

## **Foreign Nationals Act <sup>1)</sup>**

**2016 no. 80, 16 June**

*<sup>1)</sup>Arts. 3 and 70 of the Act were amended by Act no. 80/2018, art. 20; the amendments take effect on 1 Jan. 2019 under art. 19 of that Act.*

**Took effect 1 January 2017 except arts. 114 and 115 which took effect 1 July 2016. Amended by Act no. 124/2016** (took effect 1 Jan. 2017), **Act no. 17/2017** (took effect 22 April 2017), **Act no. 54/2017** (took effect 20 June 2017), **Act no. 81/2017** (took effect 30 Sept. 2017), **Act no. 89/2017** (took effect 29 Dec. 2017), **Act no. 80/2018** (will take effect 1 Jan. 2019 except para. 3 art 2 and art. 7, which take effect 1 Jan. 2020, and temporary provisions I which took effect 28 June 2018, and **Act no. 90/2018** (took effect 15 July 2018; *EEA Agreement Annex XI*, regulation 2016/679).

Where reference is made in this Act to a minister or ministry without specifying the field of responsibility, the reference is to the Ministry of Justice or Minister of Justice, under who this act falls.

## SECTION I

### General provisions

#### Art. 1

##### *Scope*

The provisions of this Act apply to the authorisation of foreign nationals to enter Iceland, their stay in the country and their right to international protection.

Special rules apply to foreign nationals who are covered by the European Economic Area (EEA) Agreement réttand the European Free Trade Association (EFTA) Treaty, cf. the provisions of Section XI. Icelandic nationals may also be subject to obligations under this Act.

Icelandic vessels operating abroad and Icelandic aircraft flying abroad do not fall within the scope of this Act.

#### Art. 2

##### *Purpose and objectives*

The purpose of this Act is to provide for the legal status of and guarantee the legal security of foreign nationals who come to or leave Iceland, apply for a residence permit or reside in the country according to the Act.

Furthermore, the Act has the purpose of authorising the monitoring of arrival of foreign nationals in Iceland, their stay in Iceland and their departure.

This Act provides the basis for international protection of foreign nationals and stateless persons entitled to this right according to the international obligations of Icelandic authorities.

The objective of this Act is to ensure the humane and effective handling by the authorities of matters concerning foreign nationals in Iceland.

#### Art. 3

##### *Definitions*

1. *International protection*: Protection granted by the authorities to a person arriving in Iceland who satisfies the conditions laid down in art. 1 Section A of the International Convention relating to the Status of Refugees, protection granted based on rules for

subsidiary protection, and protection granted to stateless persons under the 1954 Convention relating to the Status of Stateless Persons.

2. *Expulsion*: A decision by an authority that a foreign national resident in Iceland be expelled to his/her home country, or another country where he/she can demonstrate legal authorisation to reside, and banned from re-entry for a specified period or permanently.
3. *Dublin cooperation*: Cooperation based on Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.
4. *EEA national*: A foreign national who is a citizen of a state covered by the European Economic Area (EEA) Agreement.
5. *EFTA national*: A foreign national who is a citizen of a state covered by the European Free Trade Association (EFTA) Treaty.
6. *Person in a particularly vulnerable position*: A person who, due to certain personal characteristics or circumstances, has special needs which must be taken into account in handling the case or who cannot fully, or at all, avail him/herself of the rights or satisfy the obligations provided for in this Act without assistance or special consideration, e.g. unaccompanied minors, people with disabilities, people with mental illness or disability, elderly people, pregnant women, single parents with young children, victims of human trafficking, seriously ill persons and persons who have been subjected to torture, genital mutilation, rape or other serious forms of psychological, physical or sexual violence.
7. *Mass flight*: When a large number of refugees flee one or more specific regions.
8. *Refugee*: A foreign national who is outside his/her home country or a stateless person outside the country where he/she had regular residence, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinions, who is unable or unwilling due to such fear to avail him/herself of the protection of that country. Persons entitled to subsidiary protection are also deemed to be refugees under this Act.

9. *The Refugee Convention*: UN Convention relating to the Status of Refugees of 28 July 1951, cf. the Protocol to the Convention of 31 January 1967.
10. *Refusal of entry*: A decision by an authority to return a foreign national from Iceland to his/her home country or another state where the person can demonstrate legal authorisation to reside.
11. *Unaccompanied minor*: A minor who arrives on the territory of a state unaccompanied, for as long as he/she is not effectively taken into the care of a parent or adult responsible for him/her in accordance with laws on legal competency. This also applies to a minor who is left unaccompanied after entering the territory of a state.
12. *Permanent domicile*: The location of a person's legal domicile, cf. art. 1 of the Act on Legal Domicile.
13. *Safeguarding a minor's interests*: Safeguarding a minor's interests and ensuring that the minor receives the assistance necessary during procedure of a case, including support based on the Child Protection Act and other Acts, regarding e.g. social assistance, school services and healthcare.
14. *Human trafficking*: Human trafficking as defined in art. 227 a of the General Penal Code, which is based on the Palermo UN Convention Against Transnational Organised Crime and the Protocol to the Convention on human trafficking.
15. ...<sup>1)</sup>
16. *Immediate relatives*: Spouse, cohabiting partner, a person's child under the age of 18 years in his/her custody and dependent upon him/her, and parents 67 years of age or older.
17. *Nordic national*: Nationals of Denmark, Finland, Iceland, Norway and Sweden, including the Åland Islands, the Faroe Islands and Greenland.
18. *Persecution*: Actions which by their nature, or because they are repeated, entail a grave violation of essential human rights, in particular inalienable essential human rights such as the right to life and freedom from torture or inhumane or degrading treatment or punishment, freedom from slavery or forced labour and freedom from extrajudicial punishment. The same applies to an accumulation of actions, including illegal discrimination, which have or may have the same or comparable effect on an

individual.

19. *Illegal stay*: When a foreign national staying in Iceland without the required authorisation or cannot demonstrate his/her authorisation for residence.
20. *Stateless individual*: A person who is not considered as a citizen of any state under the terms of its laws, cf. the 1954 Convention relating to the Status of Stateless Persons.
21. *Conventions on statelessness*: The 1954 International Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
22. *Schengen states*: States which are participants in the Schengen cooperation.
23. *Schengen cooperation*: European cooperation in the field of law enforcement and border control based on the Schengen Agreement.
24. *Advocate*: A person who speaks on behalf of a foreign national or person applying for international protection in Iceland and safeguards his/her interests vis-à-vis the Icelandic authorities while the case is being processed. The advocate shall be a lawyer and, in the case of an unaccompanied minor, must also have special expertise in children's affairs.
25. *Applicant for international protection*: A foreign national who requests recognition of his/her status as a refugee or stateless person in Iceland.
26. *Foreign national*: An individual who does not hold Icelandic citizenship.
27. *Subsidiary protection*: A foreign national who is not considered a refugee according to the provisions of Art. 1 Section A of the International Convention relating to the Status of Refugees if there are substantial grounds for believing that he/she is at risk of being subjected to the death penalty, torture or other inhumane or degrading treatment or punishment, or if he/she may be subject to serious injury due to random violence resulting from armed conflict, should he/she be returned to his/her home country. The same applies with regard to a stateless person.

<sup>1)</sup>Act no. 89/2017, art. 1.

#### Art. 4

##### *General implementation*

The administration of this Act is under the ministry.

The Directorate of Immigration, the Immigration and Asylum Appeals Board the police, District Commissioners, the National Registry and other authorities shall enforce this Act.

The Minister issues a regulation on the responsibilities of individual bodies referred to in para. 2 based on this Act, in so far as they are not provided for by the Act and administrative provisions.

#### Art. 5

##### *Directorate of Immigration*

A special agency, the Directorate of Immigration, shall operate under the ministry.

The Minister appoints the Director of the Directorate of Immigration for a term of five years. The Director must have completed a master's degree in law or comparable programme of study.

The Directorate of Immigration issues an annual report on its activities.

#### Art. 6

##### *Role, authority and structure of the Immigration and Asylum Appeals Board*

The Immigration and Asylum Appeals Board is an independent administrative committee which issues rulings in cases referred to it on the basis of Art. 7. The Board's rulings cannot be appealed to a higher administrative authority.

In resolving cases the Immigration and Asylum Appeals Board has the same authority as the Minister to take final decisions at higher administrative level.

The Minister appoints seven individuals to the Immigration and Asylum Appeals Board. The Chair and Vice-chair of the Board shall be appointed for a five-year, fulltime position following advertisement of the positions as provided for by the Act on the Rights and Obligations of Public Employees after having obtained the opinion of the committee under para. 5. They must satisfy requirements to be appointed District Court Judges. Their rights and obligations are as provided for in the Act on the Rights and Obligations of Public Employees. Their salary and benefits shall be determined by the Official Remuneration Council.

The Minister appoints five other Board members and an equal number of alternates for a term of five years. They must hold a professional qualification or a master's degree in

law. Two shall be nominated by the Icelandic Human Rights Centre, one by the University of Iceland Human Rights Institute and two shall be appointed without nomination. Care shall be taken to ensure that the Board possesses the necessary expertise in those areas which it deals with. Alternates shall be appointed in the same manner and must fulfil the same qualification requirements as regular members. The Minister determines their remuneration.

The Minister appoints three individuals to a committee to assess the eligibility of applicants for the positions of Chair and Vice-chair of the Immigration and Asylum Appeals Board. The committee shall deliver to the Minister a substantiated opinion on each applicant.

The Chair of the Immigration and Asylum Appeals Board is responsible for its direction. He/she represents the Board externally and is responsible for its finances and daily operations. The Chair allocates cases for processing. He/she hires employees in accordance with budget allocations and the provisions of the Act on the Rights and Obligations of Public Employees. The Vice-chair is the Chair's deputy and performs his/her duties in the absence of the Chair.

The Immigration and Asylum Appeals Board shall normally make its rulings public or, when appropriate, extracts thereof providing a substantial conclusion in an accessible and structured manner. Rulings shall be published excluding names, identification numbers or other personally identifiable details of the parties involved in the cases. The Immigration and Asylum Appeals Board issues an annual report on its activities. The cost of the Appeals Board is paid by the Treasury.

#### Art. 7

##### *Right of Complaint*

Decisions by the Directorate of Immigration and the police under this Act may be appealed to the Immigration and Asylum Appeals Board within 15 days of the notification of the decision to the applicant. However, where an applicant is a national of a country on the Directorate of Immigration's list of safe countries of origin and the Directorate has processed the case in accordance with art. 29(1)(b)-(f), the time limit for appeal is five days.

Art. 8

*Procedure before the Immigration and Asylum Appeals Board*

Three Board members shall normally attend meetings of the Immigration and Asylum Appeals Board to address each case received by the Board for appeal. The Chair determines how the Board is appointed in each case, ensuring that the Board consists of those three members with the best knowledge to resolve the case. The Board must in all cases include the Chair or Vice-chair. The Vice-chair has the same authority as the Chair to rule in cases, cf. paras. 1 and 2. The Chair may decide that the Appeals Board is to work in divisions.

Notwithstanding the provisions of para. 1, the Chair may rule in those cases handled by the Board concerning visa applications, decisions concerning the procedures of the Directorate of Immigration and postponement of the legal effects of decisions by the Directorate and the Appeals Board. The Chair is furthermore authorised to rule alone in cases concerning applications for international protection if:

- a. the applicant is a citizen of a country on the Directorate of Immigration's list of safe countries of origin and
- b. the Directorate of Immigration has processed the case in accordance with art. 29(1)(b)-(f).

A majority of a fully appointed Appeals Board may also entrust the Chair to rule alone in other types of cases where, in the Board's opinion, implementation and precedents are so clear that it is unnecessary for the Board to decide on them.

Notwithstanding the provisions of paras. 2 and 3, cases shall be decided as provided in para. 1 if the Chair deems that there is substantial uncertainty as to the outcome of the case or if there is doubt that the circumstances of the case have been investigated sufficiently.

The Board may summon experts to advise and assist it in ruling on individual cases. Such persons shall work with the Board in preparing and handling cases as decided by the Chair.

The Board shall reassess all aspects of an appealed case. It can uphold the conclusion of a decision, alter it, or overturn it in part or in full. The Board can also refer a case back to the agency which took the appealed decision.

Proceedings shall generally be in written form. In cases under Section IV and art. 74 the Appeals Board may, if it deems necessary, give the appellant an opportunity to appear before the Board to express him/herself on the substance of the case or individual aspects, as appropriate. The Board may also, if it deems necessary, summon parties other than the appellant. In preparing a case, the Chair or Vice-chair may decide to offer the appellant an opportunity to appear before the Board. The Chair or Vice-chair directs the Board's work in handling a case. If members of the Board are not in agreement, a decision is made by majority.

The Minister may make further provisions in a regulation on the Immigration and Asylum Appeals Board's procedures and work, including further conditions for the application of paras. 2 and 3.

#### Art. 9

##### *Refugee Committee*

The Minister responsible for social affairs appoints the members of the Refugee Committee for a term of five years. The Committee shall consist of three persons and an equal number of alternates. One member shall be appointed upon the proposal of the Minister responsible for judicial affairs, one by the Minister responsible for foreign affairs and one by the Minister responsible for social affairs, who is also the Chair. The Chair shall have professional expertise in refugee issues. Furthermore, the Minister also appoints three observers to the Committee following nominations by the Directorate of Immigration, the Icelandic Red Cross and the Icelandic Association of Local Authorities. Alternate members and observers shall be appointed in the same manner.

The role of the Refugee Committee includes making proposals to the government on overall policy and arrangements for reception of refugee groups under Art. 43, supervising the reception of refugee groups and providing guidance to the authorities on individual instances as requested.

The Refugee Committee works in co-operation and consultation with the Office of the United Nations High Commissioner for Refugees.

The Refugee Committee shall report each year to the government on its work. The Ministry responsible for social affairs provides the committee with a staff member.

The Minister responsible for social affairs may make further provisions in a regulation for the work of the Refugee Committee and may entrust the Committee with other tasks concerning refugee issues than those specified in this provision.

Art. 10

*Rules on general procedures*

The Administrative Procedures Act applies to handling of cases concerning foreign nationals unless otherwise provided for in this Act.

A decision concerning a minor shall be guided by the child's best interests. A minor able to form his/her own opinions shall be ensured the right to express him/herself in cases involving him/her and they shall be given due consideration in accord with the child's age and maturity.

Art. 11

*Duty of guidance*

In cases concerning refusal of entry, expulsion or revocation of a permit, foreign nationals shall be advised, from the outset of a case, of their rights and of the procedure in the case in a language they can reasonably be expected to understand. Foreign nationals shall be advised, for instance, on:

- a. their right to seek the assistance of an attorney or other representative at their own expense in the handling of the case,
- b. their right to have an advocate appointed in the handling of the case at the appeal level, cf. art. 13(3),
- c. their right to contact a representative of their home country and recognised humanitarian or human rights organisations.

In a case concerning an application for international protection, the foreign national shall be advised, from the outset of the case, of his/her rights and of the procedure in the case in a language he/she can reasonably be expected to understand. Foreign nationals shall be advised, for instance, on:

- a. their right to have an advocate appointed in the handling of the case at the administrative level, cf. art. 30(1) and (2),

- b. their right to have the assistance of an interpreter at the administrative level, and
- c. their right to contact a representative of the United Nations High Commissioner for Refugees, the Icelandic Red Cross or recognised humanitarian or human rights organisations.

Apart from this the general duty of guidance under art.7 of the Administrative Procedure Act applies to the implementation of this Act.

#### Art. 12

##### *Right to be heard*

Before a decision is made in the case of a foreign national, he/she shall have an opportunity to express him/herself on the substance of a case in writing or orally, if the documentation in the case does not include his/her position and supporting arguments, on the condition that the documents of the case do not include his/her position and supporting argument unless it is clearly unnecessary in the estimation of the authority concerned. The right to express oneself in writing, however, does not apply when a foreign national must express him/herself orally to staff of border control or the police.

In cases concerning applications for international protection where the provisions of Art. 42 apply, as well as in cases concerning refusal of entry or expulsion, the authorities shall make every effort to ensure foreign nationals the opportunity to express their views in a language which they can reasonably be expected to understand and use to express themselves.

#### Art. 13

##### *Legal assistance*

A foreign national is entitled to a defence counsel as provided for in the Act on Criminal Proceedings when custody is requested under art. 115.

When court proceedings are instigated under arts. 109, 110 and 114, the judge shall appoint an attorney as advocate for the foreign national to safeguard his/her interests in the case.

When a decision concerning refusal of entry, expulsion or the revocation of a residence

permit is appealed, the authority shall appoint an attorney as advocate for the foreign national to safeguard his/her interests, except in the case of an appeal concerning international protection under Section III or expulsion under Art. 95(2) and (3), Art. 98(1) (c) and (d), Art. 99(1) (b) and (c), and Art. 100(1)(a).

If a judge accedes to a request for the gathering of evidence for the court under art. 16, the cost of legal assistance while the evidence is gathered is paid by the Treasury.

The costs arising from the work of an advocate are paid by the Treasury. A foreign national may be required to repay part or all of these costs.

The Minister makes further provisions in a regulation for legal assistance and advocates, including the amount of remuneration to advocates, additional requirements which an advocate must satisfy and possible repayment of the cost of the advocate's work by the foreign national.

#### Art. 14

##### *Foreign nationals' disclosure and reporting obligations*

A foreign national is obliged, at the request of the police, to produce identification and provide information as necessary, so that it is clear who he/she is and whether his/her stay in Iceland is lawful.

In preparing a case the foreign national, or other relevant person, may be summoned to appear at the request of the authorities and provide information which may be of significance for its resolution.

The Minister may make provisions in a regulation requiring all persons other than Nordic nationals to carry passports or other identity documents at all times when entering or staying in Iceland.

#### Art. 15

##### *Cross-border information provision*

Authorities handling cases concerning foreign nationals may provide foreign authorities with information on foreign nationals in cases concerning visas, residence permits or international protection, to the extent necessary in connection with agreements concluded by Iceland on criteria and arrangements for determining what state is to handle requests

for international protection submitted in Iceland or any of the contracting states.

Authorities may not gather or provide information on individual cases concerning a foreign national's application for international protection in Iceland in such a way that parties responsible for persecution or inhumane or degrading treatment in the case of the foreign national concerned could obtain information on his/her case which could jeopardise the security of the person concerned or his/her family.

The Minister may make further provisions in a regulation regarding what information may be provided and the conditions to be met in order to provide the information.

#### Art. 16

##### *Gathering evidence for the court*

A foreign national or the authority handling his/her case may require that documentation which cannot be obtained satisfactorily by other means in a case covered by this Act be gathered for the court in accordance with the rules of Section XII of the Act on Civil Procedure regarding the gathering of evidence without a court case having been initiated. Authorisation under this provision does not apply in cases against a foreign national regarding refusal of entry or when a person requested to testify before the court is abroad.

#### Art. 17

##### *Processing of personal data*

The Directorate of Immigration, the Immigration and Asylum Appeals Board, Registers Iceland and the police may process foreign nationals' personal data provided the provisions authorising such in the Act on the Protection of Privacy and the [Processing]<sup>1)</sup> of Personal Data are satisfied, and insofar as authorisation for such processing is provided in this Act. To the extent not otherwise provided for in this Act, the provisions of the Act on the Protection of Privacy and the [Processing]<sup>1)</sup> of Personal Data apply to processing of information.

Agencies specified in para. 1 may link together personal data on foreign nationals from separate datasets in order to ensure that their stay in Iceland is lawful. To this end, these agencies may obtain information from the tax authorities, the Directorate of Labour and local authority social services. Outcomes of data linkage which are of significance for individual cases shall be preserved with the case documentation, while other outcomes

shall be destroyed. In other respects this data linkage is subject to provisions of the Act on the Protection of Privacy and the [Processing]<sup>1)</sup> of Personal Data.

Should the Directorate of Immigration, Immigration and Asylum Appeals Board or Registers Iceland obtain information which may entail a possible violation of law, the agency concerned must inform the police or relevant authority of the case and deliver to it any documentation requested.

