



VELFERÐARRÁÐUNEYTIÐ

Ministry of Welfare

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

No. 45/2007,

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

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

¹⁾ Act No. 75/2018, Article 28.

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

[SECTION I

Scope, aims, administration and definitions.]¹⁾

¹⁾ Act No. 75/2018, Article 1.

Article 1

Scope.

This Act applies to undertakings which ...¹⁾ post their workers temporarily in Iceland in connection with the provision of services:

- a. on the account of the undertaking and the worker being under its direction ...¹⁾
- b. on the account of the undertaking, to an establishment or undertaking owned by the same undertaking group in Iceland, or
- c. on the account of the undertaking and the worker being hired out for a fee in order to carry out work at the workplace of the user undertaking under its direction [in connection with a service contract to this effect between the undertaking and the user undertaking according to the Act on Temporary-Work Agencies].¹⁾

[This Act also applies to workers of undertakings who are posted temporarily to Iceland in connection with the provision of services by the undertaking under indents a, b or c of the first paragraph.]¹⁾ The requirement is that an employment relationship must at all times exist between the undertaking and the worker during the period in which he works in Iceland.

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

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

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

¹⁾ Act No. 75/2018, Article 2.

[Article 1 a

Aims.

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

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

¹⁾ Act No. 75/2018, Article 3.

Article 2

Administration.

[The Minister]¹⁾ shall be in charge of administration in the area covered by this Act. The Directorate of Labour shall attend to the application of this Act at the administrative level.

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

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

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

Article 3

Definitions.

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

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

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

¹⁾ Act No. 75/2018, Article 5.

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

¹⁾ Act No. 75/2018, Article 6.

Article 4

Terms and condition of employment.

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

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

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

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

Article 5

Entitlement to wages in the event of illness and accidents.

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

Worker shall acquire entitlements through his work in Iceland for the same undertaking such that for each month worked during the first twelve months, two days shall be paid at [the wage rates specified under the collective agreement applying to the occupation in question in direct proportion to the job proportion in which the person in question is engaged.]¹⁾ If the worker works for more than one year in Iceland, the accumulation of entitlement to wages in the event of illness and wage payments shall be in accordance with Article 5 of the Act No. 19/1979, Respecting Workers' Right to Advance Notice of Termination of Employment and to Wage on Account of Absence through Illness or Accidents.

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

If worker is absent from work as a result of an accident that occurs at work, or on his direct route to or from work, and also if he falls ill with an occupational disease, he shall retain [wages for three months at the rates specified under the collective agreement applying to the occupation in question in direct proportion to the job proportion in which the person in question is engaged]¹⁾ in addition to their entitlement under the second paragraph.

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

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

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

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

¹⁾ Act No. 114/2012, Article 1.

Article 6

Exemptions.

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

The first paragraph of this Article shall not apply to work of any type in the field of [construction work or civil engineering],¹⁾ such as the erection, maintenance, repair, modification or demolition of buildings.

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

¹⁾ Act No. 75/2018, Article 7.

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

¹⁾ Act No. 75/2018, Article 8.

Article 7

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

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

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

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

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

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

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

¹⁾ Act No. 75/2018, Article 9.

Article 8

Undertakings' obligation to provide information.

Any undertaking intending to provide services in Iceland for a total of more than ten working days in any twelve-month period (*cf.*, however, Article 9), shall submit the following information [and/or grant access to materials]¹⁾ to the Directorate of Labour not later than [the same day as operations in Iceland commence]²⁾ on each occasion, [including as regards]:¹⁾

