



VELFERÐARRÁÐUNEYTIÐ

Ministry of Welfare

[Act on Posted Workers and the Obligations of Foreign Service-Providers]¹⁾

No. 45/2007,

as amended by Act No. 88/2008, No. 96/2010, No. 162/2010,

No. 126/2011, No. 114/2012 and No. 75/2018.

¹⁾ Act No. 75/2018, Article 28.

Where mention is made in this Act of ‘the minister’ or ‘the ministry’ without further definition, the reference intended is to the Minister of Social Affairs and Equality or to the Ministry of Welfare, which is responsible for the implementation of this Act. Information on the division of responsibilities between ministries according to a presidential decree may be found [here](#).

[SECTION I

Scope, aims, administration and definitions.]¹⁾

¹⁾ Act No. 75/2018, Article 1.

Article 1

Scope.

This Act applies to undertakings which ...¹⁾ 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 ...¹⁾
- 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 [in connection with a service contract to this effect between the undertaking and the user undertaking according to the Act on Temporary-Work Agencies].¹⁾

[This Act also applies to workers of undertakings who are posted temporarily to Iceland in connection with the provision of services by the undertaking under indents a, b or c of the first paragraph.]¹⁾ 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.

[This Act also applies regarding the obligation which self-employed individuals who come to Iceland of their own accord in connection with the provision of services have to provide information. This Act furthermore applies regarding the obligations and liabilities of user undertakings in connection with the service contracts they conclude with undertakings.]¹⁾

[In the case of undertakings covered by indent c of the first paragraph, the Act on Temporary-Work Agencies shall also apply (*cf.* the second paragraph of Article 1 of that act) regarding the undertakings in question and their workers in Iceland, as appropriate. The same applies regarding the obligations and responsibilities of user undertakings that have concluded service contracts with such undertakings.]¹⁾ Articles 8-11 shall not apply to [undertakings under]¹⁾ item c of the first paragraph. ...¹⁾

[This Act does not apply to the crews of merchant vessels.]¹⁾

¹⁾ Act No. 75/2018, Article 2.

[Article 1 a

Aims.

The aim of this Act is to ensure that the wages and other terms of service of workers posted temporarily to Iceland in order to provide services in Iceland are in conformity with the provisions of the laws, regulations and collective agreements that apply on the Icelandic labour market.

A further aim of this Act is that government authorities should be in a position to obtain an over-view of the nature and scale of the activities of foreign service-providers in Iceland and, as appropriate, in their home states, whether they themselves provide services in Iceland as self-employed individuals or post their workers temporarily to Iceland to provide services, so as to ensure that foreign service-providers operate lawfully in Iceland.]¹⁾

¹⁾ Act No. 75/2018, Article 3.

Article 2

Administration.

[The Minister]¹⁾ 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.

[In collaboration with the organisations of the social partners, the Directorate of Labour shall publish, in an accessible form (e.g., electronically) and without remuneration, information on the laws and regulations applying on the labour market in Iceland, and also on where the applicable collective agreements may be accessed.

The Directorate of Labour shall provide the competent authorities in other Member States of the European Economic Area, other EFTA States or the Faroe Islands with assistance when any of them is a host state to an Icelandic undertaking, either with the gathering of information about the Icelandic undertaking or in connection with communication with the Icelandic undertaking, including as regards the collection of fines, if the competent authorities in the host state request such assistance, providing that the request is made for a legitimate purpose and also that it is proportionate. In the case of a request for information, the Directorate of Labour shall provide the information requested within 25 working days of receiving the request. In urgent cases, where the urgency is substantiated by the competent authority in the host state, the Directorate of Labour shall provide the information requested within two working days of receiving the request.]²⁾

¹⁾ Act No. 126/2011, Article 454. ²⁾ Act No. 75/2018, Article 4.

Article 3

Definitions.

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

1. *Undertaking*: An undertaking is an individual, company or other party that [has a worker, or workers, in its employment,]¹⁾ runs a business operation and is established in another Member State of the European Economic Area, another EFTA State or the Faroe Islands and [posts a worker, or workers, temporarily in Iceland in order to provide]¹⁾ 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, [in addition to which the service falls within the occupation in which the party in question operates in its home state. ‘Undertaking’ also refers to a temporary-work agency in the sense of the Act on Temporary-Work Agencies (see indent c of the first paragraph of Article 1.)]¹⁾
- [2. *Corporate group*: A corporate group is a relationship between undertakings with an ownership structure such that one owns such a large share in one or more of the others as to exercise the majority of its voting rights. That undertaking is therefore viewed as the parent company, while the other, or others, are viewed as its subsidiaries. ‘Corporate group’ also refers to undertakings in which the parent undertaking and a subsidiary, or one or more subsidiaries, own, collectively, so many of the share certificates or shares as to control a majority in them.