Statistics Iceland may use the files of the Directorate of Immigration and its data for statistical reporting. The Directorate of Immigration shall provide Statistics Iceland with copies of files and information from them in accordance with the latter's request and without charge. Statistics Iceland must treat documents from the Directorate of Immigration as statistical data that is subject to confidentiality.

The Minister issues a regulation, after obtaining the opinion of the Data Protection Authority, regarding which records concerning foreign nationals are to be kept by the Directorate of Immigration, the Immigration and Asylum Appeals Board, Registers Iceland and the police.

<sup>1)</sup>*Act no. 90/2018, art. 54*

## SECTION II

### **Arrival and Departure**

#### Art. 18

##### *Border control*

All foreign nationals arriving in Iceland shall immediately report to a border inspection post or to the nearest police authority. The same applies to persons leaving the country, who shall be subject to departure control. Excluded from this are internal border crossings within the Schengen Area and other travel in accordance with rules set by the Minister.

Arrival to and departure from Iceland shall take place at places and intervals decided by the Minister. Provisions of the Customs Act apply to internal border crossings within the Schengen Area.

The Minister issues further rules on cross-border travel, including requirements for entry

into Iceland, monitoring arrangements, recording of information, and also for exceptions to the provisions in paras. 1 and 2 concerning internal border crossings within the Schengen Area. He/she also issues rules on the obligations of captains of vessels and aircraft to ensure that passengers hold valid travel documents.

The Minister may make further provisions in a regulation for Iceland's participation in funds, agencies and practical collaboration in connection with external border control cooperation based on obligations under the Agreement signed in Brussels on 18 May 1999 on Iceland's participation in the Schengen cooperation.

#### Art. 19

##### *Passports*

Upon arrival in Iceland individuals must hold a valid passport or other identity document recognised as a travel document, unless otherwise prescribed in this Act or rules issued by the Minister. The Directorate of Immigration may, in exceptional cases, exempt a foreign national from the requirement of holding a passport, or recognise other identity documents than the general rules require.

The Minister issues rules as to what requirements passports or other identity documents must satisfy in order to be considered valid for entry arrival or stay in Iceland.

#### Art. 20

##### *Visas*

A foreign national must hold a visa to be able to enter Iceland unless otherwise prescribed in rules issued by the Minister.

A foreign national holding a residence permit issued by a member state of the Schengen Cooperation is exempt from the visa requirement. The same applies to a foreign national holding a provisional residence permit issued by a member state of the Cooperation, provided he/she also holds a travel document issued by the same state.

A visa issued by a member state of the Schengen Cooperation is valid for entry arrival and stay in Iceland for the time period specified in the visa, if the visa contains such information.

The Minister may issue rules on the requirement for a visa to pass through Icelandic

airports.

A visa is valid for one or more arrivals in Iceland, for a stay of up to 90 days during a specified period.

A foreign national may be granted a visa valid for the entire Schengen Area if the following fundamental conditions are satisfied:

- a. he/she holds a valid passport or other identity document recognised as a travel document upon arrival in Iceland and other Schengen states and on departure, which is valid for at least three months beyond the expiry date of the visa,
- b. he/she holds authorisation to return to his/her home country or another country which is valid for at least three months beyond the expiry date of the visa,
- c. he/she has sufficient financial resources to support him/herself during the proposed stay and to pay for the return journey to his/her home country or other country to which he/she has a secure right of entry or can support him/herself in a lawful manner,
- d. he/she can demonstrate the purpose of the stay,
- e. there is no reason to expel or refuse entry under art. 98, 99 or 106,
- f. he/she is not listed in the Schengen Information System in order to prevent his/her coming to Iceland.
- g. he/she does not constitute a threat to public order, national security or the international relations of Iceland or another state in the Schengen Cooperation,
- h. he/she has valid health insurance and repatriation insurance.

If considerations of foreign policy or public security argue against it, a visa shall not be granted. The same applies if there is reason to doubt the stated purpose of a foreign national's travel to Iceland or the truth of information which he/she has provided, and also when suspicion exists that the applicant or his/her child will be subject to abuse or violence. When the authority sees special reason to do so, it may request the opinion of the police in order to obtain information on the criminal record of a host, in order to assess whether an application should be rejected based on this provision.

The Minister issues rules on visas, including requirements for their granting. In assessing a visa application account must be taken, not only of nationality but also of social status and the risk that a foreign national may remain in the Schengen Area longer than

permitted. Account may be taken of the experience and practice of other Schengen states in assessing visa applications.

The Minister issues rules concerning the Icelandic part of the visa information system, including provisions on personal data protection in registration and processing of information in this system. The “Icelandic part of the visa information system” refers to an electronic database which operates in Iceland and is linked to the joint IT system of the Schengen Area.

The Directorate of Immigration makes decisions on applications for the issue of visas. Decisions on such applications may be entrusted to the diplomatic service. In addition, the acceptance of applications and granting of visas may also be entrusted to the diplomatic service of another state of the Schengen Cooperation. Furthermore, the refusal of applications for visas may also be entrusted to the diplomatic service of another state of the Schengen Cooperation.

#### Art. 21

##### *Long-term visas*

A long-term visa may be granted to applicants wishing to stay more than 90 days where the purpose of the stay is not among those generally specified for residence permits and the applicant does not intend to settle in Iceland. A visa pursuant to this provision cannot be granted for more than 180 days.

A long-term visa may be revoked if the foreign national violates the conditions for the visa, e.g. by undertaking paid employment without authorisation.

A stay pursuant to this provision cannot constitute the basis of a permanent residence permit.

The Minister issues a regulation on details concerning long-term visas and the circumstances under which they may be granted.

#### Art. 22

##### *Crews of vessels and aircraft*

A foreign national who ceases employment on board a vessel or aircraft, or is a stowaway, may not disembark in Iceland without police permission. Provisions on the authority in

cases of refusal of entry and appeal apply as appropriate.

The Minister issues rules providing for permission for foreign seamen to disembark while vessels are in port and on authorisation to prohibit such disembarkation.

### SECTION III

#### **Procedural Rules in International Protection Cases**

##### Art. 23

##### *Authority and procedure*

The Directorate of Immigration makes decisions on cases concerning applications pursuant to the provisions of this Section and of Sections IV and IX.

In processing cases under para. 1 the Directorate of Immigration shall gather necessary and accessible information. Notwithstanding statutory provisions on confidentiality, the substance of case documents may be communicated to the United Nations High Commissioner for Refugees. The substance of case documents may also be communicated to humanitarian or human rights organisations to the extent that this is unavoidable in connection with information gathering.

In implementing the provisions of this Section and of Section IV Icelandic authorities shall collaborate with the United Nations High Commissioner for Refugees, cf. Art. 35 of the International Convention relating to the Status of Refugees, including in regard to the implementation and interpretation of that Convention and this Act.

Replies to applications under arts. 36, 37 and 39 shall generally be given within six months. Replies to applications under art. 36(1) and (2), as to whether an application is to be accepted for processing, shall be given within 12 months, and replies to applications under art. 37 and 39 shall normally be given within 18 months.

The Minister may make further provisions in regulations<sup>1)</sup> on the procedures of the Directorate of Immigration, the Immigration and Asylum Appeals Board and the police, including authorisations to rule on cases in a simple and effective manner with reference to precedents. Furthermore, the Minister may prescribe further on procedure times other than those specified in para. 4 and reduce the time limit for appeal to as little as 24 hours

and may prescribe time limits for submitting documentation for certain types of applications.

<sup>1)</sup>*Regs.no. 540/2017, cf. 775/2017*

#### Art. 24

##### *Application for international protection*

An application for international protection under Section IV shall be submitted to the Directorate of Immigration or the police. An application submitted to the police shall be forwarded to the Directorate of Immigration. Once an application for international protection has been completed, the Directorate of Immigration commences processing it as soon as possible. All applications from members of a family applying for international protection shall be documented, examined and decided upon, not only those submitted by adults.

When applying, applicants must submit a passport or other travel document in their possession. The same applies to spouses or cohabiting partners and minors, whether they accompany the applicant or apply subsequently for international protection.

The Directorate of Immigration must ensure that foreign nationals applying for international protection are informed of their obligations to provide the information requested and the consequences of failing to answer truthfully and correctly or concealing information which may be of significance in resolving the case.

The Directorate of Immigration shall ensure that foreign nationals applying for international protection are informed as promptly as possible of developments in their case and of their rights, including the right to the appointment of an advocate under art. 30, and safeguarding a minor's interests under art. 31.

Such instructions shall be provided in writing and/or be accessible in video or audio format and in a language which the applicant can reasonably be expected to understand. In the case of an unaccompanied minor the instructions shall be in accordance with the minor's age and maturity.

In the case of an unaccompanied minor a representative of the respective Child Protection Committee and of the Government Agency for Child Protection shall also be notified of

the case.

The Minister may make provisions in a regulation on the more detailed implementation of this article, including on the involvement of Child Protection Committees.

#### Art. 25

##### *Analysis of the special needs and status of applicants for international protection*

An applicant for international protection shall undergo a medical examination as soon as possible after an application has been submitted. As early as possible in the processing of an application for international protection the Directorate of Immigration shall ensure that an individualised assessment is made, with the assistance of appropriate experts, of whether an applicant is deemed to be in a particularly vulnerable position, cf. art. 3(6). If an applicant is deemed to be in such a position, an assessment shall be made as to whether as a result he/she has any special needs which must be taken into consideration in the proceedings, e.g. a need for specific healthcare services. Such an assessment is not limited to the time of application and the individual's right to special assistance shall not be limited even if special needs arising from his/her vulnerable position only come to light after the submission of the application.

Provisions of Sections IV, V and VII of the Public Administration Act on the right to be heard, on notification of a decision, provision of grounds etc. and on the right of complaint, and relevant provisions of Sections I and IX of this Act, do not apply to a decision on particularly vulnerable position under para. 1. Determination of a position under para. 1 has no legal effect other than those specifically stated in law or regulations.

If a case referred to in this Section concerns a minor, the child's interests shall be the primary consideration. Minors able to form their own opinions shall be ensured the right to express themselves in cases involving them, and account shall be taken of their opinions as appropriate given their age and maturity, cf. art. 10(2). When a decision is contingent upon an authority's assessment, account shall be taken of the minor's security, welfare and social development and his/her possibilities for family reunification. When an application concerns an unaccompanied minor or another individual in a particularly vulnerable position, efforts shall be made to ensure that an employee with appropriate expertise and experience handles the case.

If an unaccompanied minor applies for international protection, the Directorate of Immigration shall ensure that he/she receives services and treatment in accordance with his/her age and maturity. As soon as possible following an application, the Directorate shall appoint an advocate for the minor under art. 30 (1), and notify the Government Agency for Child Protection thereof under art. 31.

The Minister issues a regulation on the more detailed implementation of this article, including how a vulnerable position under para. 1 is to be assessed and on the examination and recording of characteristics and indications which could be covered by Art. 3(6).

#### Art. 26

##### *Information gathering in connection with an application for international protection*

When an application for international protection has been registered, the police shall photograph and fingerprint the applicant according to art. 111. Travel documents and identity documents in the applicant's keeping may be photocopied. The same applies, if necessary, to other documents. The police may apply those measures specified in arts. 109 and 110.

To verify the identity of an applicant for international protection the police shall, as soon as possible, obtain personal information on him/her. The same applies to the gathering of information on his/her route of travel. The police shall, as necessary, assess the circumstances and condition of applicant and may summon appropriate experts to assess whether an applicant could present a risk to him/herself or others.

If suspicion arises that an applicant who claims to be an unaccompanied minor has actually reached legal majority, and this cannot be incontrovertibly verified, age assessment under Art. 113 shall be performed as soon as possible. Authorities involved in the case, the applicant and his/her advocate may request an age assessment. Nonetheless in processing a case an applicant for international protection claiming to be under the age of legal majority shall always be considered a minor until proven otherwise by age assessment or other means. However, exemptions may be granted from these provisions if it is obvious that the person concerned has reached legal majority. If a foreign national applying for international protection declines to undergo age assessment, refusal of his/her application cannot be based on this reason alone.

The Minister may issue a regulation providing more detail for the implementation of this article.

Art. 27

*Reception centre*

The Minister is responsible for a reception centre being in place, with an adequate reception system, for applicants for international protection. The Ministry may, as appropriate, entrust a suitable agency, local authority, NGO or other party with its operation, based on a service agreement.

The reception centre shall be an open reception and service facility, as provided in para. 1, for applicants upon their arrival in the country and, where appropriate for victims of human trafficking and foreign nationals in distress, and it shall ensure the rights and security of applicants and provide them with adequate services.

The Minister issues a regulation providing for a more detailed implementation of this provision, including the establishment and general operation of the centre.

Art. 28

*Interview with an applicant for international protection*

The Directorate of Immigration interviews applicants for international protection in the presence of an advocate, cf. art. 30, as promptly as possible after an application has been made. The advocate shall be given an opportunity to speak with the applicant and advise him/her prior to the interview.

The interview shall be conducted in such a way as to provide the greatest likelihood of obtaining information on circumstances which may be of significance for the applicant's application. In such interviews the Directorate of Immigration shall ascertain whether an applicant needs special consideration due to his/her personal circumstances. An interpreter shall be present at the interview unless the applicant declines such service.

At the beginning of the interview applicants must be informed that information provided will be used as a basis in a decision on their application. Applicants must be asked whether they agree to have the authorities in Iceland obtain information concerning them from authorities in their home country or other authorities abroad. This shall be done if

considered necessary to decide on the case, but with a provision regarding the provisions of art. 15 (2).

If an applicant twice fails to comply with a request from the Directorate of Immigration to attend an interview under this article, the Directorate may make a decision in the case without further action. This step may only be taken on condition that, when the second request was made, the Directorate of Immigration made fully clear to the applicant the consequences of failing to attend, and that the failure to attend was without just cause. The invitation to the latter interview, in such a case, shall be sent by verifiable means.

A person interviewing a minor shall have special expertise in children's affairs. The Directorate of Immigration may call upon the assistance of an expert in children's affairs.

A minor's advocate under art. 30 shall be given an opportunity to speak with and advise the minor prior to the interview.

Audio and video recordings may be made of interviews conducted by employees of the Directorate of Immigration with applicants for international protection, as well as interviews with the assistance of experts under para. 5. The applicant shall be informed of such recording beforehand.

The Minister may make further provisions in a regulation for conducting interviews, especially with regard to interviews with minors or others who, because of their situation, have a greater need for protection or assistance.

#### Art. 29

##### *Special procedure – accelerated procedure*

In cases accepted for processing the Directorate of Immigration and the Immigration and Asylum Appeals Board may decide to accelerate an application for international protection, for instance, if:

- a. the application is likely to be approved, or if special circumstances so warrant, e.g. in the case of an unaccompanied minor or individual requiring greater protection or assistance,
- b. the application is manifestly unfounded, i.e.:
  1. the foreign national is a national of a state where it is not considered necessary to

fear persecution or treatment under the provisions of art. 37; the same applies in the case of a state where a stateless person previously had access to protection, or

2. the foreign national may be sent to a state where he/she does not need to fear persecution or treatment under the provisions of art. 37,
- c. the applicant has provided misleading or insufficient information regarding him/herself or has not cited circumstances which could be covered by the provisions of art. 37,
- d. the applicant's behaviour or indications in the documentation suggest that he/she could present a danger to him/herself or others,
- e. a new application is submitted after the refusal of a previous application for international protection or withdrawal of an application,
- f. it may be deemed evident that the application has been submitted following a decision of expulsion.

In cases under para. 1(b), the Directorate of Immigration and the Appeals Board may base decisions on lists of countries which are generally considered safe countries of origin. A safe country of origin refers to a country in which individuals are not generally at risk of being persecuted or subjected to serious human rights violations. In assessing whether a country is considered a safe country of origin, account shall be taken, for instance, of whether it has a stable form of government based on recognised principles of the rule of law. Consideration may be given to the experience and practice of other Schengen states in assessing which countries of origin are considered safe. The Directorate of Immigration must maintain such a list, update it regularly and publish it on its website.

The Minister may make further provisions in a regulation<sup>1)</sup> for conditions for applying expedited procedure under this article.

<sup>1)</sup>*Regs.no.540/2017, cf.775/2017*

#### Art. 30

##### *Legal assistance in international protection cases*

Applicants for international protection are entitled to have the Directorate of Immigration appoint them an advocate during the processing of their case by the authorities. This right

also encompasses an appeal process. The advocate shall be a lawyer with knowledge of issues concerning international protection and refugees.

A minor applying for international protection may also be appointed a guardian, even if accompanied by parents or other guardians.

A foreign national who has applied for international protection is entitled to an interpreter's assistance when his/her application is being processed unless he/she declines such assistance. The authority assesses in each instance whether to seek the assistance of an interpreter in Iceland or abroad by suitable means, e.g. via telephone, computer connection or other telecommunications device.

The provisions of para. 3 apply to an applicant's communication with his/her advocate if necessary.

In other respects the provisions of Art. 13 on legal assistance apply as appropriate.

The Minister may make further provisions in a regulation on the implementation of this article, including provisions on advocates and interpreting services and standards concerning these services and remuneration for them.

#### Art. 31

##### *Safeguarding a minor's interests*

The Government Agency for Child Protection shall ensure the safeguarding of a minor's interests as provided for in art. 3(13). An exemption may be made from this provision if it is obvious that the person concerned is of legal majority, cf. the provision of art. 26 (3). This provision applies when the applicant is under the age of legal majority and resides in Iceland without parents or other guardians, or when the parents or guardians cannot fulfil their obligations towards the minor, or when a Child Protection Committee deems a minor's guardianship to be unsatisfactory. This provision also applies to minors who are suspected to be victims of human trafficking. A person safeguarding a minor's interests shall be an expert in the field of child protection and a clean criminal record.

The Government Agency for Child Protection shall ensure a minor is provided with a foster home or other suitable placement, that the minor's interests are given priority and that the Child Protection Committee fulfils the minor's needs in an appropriate manner as

provided in the Child Protection Act, for instance, regarding residence, healthcare services and educational opportunities. The Government Agency for Child Protection shall ensure, among other things, that a member of Child Protection staff:

- a. is present when the minor is questioned and in other interviews with representatives of authorities,
- b. is present and safeguards the minor's interests during age assessment, if an age assessment is requested,
- c. assists the minor in availing him/herself of services of the Icelandic Red Cross in seeking his/her family members as necessary,
- d. receives information on the status of the minor's application and is in contact with the minor's advocate, cf. art. 30 (1), and
- e. ensures a safe residence for the minor as provided for in the Child Protection Act; however a minor from age 15 onwards may reside in a reception centre, cf. art. 27, until an appropriate residence is found.

The Child Protection Committee staff member shall take account of a minor's nationality, gender, language and religious and cultural origin, e.g. by ensuring adequate communication with the minor through an interpreter.

The Government Agency for Child Protection's responsibility for safeguarding the minor's interests concludes formally when:

- a. a minor reaches the age of legal majority, or a minor who claimed to be under the age of legal majority is deemed to have legal majority by a decision of the Directorate of Immigration,
- b. a minor is granted a residence permit in Iceland and the Child Protection Committee assumes guardianship under the Child Protection Act,
- c. a minor leaves or is escorted from Iceland,
- d. the parents or guardian of a minor can fulfil their custodial responsibilities satisfactorily.

The cost of safeguarding a minor's interests is paid by the Treasury.

Art. 32

*Waiver of penalty for illegal entry or forged or stolen documents*

In accordance with art. 31 of the International Convention relating to the Status of Refugees, an applicant for international protection entering Iceland illegally or staying in the country without authorisation will not be penalised if he/she can demonstrate that he/she arrived directly from a region where he/she had reason to fear persecution, cf. arts. 37 and 38, or was stateless and without the possibility of obtaining nationality, cf. art. 39, provided that he/she presents him/herself to the authorities as soon as possible or provides valid reasons for not doing so and for the illegal entry or residence. Should there be any doubt that the provisions of clause 1 are satisfied, that shall be interpreted in the applicant's favour.