1. [The name of the undertaking, its address in its home state and its e-mail address, and also the name of the undertaking's representative and his or her e-mail address.]¹⁾
2. Verifiable proof of the undertaking's establishment in its home state in the occupation which covers the services it provides in Iceland, and that it operates lawfully in its home state in the relevant occupation according to the laws of that state, such as materials demonstrating the undertaking's economic activity, including materials from the tax authorities or comparable authorities in its home state, including its VAT number or other comparable proof, information about its operating licence, as appropriate, and about the volume of its turnover in its home state.
3. The name of the user undertaking, with its VAT number or other comparable means of identification, if appropriate.]¹⁾
- [4]¹⁾ A survey list of the workers who will be working in Iceland on the undertaking's account, stating their names, dates of birth, addresses in their home country, nationality, [information as to whether the workers in question are covered by social security in their home country]²⁾, their dwelling place and the intended [working time]¹⁾ in Iceland, and their occupational qualifications, where appropriate.
- [5]¹⁾ The validity of workers' work permits in the home country in the case of workers who are not nationals of the Member States of the European Economic Area or EFTA States or the Faroe Islands.
6. The type of service the undertaking provides in Iceland, where it is provided and how long the undertaking's activity in Iceland is intended to last.]¹⁾
- [7. A copy of the service contract, if appropriate.
8. Copies of the employment contracts of those of the undertaking's workers who work for it in Iceland.]¹⁾
- [9]¹⁾ Any other information that may be requested by the Directorate of Labour, [for purposes of monitoring under the first paragraph of Article 12, these including]¹⁾ to establish that the undertaking does demonstrably provide a service under the Agreement on the European Economic Area, the Convention establishing the European Free Trade Association or the Agreement between the Government of Iceland on the one hand and the Government of Denmark and the Domestic Administration of the Faroe Islands, on the other, and that the workers are employees of the undertaking.

[An undertaking that does not intend to provide services in Iceland for a total of more than ten working days in any twelve months, yet provides services in Iceland for a longer period (see, however, Article 9), shall provide the Directorate of Labour with information and/or access to materials under the first paragraph, not later than on the eleventh working day that its services have lasted in Iceland on each occasion.]¹⁾

The Directorate of Labour shall issue the undertaking with a written confirmation that it has received the materials under [items 1-9 of the first paragraph and the undertaking shall be obliged to deliver the confirmation to the user undertaking (*cf.* Article 11)]¹⁾ [not later than two working days after [the undertaking receives the confirmation from the Directorate of Labour].¹⁾

The undertaking shall inform the Directorate of Labour [about that]¹⁾ [without reasonable delay]¹⁾ of any changes that may occur to information it has already submitted to the directorate under the first paragraph.

[During the time in which an undertaking provides services in Iceland, and for one month after it ceases to provide services in Iceland, it shall at all times have available copies of pay-slips of each of its workers and confirmation that each worker's wages have been paid in accordance with the information stated on the pay-slip, including the wage figure, and also copies of working-time records showing each worker's working time. The undertaking shall deliver the materials named above to the Directorate of Labour not more than two working days after receiving a request for them from the directorate. Not later than the same

day that its activities commence in Iceland, on each occasion, the undertaking shall inform the Directorate of Labour of how the directorate can obtain the information listed above.

The Directorate of Labour shall deliver information according to items 1-6 of the first paragraph to the appropriate government authorities, such as the police, the tax authorities, the customs authorities, the Social Insurance Administration, the Immigration Agency, the Administration of Occupational Safety and Health and Registers Iceland, providing that what is involved consists solely of information that may be considered as coming under the purview of the relevant authority and thus being of use to it, for example in the course of its legally-prescribed monitoring.]¹⁾

The Directorate of Labour shall maintain a register of those undertakings that provide it with information on their operations in Iceland under this Act [and publish it in an accessible form, The register shall include, amongst other things, the undertaking's name and e-mail address, together with information about the its VAT number or another comparable indication of its economic activity in its home state.]¹⁾

¹⁾ Act No. 75/2018, Article 10. ²⁾ Act No. 96/2010, Article 1.

Article 9

Exemption from ...¹⁾ obligation to provide information.

