Right to Work Act, of work permits granted according to this provision.

SECTION IV

A permanent work permit.

Article 20

General.

A foreign national who has been domiciled in Iceland and lived in the country for three continuous years may be granted a permanent work permit if he/she has previously obtained a residence permit in accordance with the Foreign Nationals Act and has previously been granted a temporary work permit

under Article 7 of the Foreign Nationals' Right to Work Act. A permanent work permit confers the right to work in Iceland for an unrestricted period. The permit shall remain valid for as long as the foreign national is domiciled in Iceland.

Article 21

Exemptions for a spouse of an Icelandic citizen or a foreign national who holds a permanent work permit.

Exemptions may be granted from the conditions of paragraph 1 of Article 11 of the Foreign Nationals' Right to Work Act and Article 20 of this Regulation if an Icelandic citizen obtains a divorce from, or terminates cohabitation or a registered partnership with his/her spouse or partner who is a foreign national. The condition for this shall be that the marriage, registered partnership or registered cohabitation shall have lasted for at least two years and that the foreign spouse or partner shall have been domiciled in Iceland continuously for at least the same period of time.

Furthermore, exemptions may be made from the conditions of paragraph 1 of Article 11 of the Foreign Nationals' Right to Work Act and Article 20 of this Regulation concerning a foreign spouse in the case of a death of an Icelandic spouse, or in cases involving the spouse of a foreign national who holds a permanent work permit, or his/her children aged 18 or older.

Article 22

Exemptions for students.

A foreign national who has been in Iceland as a student for a minimum of three years and has completed his studies may be granted a permanent work permit, providing that the conditions of paragraph 1 of Article 11 of the Foreign Nationals' Right to Work Act and Article 20 of this Regulation have been met, with the exception of the requirement of having previously been granted a temporary work permit under Article 7 of the Act.

Article 23

Refugees.

A foreign national who has received permission to stay in Iceland as a refugee may be granted a permanent work permit.

SECTION V

Work permits in connection with residence for study purposes.

Article 24

Work permits in connection with residence for study purposes.

A foreign national pursuing full-time studies in Iceland, as testified by a certificate from the educational institution involved, may be granted a permit to engage in work that constitutes part of his studies, concurrently with his studies or in vacations from his studies, providing that his progress in his studies is satisfactory in the opinion of the educational institution involved.

The condition for the granting of a permit shall be the presentation of a certificate of registration in the educational institution involved. A permit shall not be granted for periods of more than six months at a time. Work permits in connection with residence for study purposes may be extended on presentation of a certificate of registration and a statement concerning the progress of the student's studies.

Article 25

Maximum number of working hours.

The number of hours worked by a foreign national who has been granted a work permit in connection with residence for study purposes shall normally not exceed 15 hours per week, except in the case of work during vacations from studies or during practical training.

SECTION VI
Au pair work permits.

Article 26

A permit may be granted to engage a foreign national aged 18-26 years as *au pair* in an Icelandic home.

Such a work permit shall apply only to work done in the home of the family that engages the *au pair*.

The condition for the granting of such a permit shall be that that a written agreement exists between the parties stating, amongst other things, the period of validity of the agreement, perquisites in the form of meals and accommodation, daily working hours, daily and weekly rest periods, the right to pursue studies and provisions covering health and accident insurance. Meals and accommodation shall be provided free of charge, and the *au pair* shall have a private room. Active working hours may not exceed 5 hours per day or 30 hours per week.

The family shall ensure that the *au pair* receives sufficient time to pursue studies in Icelandic and to pursue cultural and professional interests.

A permit may not be granted to engage the same individual as an *au pair* for a period of more than one year.

The Directorate of Labour shall issue the forms necessary for the engagement of *au pairs*. It shall also determine the minimum amount of pocket money for *au pairs*; this shall be done before 1 February each year. The amount shall be advertised in the Official Gazette.

The Directorate of Labour may entrust an institution or company with all intermediary functions and supervision of *au pair* engagements.

In the event of the termination of an *au pair* engagement before the end of the period stated in the contract between the parties, both the *au pair* and the family that engaged the *au pair* shall notify the party that acted as an intermediary concerning the engagement and the Icelandic Directorate of Immigration.

SECTION VII

Revocation of a work permit. Penalties.

Article 27

Revocation.

The Directorate of Labour may revoke a work permit if, when making the application, the foreign national or employer gave false information against his better knowledge, or concealed facts that could have been of substantial significance as regards the granting of the permit, or if the conditions for granting the permit no longer obtain, or if this course of action follows for other reasons from the application of the general rules of administrative procedure.

The Directorate of Labour shall ensure that cases are investigated sufficiently and that care is taken that the party involved has an opportunity to express his position on the issue before a decision is taken to revoke a permit, where his position on the evidence in the case has not already been established. In other respects, cases shall be handled by the Directorate according to the Administrative Procedure Act.

Article 28

Penalties.

Infringements of this Regulation may be punishable under Article 17 of the Foreign Nationals' Right to Work Act, No. 97/2002, with subsequent amendments.

Article 29

Transport home.

Article 18 of the Foreign Nationals' Right to Work Act, No. 97/2002, shall apply to the transporting of foreign nationals to their home in the event of infringements of this Regulation.

SECTION VIII

Procedure.

Article 30

General rules on procedure.

The Administrative Procedure Act shall apply to procedure in handling cases, except where other provisions are made in the Foreign Nationals' Right to Work Act.

Article 31

Speed of processing.

The Directorate of Labour shall take decisions on the granting of work permits as soon as possible, and not later than two months after it receives applications.

When a delay is foreseeable in the processing of a case, the party to the case shall be informed of this. Reasons shall be given for the delay, and also an indication of when a decision may be expected.

Article 32

Obligation regarding guidance.

In cases involving the rejection of an application for a work permit, or the revocation of a work permit, the government authority shall provide the foreign national with guidance regarding his right of appeal under Article 24 of the Foreign Nationals' Right to Work Act.

Article 33

Right of Appeal.

Appeal may be lodged with the Ministry of Social Affairs against decisions by the Directorate of Labour to reject applications for a work permit or to revoke a work permit, *cf.* Article 24 of the Foreign Nationals' Right to Work Act. The deadline for lodging an appeal is four weeks from the receipt of the announcement of the Directorate of Labour's decision. Other aspects of appeals shall be subject to Section VII of the Administrative Procedure Act.

SECTION IX

Miscellaneous provisions.

Article 34

Commencement.

This Regulation is issued according to the authorisations in paragraph 1 of Article 4, Article 5, paragraph 4 of Article 7, paragraph 4 of Article 12, paragraph 8 of Article 13 and paragraph 2 of Article 15 of the Foreign Nationals' Right to Work Act, No. 97/2002, following consultation with the Ministry of Health and Social Security as regards the involvement of the National Epidemiological Officer in connection with satisfactory health certificates.

This Regulation enters into force immediately.

Temporary provision.

The provisions of items *a-c* of Article 3 shall not apply, however, concerning the right of citizens of Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic and Hungary to work in Iceland until 1 May 2006, *cf.*, however, the Employees' Rights in Temporary Employment in Iceland for Foreign Companies Act, No. 54/2002.

Ministry of Social Affairs, 23 March 2005.

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*[This translation is published for information only.
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