If there is suspicion that a foreign national who has entered Iceland illegally or is staying in the country without authorisation is covered by para. 1, the police shall investigate the purpose of his/her stay.

Art. 33

*Rights of applicants for international protection*

An applicant for international protection shall be offered:

- a. accommodation,
  - b. basic living expenses,
  - c. necessary healthcare services, including mental health and mental disability care.
- Special consideration shall be given to persons with special needs or requiring special assistance. Pregnant women shall have access to antenatal and obstetric care.

A minor applying for international protection shall be given an opportunity for education at compulsory school level or comparable study within the public-school system or at the minor's place of residence as soon as possible.

The general principle in deciding on accommodation under this provision shall be to keep families together. In taking such decisions consideration shall also be given to any possible special needs of applicants who are considered to be in a particularly vulnerable position.

Minors who have been subjected to abuse, neglect, torture or cruel, inhumane or degrading

treatment or have suffered because of armed conflict shall be offered suitable healthcare services, pastoral care and other necessary services in accordance with the Child Protection Act.

Victims of torture, rape or other grave violence shall be provided with appropriate healthcare services and pastoral care for trauma arising from this.

A foreign national seeking international protection shall be advised on his/her right to apply for a provisional residence permit under art.77 and the legal effects of this.

Apart from necessary healthcare services, cf. para. 1c, measures under para. 1 shall not generally be provided if an applicant for international protection has sufficient means to bear the costs him/herself. A foreign national who has been granted a provisional residence permit under art. 77, however, shall continue to be entitled to the rights under para. 1 for a reasonable period, in order to obtain accommodation and sufficient income according to circumstances. If it transpires that an applicant for international protection did not require the services provided, the Directorate of Immigration may require him/her to repay the cost in part or in full.

If the Directorate of Immigration has refused an application from an EEA or EFTA national for international protection, he/she is not entitled to services under this article.

After consulting with the relevant departmental ministers, the Minister issues a regulation providing in more detail for the rights of applicants for international protection, including the requirement that applicants bear the cost of supporting themselves in Iceland, and on their access to education and vocational training. The Minister may furthermore make provisions in a regulation that services for applicants under this provision are confined to a specific local authority or authorities.

#### Art. 34

##### *Immigration registration certificates for applicants for international protection*

Once an application for international protection has been registered the Directorate of Immigration shall issue an immigration registration certificate to the applicant for international protection as promptly as possible. The registration certificate shall be valid for a specified period of up to one year and the applicant shall hand this over to the police

or Directorate of Immigration when he/she is issued a residence permit, provisional residence permit, travel document for a refugee or a passport for a foreign national, or if he/she is required to leave the country or if he/she for other reasons obtains a passport from his/her home country once more.

An immigration registration certificate for an applicant for international protection does not serve as valid confirmation that the personal details listed are correct. It is not a valid travel document.

#### Art. 35

##### *Enforcement of decisions in cases concerning international protection or protection against persecution*

A decision that an applicant for international protection under art. 36, 37 or 39 shall leave the country is not to be implemented until the administrative decision-making process has been completed, unless the applicant him/herself wishes to leave the country.

[Notwithstanding the provisions of para. 1, an appeal does not postpone the legal effect of decisions by the Directorate of Immigration that the foreign national is to leave the country, in those cases where the Directorate of Immigration has concluded that the application is manifestly unfounded, and he/she is from a country which is on the Directorate's list of safe countries of origin, cp. art. 29 (1) and (2)(b). The same applies to a decision made by the Directorate of Immigration under the final clause of this paragraph. Should the Immigration and Asylum Appeals Board receive a request for postponement of the legal effect of a decision of the Directorate of Immigration or an appeal against a decision of the Directorate of Immigration not to postpone legal effect, the Board shall dismiss such an application.] <sup>1)</sup> If a foreign national invokes grounds under art. 37, 38, 39 or 42 when informed about the enforcement of the decision, and there is no indication that account has already been taken of the grounds invoked, the police shall propose to the Directorate of Immigration that the enforcement be postponed. If the Directorate of Immigration considers it evident that this is not the case it may then decide to implement the decision.

...<sup>1)</sup>

<sup>1)</sup>Act no.17/2017, art.1.

## SECTION IV

### **Refugees and protection against persecution**

#### Art. 36

##### *Processing of an application for international protection*

An application for international protection under art. 37 shall be accepted for processing unless:

- a. the applicant has come to Iceland on his/her own initiative after having been granted effective international protection or some other form of protection in another country, or if he/she, having resided in a country where he/she was not subject to persecution, could request recognised refugee status and receive protection in accord with the International Convention relating to the Status of Refugees if deemed to be a refugee,
- b. another Nordic state may be required to accept the applicant under the Nordic Passport Convention or under the agreement between Iceland and the Faroe Islands for the return of foreign nationals arriving in Iceland aboard the ferry *Norröna*;
- c. another state, participating in cooperation on the basis of an agreement concluded with Iceland on points of reference and arrangements for determining which state is to handle an application for international protection submitted in Iceland or one of the contracting states, may be required to accept the applicant.

Under the conditions stated in para. 1 an application for international protection shall, however, be accepted for processing under the circumstances described in para. 1(b), (c) or (d) if the foreign national has special ties to Iceland of such a nature that it appears reasonable that he/she should be granted protection, or if other special circumstances support such action. If more than 12 months have passed since the application for international protection was first submitted to the Icelandic authorities and the delays in its process are not caused by the applicant, the application shall be processed.

If applying para. 1 would entail a violation of Art. 42, e.g. due to conditions in the country to which the applicant would be sent, the application shall be processed.

The Minister may make further provisions in a regulation<sup>1)</sup> for the implementation of this article.

<sup>1)</sup>*Regs.no. 540/2017, cf. 7752017 and 276/2018*

Art. 37

*Grounds for international protection*

A refugee within the meaning of this Act is a foreign national who is not in his/her own country due to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, and is unable or unwilling, owing to such fear, to avail him/herself of the protection of that country; or who is stateless and outside the country of his/her former habitual residence due to such events, and is unable or unwilling, owing to such fear, to return to it, cf. point A art. 1 of the International Convention Relating to the Status of Refugees of 28 July 1951 and the Protocol to the Convention of 31 January 1967, and cf. art. 38 of this Act.

A refugee within the meaning of this Act may also be a foreign national who is not a refugee under point A art. 1 of the International Convention Relating to the Status of Refugees, if there are reasonable grounds to expect that he/she would be in danger of the death penalty, torture or other inhumane or degrading treatment or punishment, or at risk of serious harm due to attacks in armed conflict which does not discriminate between military and civilian targets, should he/she be returned to his/her home country. The same applies to a stateless person.

To be deemed a refugee under para. 1 or 2, it is not a prerequisite that he/she satisfied those criteria when he/she left his/her country or country of habitual residence.

If a foreign national can receive effective protection in another part of his/her home country than the one from which he/she fled, and if he/she can safely and lawfully travel there, and if he/she may reasonably be expected to settle in that area, the provisions of paras. 1 and 2 may not apply in such a case, and he/she may be deemed not to be a refugee.

In assessment under paras. 1 and 2 in cases concerning minors, whether unaccompanied or not, the best interests of the child shall be paramount. In evaluation of the child's best interests, the Directorate of Immigration shall take account of the minor's possibilities for family reunification, his/her safety, wellbeing and social development; and in addition his/her views shall be taken into account in accord with his/her age and maturity. When a decision is made in a case concerning the interests of a child, the Directorate of Immigration shall state its position in writing with regard to the above-mentioned factors

under this article. In the implementation of this article the Directorate shall consult with child protection authorities. In the case of unaccompanied minor's the opinion of the Government Agency for Child Protection must be elicited before a decision is made.

If a government authority under this Act finds that the provisions of para. 1 or 2 do not apply to a foreign national, it shall on its own initiative investigate whether a residence permit should be granted on humanitarian grounds, cf. art. 74.

#### Art. 38

##### *Persecution*

Persecution as provided in art. 37(1) consists of actions which by their nature, or because they are repeated, entail a grave violation of essential human rights, in particular inalienable essential human rights such as the right to life and freedom from torture or inhumane or degrading treatment or punishment, freedom from slavery or forced labour and freedom from extrajudicial punishment. The same applies to an accumulation of actions, including illegal discrimination, which have or may have the same or comparable effect on an individual.

Persecution can *inter alia* take the form of:

- a. mental, physical or sexual abuse,
- b. administrative, police and judicial measures and legislation which entail discrimination, either materially or due to the manner in which they are implemented,
- c. prosecution or punishment which is disproportionate or discriminatory,
- d. denial of judicial redress resulting in disproportionate or discriminatory punishment,
- e. prosecution or punishment for refusal to perform military service in a conflict where performing such service would include crimes or acts under art. 40(2)(b).

In assessment of persecution under para. 1, the definitions in para. 2 shall be applied. In assessment under art. 37(1), no significance is to be accorded to whether the applicant has the attributes or opinions which are referred to, if the persecutor considers this to be so:

- a. race refers predominantly to groups sharing skin colour or other biological characteristics and social groups of a specific origin and should be interpreted broadly,
- b. religion refers especially to religious beliefs and other philosophies, including

atheism, and their expression, participation in any type of religious gatherings, whether public or not, or a decision not to take part in such, actions based on religious beliefs and the freedom to change religion,

- c. nationality includes not only citizenship or statelessness but may include persons who belong to a specific race or group of people who speak the same language or have a common cultural identity or a common geographical or political origin, or a group which is defined based on its connection with a group of people in the territory of another state;
- d. social group refers mainly to a group of people who, in addition to being persecuted, share similar origins, background, customs and social status, or share characteristics or a philosophy, e.g. sexuality, which are so essential to their identity that no demand should be made that this be changed, or a group of people deemed to differ from the rest of society; and those who have been victims of human trafficking shall be deemed members of such a social group,
- e. political opinions refer in particular to views on policy and methods of governments which may apply persecution, regardless of whether the person concerned has taken any action to express his/her views.

Those parties which may cause persecution or inhumane or degrading treatment are:

- a. the state,
- b. groups or organisations which control the state or a substantial portion of its territory,
- c. other parties which do not exercise the power of a state, if it is demonstrated that the state or groups or organisations under (b), including international bodies, cannot or will not provide protection against persecution or treatment under art. 37(2), for instance by prosecuting or punishing them for actions which involve persecution.

#### Art. 39

##### *Stateless individuals*

A stateless individual is a person not regarded by any state as a citizen under the relevant national law, cf. the Convention Relating to the Status of Stateless Persons of 1954. A stateless individual who is in Iceland but is not deemed a refugee under art. 37 and is not excluded from the status of statelessness under art. 41, has an independent right to

international protection on the ground of his/her status as stateless, upon application.

International protection under this provision is granted on the basis of the Convention Relating to the Status of Stateless Persons. The Directorate of Immigration considers applications made by stateless individuals.

The Minister may make more detailed provisions for procedure in a regulation.

#### Art. 40

##### *Right to international protection*

A refugee under art. 37 who is in Iceland or arrives in Iceland is, upon application, entitled to international protection.

The provision of para. 1 do not apply, however, to:

- a. a refugee covered by point D or E of art. 1 of the International Convention Relating to the Status of Refugees;
- b. a refugee, if there are strong grounds to believe that:
  1. he/she has committed a crime against peace, war crime or crime against humanity, as defined in international conventions concluded to provide for such crimes,
  2. he/she has committed a major non-political offence prior to being accepted as a refugee,
  3. he/she has performed actions which are incompatible with the purpose and principles of the United Nations;
- c. a refugee under art. 37(2), if there are reasonable grounds to believe that he/she poses a threat to national security, or if he/she has been finally convicted of a very grave criminal offence, and presents for these reasons a danger to society;
- d. a refugee under art. 37(2) if he/she has left his/her home country or country where he/she most recently had a fixed residence for the sole purpose of avoiding punishment for one or more crimes for which the penalty would be imprisonment under the Icelandic Penal Code.

Foreign nationals under para. 2 who may not be expelled due to provisions of art. 42 are subject to the provisions of that article.

Art. 41

*Exclusion from legal status of stateless individuals*

The provisions of art. 39 on international protection of stateless individuals do not apply to:

- a. individuals who already receive protection or assistance from agencies of the United Nations, other than the United Nations High Commissioner for Refugees, for as long as they enjoy such protection or assistance,
- b. individuals, if the competent authorities of the country in which they reside have acknowledged that they have the rights and obligations of citizenship in that country,
- c. individuals, if there are strong reasons to believe that:
  1. they have committed a crime against peace, a war crime or crime against humanity, as defined in international conventions concluded to provide for such crimes,
  2. they have committed a grave non-political offence outside their country of residence before being permitted to enter Iceland,
  3. they have performed actions which are incompatible with the purpose and principles of the United Nations.

Art. 42

*Principle of non refoulement: prohibiting expulsion or return of an individual to a place where his/her life or freedom may be in jeopardy*

Under this Act a foreign national or stateless person may not be sent to a region where he/she has reason to fear persecution, cf. arts. 37 and 38, or where he/she is in imminent danger of being killed or subjected to inhumane or degrading treatment due to circumstances similar to those pertinent to the refugee concept. The same applies to individuals excluded from the legal status of refugee under art. 40.

Para. 1 also applies to returning a foreign national to a region where it is not guaranteed that he/she will not be sent on to such a region as is defined in para. 1.

Protection under paras. 1 and 2 applies to any decisions made under this Act.

If the circumstances are as provided in para. 1, but the individual in question is excluded from international protection under arts. 40 or 41, a foreign national may be granted a

provisional residence permit under art. 77, with the special provisos stated therein.

#### Art. 43

##### *Arrival of refugee groups on government invitation*

The Directorate of Immigration may authorise groups of refugees to enter Iceland on a proposal from the Icelandic Refugee Board, cf. art. 9, and in cooperation with the United Nations High Commissioner for Refugees. The same applies to groups of foreign nationals who have not been deemed to be refugees, but come from a country where armed conflict is taking place or from a region of natural disaster, and fulfil conditions laid down by the authorities at any time.

The Directorate of Immigration grants a foreign national who is authorised to enter Iceland on the basis of this provision the legal status of refugee. The Directorate may also decide whether other foreign nationals who enter the country on the basis of this provision are to be granted refugee status or a residence permit on humanitarian grounds.

The provisions of Sections IV and V of the Administrative Procedures Act, on the right of rebuttal and on promulgation of a decision, arguments, etc., and the relevant provisions of Section III of this Act do not apply to decisions under para. 1.

#### Art. 44

##### *Collective protection in a mass flight situation*

In a case of mass flight the Minister may decide to apply the provisions of this article. The Minister also decides when authorisation to provide collective protection under paras. 2 and 3 shall cease.

A foreign national who is a member of a group which flees a specified region and arrives in Iceland, or is in Iceland when the provisions of the article are applied, may upon application for international protection be granted protection on the basis of a group assessment (collective protection). This entails that the foreign national will be granted a residence permit under art. 74. The permit cannot serve as basis for the issue of a permanent residence permit.

The residence permit may be renewed or extended for up to three years from the time it was first issued to the applicant. After that a permit under art. 74 may be issued, which

can be the basis of a permanent residence permit. One year after such a permit is issued a permanent residence permit may be issued, provided that conditions for holding the permit still exist and other requirements are met, cf. art. 58.

An application of a foreign national covered by para. 2 with respect to international protection may be deferred for up to three years from the time the applicant first received a residence permit. Once the authorisation to grant collective protection under para. 1 has expired, or when three years have passed since the applicant first received a residence permit, the applicant shall be informed that the application for international protection will only be processed if he/she expresses unequivocally that this is his/her wish, within a specified time limit.

The Directorate of Immigration makes decisions on permits and on deferral.

#### Art. 45

##### *Legal effects of international protection*

International protection or recognition of statelessness under arts. 37 and 39 entails that the foreign national is granted the legal status of a refugee or stateless person, and he/she shall be granted a residence permit under art. 73. He/she has the legal status that arises from Icelandic law and the International Convention Relating to the Status of Refugees, the Convention regarding the Status of Stateless Persons or other international agreements on refugees.

The spouse or cohabiting partner of a foreign national who has been granted international protection under this Section, and his/her children aged under 18 who are not married or cohabiting, are also entitled to international protection unless special circumstances militate against this. Family relationships undertaken after the submission of an application for international protection are subject to the provisions of Section VIII.

When a minor under the age of 18 years has been granted international protection, his/her parents are also entitled to protection, provided that it is deemed evident that they have had custody of the minor and that they intend to live with the minor in Iceland. In a case where one parent has had custody of the minor, he/she shall enjoy this entitlement. The entitlement also applies to siblings of the minor aged under 18 years, who are not married or cohabiting and live with their parent or parents.

When an unaccompanied minor is granted international protection under the provisions above, a child protection committee shall immediately take over the custody of the minor and ensure his/her safety in accordance with the Child Protection Act and, where appropriate, place the minor in foster care or other appropriate placement.

The Minister issues, in consultation with relevant departmental ministers, a regulation on provisions to be made regarding *inter alia* education, instruction about Icelandic society and work training, in order to support to those who have been invited by the Icelandic government under art. 43, those granted a residence permit on grounds of international protection under art. 73 or on humanitarian grounds under art. 74, and those whose applications are under consideration.

The Minister may make further provisions in a regulation for conditions for family reunification on the basis of para. 2, including which of the conditions in art. 55 must be met.

#### Art. 46

##### *Travel documents for those who have been granted international protection and passports for foreign nationals*

A person granted international protection who resides or is permitted to reside lawfully in Iceland shall upon application be provided with a travel document for refugees to travel abroad. An application for a travel document may be refused:

- a. in circumstances which would lead to refusal of an Icelandic citizen's application for a passport under art. 5 of the Passport Act.
- b. where parents have joint custody and one of them intends to take the minor out of the country without the permission of the other, cf. art. 28(3) of the Children Act,
- c. under the circumstances described in art. 1 F of the International Convention Relating to the Status of Refugees,
- d. the foreign national has received a final conviction of a very grave crime and is deemed a danger to society,
- e. the identity of the foreign national has not been established or doubt exists as to his/her identity,
- f. when foreign policy or reasons concerning the security of the state militate against it.

If a refugee holds a travel document issued by another state, he/she shall only be issued with a document if he/she has been granted international protection or a permanent residence permit in Iceland, or if it is obligatory under an international agreement to issue a refugee travel document.

A foreign national who has, or obtains, a residence permit in Iceland on grounds of an application for international protection, but has not been granted international protection, shall be issued with a passport for foreign nationals for travel abroad in accordance with further rules provided by the Minister in regulations. The issue of a passport for foreign nationals may also be authorised under other circumstances.

An application for a travel document for refugees or a passport for foreign nationals must be accompanied by a passport or other travel documents in the applicant's keeping.

A travel document shall be revoked when:

- a. the holder of the document is expelled on the basis of art. 98(1)(f), art. 99(1)(d), art. 100(1)(b), or art. 106(1)(j) or (k),
- b. the holder acquires a travel document from his/her home country,
- c. the holder forfeits his/her status as a refugee by being granted Icelandic citizenship or citizenship of another state, or forfeits it in some other manner, cf. art. 48,
- d. the holder is prohibited by law from leaving Iceland,
- e. departure from Iceland would be in violation of a court verdict or ruling or an official decision,
- f. the appearance or content of the document has been unlawfully altered.

A travel document may be revoked when:

- a. the conditions provided in para. 1 (a), (b) or (e) apply,
- b. it has been damaged or is unfit for use for other reasons,
- c. the photograph or information in the document are inconsistent with the holder's identifying features,
- d. it is found in the keeping of an unauthorised person,
- e. the holder no longer has a permit to reside in Iceland.

The police or personnel of the Icelandic foreign service may temporarily seize a travel

document, and must refer the matter to the Directorate of Immigration for administration and, if applicable, a decision to revoke. When a travel document is revoked under para. 5(d) or (f), or para. 6(a)-(e), the Directorate of Immigration makes a record of the revocation in the Passports Register.