In cases involving service that consists of specialist assembly, installation, monitoring or repairs of equipment, and that is not intended to take more than four weeks in any twelve months, [the self-employed individual or undertaking, as appropriate],¹⁾ is not required to provide the Directorate of Labour with information as provided for under [Article 7 or 8, as appropriate]. If the service provided by [the self-employed individual or undertaking, as appropriate]¹⁾ lasts more than four weeks in any twelve months, the provisions of this Act shall apply to activities of [the relevant party in Iceland, and the relevant party shall then, amongst other things, provide the Directorate of Labour with information according to Article 7 or Article 8, as appropriate, not later than the first working day after the services have lasted for four weeks in any twelve-month period].¹⁾

Notwithstanding the provisions of the first paragraph, [the self-employed individual or undertaking, as appropriate]¹⁾ shall provide the Directorate of Labour with information for monitoring purposes [under the first paragraph of Article 12.]¹⁾

¹⁾ Act No. 75/2018, Article 11.

Article 10

Special representative.

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

The undertaking shall inform the Directorate of Labour of the name and ID number or date of birth [of its representative in Iceland, and his or her place of domicile or residence in Iceland, and e-mail address, not later than]²⁾ [on the same day as]¹⁾ its operations in Iceland commence. If the undertaking changes representative while its operations in Iceland are in progress, it shall inform the Directorate of Labour of the change without unreasonable delay.

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

...¹⁾
¹⁾ Act No. 96/2010, Article 2. ²⁾ Act No. 75/2018, Article 12.

[SECTION IV
Obligations and liabilities of user undertakings.]¹⁾

¹⁾ Act No. 75/2018, Article 13.

Article 11

Obligations of user undertakings.

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

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

If an undertaking does not comply with a request from a user undertaking as provided for under the first paragraph of this Article, the user undertaking shall report this to the Directorate of Labour, submitting information on the undertaking's name, [address in its home state, e-mail address and the name and e-mail address of the undertaking's representative]¹⁾ and the type of service to be provided [in Iceland].¹⁾ If the name of the undertaking's senior manager is not known, then the name of the person [and his or her e-mail address]¹⁾ who represented the undertaking when the service contract was made shall be stated.

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

[If a user undertaking becomes aware that the undertaking with which it has made a service contract is violating this Act, for example as regards the wages or other terms of service of its workers, the user undertaking shall report this to the Directorate of Labour without unreasonable delay.]¹⁾

¹⁾ Act No. 75/2018, Article 14. ²⁾ Act No. 96/2010, Article 3.

[Article 11 a

Liability of user undertakings in construction work or civil engineering.

User undertakings' liability under this Article shall apply to user undertakings active in construction work or civil engineering.

The user undertaking shall bear undivided liability under the service contract provided for in item 7 of Article 3, or under the Act on Temporary-Work Agencies, as appropriate, for shortfalls on wage payments and on other payments under the third paragraph towards the undertaking's workers. The user undertaking's liability shall also extend to the employees of undertakings that have concluded service contracts based on the service contract referred to in the first sentence, even though there is no direct contractual relationship with the user undertaking. If a user undertaking is part of a corporate group, the parent company shall bear joint responsibility with the user undertaking. The same shall apply to another undertaking if it is the director of the user undertaking in question in each individual case.

The user undertaking's liability shall extend to shortfalls on the payment of minimum wages, shortfalls on the payment of other wage components and shortfalls on the payment of wages for overtime work (*cf.* item 1 of the first paragraph of Article 4), and shortfalls on the payment of wages in instances of illness and accident (*cf.* Article 5), and also shortfalls on the payment of wage-related expenses in Iceland. The liability shall not extend to shortfalls on the payment of vacation pay.

A claim in respect of shortfalls on payments under the third paragraph shall be received by the user undertaking within four months of the due date of the payment of the relevant claim. If the user undertaking knew, or should have known, of an obvious failure on its part regarding payments under the third paragraph, in respect of a worker of an undertaking who came under the user undertaking's liability then the user undertaking's liability period may be extended by a court decision to as much as twelve months. A claim shall be regarded as having been received by the user undertaking when the worker presents a written demand to the user undertaking, either electronically or on paper, for the shortfall on payments of wages and/or other shortfalls on payments under the third paragraph, stating, amongst other things, in what the non-performance by the user undertaking consists, including when the claim in question was due for payment and how the worker wishes the user undertaking to send its reply. A claim shall also be regarded as having been received by the user undertaking if the consultative committee (*cf.* the second paragraph of Article 2 of Act No. 55/1980, on Workers' Wages and Terms and Obligatory Pension Rights Insurance) has notified the user undertaking of shortfalls in the payments made by the undertaking according to the third paragraph in respect of the undertaking's worker.