3. *Competent authority*: A competent authority is the authority which the home state of an undertaking or self-employed individual has defined as the authority in the home state which is to engage in communication with the authorities in other EEA Member States, other EFTA States or the Faroe Islands in connection with trade in services.]¹⁾
- [4]¹⁾ *User undertaking*: A user undertaking is an individual, company, public body or other party which runs a business operation [and]¹⁾ purchases services from an undertaking [or a self-employed individual].¹⁾
- [5. *Self-employed individual*: A self-employed individual is an individual who is a national of, and is established in, and consequently is involved in economic activities in, another EEA Member State, EFTA State or the Faroe Islands and who works at his or her own business or independent activity and who comes temporarily, in person, to Iceland with a view to providing 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, in addition to which the services in question lie within the occupation at which the individual works in his or her home state.
6. *Worker*: A worker is any person who works in paid employment in the service of an undertaking and who normally works outside Iceland but is posted temporarily to Iceland by the undertaking in connection with the provision of services in Iceland by the undertaking. 'Worker' also denotes any person who is engaged to work for an undertaking and is hired out, for a fee, to a user undertaking under a service contract covering the hiring between the undertaking and the user undertaking in accordance with the Act on Temporary-Work Agencies (see indent c of the first paragraph of Article 1).
7. *Service contract*: A service contract is a contract between an undertaking or a self-employed individual and the purchaser of a service stating that the undertaking or self-employed individual is to provide the purchaser with a specific service in Iceland within a specific period in return for a payment made by the purchaser.]¹⁾

¹⁾ Act No. 75/2018, Article 5.

[SECTION II Terms of service of undertakings' workers.]¹⁾

¹⁾ Act No. 75/2018, Article 6.

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.

The first paragraph 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 the first paragraph 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 [the wage rates specified under the collective agreement applying to the occupation in question in direct proportion to the job proportion in which the person in question is engaged.]¹⁾ 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 [wages for three months at the rates specified under the collective agreement applying to the occupation in question in direct proportion to the job proportion in which the person in question is engaged]¹⁾ in addition to their entitlement under the second paragraph.

[‘Wages at the rates specified under the collective agreement applying to the occupation in question’ refers to wages according to the collective agreement covering the area in question and based on an 8-hour day or 40-hour week for a full-time position in the occupation in question.]¹⁾

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.

¹⁾ Act No. 114/2012, Article 1.

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 the first paragraph of Article 4 and Article 5 shall not apply, if the period of posting does not exceed eight days.

The first paragraph of this Article shall not apply to work of any type in the field of [construction work or civil engineering],¹⁾ 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 the first paragraph 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.

¹⁾ Act No. 75/2018, Article 7.

**[SECTION III
Obligations of self-employed individuals and undertakings.]¹⁾**

¹⁾ Act No. 75/2018, Article 8.

Article 7

[Obligation of self-employed individuals to provide information.]

A self-employed individual who intends to provide services in Iceland for a total of more than ten working days during each twelve-month period shall provide the Directorate of Labour with the following information and/or access to materials, as appropriate no later than the same day as he or she begins work in Iceland on each occasion, including as regards:

1. The name of the individual in question, his or her date of birth, address in his or her home state, nationality, whether he or she is covered by social insurance in the home state, e-mail address, place of residence, intended period of work in Iceland and professional qualifications, as appropriate.
2. What type of service the individual in question provides in Iceland, the name, e-mail address and ID number or other comparable means of identification, as appropriate, of the user undertaking, and where the service is provided.
3. Verifiable proof of the establishment of the individual in question in his or her home state in the occupation in which he or she delivers services in Iceland, and that he or she operates lawfully in his or her home state in the relevant occupation according to the laws of that state, such as materials demonstrating the individual's economic activity, including materials from the tax authorities or comparable authorities in the individual's home state, including a VAT number or other comparable proof, information about his or her operating licence, as appropriate, and about the volume of his or her turnover in his or her home state.
4. Other information, such as copies of invoices for the work, which the Directorate of Labour may request in the interests of its monitoring under the first paragraph of Article 12, amongst other things to establish that the individual in question in fact 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.

A self-employed individual who does not intend to provide services in Iceland for a total of more than ten working days in any twelve months, yet provides services in Iceland for a longer period, shall provide the Directorate of Labour with information and/or access to materials, as appropriate, in accordance with the first paragraph, not later than on the eleventh working day that its services have lasted in Iceland on each occasion.

Self-employed individuals shall inform the Directorate of Labour, without unreasonable delay, if changes occur to information that they have previously supplied to the directorate under the first paragraph.

The Directorate of Labour shall deliver information according to items 1, 2 and 3 of the first paragraph to the appropriate government authorities, such as the police, the tax authorities, the customs authorities, the Social Insurance Administration, the Immigration Agency, the Administration of Occupational Safety and Health and Registers Iceland, providing that what is involved consists solely of information that may be considered as coming under the purview of the relevant authority and thus being of use to it, for example in the course of its legally-prescribed monitoring.

The Directorate of Labour shall maintain a register of self-employed individuals who have supplied it with information concerning their work in Iceland under this Act and publish it in an accessible form. The register shall include, amongst other things, the name and e-mail address of the self-employed individual, together with information about the individual's VAT number or another comparable indication of his or her economic activity in his or her home state.]¹⁾

¹⁾ Act No. 75/2018, Article 9.