The Minister may make further provisions in a regulation, *inter alia* with respect to the issue, scope, renewal and revocation of travel documents for refugees and passports for foreign nationals and more specific criteria in this connection.

#### Art. 47

##### *Applicability of foreign decisions on refugee status*

A foreign national who has been granted international protection or provided with a travel document for refugees in another state than Iceland shall be deemed a refugee with permanent residence in that state. The same applies to a person whose statelessness has been verified. A prior decision on his/her status as a refugee or stateless individual shall not be challenged unless the decision is incorrect or unless other reasons so warrant.

#### Art 48

##### *Revocation of international protection*

International protection may be revoked if a refugee or stateless person is no longer covered by the conditions of arts. 37 and 39, i.e. if:

- a. he/she has voluntarily sought the protection of his/her home country once more,
- b. he/she has voluntarily regained his/her lost nationality,
- c. he/she has acquired a new nationality and enjoys the protection of his/her new home country,
- d. he/she has voluntarily resumed residence in the state which he/she left or did not reside in for fear of persecution,
- e. he/she can no longer refuse to avail him/herself of the protection of the home country because the conditions which resulted in his/her being recognised as a refugee no longer prevail,
- f. he/she can return to the state where he/she previously normally resided because the conditions which resulted in his/her being recognised as a refugee no longer prevail, in the case of a stateless person.

International protection shall not be revoked under para. 1(e) or (f), if the foreign national can provide compelling reasons for refusing to return to the country where he/she was previously a permanent resident, due to prior persecution.

International protection may be revoked if it transpires that a foreign national covered by the provisions of art. 40(2)(b)(1) or (2), or art. 41(c)(1) or (2) has been granted international protection in Iceland.

The Directorate of Immigration shall inform a refugee in advance when revocation of a international protection is a possibility, and why. If international protection is revoked, the authorities shall consider whether a residence permit should be granted on humanitarian grounds under art. 74, or whether art. 42 applies.

## SECTION V

### **Stay and Residence**

#### Art. 49

#### *Stay without a residence permit*

A foreign national whose entry into Iceland requires a visa may not stay in Iceland any longer than the visa states, unless special permission is granted. Other foreign nationals may not, without special permission, stay in Iceland for more than 90 days, starting from the day of their arrival. A stay in the territory of a state that participates in the Schengen cooperation is equivalent to a stay in Iceland.

Nordic citizens may reside in Iceland without a residence permit.

The Minister may make further provisions in a regulation for stay exceeding three months if this is consequent upon an international agreement, and further provisions concerning how the length of stay is to be calculated.

Moreover, the Minister may make further provisions in a regulation concerning additional exceptions to the requirements for residence permits.

Art. 50

*Persons who require a residence permit*

A foreign national who intends staying in Iceland longer than he/she is permitted as provided for in art. 49 must have a residence permit.

A foreign national who intends to undertake paid employment in Iceland must have a residence permit, in addition to a work permit when this is required by the Foreign Nationals' Right to Work Act. A foreign national may not work in Iceland as a self-employed individual unless he/she is exempt from requirements for a work permit as provided for in the Foreign Nationals' Right to Work Act.

Art. 51

*Duty to apply for a residence permit before arriving in Iceland*

A foreign national who is applying for a residence permit for the first time shall apply for the permit before he/she arrives in Iceland, and he/she may not arrive in Iceland until the application has been approved. This requirement may be waived if the applicant for the residence permit is exempt from visa requirements or he/she is in Iceland and:

- a. is the spouse or cohabiting partner of an Icelandic or other Nordic national or a foreign national who is lawfully resident in Iceland on the basis of a permanent residence permit or a residence permit that could be the basis for a permanent residence permit,
- b. is the child of an Icelandic or other Nordic national or a foreign national who resides or is allowed to reside lawfully in Iceland in accordance with a permanent residence permit or a residence permit that could be the basis for a permanent residence permit, where the minor is under the age of 18 years,
- c. is an applicant for a residence permit for reasons of employment requiring expert knowledge under art. 61, a residence permit for athletes under art. 63 or a residence permit for specialist workers on the basis of a collaboration or service agreement under art. 64.

The exceptions listed in para. 1c are valid while an applicant has permission to stay based on a valid visa, or while an applicant may stay without a visa.

The conditions in para. 1 may be waived in other circumstances, if compelling reasons of fairness so recommend.

An application for a residence permit made in Iceland by an applicant not exempt under paras. 1 and 2 from applying for a residence permit before arriving in Iceland, shall be denied under those provisions. The same is true if an applicant arrives in Iceland before his/her application has been approved.

The Minister may make further provisions in a regulation for exemptions under para. 3.

#### Art. 52

##### *Applications for residence permits*

The Directorate of Immigration makes decisions on granting residence permits, and the Directorate of Labour makes decisions on granting work permits. An applicant shall sign an application in his/her own hand, stating *inter alia* that he/she consents to undergo a medical examination within two weeks of arriving in Iceland, in accordance with current legislation and instructions from the health authorities.

The application shall be accompanied by those documents and certificates that the Directorate of Immigration requires as confirmation that the applicant fulfils conditions provided in acts, regulations and other administrative provisions. The Directorate of Immigration forwards applications for work permits to the Directorate of Labour for processing.

The Minister makes further provisions in a regulation for the implementation of this article, *inter alia* what documents and certificates the applicant shall submit, requirements for submitted documents, who shall assess the validity of documents, and exemptions from requirements for documents.

#### Art. 53

##### *Priority and expedited applications for residence permits*

The Directorate of Immigration may prioritise applications for residence permits.

The Directorate of Immigration may also expedite applications for residence permits on the basis of employment, upon payment of a special service fee.

In exceptional cases, the Directorate of Immigration may expedite the processing of other fully completed residence permit applications due to external factors beyond its control, or to other special circumstances.

The Minister issues a regulation on further implementation of this provision.

The Directorate of Immigration is responsible for collecting service charges under this article.

Art. 54

*Issue of residence permits*

A residence permit will not be issued until the application for a residence permit has been approved, the foreign national has arrived in Iceland, has undergone a medical examination as attested by a certificate issued by a health institution and has completed the registration of his/her address in Iceland. The Directorate of Immigration issues a residence permit card attesting that a residence permit has been issued. The card is issued in the name of the holder of the residence permit. In order to enable identification of the holder of the residence permit and establish that the holder is the individual he/she claims to be, a digital photograph of the applicant shall be taken and printed on the residence permit card. For the same purpose, the Minister may decide that the residence permit card shall include a microchip containing the information recorded on the card, together with the holder's fingerprints. The certificate shall state *inter alia* the foreign national's name and nationality, the name of his/her employer where appropriate, and the period for which the residence permit is valid.

The Minister may make further provisions in a regulation for a fee for reissuing the residence permit card.

Art. 55

*Basic requirements for a residence permit*

A foreign national may be granted a residence permit under the provisions of Sections VI–IX in accordance with an application if he/she meets the following basic requirements:

- a. his/her means of support, as provided for in art. 56, and health insurance are secure,
- b. he/she meets the requirements for a residence permit as provided in this Act,
- c. he/she consents to undergo a medical examination within two weeks of his/her arrival in Iceland, in accordance with current legislation and the instructions of the health authorities,
- d. no factors are known to exist which could result in his/her being refused entry into

Iceland or residence in the country under other articles of this Act.

The purpose of the applicant's stay in Iceland shall be in accordance with the residence permit for which he/she applies.

The Minister may make further provisions in a regulation about requirements as provided for in para. 1(a)–(d).

#### Art. 56

##### *Secure means of support for foreign nationals applying for residence permits*

A foreign national who is over 18 years old and applying for a residence permit shall demonstrate that he/she has a secure means of support for the whole of the proposed residence period in Iceland.

Evidence of means of support must be in a currency registered by the Central Bank of Iceland.

Payment in the form of social assistance by the state or a local authority is not deemed a secure means of support for the purpose of this article.

The Minister may, in consultation with the Minister responsible for social affairs, make further provisions in a regulation about requirements for secure means of support, including what is considered to be secure means of support, how support shall be implemented and under what circumstances the requirements for secure means of support may be waived.

#### Art. 57

##### *Renewal of residence permits*

The Directorate of Immigration may renew a foreign national's residence permit upon application if the conditions for the permit continue to be fully met. However, in special cases requirements for secure means of support under art. 55(1)(a), cf. art. 56, may be waived if the support has been insecure for a short period due to unemployment, accident or ill health, or comparable reasons, and also if compelling reasons of fairness so recommend.

A foreign national who wishes to renew a residence permit shall apply no later than four weeks before the residence permit expires. If applying for a renewal within the prescribed

time limit, a foreign national may stay in Iceland in accordance with the previous residence permit until a decision has been made on his/her application. Otherwise, the foreign national shall leave Iceland before the expiration date of his/her previous residence permit.

If no application to renew a residence permit has been made before the expiration date of the previous one, the right to stay shall be cancelled and the application shall proceed under the provisions in art. 51.

The Directorate of Immigration may allow a foreign national to stay in Iceland under his/her previous permit until a decision has been made based on an application to renew a permit that has been received after the deadline referred to in para. 2 if compelling reasons of fairness so recommend.

The Directorate of Immigration may allow a foreign national who has stayed in Iceland on the basis of a different type of residence permit than those mentioned in arts. 64, 66, 67 and 68, and who applies for a residence permit on a new basis, to continue to stay in Iceland until a final decision has been made on his/her application, if the foreign national applies for a new permit no later than four weeks before the previous residence permit expires and has also been lawfully staying in Iceland for at least the last nine months.

If a foreign national applies for a residence permit in Iceland on a new basis, without fulfilling the conditions of para. 5, his/her application shall be denied for that reason. However, in special circumstances the Directorate of Immigration may, if compelling reasons of fairness so recommend, allow an applicant who does not fulfil the previously stated conditions to stay in Iceland until a decision has been made on his/her application.

The Directorate of Immigration decides if a residence permit should be cancelled when the permit holder has stayed abroad for longer than a continuous period of three months. A foreign national's residence permit is automatically cancelled if his/her domicile, which was registered in Iceland, has been registered abroad for a period of three months. Although the residence permit is cancelled, this does not prevent the foreign national from applying for a renewal under these provisions, if he/she does so before the expiration date of the previous residence permit and reasons of fairness so recommend.

The Minister may make further provisions in a regulation for the renewal of residence permits.

Art. 58

*Permanent residence permits*

A foreign national may be granted a permanent residence permit if he/she has resided in Iceland continuously for the previous four years on the basis of a residence permit that may be grounds for a permanent residence permit. The conditions for granting a permanent residence permits are as follows:

- a. the foreign national continues to fulfil the requirements for a residence permit while he/she applies for a permanent residence permit,
- b. the foreign national demonstrates that his/her means of support have been secure during his/her stay, and that he/she has been and will be able to support him/herself in Iceland in a lawful manner; the Directorate of Immigration is *inter alia* authorised to acquire tax returns and data from tax authorities to verify this; payments in the form of social assistance from the State or a local authority are not deemed to be secure means of support under this provision,
- c. the foreign national has attended a course in Icelandic for foreigners, cf. however para. 9,
- d. there are no open cases that could lead to the foreign national's expulsion from Iceland, cf. art. 98(1), or art. 99(1),
- e. the foreign national is not involved in a case in the criminal justice system that has not yet been brought to a conclusion, in which he/she is suspected or accused of criminal behaviour.

In exceptional circumstances the fulfilment of particular requirements according to para. 1 may be waived:

- a. requirements for secure means of support, cf. para. 1(b), if it has been insecure for a short period and compelling reasons of fairness so recommend,
- b. requirements that the foreign national has resided in Iceland for the previous four years according to a residence permit that can be the basis for a permanent residence permit, where the foreign national has had such a residence permit for at least two

years and has previously resided in Iceland continuously under a residence permit in connection with study, cf. art 65, such that the total stay exceeds four years, or where a doctoral student has resided in Iceland under a residence permit for people with expert knowledge, as provided for in art. 61, for at least three years and been awarded a doctorate in Iceland.

In certain circumstances, a foreign national may be granted a permanent residence permit in Iceland without meeting the conditions for a previous stay as provided for in para. 1 and para. 2(b):

- a. a foreign national who is the child of an Icelandic citizen, if he/she has had a residence permit in Iceland continuously for the two years prior to the submission of the application, and his/her parent has held Icelandic citizenship for at least five years,
- b. a foreign national who is married to an Icelandic citizen, and has lived with the Icelandic citizen in Iceland and held a residence permit continuously for three years since the marriage; this also applies to a foreign national in a registered partnership with an Icelandic citizen, on condition that neither partner is married,
- c. a foreign national who acquired Icelandic citizenship at birth but has lost or renounced it,
- d. a young person who has attained the age of 18 and resided in Iceland on the basis of family reunification for at least four years and studied or worked in Iceland.

A minor born after his/her custodial parent arrives in Iceland may be granted a permanent residence permit on condition that the parent holds a permanent residence permit in Iceland.

The provisions in para.1(b) do not apply to those who have held a residence permit on the basis of international protection according to art. 73, or on humanitarian grounds according to art. 74.

The Directorate of Immigration makes decisions on permanent residence permits. A foreign national who wishes to acquire a permanent residence permit shall apply for it to the Directorate of Immigration not later than four weeks before his/her residence permit is due to expire. He/she may continue to reside in Iceland until a decision regarding his/her application has been made, on condition that the application is received by the Directorate

of Immigration before the stated deadline. The provisions in art. 57(4) and (7) apply to applications received after the deadline.

The Directorate of Immigration decides if a permanent residence permit should be cancelled when the holder has resided abroad for more than 18 months in a four-year period. A foreign national's permanent residence permit is automatically cancelled when his/her domicile, which had been registered in Iceland, has been registered abroad for a continuous 18-month period. In response to an application, a foreign national may be permitted to reside abroad for a longer period without his/her permanent residence permit being cancelled.

On granting a permanent residence permit, the Directorate of Immigration issues a card in confirmation of this under art. 54. The card is issued in the name of the foreign national who is the holder of the permit.

The Minister may make further provisions in a regulation regarding permanent residence permits, including for stays abroad as provided for in para. 7, and about courses in Icelandic for foreigners as provided for in para. 1. These shall include provisions on the length of the course, minimum attendance requirements and certificates confirming participation. Provisions may also be made regarding exemption from participation in courses in Icelandic for foreigners who have acquired a satisfactory knowledge of Icelandic, and on tests to confirm this. Furthermore, a regulation may contain provisions for exemptions from the obligation to attend the course, and on participation fees for the courses or tests.

#### Art. 59

##### *Revocation of residence permits*

The Directorate of Immigration may revoke a residence permit or permanent residence permit if a foreign national, at the time of application, knowingly supplied incorrect information or failed to disclose something that could be of material significance for the granting of the permit, or if he/she no longer fulfils the criteria for granting a residence permit or permanent residence permit; or if this otherwise follows from the general principles of administrative law.

After revocation of a permit on grounds of supplying incorrect information or failing to

disclose something that could be of material significance for the granting of the permit, the legal status of the foreign national shall be as though he/she had never been granted that permit or any other permit based on the same premises.

Art. 60

*Duty to report*

A foreign national who has received a residence permit before his/her arrival in Iceland shall report to the Directorate of Immigration, or the District Commissioner's Office if outside Reykjavík, within one week of his/her arrival. The same applies to a foreign national who arrives in Iceland and intends to apply for a residence permit or otherwise requires such a permit.

SECTION VI

**Residence permits on grounds of employment**

Art. 61

*Residence permit for work requiring expert knowledge*

A foreign national may be granted a residence permit on grounds of employment in Iceland for which expert knowledge is required. The conditions for granting a residence permit under this provision are *inter alia* the following:

- a. that the foreign national meets the requirements of art. 55(1) and (2), and
- b. that a temporary work permit for a job that requires expert knowledge has been granted in conformity with the Foreign Nationals' Right to Work Act.

A residence permit under these provisions may be issued for periods up to two years, although never for longer than the period covered by the work permit. The residence permit may be renewed for up to two years at a time, although never for a longer period than the period covered by the work permit, providing that the requirements of para. 1 are met.

The residence permit of a foreign national who has been issued with a residence permit under the provisions in this article and then lost his/her job, may be renewed for up to three months from the date when he/she lost the job, or from the end of the period of notice, so that he/she is able to seek another job on the basis of his/her expert knowledge.

In that case the requirement in para. 1(b) need not be fulfilled.

A permit granted under these provisions may constitute the basis for a permanent residence permit.

Art. 62

*Residence permit relating to labour shortage*

A foreign national may be granted a residence permit on grounds of employment in Iceland when there is a labour shortage in Iceland. The conditions for issuing residence permits under this provision are *inter alia* the following:

- a. that the foreign national meets the requirements in art. 55(1) and (2), and
- b. that a temporary work permit due to labour shortage has been issued under provisions in the Foreign Nationals' Right to Work Act.

A residence permit under these provisions shall not initially be issued for more than one year, and in no case for a longer period than the term of the work permit. The residence permit may be renewed for up to one year at a time.

A permit may be renewed for longer than the period specified in para. 2 in the case of a clearly determined work project of fixed duration which has a completion period longer than that stated in that paragraph. In such cases, a residence permit may be issued for the period for which the work permit is valid. A foreign national who has held a residence permit under provisions in this article may not be granted a new permit until he/she has been continuously resident abroad for a two-year period commencing after the older residence permit expires. However, this provision does not apply in cases where the foreign national has worked in Iceland for less than eight months in each twelve-month period.

A residence permit issued under this article may constitute the basis for a permanent residence permit.

Art. 63

*Residence permits for athletes*

A foreign national may be granted a residence permit on grounds of an athlete's employment with a sports club within the National Olympic and Sports Association of

Iceland. The conditions for granting a residence permit under these provisions include the following:

- a. that the foreign national meets the requirements of art. 55(1) and (2), and
- b. that a temporary work permit for athletes has been granted on the basis of provisions under the Foreign Nationals' Right to Work Act.

A residence permit granted under the provisions in this article shall not initially be issued for more than one year, and in no case for a longer period than the term of the work permit. It may be extended for up to two years at a time, providing that the conditions of para. 1 are met.

A permit granted under these provisions may constitute the basis for a permanent residence permit.

#### Art. 64

##### *Residence permits for employees with specialist skills, on the basis of a collaboration or service contract*

A residence permit may be issued for a foreign national who is to be sent to Iceland on behalf of an employer that does not have a place of business in Iceland, for a job requiring specialist skills. The conditions for issuing a residence permit under these provisions include the following:

- a. the foreign national fulfils the requirements in art. 55(1) and (2),
- b. a temporary work permit has been granted in accordance with the Foreign Nationals' Right to Work Act, on the basis of a service contract or collaboration agreement for educational, scholarly or scientific work.

A residence permit in accordance with this article shall usually not be issued for longer than six months on the basis of a single contract, and in no case for a longer period than the term of the work permit.

A permit granted under these provisions cannot constitute the basis for a permanent residence permit.

## SECTION VII

### **Residence permits in connection with study or cultural exchange**

#### Art. 65

##### *Residence permit on grounds of study*

A foreign national intending to pursue full-time study in Iceland may be granted a residence permit, provided that he/she is over 18 years old and meets the requirement for the course of study. [Full-time study is continuous study at higher-education level, including higher-education-level study which takes place in workplaces, or other study with comparable requirements regarding previous study as for study at higher-education level. Individual courses are not deemed to be full-time study.]<sup>1)</sup>

The conditions for granting a residence permit under this article include the following:

- a. that the foreign national meets the requirements in art. 55(1) and (2), and
- b. that he/she pursues full-time studies in Iceland, as confirmed by a certificate or similar from the relevant educational institution.

A foreign national who meets the requirements in para. 2 may be granted a residence permit if he/she comes to Iceland through the agency of a recognised student exchange programme, in which case the age requirement in para. 1 may be waived.

A foreign national may be granted a residence permit under these provisions, provided that he/she fulfils the requirements in para. 2(a), for a study placement in a workplace in Iceland, provided that a temporary work permit has been granted under the provisions in the Foreign Nationals' Right to Work Act.