The user undertaking shall inform the relevant undertaking of the claim received under the fourth paragraph without unreasonable delay and call on it to pay the claim or, alternatively, to state its position with regard to the claim within seven working days of receipt of the call for payment of the claim. If the user undertaking considers there to be any doubt as to the legitimacy of the claim, or if it intends to seek the comments of the consultative committee (*cf.* the sixth paragraph) or to refuse to pay the claim on the basis of exemption from a user undertaking's liability under Article 11 b, it shall inform the undertaking, and the workers involved, of this position within seven working days of the expiry of the period granted to the temporary-work agency under the first sentence; reasoning, stated in writing, shall accompany the user undertaking's statement of its position. Alternatively, the user undertaking shall pay the claim in question within 24 working days of receiving it.

The user undertaking and the undertaking's worker may request the comments of the consultative committee (*cf.* the second paragraph of Article 2 of Act No. 55/1980, on Workers' Wages and Terms and Obligatory Pension Rights Insurance) on the legitimacy of a claim under the fourth paragraph within seven working days of the expiry of the period granted to the undertaking under the first sentence of the fifth paragraph, and the consultative committee's comment shall be made available within seven working days of its being requested. If a user undertaking or an undertaking's worker makes use of the authorisation under the first sentence, the user undertaking shall make its position on the claim known afresh to the undertaking and the worker involved within three working days from the time when the user undertaking receives the comments of the consultative committee.

The user undertaking may deduct from its payment to the undertaking with which it has the contractual relation a sum equivalent to the costs incurred by the user undertaking in connection with the payment of the claim under the fourth paragraph, including those associated with the payment of interest, collection charges and legal fees, as appropriate.

If a worker brings an action before a court in Iceland in connection with a user undertaking's liability, he or she shall do so within eight months of the date when the user undertaking's position on the claim in question was made known (*cf.* the fifth paragraph), in addition to which the worker shall also summons the undertaking involved where the user undertaking has its venue.

Where personal data is involved, including personal data of a sensitive nature, in the sense of the term as used in the Act on the Protection of Privacy as regards the Processing of Personal Data, the provisions of that act shall apply to the handling of such data, including its processing and storage.]¹⁾

¹⁾ Act No. 75/2018, Article 15.

[Article 11 b

Exemption from liability of user undertakings in construction work or civil engineering.

Notwithstanding the user undertaking's liability under Article 11 a, it may refuse to pay a claim arising from shortfalls on payments of minimum wages and/or other payment shortfalls (*cf.* the third paragraph of Article 11 a) in the following instances:

- a. When the undertaking provides services to the user undertaking for a total of less than ten working days during a twelve-month period.
- b. In the case of claims by the managing director, board directors or owners of the undertaking in question, and also claims by their spouses or other relatives of the parties named above, or by other persons who are so closely connected with them that it is possible to demonstrate that their claims are unlawful in view of the connections between them.
- c. When the user undertaking has demonstrably attempted to ensure to the best of its ability that the undertaking will pay its workers wages in accordance with the applicable collective agreements in the relevant occupation in the area in which the work is done, e.g. by obtaining the following information from the undertaking involved in each instance regarding those workers of the undertaking that provide the user undertaking with services in Iceland:
 1. each worker's name,
 2. a copy of each worker's employment contract,
 3. copies of each worker's working-time reports,
 4. copies of each worker's pay-slips and
 5. a confirmation that each worker's wages have been paid in accordance with what is stated on his or her pay-slip, including as regards the wage amount.

If a user undertaking requests the above information from the undertaking in question at any given time, the undertaking involved shall be obliged to provide the user undertaking with the information it has requested.

Where personal data is involved, including personal data of a sensitive nature, in the sense of the term as used in the Act on the Protection of Privacy as regards the Processing of Personal Data, the provisions of that act shall apply to the handling of such data, including its processing and storage.

In the event of the insolvency of an undertaking, the Act on the Wage Guarantee Fund shall apply, providing that the conditions of that act are met, in which case the user undertaking's liability according to Article 11 a shall not apply.]¹⁾

¹⁾ Act No. 75/2018, Article 15.

[SECTION V Monitoring.]¹⁾

¹⁾ Act No. 75/2018, Article 16.

Article 12

Monitoring.

[The Directorate of Labour shall monitor the application of this Act and of regulations issued hereunder, for example to establish whether the party involved is an undertaking (*cf.* item 1 of Article 3) or a self-employed individual (*cf.* item 5 of Article 3), and also whether the worker is in fact, demonstrably a worker (*cf.* item 6 of Article 3).

Staff of the Directorate of Labour who carry out workplace inspections may, amongst other things, make inspection visits to workplaces, and shall be granted access to the workplaces in question if they so request. When carrying out inspections, they shall show special identification documents issued by the directorate. Staff of the Directorate of Labour may request the assistance of the police when making workplace inspections as described above when this is necessary in the opinion of the directorate.

If the Directorate of Labour receives information indicating that an undertaking, a user undertaking or a self-employed individual has violated the provisions of this Act, it shall be obliged to investigate the matter further. If the directorate comes to the conclusion that the undertaking, a user undertaking or a self-employed individual has violated the provisions of this Act, it shall demand that the party in question operate in conformity with this Act.]¹⁾

¹⁾ Act No. 75/2018, Article 17.

Article 13

Information for monitoring purposes.

Undertaking shall provide the Directorate of Labour with the information and materials that the directorate considers necessary for [monitoring]¹⁾ the application of this Act, [including a copy of the service contract under item 7 of Article 3, or according to the Temporary-Work Agencies Act, as appropriate, and copies of employment contracts and other materials regarding the terms of employment of those workers who are working for the undertaking in Iceland, such as working-time reports, pay-slips and confirmation that the wages of each worker have been paid in accordance with what is stated on his or her pay-slip, including as regards the wage amount].¹⁾

User undertaking shall ...¹⁾ provide the Directorate of Labour with the information and materials concerning the business between the parties that the directorate considers necessary in order to [monitor]¹⁾ the application of this Act, [including a copy of the service contract under item 7 of Article 3, or according to the Temporary-Work Agencies Act, as appropriate].¹⁾

[Self-employed individuals shall provide the Directorate of Labour with information in connection with the services they provide in Iceland and which the directorate considers necessary in order to monitor the application of this Act, such as the type of services that the individual in question provides, the name and ID number of the user undertaking, or a comparable means of identification, and where the service is provided.

Information which user undertakings, undertakings and self-employed individuals are required to provide to the Directorate of Labour under this Act or regulations issued hereunder shall be in writing, either in electronic form or on paper. When materials are delivered in a language other than Icelandic or English, they shall be accompanied by translations into Icelandic or English. Notwithstanding this requirement, the Directorate of Labour may, in exceptional cases, decide to accept materials in a language other than Icelandic or English, e.g. when, in its opinion, there is no need to have them translated.

The Directorate of Labour may obtain and disseminate information to the extent that it is permitted to do under this Act, either electronically or in another manner decided by the directorate.

If the Directorate of Labour receives information under this Act which indicates that provisions of Icelandic laws or regulations are being violated, it shall be obliged to deliver this information to the appropriate government authority without unreasonable delay.

In those instances where the Directorate of Labour does not have the information which, in its opinion, is necessary for it to monitor the implementation of this Act in accordance with the first paragraph of Article 12, it shall request such information from the government authorities or the monitoring officers of the organisations of the social partners (*cf.* the Act on Workplace ID Cards and Workplace Inspection) as may be of use to the directorate, e.g. in assessing whether the provisions of this Act have been violated, including information on the names and ID numbers of undertakings, user undertakings and self-employed individuals, and also information on wage payments to workers, and the relevant parties shall be obliged to give the Directorate of Labour the information requested if they possess it. If government authorities or the monitoring officers of the organisations of the social partners receive information indicating that this Act is being violated, they shall be obliged to deliver the information to the Directorate of Labour without unreasonable delay.