[A foreign national may be granted a residence permit under this article, where the provisions of para. 2 are fulfilled, for technical study and recognised workplace study at higher-education level.]<sup>2)</sup>

A residence permit under provisions in this article shall normally not be granted for more than twelve months at a time. A residence permit under these provisions may be extended during a study period if the foreign national continues to meet the conditions in paras. 1 and 2 of this article and is able to demonstrate a satisfactory standard of academic work, where required. For the first renewal of the residence permit, it is an acceptable

performance level if the foreign national has completed a total of at least 75% of a full study load in the study year. Requirements for a satisfactory performance level may be waived in the case unmanageable external circumstances, such as accident or serious illness.

A residence permit for a master's or doctoral student who is working on a thesis may be renewed even though no academic credits have been completed during the permit's period, if the relevant educational institution confirms his/her study progress.

The residence permit of a foreign national who has completed a university degree in Iceland may be extended by up to six months from the graduation date, to allow him/her to seek employment on the basis of his/her expert knowledge, even where the conditions of para. 2 are not met.

A residence permit granted under this article cannot constitute the basis for a permanent residence permit; but cf. art. 58(2)(b).

<sup>1)</sup>Act no. 89/2017, art. 2    <sup>2)</sup>Act no. 54/2017, art. 1

#### Art. 66

##### *Residence permit based on agreements between Iceland and other states*

A national of a particular state, aged 18–26 years old, may be granted a residence permit based on an agreement that the Icelandic government has made with the home country of the foreign national, regarding the stay of its citizens for the purpose of acquainting themselves with Iceland and its culture.

The conditions for granting a residence permit under provisions in this article include that the requirements in paras. 1 and 2 of art. 55 are fulfilled, and that the foreign national has not previously been granted a residence permit in Iceland on the basis of such an agreement.

A residence permit granted under these provisions shall be granted for a maximum of twelve months and may not be renewed.

A residence permit granted under these provisions cannot constitute the basis for a permanent residence permit.

Art. 67

*Residence permits for volunteers and missionaries*

A foreign national over 18 years of age may be granted a residence permit in Iceland in order to work for a non-governmental organisation working in charitable or humanitarian fields, operating on a non-profit making basis and exempt from tax under art. 4 of the Income Tax Act, as may foreign nationals whose stay in Iceland is for a religious purpose on behalf of the Church of Iceland or another registered religious organisation.

Conditions for the granting of a residence permit under this article include:

- a. that the foreign national fulfils the requirements in art. 55(1) and (2),
- b. that he/she holds a ticket for his/her return from Iceland at the end of the period, except when the stay is in connection with the Church of Iceland or another registered religious organisation,
- c. that an invitation to the foreign national from an Icelandic body can be shown to exist, cf. para.1, regarding coming to Iceland to work for the host , detailing the purpose for the stay in Iceland, the length of stay, and the work to be undertaken by the individual,
- d. that a connection exists between the work to be done by the foreign national and the work of the party, cf. para. 1.

A foreign national issued with a residence permit under these provisions may not engage in paid employment on the Icelandic labour market during his/her stay.

The maximum stay under these provisions is twelve months, and a renewal of the residence permit is not normally allowed. In the case of a stay on behalf of the Church of Iceland or other registered religious organisation, however, the residence permit may be renewed for one year at a time, if the conditions of this article are still met.

The requirements in para. 1 on working for an organisation may be waived if the proposed stay can be demonstrated to be for a verified charitable or humanitarian purpose.

A residence permit granted under these provisions cannot constitute the basis for a permanent residence permit, except for a residence permit granted in connection with the Church of Iceland or other registered religious organisation.

The Minister may make further provisions in a regulation for granting a residence permit

under this article, including requirements of means of support, conditions to be met for recognition of organisations, and what work the foreign national may undertake.

Art. 68

*Residence permits for au pairs*

A foreign national may be granted a residence permit in connection with work as an *au pair* in a family home in Iceland. An applicant must fulfil the requirements in art. 55(1) and (2), and not be younger than 18 years old or older than 25 at the time of application.

The host family shall consist of a married or registered cohabiting couple with a child or children, or a single parent with a child or children. If the host family consists of people who are not Icelandic citizens, at least one adult must have a permanent residence permit. There must not be a familial connection between the applicant and the host family.

Each host family may only have one foreign national at a time as an *au pair* and shall provide the *au pair* with food and a separate room for his/her use, in the family home. The Directorate of Immigration may request further information about the host family, including any financial or other assistance from the social services of the relevant local authority, and also criminal record information in Iceland or abroad, if deemed necessary by the Directorate.

An application under this article shall be refused if it is deemed likely that the applicant will not leave Iceland when the residence permit expires. The Directorate of Immigration's evaluation may be based on information about the applicant or his/her home country, general experience of applicants in the same or a similar situation as the applicant, the purpose of the application, experience of the host family, and whether the applicant has previously applied for international protection or a residence permit in Iceland on other grounds. A residence permit shall also be denied if there are reasonable grounds for suspicion that the application for an *au pair* is being used for the purpose of a misuse of labour or any other unlawful purpose.

A residence permit under the provisions in this article shall not be issued for more than one year, and in no case for a period longer than the engagement period according to the *au pair* contract. A permit may not be renewed under this article. Furthermore, the foreign national may not be granted a residence permit under the provisions of Section VI until

he/she has been continuously resident abroad for two years following the end of the term of the *au pair* permit.

If the *au pair*'s engagement is terminated before the end of the engagement period according to the contract between the parties, both the *au pair* and the host family shall notify the Directorate of Immigration or the party that acted as an intermediary in arranging the engagement, if applicable. The *au pair* may make a contract with a new host family, provided that all the requirements of this article are met. The total stay period as an *au pair*, for one or more host families, may not exceed one year.

A foreign national issued with a residence permit under these provisions may not be employed outside the host family home during the period of engagement, neither for paid nor unpaid work.

The police shall, if requested by the Directorate of Immigration, go to the *au pair*'s home and investigate conditions there, cf. art. 110.

A residence permit issued under these provisions cannot constitute the basis for a permanent residence permit.

The Directorate of Immigration shall provide the forms necessary for making a contract to employ an *au pair*, and it may entrust an organisation or company to act as intermediary and supervise *au pair* engagements. More detailed provisions for the role of such an organisation or company shall be made in a regulation.

The Minister provides in a regulation rules applying to an *au pair*'s stay under these provisions, including the provisions of the contract pertaining to the *au pair*'s engagement, and the conditions to be met by the foreign national and the relevant host family, for the purposes of the stay, such as the host family's responsibility regarding the *au pair*'s return journey, pocket money, free time and work hours, which may not exceed 30 hours per week.

## SECTION VIII

### **Residence permits on grounds of family reunification**

#### Art. 69

##### *Conditions for granting family reunification residence permits*

An immediate relative of an Icelandic or other Nordic citizen who is permanently resident in Iceland, or of a foreign national who lives in Iceland on the basis of a residence permit under arts. 61, 63, 70, 73, 74 and 78, or on the basis of a permanent residence permit under art. 58, may, on application, receive a residence permit on the basis of family reunification, if the conditions of art. 55 and Section VIII are met. Immediate relatives are defined as spouse, cohabiting partner, a person's children under the age of 18 in his/her custody and dependent upon him/her and parents over the age of 67. The same applies to the spouse/cohabiting partner and children of those engaged in a postgraduate university degree course, doctoral studies or research in Iceland under art. 65.

A residence permit as provided for in arts. 70–72 will not be granted if the family member on whom the application is founded has in the last five years been convicted or subjected to security measures for violations under the measures provided in Sections XXI–XXIV of the Icelandic Penal Code, unless refusal of a residence permit would constitute an unfair measure against him/her or his/her immediate family. If granting an applicant a residence permit under provisions in arts. 70–72 would contravene the grounds on which a residence permit was granted to a family member in Iceland, an application may be refused.

An application for an initial residence permit under arts. 70–72 shall be refused if consent for its issuing has not been provided by the family member.

A residence permit under arts. 70–72 shall normally only be issued for one year, although it is permitted to issue a residence permit for a longer period to coordinate with the family member on whom the application is based, but not for longer than two years. The residence permit of a family member of a foreign national who is resident in Iceland on the basis of a residence permit or permanent residence permit can never be valid for longer than that of the foreign national from whom the family member derives his/her entitlement. A residence permit issued under arts. 70–72 may be renewed on application if the conditions for granting it are still fulfilled.

A residence permit issued to a family member under arts. 70–72 may constitute the basis for a permanent residence permit unless the foreign national from whom the family member derives his/her entitlement holds a residence permit that does not allow for this.

#### Art. 70

##### *Residence permits on grounds of marriage or cohabiting partnerships*

A foreign national may be granted a residence permit in Iceland if he/she intends to move to Iceland to live with his/her spouse or cohabiting partner. [The conditions for this are that the spouse or partner has the right to family reunification in accordance with this Section and that he/she is in a marriage or cohabiting partnership. A cohabiting partnership must have existed for at least one year.]<sup>1)</sup> Each partner must have been older than 18 when the marriage or cohabiting partnership was established. The marriage or cohabiting partnership must fulfil requirements for registration of domicile. The parties may be required to provide documents as proof that a marriage or cohabiting partnership was entered into abroad.

The provisions in art. 1 may apply even if the ...<sup>1)</sup> cohabiting partnership has existed for less than one year if special reasons recommend it.

If the applicant bases his/her entitlement on partnership with a foreign national who holds a residence permit in Iceland based on international protection under the provisions of art. 73, humanitarian principles under art. 74, special ties with Iceland under art. 78 or family unity under art. 72, the foreign national from whom the entitlement derives must have worked or studied while lawfully staying in Iceland for the last four years preceding the date of application.

The provisions of para. 3, subject to other provisions under this article, do not apply when:

- a. the parties were married before the partner resident in Iceland moved to Iceland, or
- b. the parties were married while they both had valid residence permits in Iceland, or
- c. the parties have a child together or are expecting a child together.

Further exceptions to para. 3 may be allowed if special reasons exist.

The Minister may make further provisions in a regulation on the implementation of paras. 3 and 4, including about criteria for study and work in Iceland.

Spouses and cohabiting partners shall be domiciled at the same address, in accordance with the Act on domicile. Exceptions may be made if special temporary reasons exist.

If there is reason to suspect that the marriage or cohabitation has been initiated with the purpose of gaining a residence permit and incontrovertible evidence to the contrary is not provided, no entitlement to a residence permit exists. The same applies if there is reason to suspect that the marriage was not entered into willingly by both parties, or if the marriage is incompatible with public order and the general principles of Icelandic law.

A foreign national who has had a residence permit under these provisions may, if special reasons exist and if compelling reasons of fairness so recommend, be granted a residence permit on the basis of special ties to Iceland, as provided for in art. 78 if the conditions of art. 55(1) and (2) are fulfilled in addition to one of the following:

- a. the marriage or cohabiting partnership has ended with the death of the partner, unless special reasons exist to refuse,
- b. the marriage or cohabiting partnership has been ended because the foreign national or his/her child has been subjected to abuse or other forms of violence from the partner and it has been reported to the police or child protection authorities, or if other records indicate this; the foreign national's ties to Iceland should be taken into consideration, and in exceptional cases the provisions in art. 55(1) and (2) for the issuing of a residence permit may be waived according to this subparagraph, if means of support are temporarily insecure,
- c. the foreign national demonstrates that owing to the social or cultural situation in his/her home country, he/she could have difficulty returning to that country as a result of divorce or separation.

<sup>1)</sup>Act no. 17/2017, art. 2

#### Art. 71

##### *Residence permits for minors*

A minor under the age of 18 may be granted a residence permit if his/her parent holds a residence permit under art. 58, 61, 63, 70, 73, 74 or 78.

A minor shall be in the custody of the person from whom the entitlement derives. Consent of both custodial parents must be confirmed at the time of application, if there are two.

This requirement may be waived for special reasons, e.g. if it is demonstrably not possible to contact a custodial parent, on condition that it is in the child's best interests.

In the case of an adoption, that must be completed before an application is made, and it shall comply with relevant Icelandic law.

A residence permit granted under the provisions in the article may be renewed even though the applicant has reached 18 years of age, on condition that the basic requirements for a residence permit and family reunification are fulfilled. It is also a requirement that the applicant is engaged in either education or work in Iceland, resides with his/her parents and is neither married nor cohabiting.

The provisions in this article may be disregarded if there are special reasons, on condition that it is in the child's best interests. This applies e.g. to cases where the child protection agency has assumed custody of a minor, or if a minor is in permanent foster care.

The Minister may make further provisions in a regulation for residence permits pursuant to this article, including the conditions under which a foster child may be granted a residence permit.

#### Art. 72

##### *Residence permits for parents*

A foreign national who has a child in Iceland may be granted a residence permit in the circumstances described in paras. 2–4. The requirements of art. 55(1) and (2) shall always be fulfilled when a residence permit is granted on this basis.

A foreign national who is 67 years old or older may be granted a residence permit if he/she has an adult child in Iceland. In these circumstances a foreign national may be exempted from the requirement that he/she is able to support him/herself if his/her child demonstrates that he/she is able to ensure support for the applicant.

A foreign national who is the parent of an Icelandic minor who is younger than 18 years of age and resident in Iceland may be granted a residence permit if the parent has, or shares, custody of the minor and the following requirements are fulfilled:

- a. the applicant intends living with the minor in Iceland,
- b. the applicant is not married or cohabiting with the other parent of the minor, and

- c. it is necessary if the minor is to continue to live in Iceland.

A foreign national who is the parent of and has custody of a minor who is younger than 18 years of age and resident in Iceland may be granted a residence permit even though the parent and minor will not live together if:

- a. the minor is either an Icelandic citizen or holds a residence permit,
- b. the applicant was residing lawfully in Iceland when the application was made,
- c. the applicant has held a residence permit in Iceland that cannot be renewed on the same basis,
- d. the applicant has visitation rights with the minor under a confirmed agreement and it is confirmed that visitation has taken place in accordance with it, and
- e. it is necessary in order to maintain visitation with the minor.

## SECTION IX

### **Residence permits on grounds of international protection, humanitarian grounds and human trafficking**

#### Art. 73

##### *Residence permits on grounds of international protection*

When an applicant is granted international protection under art. 37 or 39, the Directorate of Immigration issues a residence permit.

A residence permit granted under this article shall be valid for four years, and it may be renewed at the end of that period unless there is a requirement to revoke the granting of international protection under art. 48, or refuse to renew the residence for reasons of security of the state or in the interests of the public. A residence permit may be renewed even though the conditions of art. 55 are not completely fulfilled.

A residence permit pursuant to this article can constitute a basis for a permanent residence permit.

#### Art. 74

##### *Residence permits on humanitarian grounds*

A foreign national who is present in Iceland and who can demonstrate a strong need for protection, e.g. for health reasons or due to difficult social circumstances of the person

concerned or due to difficult general circumstances in the person's home country or in a country to which he/she would be sent, may invoke general humanitarian grounds even though the conditions of art. 37 are not fulfilled. This provision shall not be applied unless the application process has concluded that the foreign national does not fulfil the conditions for international protection under arts. 37 and 39.

A foreign national who has applied for international protection and not received a decision within 18 months of first applying for international protection in Iceland may be granted a residence permit for humanitarian reasons under the provisions of this article, provided that it has been decided that the foreign national does not fulfil the conditions for international protection under arts. 37 and 39. The requirements for granting a residence permit in such cases are that:

- a. a statement about international protection has been taken from the applicant,
- b. there is no doubt about the identity of the applicant,
- c. nothing is known that could result in the expulsion of the applicant, and
- d. the foreign national has supplied information and assistance to resolve the case.

The provisions in para. 2 do not apply to a foreign national to whom one or more of the following apply:

- a. the foreign national has submitted false documentation with the intention of strengthening his/her application for international protection,
- b. the foreign national has stayed in an unknown locality for longer than two weeks, or has departed from Iceland without permission,
- c. the foreign national has provided incorrect information about a previous stay in a state that is part of the Dublin cooperation, or in a state or region where he/she did not have to be subjected to persecution and had no reason to fear being returned to his/her home country without his/her application having been given full consideration, and/or
- d. the foreign national bears some responsibility for his/her application not being completed before the deadline.

The provisions in para. 3 may be waived if there are compelling reasons. A residence permit may be issued pursuant to this article even though the conditions of art. 55 are not completely fulfilled.

A residence permit granted under these provisions shall not be issued for longer than one year. A residence permit may be renewed for up to two years at a time under this article, provided that the initial reasons for granting the permit have not changed.

A residence permit pursuant to this article can constitute a basis for a permanent residence permit.

#### Art. 75

##### *Residence permits for possible victims of human trafficking*

A foreign national who is suspected to be a victim of human trafficking may be granted a residence permit for up to nine months, even though the requirements of paras. 1 and 2 of art. 55 are not fulfilled. The same is true for a child of such a person if he/she is in Iceland with his/her parent. The police shall assist the Directorate of Immigration in investigating the case, e.g. in assessing the circumstances of the person concerned. Notwithstanding Section XII, the person concerned shall not be expelled during this period.

If there are reasons to suspect that the foreign national is claiming to be a victim solely in order to gain a residence permit and it is not conclusively demonstrated otherwise, this does not confer the right to a residence permit. The same applies if the granting of a residence permit is against public order.

If an application has been made for international protection under provisions in art. 37 or 39, or if it is suspected that those articles apply, it shall first be decided if the circumstances are appropriate for the granting of such protection before this article is invoked.

A residence permit under this provision cannot constitute the basis for a permanent residence permit.

#### Art. 76

##### *Residence permits for victims of human trafficking*

A victim of human trafficking, and his/her child present in Iceland, may be granted a renewable residence permit for one year under special circumstances, even though requirements in art. 55(1) and (2) are not fulfilled, when it is believed necessary:

- a. for reasons of the individual's personal circumstances, or
- b. at the wish of the police for reasons of cooperation with the authorities in investigation

and processing of a criminal case.

Notwithstanding Section XII, the individual shall not be expelled during this period.

A residence permit according to this article cannot constitute the basis of a permanent residence permit.

Art. 77

*Provisional residence permits*

A foreign national who has applied for international protection may be granted a provisional residence permit until a decision has been made about his/her application. A foreign national who has received a final refusal of his/her application for international protection or for a residence permit, which does not take immediate effect, may also be granted a provisional residence permit, in response to an application, until the refusal takes effect. The conditions for granting a provisional residence permit under this article include that:

- a. a statement about international protection has been taken from the applicant,
- b. there is no doubt about the applicant's identity,
- c. there are no known reasons that could lead to the expulsion of the applicant,
- d. no request to accept the return of the applicant is known to have been made to another state under provisions in art. 36(1), and
- e. the foreign national has supplied information and assisted in the conclusion of the case.

The condition in para. 1(b) may be waived in special circumstances, e.g. when it is unfair or impossible to expect an applicant to provide adequate identification, and it is the duty of the Directorate of Immigration to assess in each case whether this is the situation. A residence permit under these provisions shall be granted on application, if more than 90 days have passed since an application for international protection reached the Icelandic authorities, even though the condition in para. 1(d) applies.

If the circumstances are such that provisions in art. 42(1) apply but the individual is excluded from international protection as provided for in art. 40 or 41, a foreign national may be granted a provisional residence permit under this article. In such cases, special

conditions may be attached to the permit where needed, e.g. the right to work may be excluded and the individual may be required to report to the authorities or remain in a specified place as provided for in art. 114 or undergo other coercive measures as provided for in Section XIII.

A residence permit may be granted under this article even though conditions in art. 55(1) and (2) are not fulfilled.

A residence permit granted under this article shall not normally be issued for longer than six months. A residence permit issued under this article may be renewed for up to one year at a time on the decision of the Directorate of Immigration.

The provisions of Sections IV, V and VII of the Executive Procedure Act regarding the right of rebuttal, the notification of decisions, reasoning, etc., and regarding appeals against executive decisions, and the appropriate provisions of Section I of this Act, do not apply to decisions on provisional residence permits. Provisional residence permits have no legal implications other than those specified in statutes or regulations.

A residence permit granted under this article cannot constitute the basis of a permanent residence permit.

## SECTION X

### **Other residence permits**

#### Art. 78

##### *Residence permits based on special ties to Iceland*

A foreign national may be granted a residence permit based on special ties to Iceland, if the conditions of art. 55(1) and (2) are met, if he/she is older than 18 years and is not covered by provisions for other residence permits in this Act or does not fulfil their requirements.

Special ties can include ties that a foreign national has established during his/her stay in Iceland under a residence permit that may not be renewed or that has been revoked due to changed circumstances or other events.

A comprehensive assessment of an applicant's connection to Iceland shall be made. That

assessment shall normally consider the length of lawful stay. The following may also be taken into account:

- a. family ties, i.e. the family situation of the applicant in regard of the provision of care, and
- b. social and cultural ties with Iceland based on working in the country or other similar connections.

Notwithstanding that the foreign national has not lived in Iceland, he/she may in exceptional circumstances be deemed to have special ties to the country when a comprehensive assessment of his/her circumstances indicates this, e.g. if compelling reasons to provide care exist and they would obviously make it unfair to deny an applicant a residence permit.

Special ties to Iceland as provided for in para. 2 cannot include those ties established by a foreign national staying in Iceland under the provisions of arts. 64, 65, 66, 67, 68, 75, 76 or 77. Nor do special ties under these provisions mean family connections of the foreign national; this is provided for under the provisions of Section VIII. Nor does it mean a stay on the basis of art. 21. If a foreign national's residence permit or permanent residence permit has been revoked under the provisions of art. 59, where the foreign national has at the time of application knowingly provided incorrect information or concealed something that could be of significant importance regarding granting of the permit, e.g. in the case of a fraudulent act under art. 70(8), or if there is a reason to suspect this, the ties that the foreign national may have established with Iceland during that period do not qualify as special ties and the granting of a residence permit under this article shall be denied.

A residence permit may be granted under these provisions even if the foreign national failed briefly to fulfil the conditions of art. 55(1) regarding adequate means of support, if compelling reasons of fairness so recommend.

A residence permit granted under this article shall not be issued for longer than one year. A residence permit may be renewed under this article, provided that the initial reasons for granting the permit are unchanged.

A residence permit granted under this article can constitute the basis of a permanent residence permit.

The Minister makes further provisions in a regulation for granting residence permits under this article, including about the reasons for a stay, what viewpoints shall be taken into account when considering whether special ties to the country exist, and when it may be necessary to apply the exceptions in para. 4.

Art. 79

*Residence permits on the basis of a lawful and special purpose*

A foreign national may be granted a residence permit based on a lawful and special purpose, provided that conditions of art. 55(1) and (2) are fulfilled, if he/she is older than 18 and is not covered by another article providing for a residence permit pursuant to this Act. A residence permit granted under this article shall only be issued for one year at a time. The residence permit may be renewed if the purpose for the stay continues unchanged.

A residence permit granted under this article cannot constitute the basis of a permanent residence permit.

The Minister makes provisions in a regulation for guidance about what shall be considered a lawful and special purpose.

SECTION XI

**Special Rules on Foreign Nationals covered by the European Economic Area (EEA) Agreement and the European Free Trade Association (EFTA) Treaty**

Art. 80

*Scope*

The provisions of this Section apply to the rights of foreign nationals of states covered by the EEA Agreement or EFTA Treaty to enter and stay in Iceland.

The provisions of this Section also apply to family members of EEA and EFTA nationals who accompany them to Iceland or join them there. The provisions of the Section apply furthermore to family members of Icelandic nationals who accompany them or join them when they return to Iceland after having availed themselves of their right to free

movement under the EEA Agreement or EFTA Treaty in another EEA or EFTA state.

#### Art. 81

##### *Arrival and residence*

The right of residence under the provisions of this Section confers the right to stay anywhere in Iceland unless restrictions have been adopted pursuant to this Act or rules adopted by virtue of it.

The right of residence under the provisions of this Section does not prevent a foreign national under art. 80 para. 1 from obtaining a residence permit under other provisions of this Act.

A foreign national who is neither a national of an EEA or EFTA state, nor a family member of such a national, may enter Iceland without special authorisation to provide services for up to 90 working days per calendar year, if he/she is verifiably an employee of a service provider in an EEA or EFTA state.

An EEA or EFTA national cannot be refused enjoyment of his/her rights on the sole grounds that he/she does not hold a registration certificate under art. 89, a certificate or card which confirms his/her right to permanent residence under art. 91, a document attesting that an application for a residence card for family members has been submitted or a residence permit under art. 90, where the person concerned can prove his/her right with various other documents.

Family members who are not EEA or EFTA nationals shall be exempt from visa requirements if they hold a valid residence permit card under art. 90. Such visas shall otherwise be issued without charge as promptly as possible and be granted expedited process pursuant to general rules.

If an EEA or EFTA national or a family member who is not an EEA or EFTA national lacks the necessary travel documents or prescribed visas, if these are required, before such individuals are denied entry they shall be given an opportunity to obtain the necessary documents or have them sent within a reasonable period of time, or to have their testimony substantiated or by other means obtain recognition that they are covered by the right to free movement and residence.

The Minister may make further provisions in a regulation under this article, including expedited procedure under para.5.

Art. 82

*Residence by family members of EEA or EFTA nationals*

Family members of an EEA or EFTA national covered by the provisions of this Section are entitled to reside with that national in Iceland. Family members of EEA or EFTA nationals with a right of residence or right to permanent residence in Iceland shall be entitled to undertake employment or be self-employed in the country regardless of nationality.

Family members of an EEA or EFTA national are:

- a. a spouse or cohabiting partner, if the parties are in registered partnership or cohabitation is confirmed by other means;
- b. a direct descendant of the person concerned, his/her spouse or cohabiting partner, who is younger than 21 years of age or dependent upon or supported by the national;
- c. a relative by direct descent of the person or of his/her spouse or cohabiting partner, who is supported by the national.

Art. 83

*Right of residence for up to three months*

An EEA or EFTA national who presents a valid passport or identity card may enter Iceland without a specific permit and reside in Iceland for up to three months after entering the country, as long as his/her stay does not cause an unreasonable burden on the social assistance system.

An EEA or EFTA national covered by the definition in para.1 who is seeking employment may reside in Iceland for up to six months after entering the country. The same applies to the national's family members.

A stay in another Nordic country shall not be deducted from this period of residence.

The provision of para. 1 also applies to family members of EEA or EFTA nationals who are not themselves EEA or EFTA nationals, provided that the family member accompanies or joins the EEA or EFTA national and holds a valid passport.

The Minister may make further provisions in a regulation pursuant to this article, including on the calculation of the length of stay. The Minister responsible for social affairs may issue further instructions in a regulation concerning the definition of the concept of an “unreasonable burden” on the social assistance system in consultation with the Icelandic Association of Local Authorities.

#### Art. 84

##### *Right of residence for longer than three months for EEA or EFTA nationals*

EEA or EFTA nationals are entitled to reside in Iceland for longer than three months if they satisfy one of the following conditions:

- a. are employed or self-employed in Iceland,
- b. intend to provide or avail themselves of services in Iceland and furthermore satisfy the requirements of subparagraph c, as applicable,
- c. have sufficient funds for themselves and their family members so as not to place a burden on the social assistance system while in residence and are covered by health insurance covering all risks during their period of residence in Iceland,
- d. are enrolled in a recognised educational institution with the aim of obtaining education or work training; are covered by health insurance covering all risks during their period of residence in Iceland and can provide proof of secure means of support.

EEA or EFTA nationals may be required to present satisfactory travel documents or documentation confirming that they meet the requirements of para. 1(a), (b) or (c), but cf. art. 81(4). The national may also be required to present satisfactory travel documents and attest with a declaration or by equivalent means that he/she satisfies the requirements of para. 1(d), but cf. art. 81(4).

EEA or EFTA nationals residing in Iceland, cf. para. 1(a), who cease to be employed or self-employed retain their status as such under the following circumstances:

- a. while temporarily unable to work due to illness or accident,
- b. if they confirm that they are unemployed involuntarily after having been in paid employment for over one year and are at the same time actively seeking employment under the Act on Unemployment Insurance,
- c. if they confirm that they are unemployed involuntarily after concluding an

employment contract for a period of at least one year or have involuntarily lost their job during that period and are at the same time actively seeking employment under the Act on Unemployment Insurance; in such a case they shall retain their status as employees for at least six months,

- d. if they commence work training; if unemployment has not been voluntary the person shall retain his/her status as an employee only if the training is linked to his/her previous work.

The Minister may issue detailed provisions in a regulation pursuant to this Article, including on documentation under para. 2, definition of sufficient funds, cf. para. 1(c), and on the rights of EEA or EFTA nationals under para. 1(a) to continue residence after ceasing work, together with their family members.

#### Art. 85

##### *Right to residence of over three months for family members who are EEA or EFTA nationals*

EEA or EFTA nationals accompanying or joining EEA or EFTA nationals entitled to residence under art. 84(1)(a), (b) or (c) may reside in Iceland as long as the national's residence right exists. This provision does not affect the national's independent residence right under art. 84.

An EEA or EFTA national who is a spouse, cohabiting partner, child or young person under 21 years of age accompanying or joining an EEA or EFTA national entitled to residence under art. 84(1)(d) may reside in Iceland as long as the national's residence right exists.

If an EEA or EFTA national leaves Iceland or dies their family members who are EEA or EFTA nationals enjoy the right of residence as long as they satisfy the requirements of art. 84 (1). Children of EEA or EFTA nationals and the custodial parent may reside in Iceland as long as the minor is enrolled in a recognised educational institution.

Notwithstanding a divorce, annulment of a marriage or separation, family members of EEA or EFTA nationals retain their residence right as long as they satisfy the conditions of art. 84(1).

Art. 86

*Right to reside for longer than three months for family members of EEA or EFTA nationals and foreign nationals who are not EEA or EFTA nationals*

The provisions of art. 85(1) and (2) apply as applicable to foreign nationals who are not EEA or EFTA nationals but are family members of EEA or EFTA nationals with residence rights pursuant to art. 84(1)(a), (b) or (c). The same applies to spouses, cohabiting partners, minors or young people under 21 years of age accompanying or joining EEA or EFTA nationals with residence rights pursuant to art. 84(1)(d).

On the death of an EEA or EFTA national, family members who are not EEA or EFTA nationals retain their residence rights if they have resided in Iceland as a family member of an EEA or EFTA national for at least one year prior to the death of the national as long as they satisfy the requirements of art. 84(1)(a), (b) or (c), or reside in Iceland as family members of an individual who satisfies those requirements. Children of an EEA or EFTA national and the custodial parent them may reside in Iceland if the national leaves the country or dies, regardless of the requirements of the Article in other respects, as long as the minor resides in Iceland and is enrolled in a recognised educational institution.

Notwithstanding divorce, annulment of a marriage or separation, spouses or cohabiting partners of EEA or EFTA nationals who are not EEA or EFTA nationals retain their residence rights as long as they satisfy the requirements of art. 84(1)(a), (b) or (c), and provided that:

- a. the marriage or cohabitation had existed for at least three years, of which at least one was in Iceland, when the divorce, annulment or separation took place,
- b. the custody of the child of the EEA or EFTA national has been awarded to the spouse or cohabiting partner concerned by an agreement or a court decision,
- c. the spouse, cohabiting partner or child/children concerned have been victims of violence or other grave abuse in the marriage or cohabitation,
- d. the spouse or cohabiting partner has been granted visitation rights to the minor in Iceland by agreement or a court ruling.

Art. 87

*Right of EEA or EFTA nationals to permanent residence*

EEA or EFTA nationals who under art. 84 or 85 have resided lawfully in Iceland continuously for at least five years are entitled to permanent residence in Iceland. The right of permanent residence is not subject to the conditions of arts. 84 and 85. The right of permanent residence is void if the person concerned resides outside the country for a continuous period of over two years.

Residence abroad for a period totalling less than six months per year, residence abroad due to military service or a residence in one instance of a maximum of one year for exigent reasons, such as pregnancy, childbirth, serious illness, study or training, or work abroad for which the person concerned has been seconded is not deemed an interruption of continuous residence under para.1.

EEA or EFTA nationals who have resided in Iceland under art. 84(1)(a) acquire the right to permanent residence, despite not having continuous residence for five years if they:

- a. have upon retirement reached mandatory age for old-age pension in Iceland or left paid employment to take early retirement, provided that they have resided in Iceland continuously for over three years and have worked in the country for a continuous period of at least 12 months when they cease employment,
- b. have resided in Iceland continuously for over two years but have had to cease employment due to permanent disability or
- c. have worked in another EEA or EFTA state after having worked and resided in Iceland continuously for at least three years and are regarded as having continued to reside in Iceland, provided they have returned to their home in Iceland at least once a week.

If the disability under para. 3(b) is the result of an occupational illness or accident which entails a right to partial or full compensation from social insurance, requirements on length of residence do not apply.

An EEA or EFTA national who is a family member of an individual entitled to permanent residence under para. 3, and who resides with that person, acquires the right to permanent residence from the commencement of the right to permanent residence of the individual

from whom he/she derives the right to permanent residence under para. 3.

EEA or EFTA nationals who are family members of an individual entitled to residence under art. 84(1)(a) and who reside with that person, acquire the right to permanent residence on the death of the latter, even if the deceased had not acquired the right to permanent residence under para. 1 or 3, if:

- a. the deceased had resided in Iceland for a continuous period of at least two years prior to his/her death,
- b. the deceased died as the result of an occupational accident or occupationally related illness.

The Minister may make further provisions in a regulation under this article, including a definition of continuous residence.

#### Art. 88

##### *Right of family members who are not EEA or EFTA nationals to permanent residence*

Family members of EEA or EFTA nationals who are not themselves EEA or EFTA nationals but have resided with EEA or EFTA nationals, cf. art. 86(1), and have resided in Iceland legally for a continuous period of at least five years, acquire the right to permanent residence in Iceland. The same applies to family members who are not EEA or EFTA nationals who have resided in Iceland lawfully for at least five years, cf. art. 86(2) clause 1 or (3). The right to permanent residence is independent of the conditions in Art. 84. The right to permanent residence is cancelled if the person concerned resides outside of Iceland for a continuous period of over two years.

Residence abroad for a total period of less than six months per year, residence abroad due to military services or residence in a single instance for a maximum of one year for exigent reasons, such as pregnancy, childbirth, serious illness, study or training, or work abroad for which the person concerned has been seconded is not considered an interruption of continuous residence under para. 1.

The entitlement to permanent residence under art. 87(5) and (6) also applies to family members who are not EEA or EFTA nationals.

The Minister may make further provisions in a regulation pursuant to this article,

including on the definition of continuous residence.

Art. 89

*Registration certificate*

EEA or EFTA nationals and their family members residing in Iceland pursuant to art. 84 or 85 for more than three months must register with the authorities. The deadline for registration is three months from the date of arrival in Iceland. A registration certificate shall be issued as promptly as possible once the applicant has submitted the documentation listed in paras. 2 and 3.

When registering EEA or EFTA nationals pursuant to art. 84 the authorities may request them to present, in addition to a valid identity card or passport:

- a. confirmation of employment from an employer or proof that they are self-employed or offer services, cf. art. 84(1)(a) or (b),
- b. confirmation of health insurance and documentation that they have sufficient funds to support themselves and their family members, cf. art. 84(1)(c),
- c. confirmation of enrolment to study at a recognised educational institution, confirmation of health insurance and documentation that they have sufficient funds to support themselves and their family members, cf. art. 84(1)(d).

When registering EEA or EFTA nationals residing in Iceland as family members under art. 85 the authorities may request them to present, in addition to a valid identity card or passport:

- a. documentation attesting to the family relationship which is the basis for the right to residence,
- b. the registration certificate of the EEA or EFTA national whom the foreign national is accompanying to or joining in Iceland,
- c. confirmation of means of support when the person's right as a family member is subject to the support of an EEA or EFTA national, cf. art. 82(2)(b) and (c).

The Minister may make further provisions in a regulation pursuant to this article, including on the procedure for registration and issue of a registration certificate, the fee which may be charged for the issue of the same and the obligation of EEA or EFTA

nationals seeking employment to register if they obtain employment after the expiration of the time limit under para. 1.

Art. 90

*Residence card for foreign nationals who are not EEA or EFTA nationals entitled to residence under Art. 86*

Foreign nationals residing in Iceland pursuant to art. 86 for more than three months must have a residence card issued. The deadline for application is three months from the date of arrival in Iceland. Confirmation of application is issued directly upon presentation by the applicant of the documentation listed in para. 2.

An application for a residence card for family members must be accompanied by the following documentation:

- a. a valid passport,
- b. documentation attesting to the family relationship which is the basis for the right to residence,
- c. the registration certificate of the EEA or EFTA national whom the foreign national is accompanying to or joining in Iceland,
- d. confirmation of means of support when the family member's right is subject to the support of the other person, cf. art. 82(2)(b) and (c).

An application for a residence card shall be processed within six months of its submission. The residence card is valid for five years from the date of issue or as long as the period of residence of the EEA or EFTA national if that is a shorter period. The residence card is cancelled if the person concerned resides abroad for over six months per year unless special reasons exist.

The Directorate of Immigration makes a decision on issuing a residence card under this provision after receiving the application.

The Minister may issue further instructions in a regulation pursuant to this provision, including on the procedure for registration and issue of a residence card, the fee which may be charged for the issue of the same, the necessary documentation, cf. para. 2, the period of validity of the residence card and further requirements for residence abroad not

to impact a continuous stay in Iceland, cf. para. 3.

#### Art. 91

##### *Certificates and cards attesting to the right to permanent residence under arts. 87 and*

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EEA or EFTA nationals entitled to permanent residence in Iceland under art. 87 receive, as promptly as practicable following application, a certificate attesting to their right to residence for an unlimited period.

Foreign nationals entitled to permanent domicile in Iceland under art. 88 receive a card attesting to the right to permanent residence based on their application. An application for such a card shall be processed before the end of the period of validity of the residence card under art. 90.

The Minister may issue further instructions in a regulation pursuant to this provision, including on the procedure for registration and issue of certificates and cards attesting to the right to permanent residence and on the fee which may be charged for issue of the same.

#### Art. 92

##### *Lapse of residence right of EEA or EFTA nationals or their family members*

The right to residence pursuant to the provisions of this Section shall lapse if the foreign national has deliberately provided incorrect information or concealed details of significance, in the case of an fraudulent act under art. 70(8), or residence for a purpose other than those consistent with art. 84, 85 or 86. The same applies in other cases of abuse of right.

The issue of a residence card may be refused if there are grounds to suspect that a marriage or cohabitation was entered upon for the sole purpose of obtaining a residence permit and reliable proof to the contrary is not provided, or if there are grounds to suspect that a marriage was not carried out with the consent of both spouses, or if the original marriage was contrary to public order and principles of Icelandic law.

The right to reside in Iceland pursuant to art. 84(1)(a) or (b) does not lapse due to temporary illness or accident or in the case of involuntary unemployment of EEA or EFTA

nationals after they have worked in Iceland for over one year.

The Directorate of Immigration decides whether the right to residence provided for in this Section lapses.

The Minister may issue further instructions in a regulation pursuant to this provision, including limitations on the lapse of the right to residence.

#### Art. 93

##### *Revocation of residence cards or certificates and cards attesting to the right to permanent residence*

With reference to art. 92, registration certificates, residence cards and certificates and cards attesting to the right to permanent residence may be revoked.

Registration certificates and residence cards may also be revoked if the registration is invalid for other reasons.

Certificates and cards under para. 1 shall be revoked when the right to residence lapses under art. 87(1) clause 3 or art. 88(1) clause 4.

The residence cards of foreign nationals who are not EEA or EFTA nationals shall be revoked if the foreign national is granted a residence permit under another Section of this Act.

The Directorate of Immigration makes decisions on revocation under this provision.

#### Art. 94

##### *Refusal of entry to EEA or EFTA nationals or their family members*

EEA or EFTA nationals and their family members may be denied entry to Iceland upon arrival or expelled during the seven days following their arrival if:

- a. the persons concerned do not satisfy those rules set regarding travel documents or arrival in Iceland, cf. however, art. 81(6),
- b. the persons concerned have been expelled and the re-entry ban is still in force and they have not been granted authorisation to enter Iceland,
- c. they conduct themselves as described in art. 95(1),
- d. this is necessary for reasons of public order, public security or public health.

A Commissioner of Police shall make a decision on refusal of entry pursuant to para. 1(a) and (b), and the Directorate of Immigration shall make decisions under para. 1(c) and (d). It is sufficient that action in the case be initiated within the seven-day limit. Within that time limit the foreign national may be provisionally refused entry into Iceland. Such a decision cannot be appealed.

If action in cases under para. 1 has not been initiated within seven days, EEA or EFTA nationals may be denied entry by a decision of the Directorate of Immigration under provisions of para. 1(b), (c) or (d) within three months of their arrival in Iceland.

#### Art. 95

##### *Expulsion of EEA or EFTA nationals or their family members*

EEA or EFTA nationals or their family members may be expelled from Iceland if this is necessary with reference to reasons of public order, public security or public health.

A decision on expulsion under para. 1 may be made if the conduct of the person concerned presents a real, impending and sufficiently serious threat to the fundamental interests of society. A decision on expulsion may not be based solely on general preventive grounds. If the person concerned has been sentenced to punishment, or special measures decided upon, expulsion on this basis is only authorised in the case of conduct which could indicate that the person concerned will commit a punishable offence again. Previous penal convictions alone do not suffice to apply expulsion.

EEA or EFTA nationals or their family members may also be expelled if they do not satisfy the requirements for residence under art. 83, 84, 85 or 86.

Individuals entitled to residence pursuant to art. 83 may be expelled if deemed necessary to protect public health or if the public authorities have taken security measures regarding the health of their own nationals.

The Directorate of Immigration makes decisions on expulsion under this provision.

#### Art. 96

##### *Re-entry ban on EEA or EFTA nationals or their family members*

Expulsion under art. 95(1) and (4) entails a prohibition on subsequent re-entry into Iceland. The re-entry ban may be permanent or temporary, but not for a period shorter

than two years. In assessing this attention shall be paid especially to those points listed in art. 95(1) and (2).

On application, a re-entry ban may be cancelled if new circumstances so warrant and grounds are given to show substantial changes in the circumstances which justified the re-entry ban. A decision shall be made as to whether the re-entry ban is to be cancelled within six months of the submission of an application. Persons subject to a re-entry ban are not entitled to enter Iceland while their application is being processed.

Under exceptional circumstances a person who has been expelled may, after making application, be granted authorisation for a brief visit to Iceland without the re-entry ban having been cancelled, but normally not until at least one year has passed from the expulsion.

The Directorate of Immigration makes decisions on authorising the re-entry of EEA or EFTA nationals or their families who have been expelled from Iceland.

#### Art. 97

##### *Restrictions on authorisation for expulsion under Art. 95*

Notwithstanding the provisions of art. 95, a decision on expulsion shall not be taken if the person concerned:

- a. is entitled to permanent residence under art. 87 or 88, unless there are serious reasons for this based on public order or public security,
- b. is an EEA or EFTA national or family member of that person and has been permanently domiciled in Iceland for ten years, unless a decision on expulsion has been made for urgent reasons concerning public safety,
- c. is an EEA or EFTA national or family member of that person under the age of legal majority, unless a decision on expulsion is made for urgent reasons concerning public security; this does not apply, however, to a minor if his/her expulsion is necessary in order to safeguard his/her own interests, as prescribed in the UN Convention on the Rights of the Child.

A decision on expulsion shall not be made if, account being taken of the circumstances in the case and the ties of the EEA or EFTA national or family member with Iceland, that

would entail an unfair action towards the person concerned or his/her immediate family members. In assessing this, consideration must be given to the person's length of residence in Iceland, age, health, social and cultural integration, family and financial circumstances and ties with his/her home country.

Expulsion shall not be an automatic consequence of EEA or EFTA nationals or their family members seeking social assistance. Nor shall a decision to expel be made on the sole grounds that an identity card or passport has expired.

Notwithstanding the provisions of art. 95, EEA or EFTA nationals or their family members may not be expelled if the person:

- a. satisfies the conditions in art. 84(1)(a),
- b. is seeking employment, as long as the person concerned can provide proof that he/she is actively seeking work and has a real possibility of obtaining employment.

## SECTION XII

### **Refusal of Entry and Expulsion**

#### Art. 98

#### *Expulsion of foreign nationals without a residence permit*

Foreign nationals without a residence permit may be expelled if:

- a. they are residing in Iceland illegally,
- b. they have seriously or repeatedly violated one or more provisions of this Act, have deliberately or through gross negligence given substantially incorrect or misleading information in a case pursuant to this Act, or failed to comply with a decision entailing that they must leave the country,
- c. they have during the past five years served a prison sentence abroad or been sentenced there to punishment for conduct which under Icelandic law would be subject to imprisonment of longer than three months. The same applies to special measures decided upon in connection with such punishable conduct,
- d. they have been sentenced for a punishable offence in Iceland, or to be subject to security measures for conduct liable to imprisonment, for longer than three months or have been sentenced to imprisonment more than once in the past three years,

- e. authorities in a Schengen state have made a final decision on their refusal of entry or expulsion for violations of statutory provisions on the admission and residence of foreign nationals,
- f. this is necessary for public security or the interest of the public.

Insofar as art. 102 does not apply, foreign nationals without residence permits shall be expelled:

- a. if they have not left the country by a specified deadline, cf. art. 104(2),
- b. if they have not been granted a time limit to depart from the country voluntarily, under art. 104(2):
  - 1. due to a risk that they will abscond,
  - 2. due to the fact that their application for a residence permit or international protection has been rejected as being manifestly unfounded or because incorrect or misleading information was provided,
  - 3. due to their being considered a threat to public order, state security or the interests of the public, cf. art. 104(2)(c).

#### Art. 99

##### *Expulsion of a foreign national holding a residence permit*

Foreign nationals with a residence permit may be expelled if:

- a. they have seriously or repeatedly violated one or more provisions of this Act or have deliberately or through gross negligence given substantially incorrect or misleading information in a case pursuant to this Act,
- b. they have during the past five years served a prison sentence abroad or been sentenced there to punishment for conduct which under Icelandic law would be subject to imprisonment of longer than one year. The same applies to special measures decided upon in connection with such punishable conduct,
- c. they have been sentenced for a punishable offence in Iceland, or to be subject to security measures for conduct liable to imprisonment for longer than one year, or have been sentenced to imprisonment more than once in the past three years,
- d. this is necessary for public security or the interest of the public.

If the violation was committed before the foreign national was granted a residence permit,

the provisions of art. 98 apply.

#### Art. 100

##### *Expulsion of a foreign national holding a permanent residence permit*

Foreign nationals with a permanent residence permit may be expelled if:

- a. they have served a prison sentence or been sentenced for a punishable offence which under Icelandic law would be liable to imprisonment for three years or more during the past five years abroad or during the past year in Iceland. The same applies to special measures decided upon in connection with such punishable conduct,
- b. this is necessary for public security or the interest of the public.

If the offence was committed before the foreign national was granted a permanent residence permit, the provisions of art. 99 apply.

#### Art. 101

##### *Effect of expulsion and prohibition on re-entry*

A final decision on expulsion cancels any residence permit, work permit and permanent residence permit.

Expulsion entails a prohibition on re-entering the country at a later date. The re-entry ban may be permanent or temporary but shall normally apply for not less than two years.

On application, a re-entry ban may be cancelled if circumstances have changed since the decision on expulsion was made. In exceptional circumstances, however, generally not until at least two years have elapsed, and on application, persons who have been expelled may be allowed to visit Iceland without the re-entry ban being cancelled.

The Minister may make further provisions in a regulation on the re-entry ban, for instance, on its duration.

#### Art. 102

##### *Protection against refusal of entry and expulsion. Restrictions on a decision to expel.*

Foreign nationals born in Iceland may not be denied entry to or expelled from Iceland if they have from birth been domiciled continuously in Iceland according to the National Registry.

Nordic nationals who have resided in Iceland for longer than three months can only be denied entry to or expelled from Iceland in the case of punishable conduct entailing imprisonment of one year or longer.

A decision to expel shall not be made if, account being taken of the circumstances in the case, the severity of the offence or the foreign national's ties with Iceland, it would constitute an unfair action towards the foreign national or his/her family members. Special consideration shall be given to cases where a minor or a minor's family member is involved, and the decision shall be guided by the interests of the child.

The provisions of para. 3 do not apply when expulsion is necessary due to state security or the public interest, cf. art. 98(1)(f), of art. 99(1)(d), and art. 100(1)(b).

The Minister may make more detailed provisions in a regulation on assessment of circumstances under para. 3.

#### Art. 103

##### *When a decision can be implemented*

A decision on expulsion under art. 106 may be implemented immediately. Refusal of an application for renewal of a residence permit or for a permanent residence permit applied for within the time limit under art. 57(2) cannot be implemented until the decision is final. The same applies to a decision on revocation under art. 59 and to a decision on the expulsion of a foreign national holding a residence permit or permanent residence permit, an EEA or EFTA national registered in Iceland under Section XI or a Nordic national who has resided in Iceland for longer than three months. In other respects the provisions of art. 29 of the Public Administration Act apply on the postponement of legal effect.

The Directorate of Immigration may postpone for a reasonable period the enforcement of a decision entailing that a foreign national must leave Iceland if deemed necessary due to the person's special circumstances or if it is impossible to enforce the decision for the time being.

Before a decision is made entailing that an unaccompanied minor must leave Iceland, the Directorate of Immigration shall verify that the minor is ensured the assistance of a child protection committee, and that the child's interests are paramount, cf. art. 3(5). Before

such a decision is implemented the Child Protection Agency shall verify that there are relatives, guardians or satisfactory reception facilities for minors in the state to which the minor is to be removed.

Neither an application for a residence permit, made for the first time, nor an application for renewal applied for after the time limit under art. 57(2) may be refused until the foreign national has been given the opportunity to appeal.

Art. 35 applies concerning when decisions in connection with applications for international protection or protection from persecution may be implemented.

#### Art. 104

##### *Enforcement of a decision*

When an application for a residence permit or renewal of a residence permit for foreign nationals currently in Iceland is refused, their authorisation to continue to stay in Iceland must be stated clearly.

In cases under para.1 and in other cases where a foreign national is not entitled to reside in Iceland, or a decision entails that a foreign national is to leave the country the person shall be instructed in writing that he/she must leave. The Directorate of Immigration shall normally grant foreign nationals a time limit of 7-30 days to depart voluntarily from the country. A shorter time limit may be granted or the time limit may be cancelled if:

- a. there is a risk that the foreign national will abscond, cf. art. 105(3)(a),
- b. a foreign national's application for a residence permit or international protection is deemed manifestly unfounded or he/she has deliberately provided misleading or incorrect information in the application,
- c. this is necessary for state security or in the interest of the public,
- d. the foreign national is subject to art. 36(1), so that his/her application for international protection will not be processed in Iceland,
- e. the foreign national is expelled from Iceland based on art. 98(1)(b), (c) or (d), or art. 99 or 100,
- f. the foreign national is denied entry or expelled at the outer boundary of the Schengen Area.

When considered necessary for the sake of fair treatment, the Directorate of Immigration may grant a time limit longer than that provided in para. 2. Assessment of whether a longer time limit shall be granted shall be made on a case-by-case basis, taking account of the foreign national's circumstances.

During the time limit under para. 2, or once enforcement of a decision has been postponed under art. 103(2), it must be ensured that foreign nationals are able if at all possible to reside with their families, if they are in Iceland, and receive necessary health care services, and that consideration is given to any special needs which may exist as a result of their vulnerable position. Minors shall also be ensured access to compulsory education.

Foreign nationals must notify the Directorate of Immigration of their proposed departure and provide proof that they have left the country. If foreign nationals fail to depart from Iceland as instructed, a time limit under para. 2 is not granted, or there is probability that they will not leave voluntarily, the police may escort them out of the country. In exceptional circumstances foreign nationals may be sent to a country other than that from which they came. If foreign nationals have valid authorisation to reside in another EEA or EFTA state they shall be sent there. Decisions concerning enforcement cannot be appealed specifically. Foreign nationals covered by this provision who lack valid travel documents must obtain these.

Initiating a court action to invalidate a final decision at administrative level instructing a foreign national to leave Iceland does not postpone its enforcement. At the request of the foreign national, however, the Immigration and Asylum Appeals Board may decide to postpone the legal effect of a final decision if this is deemed warranted. A request to this effect must be submitted no later than seven days after the final decision has been made known. Postponement of legal effect shall be conditional upon the foreign national referring the case to the courts within five days of the decision on postponing the legal effect of a ruling being made known and requesting that the case receive expedited procedure. Should a request for expedited procedure be refused, the case must then be brought within seven days of refusal. The Immigration and Asylum Appeals Board may, however, decide to postpone enforcement if it is demonstrated that circumstances have changed substantially since the final decision was made.

The police and the Directorate of Immigration carry out enforcement of decisions on refusal of entry and expulsion. The Directorate of Immigration may entrust recognised international agencies with providing assistance and accompanying applicants for international protection to their home state if the applicants themselves request this. In such instances the applicants may be granted financial assistance based on their country of origin, family size, at what stage in the processing of the case a request for repatriation assistance was presented and whether they are considered to be in an especially vulnerable position, cf. art. 25(1). If applicants do not require the assistance of an international agency to return home voluntarily the applicants may be granted a travel grant. It is a condition for obtaining financial assistance or a travel grant that applicants themselves request assistance, have not been the object of a decision to expel, and assist in obtaining necessary information and documentation.

The Minister makes provisions in a regulation on monitoring the enforcement of refusal of entry and expulsion under para. 7, together with detailed rules on voluntary repatriation and the amounts of travel grants and financial assistance.

#### Art. 105

##### *Coercive measures to ensure enforcement of a decision*

To ensure that a decision under art. 104 is implemented and in those instances where foreign nationals can be expected to abscond or conduct themselves in a manner indicating that they pose a threat, the police may instruct the foreign nationals to:

- a. report to them,
- b. hand over their passport or other identity card, cf. art. 19; and
- c. remain within a certain demarcated area.

The instructions under para. 1 may only be given if there is reason to expect that foreign nationals may attempt to abscond under art. 104, or in those instances where foreign nationals conduct themselves in a manner indicating that they pose a threat to the society. The instructions do not apply for longer than four weeks unless the foreign nationals agree to this or a judge decides otherwise with reference to rules on procedure in criminal cases.

In assessing whether there is reason to expect that foreign nationals will attempt to abscond under art. 104 consideration may be given to the general experience of evasion.

In other respects account must be taken of the circumstances in each individual case. An overall assessment shall be made of the circumstances in a foreign national's case, taking account among other things of whether:

- a. the foreign national has previously absconded, e.g. by not respecting the time limit allowed under art. 104(2),
- b. the foreign national has expressed his/her opposition to leaving the country voluntarily,
- c. the foreign national has been expelled,
- d. the foreign national has been sentenced to punishment or other security measure in Iceland,
- e. the foreign national has not been co-operative in determining his/her identity,
- f. the foreign national has avoided or impeded preparations for repatriation,
- g. the foreign national has provided authorities in Iceland with incorrect information in connection with an application for a residence permit or international protection,
- h. the foreign national is responsible for disturbing the peace at or near a reception centre or accommodation of applicants for international protection,
- i. the foreign national is considered a threat to state security or the public interest.

If necessary in order to ensure enforcement, the foreign national may be arrested and placed in detention under the Criminal Procedure Act as appropriate. The same applies if the foreign national does not take the necessary action to obtain travel documents, cf. art. 104(5), and the purpose is to take the foreign national to a representative of the country in question in order to have travel documents issued.

Detention shall not be ordered for more than two weeks. The period of detention can only be extended if the foreign national does not voluntarily leave the country and there is a probability that he/she will otherwise abscond, cf. art. 104. The period may then be extended for up to two weeks, but no more than twice.

The foreign national may neither be arrested nor detained if this would, having regard to the nature or the case and events in other respects, entail an unfair measure, or if the judge considers it sufficient for the foreign national to be subject instead to measures under para. 1.

Coercive measures under paras. 1 and 4 may be applied when a decision that a foreign national must leave the country has been made and when cases which could result in such a decision are being processed.

Art. 106

*Refusal of entry upon arrival in Iceland*

Foreign nationals may be refused entry to Iceland upon arrival or up to seven days following their arrival if:

- a. they do not satisfy the rules applying to passports, visas or entry into the country,
- b. they have been expelled from Iceland or another Nordic state, the re-entry ban is still in force and they have not been granted authorisation to enter Iceland,
- c. they lack the prescribed permit to reside or work or cannot demonstrate the likelihood of the purpose stated for their residence,
- d. they cannot demonstrate that they have or have ensured themselves sufficient means to reside in Iceland and return home,
- e. they have been sentenced to punishment under art. 98(1)(c) or (d), or art. 99(1)(b) or (c), or there are special grounds for other reasons to fear that they may carry out in Iceland or other Nordic state a punishable offence which could entail imprisonment of over three months,
- f. the rules of art. 6 of the Nordic Passport Convention apply and the foreign national can be expected to travel to another Nordic state and that he/she will in all likelihood be denied entry there due to failure to satisfy rules on passports or visas, or entry may be denied for other reasons in the state concerned,
- g. the persons are incapable, according to a medical assessment, of handling their own affairs during their stay in Iceland, there is risk that they may through their actions cause damage to themselves or others, or they have a serious communicable disease,
- h. they have not paid the cost of the public authorities for a previous removal from Iceland, cf. art. 107(1), or a fine levied on them during their previous residence,
- i. the person is listed in the Schengen Information System so as to be refused entry to Iceland,
- j. a final decision on expulsion or refusal of entry has been made by a public authority in a Schengen state on the basis that there is reason to believe that he/she committed

a serious crime, or due to grounds for suspicion that he/she intends to carry out such a crime within the Schengen Area,

- k. it is necessary for public order, national security or the international relations of Iceland or another state in the Schengen cooperation.

It is sufficient that action in the case be initiated within the seven-day limit. Within that time limit the foreign national may be provisionally refused entry into Iceland. Such a decision cannot be appealed.

Should a foreign national claim to be a refugee under art. 37, a stateless person under art. 39, or provide other information suggesting that the provisions of art. 42(1) apply, the case shall be submitted to the Directorate of Immigration for processing and a decision.

The Minister may issue a regulation on exemption from the provisions of para.1 with regard to persons holding passports or a residence permit issued by a state participating in the Schengen cooperation.

Foreign nationals may be denied entry to Iceland under the rules of para. 1 even if the seven-day time limit has passed. Processing of the case, however, must commence within nine months of their arrival in Iceland.

Foreign nationals holding a residence permit or permanent residence permit may not be denied entry to Iceland under para.5.

#### Art. 107

##### *Responsibility for costs*

A foreign national expelled from Iceland under this Act must pay the cost of his/her departure. The foreign national shall also pay the cost of escort when this is necessary because he/she does not depart voluntarily. The claim is enforceable by execution and can in addition serve as the basis for refusal of entry upon a subsequent arrival in Iceland, cf. art. 106(1)(h). The police may confiscate tickets in foreign nationals' possession for use upon departure. The same applies to funds for payment of claims for costs upon departure and escort under this provision.

The provisions of para. 1 do not apply in those instances where applicants for international protection are transferred to another participating state based on agreements concluded by

Iceland on criteria and arrangements for determining what state shall handle requests for international protection submitted in Iceland or any of the contracting states, cf. of art. 36(1)(c).

Should a foreign national who has arrived in Iceland on board a vessel or aircraft be refused entry under Art. 94 or 106, the owner or lessor of the means of transport, and on their behalf the captain or their agent in Iceland, must either re-admit the foreign national on board or transport him/her by other means or pay the costs incurred by the public authorities of expelling the foreign national. Similarly, they are obliged to accept an escort and to pay the cost of the escort for the foreign national from Iceland if the police deem this necessary.

The cost of expelling a foreign national which is not paid under paras. 1 and 3 is borne by the Treasury.

Should foreign nationals who require police permission under art. 22 enter Iceland without having obtained such permission, the rules of para. 3 on responsibility for costs apply. The same normally applies to costs which public authorities may incur as a result of a foreign national's residence in Iceland for up to three months.

Liability pursuant to paras. 3 and 5 does not apply to entry into Iceland over a the Schengen Areas internal borders.

## SECTION XIII

### **Coercive and investigative measures**

#### Art. 108

##### *General investigative measures*

A foreign national must assist in establishing his/her identity, to the extent required by an administrative authority under art. 5(3).

Investigative measures under this Section are subject to the provisions of the Criminal Procedure Act.

The Minister makes further provisions in a regulation for what may be required of a foreign national in order to fulfil the provisions of para. 1.

Art. 109  
*Confiscation*

If the identity of a foreign national is in doubt at the time he/she arrives in Iceland or later, police may confiscate his/her travel documents, travel tickets and any other evidence that may serve to establish his/her identity. The same applies if his/her former place of stay is in doubt, if that is relevant for his/her right to stay in Iceland.

The police may require a foreign national to hand over his/her passport or other identification document if there is reason to believe that the foreign national will abscond, cf. art. 105(3), or in the case that the foreign national exhibits conduct which indicates that he/she may pose a threat to public order, the security of the state or the public interest. In assessing whether there is reason to believe that the foreign national will abscond, account may be taken of general experience of such absconding.

Police shall inform the foreign national that he/she may refer the legality of the confiscation to a judge under the provisions of the Criminal Procedure Act.

Art. 110  
*Search of a foreign national's person, home or storage facilities and those of an accomplice*

If there are reasonable grounds to suspect that a foreign national, contrary to directions given under art. 108(1), withholds or conceals information concerning his/her identity, or if he/she, contrary to the provisions of Art. 14, withholds or conceals information concerning his/her former place of stay, or seeks to withhold documents or conceal information in order to prevent the enforcement of a decision to expel under arts. 98 to 100, police may conduct a body search of the foreign national, and search his/her home, a room or any storage facilities, under the rules of the Criminal Procedure Act. The same applies if there is reason to suspect that a marriage has been entered into solely with a view to obtaining a residence permit, or without the consent of both parties, cf. art. 70(8). The same also applies to a party reasonably suspected of assisting the foreign national in withholding documents, or of concealing information on the foreign national's identity.

The decision to carry out a search shall be made by a judge's ruling unless the person concerned gives his/her consent for the search or there is a real risk that waiting for a

judge's ruling would result in the investigation being compromised.

Art. 111

*Photography and fingerprinting*

For the purposes of the investigation, photographs and fingerprints may be taken of a foreign national who:

- a. cannot prove his/her identity, or if there are grounds to believe that he/she is giving incorrect information about his/her identity,
- b. seeks international protection or applies for a permit under this Act,
- c. has been refused international protection or a permit under this Act, or
- d. has been refused entry to Iceland or expelled or may be presumed to be staying illegally in Iceland.

Fingerprints taken under para. 1 may be entered onto a computerised registry. The Minister may make further provisions in a regulation for entry onto, and use of, fingerprint databases in accord with the Act on the Protection of Privacy and the [Processing]<sup>1)</sup> of Personal Data.

<sup>1)</sup>Act no. 90/2018, art. 54

Art. 112

*Genetic testing*

In decision-making in cases where a familial relationship must be proved, the Directorate of Immigration may require an applicant for international protection or a residence permit to undergo a genetic test and to give a genetic sample for that purpose, in order to verify the relationship, if the existing documents of the case are not deemed to provide conclusive proof of the relationship invoked in the case, or a relationship which has significance in the case. Should the foreign national refuse such a test without good reason, it shall be made clear to him/her that this may affect his/her position and the handling of the case.

A fee may be charged for genetic testing; the Minister shall make further provisions in a regulation for the division of the costs, and on the implementation of genetic testing. The applicant may be required to repay all costs of taking the sample and of genetic tests,

if it transpires that he/she has provided incorrect information.

Art. 113

*Age assessment*

If an applicant for international protection or a residence permit on grounds of family reunification is suspected of giving misleading information in the procedure of the case or gives incorrect information about his/her age in the procedure of the case, the relevant authority may require the foreign national to undergo physical tests in order to determine his/her age. The result of such physical tests shall be evaluated in relation to other documents of the case and interpreted in the applicant's favour.

The person in question may not be compelled to undergo age assessment. If a foreign national refuses such tests without good reason, the possible impact on the handling of his/her case shall be made clear to him/her. Refusal of an application for international protection cannot be based solely on the refusal of person in question to undergo age assessment.

The Minister issues a regulation on the implementation of age assessments.

Art. 114

*Foreign national's duty to report and to remain in a specified place*

A foreign national may be required to report regularly on his/her presence in Iceland, or to remain in a specified place, where:

- a. the identity of the foreign national is unknown, the foreign national refuses to identify him/herself, or there are reasonable grounds for suspicion that he/she is giving a false identity,
- b. the foreign national displays conduct that indicates that he/she may pose a threat to public order, the security of the state or the public interest,
- c. it is deemed necessary in order to ensure enforcement, when a decision has been made that a foreign national shall leave the country, and when a case that may lead to such a decision is being processed,
- d. the foreign national has been convicted of a crime for which the penalty is more than six months' imprisonment, or when a reasonable suspicion of such an offence exists,

- e. the only basis for the foreign national's presence in the country is the principle of non-refoulement under art. 42.
- f. the foreign national may be deemed to pose a threat to state security, or if he/she, for other reasons than those specified in subparagraph d, has not complied with a decision that he/she shall leave the country, or if he/she cannot leave the country.

Decisions on the duty to report and/or to remain in a specified place shall be made by a commissioner of police.

The foreign national is entitled to a court ruling on whether the conditions for a decision under para. 1 exist, and whether there is a basis for enforcing the decision. The police shall provide guidance regarding this right to a foreign national who has been compelled to report or to remain at a specified place. Such a procedure is subject to Section XV of the Criminal Procedure Act.

Instructions as provided in para. 1c may only be given if there is reason to believe that the foreign national will abscond under art. 105(3). The instructions do not remain in force for more than four weeks, unless the foreign national consents, or a judge determines that this shall be the case in accordance with the Criminal Procedure Act

The Minister may make further provisions in a regulation for the implementation of this article.

#### Art. 115

##### *Arrest and detention*

A foreign national may be arrested and detained if:

- a. the identity of the foreign national is unknown, the foreign national refuses to identify him/herself, or there are reasonable grounds for suspicion that he/she is giving a false identity,
- b. the foreign national displays conduct that indicates that he/she may pose a threat to public order, the security of the state or the public interest,
- c. the foreign national has not complied with the requirement to report, or the obligation to stay in a specified place, under art. 114, and his/her case is still being processed by the authorities,

- d. a final decision has been made on expulsion and the legal effects have not been postponed, and the reason for the arrest is to expel the foreign national from the country. This is conditional upon the expulsion being due to a criminal offence, and upon the likelihood, based on the foreign national's circumstances, that he/she will commit further offences,
- e. the foreign national is at an Icelandic airport and the intention is to expel him/her,
- f. the foreign national is deemed a threat to national security in the judgment of the police, cf. art. 26(2), and the intention is to expel him/her,
- g. it is deemed necessary in order to ensure the enforcement of decision that a foreign national is to leave the country, and when a case which may lead to such a decision is under consideration,
- h. the foreign national does not take the necessary measures to acquire travel documents, cf. art. 104(5), and the intention is to bring the foreign national before a representative of the relevant country in order to have travel documents issued.

Measures under this article shall not be applied if a duty to report and/or remain in a specified place under art. 116 is deemed sufficient to achieve the intended objective.

When a coercive measure under para 1(d), (e), (g) or (h) is applied, detention shall not be for longer than two weeks. Detention under these provisions can only be extended if the foreign national does not leave the country of his/her own accord, and it is likely that he/she will otherwise abscond, cf. art. 105(3). Detention can be extended for two weeks at a time, not more than twice.

A foreign national can neither be arrested nor can detention be ordered, if in view of the nature of the case and other circumstances, that would entail an unfair measure, or if it would be sufficient for the foreign national to be subjected instead to other, less stringent measures under this section.

An applicant for international protection under the age of 18 but over the age of 15 may only be detained if he/she has displayed behaviour indicating that he/she poses a threat to public order, the security of the state or the public interest. This measure shall be applied only when other, less stringent, measures under this Act, or provided in the Child Protection Act, cannot be applied or would not attain the objective. In application of this

provision, account shall always be taken of the age of the applicant and his/her needs at any time.

Arrest and detention under this article are subject to the Criminal Procedure Act, as applicable.

Art. 116

*Penal Provisions*

Penalties of fines or imprisonment for up to six months are incurred for the following offences:

- a. wilful or negligent violation of this Act, or any rules, prohibition, order or condition issued under this Act, or
- b. wilful or grossly negligent provision, in a case under this Act, of information which is significantly incorrect or clearly misleading.

Fines or imprisonment for up to two years are incurred for the following offences:

- a. wilful or grossly negligent use of the labour of a foreign national who does not hold the required permit under this Act,
- b. wilful or grossly negligent mediation in providing employment or accommodation for a foreign national, or issue or communication of statements, references or documents for use in a case under this Act, if the foreign national's situation is improperly exploited,
- c. wilfully luring a foreign national to come to Iceland with a view to settling or entering employment, by suggesting, reinforcing or exploiting inaccurate or unclear ideas, or by other improper means,
- d. providing another person with a passport, a refugee travel document, other travel document or similar document that may be used as a travel document, when the person in question is, or should be, aware that the a foreign national could use them to travel to Iceland or another country,
- e. wilfully or by gross negligence assisting a foreign national to reside illegally in Iceland or in another state,
- f. wilfully or by gross negligence assisting a foreign national to enter Iceland or another country illegally,

- g. wilfully or by gross negligence obtaining, or attempting to obtain, a residence permit on the basis of marriage, cf. art. 70(8),
- h. being in possession of a forged passport, forged identification documents or a forged visa.

Involvement in organized activities to assist foreign nationals to enter Iceland or another country illegally entails fines or up to six years' imprisonment, whether the activities are carried out for profit, or not.

If a foreign national is transported to Iceland by sea or air without a satisfactory travel document, and the captain of the ship or aircraft has failed to ascertain that the foreign national is in possession of a valid travel document, cf. art. 18(3), the captain of the craft may be fined.

When an offence is committed in the course of the operations of a legal entity, the legal entity may be fined under Section II A of the General Penal Code.

Attempted violation of the provisions of this Act, and complicity in such violation, is punishable under Section III of the General Penal Code.

#### Art. 117

##### *Repatriation*

A person who is an intermediary in a foreign national coming to Iceland without the required permits shall pay all the costs of removing the foreign national from the country.

### SECTION XIV

#### **State security. Mandated reporting.**

#### Art. 118

##### *Special provisions with respect to state security etc.*

A foreign national may be denied entry and refused issue of a residence permit and permanent residence permit, or be subjected to restrictions or conditions, if deemed necessary due to Iceland's foreign policy, state security or vital national interests. For the same reasons a decision may be enforced sooner than is provided in arts. 35 and 103. Decisions under this clause are made by the Directorate of Immigration.

The Minister may, for reasons of state security, make more detailed provisions in a regulation on mandated reporting than is stated in art. 60 or in rules under art. 119.

Art. 119

*Mandated reporting for others.*

The Minister may issue rules providing:

- a. that a person operating accommodation of any kind or a campsite and similar facilities shall keep a register of persons staying there, and notify the police of them, if the police deem such to be necessary in order to prevent threats, or with respect to a criminal case, or in order to ascertain what has happened to missing persons or victims of accidents,
- b. that the operator or captain of an aircraft arriving in or leaving Iceland shall provide the police with a register of passengers and crew,
- c. that the captain of a ship crossing the limits of Icelandic territorial waters on the way to or from an Icelandic harbour shall provide police with a register of passengers and crew,
- d. that a person who engages a foreign national in his/her service or appoints a foreign national to paid employment shall notify the Directorate of Immigration before such work commences,
- e. that employment agencies shall notify the Directorate of Immigration of any foreign nationals seeking or receiving employment,
- f. that the National Registry shall notify the Directorate of Immigration of foreign nationals registered on the Registry,
- g. that educational institutions shall, upon request, provide the Directorate of Immigration with a register of foreign students,
- h. that public authorities shall, upon request, provide the Directorate of Immigration or police with information on a foreign national's name and address for use in a case under this Act, notwithstanding the provisions on confidentiality in the Municipal Social Services Act and the Child Protection Act.

The Minister may make further provisions in a regulation for the information to be included in registers under para. 1.

Persons subject to notification must provide the information required for the mandated notification to be carried out.

## SECTION XV

Regulations, entry into force, etc.

Art. 120

### *Regulations and rules*

The Minister issues a regulation<sup>1)</sup> or rules on the more detailed implementation of this Act, including:

1. Responsibilities of different bodies, cf. art. 4.
2. Legal assistance and advocates, cf. art. 13.
3. Records to be kept and processing of personal data, cf. art. 17.
4. Travel across borders and conditions for entry, cf. art. 18.
5. Conditions for passports and other identity documents, cf. art. 19.
6. Visas on arrival in Iceland and the Icelandic part of the visa information system, including protection of personal data, cf. art. 20(1), (4), (8) and (9).
7. Long-term visas, cf. art. 21.
8. Permission for disembarkation by foreign seamen, cf. art. 22.
9. Implementation of analysis of special needs and status of applicant for international protection, cf. art. 25.
10. Foundation and general operation of reception centre, cf. art. 27.
11. Rights of applicant for international protection, cf. art. 33.
12. Support for individuals who are granted a residence permit on grounds of arts 43, 73 and 74, cf. art. 45.
13. Documents and requirements for documents for applications for residence permit, cf. art. 52.
14. Expedited procedure for applicants for residence permit, cf. art. 53.
15. Fee for reissue of residence permit certificate, cf. art. 54.
16. Permanent residence permit, cf. art. 58.

17. *Au pair* residence permit, cf. art. 68.
18. Residence permit on grounds of special ties to Iceland, cf. art. 78.
19. Lawful and special purpose, cf. art. 79.
20. Monitoring of enforcement of expulsions, cf. art. 104.
21. What may be required of a foreign citizen in order to establish his/her identity, cf. art. 108.
22. Division of costs and implementation of genetic tests, cf. art. 112.
23. Implementation of age assessment, cf. art. 113.

The Minister may make further provisions in a regulation for the implementation of this Act, including:

1. Procedures and work of the Immigration and Asylum Appeals Board, cf. art. 8.
2. Work of the Refugee Board, cf. art. 9.
3. Who must carry a passport or identity document, cf. art. 14.
4. What information may be provided to foreign authorities and the conditions for doing so, cf. art. 15.
5. Iceland's participation in connection with collaboration on external borders, cf. art. 18.
6. Obligation to hold a visa in order to pass through an airport, and on the Icelandic part of the visa information system, cf. art. 20.
7. Procedure and processing times in cases regarding applications for international protection, cf. art. 23.
8. Applications for international protection and involvement of child protection committees, cf. art. 24.
9. Gathering of information regarding an application for international protection, cf. art. 26.
10. Implementation of interview with applicant for international protection, cf. art. 28.
11. More detailed conditions for application of priority processing, cf. art. 29.
12. Legal assistance in international protection cases, *inter alia* advocates' qualifications and remuneration, cf. art. 30.
13. Procedure regarding requests for postponement of legal effect, cf. art. 35.

14. Implementation of processing of application for international protection, cf. art. 36.
15. Process of applications for recognition of statelessness, cf. art. 39.
16. Conditions for family reunification, cf. art. 45.
17. Implementation of issue and renewal of refugee travel document and passport for foreign national, cf. art. 46.
18. Stay exceeding three months if arising from an international agreement, cf. art. 49.
19. Exemptions from requirement for residence permit, cf. art. 49.
20. Exemption from requirement to apply for a residence permit before arrival in Iceland, cf. art. 51.
21. Further provisions on the fundamental conditions of a residence permit, cf. art. 55.
22. Means of support of an applicant for a residence permit, cf. art. 56.
23. Conditions for renewal of residence permit, cf. art. 57.
24. Conditions for residence permit for volunteers and missionaries, cf. art. 67.
25. Norms for study and employment of applicants for residence permit on grounds of marriage or cohabiting partnership, cf. art. 70.
26. Further conditions for minor's residence permits, including conditions for foster-children, cf. art. 71.
27. Right of residence of EEA and EFTA citizens, *inter alia* on expedited process, cf. art. 81.
28. Instructions on duration of stay, cf. art. 83.
29. Definition of the concept of "unreasonable burden", cf. art. 83.
30. Right of EEA and EFTA citizens to remain longer than three months, cf. art. 84.
31. Right of EEA and EFTA citizens to permanent residence, cf. art. 87.
32. Right of family members who are not EEA or EFTA citizens to permanent residence, cf. art. 88.
33. Registration certificate, cf. art. 89.
34. Residence card, cf. art. 90.
35. Certificate and card attesting to right to permanent residence, cf. art. 91.
36. Lapse of residence right, cf. art. 92.
37. Re-entry ban, and its duration, cf. art. 101.

38. Assessment of circumstances at refusal of entry or expulsion, cf. art. 102.
39. Exemption from refusal of entry on arrival in Iceland with regard to a person who holds a visa or residence permit issued by a nation participating in the Schengen cooperation, cf. art. 106.
40. Databases for fingerprints, cf. art. 111.
41. Obligation of foreign national to report or to remain in a specified place, cf. art. 114.
42. Further provisions regarding state security, cf. art. 118.
43. Other mandated reporters, cf. art. 119.

<sup>1)</sup>*Regs.no. 540/2017, Regs. No. 866/2017*

#### Art. 121

##### *Entry into force*

This Act enters into force on 1 January 2017. At that time the Foreign Nationals Act no. 96/2002, with subsequent amendments, is rescinded. Notwithstanding the first clause, arts. 114 and 115 take effect immediately.

Cases submitted to the Immigration and Asylum Appeals Board before this Act takes effect, but on which a ruling has not been made, are subject to the provisions of this Act.

#### Art. 122

##### Amendments to the Foreign Nationals' Right to Work Act

#### Art. 123

##### *Amendment to the Child Protection Act*

#### Art. 124

##### *Amendment to the Health Insurance Act*

#### Art. 125

##### Amendment to the Icelandic Citizenship Act

**[Temporary provisions**

■ I.

Notwithstanding art. 36(2) clause 2, a period of 9 months shall apply instead of 12 in the case of a minor whose application for international protection was received by Icelandic authorities before this Act took effect, if the applicant has not already left the country.

An applicant who acquires a right under this provision can within fourteen days from this Act taking effect request the reopening of the ruling of the Immigration and Asylum Appeals Board that an application not be processed. Should the applicant not request reopening within that time, the ruling shall stand. The applicant shall not be required to leave the country within that period, nor during the procedure of a reopened case.]<sup>1)</sup>

<sup>1)</sup> *Act no. 81/2017, art. 1.*

■ [II.

Notwithstanding art. 74(2) clause 1, a period of 15 months instead of 18 months shall apply in the case of a minor whose application for international protection was received by Icelandic authorities before this Act took effect, if the applicant has not already left the country.

An applicant who acquires a right under this provision can within fourteen days from this Act taking effect request the reopening of the ruling of the Immigration and Asylum Appeals Board that an application not be processed. Should the applicant not request reopening within that time, the ruling shall stand. The applicant shall not be required to leave the country within that period, nor during the procedure of a reopened case.]<sup>1)</sup>

<sup>1)</sup> *Act no. 81/2017, art. 1.*