To the extent that the Directorate of Labour considers it necessary in connection with the monitoring of the application of this Act under the first paragraph of Article 12, it may request assistance from the competent authorities in the home state of the undertaking or self-employed individual concerned, e.g. as regards the obtaining of information about the undertaking or self-employed individual and communication with the undertaking or self-employed individual, including as regards the collection of fines, providing that the request is made for a lawful purpose and is proportionate.]¹⁾

Employees of the Directorate of Labour may not use their position in order to obtain [other information]¹⁾ than that which is necessary, or may be necessary, for the purpose of [monitoring under the first paragraph of Article 12, in the opinion of the directorate.].¹⁾ [Staff of the Directorate of Labour shall be bound by a non-disclosure (confidentiality) obligation regarding information handled by the directorate under this Act

(see, however, the fifth paragraph), and this obligation shall continue in force after they cease working for the directorate.]¹⁾

¹⁾ Act No. 75/2018, Article 18.

Article 14

[Submission of employment contracts, pay-slips and working-time reports.

The Directorate of Labour may request the comments of the organisations of the social partners or the relevant trade union, as appropriate, as to whether the substance of an employment contract, or the information regarding wages stated on a worker's pay-slip, taking into account, amongst other things, what is stated in the worker's working-time report, is in conformity with the provisions of the collective agreement applying in the relevant occupation in the area where the worker's work is done.

The Directorate of Labour shall submit to the organisations of the social partners, or to the relevant trade union in the occupation in question in the area where the temporary agency worker's work is done, copies of the worker's employment contract, pay-slips and working-time reports, and also of the materials received by the Directorate of Labour that are intended to confirm that the worker's wages have been paid in accordance with what is stated on his or her pay-slips, including as regards the wage amount, when the aforementioned parties request such copies, providing that there is a suspicion that the collective agreement applying in the relevant occupation in the area where the worker's work is done has been violated.

The organisations of the social partners or the relevant trade union, as appropriate, shall handle personal data, including personal data of a sensitive nature, in the sense of the term as used in the Act on the Protection of Privacy as regards the Processing of Personal Data, which is included in the materials of which the aforementioned parties obtain copies under this provision, in accordance with the provisions of that act, e.g. as regards the processing and storage of the data.]¹⁾

¹⁾ Act No. 75/2018, Article 19.

Article 15

Temporary suspension of operations.

If the Directorate of Labour has demanded that an undertaking, [user undertaking or self-employed individual comply with this Act]¹⁾ and no rectification has been made by the deadline set, the directorate may demand that the police intervene to stop work temporarily or to close down the operation [of the party in question]¹⁾ in Iceland temporarily until the situation has been rectified.

¹⁾ Act No. 75/2018, Article 20.

[Article 15 a

Per diem fines.

If an undertaking, [user undertaking or self-employed individual]¹⁾ does not comply with this Act, the Directorate of Labour may demand that [the party]¹⁾ in question rectifies the situation within a reasonable period, failing which it will be subjected to *per diem* fines.

[A party on which it is planned to impose *per diem* fines under the first paragraph shall be given a period in which to submit written observations before the decision is taken. The notification from the Directorate of Labour regarding the proposed decision to impose *per diem* fines shall be accompanied by reasoning stated in writing.

Decisions on *per diem* fines under the first paragraph shall be announced in writing and in a verifiable manner to the parties to which they apply, or to their representatives, in the case of undertakings (*cf.* Article 10), and shall be accompanied by reasoning stated in writing.

The consequence of a decision on *per diem* fines shall be that the party to which the decision applies shall pay a fine for each day as from and including the beginning of the first working day after it is notified of the decision; this point in time shall also be the due date for payment of the claim. The last day of the fine shall be the day on which, in the opinion of the Directorate of Labour, the deficiencies have been rectified.

Per diem fines may amount to as much as ISK 1 million for each day. When deciding the amount of a fine, factors such as the number of persons working for the party against which the decision is taken and the scope of the business operations in question shall be taken into account.¹⁾

Per diem fines shall be made over to the State Treasury [after deduction of imposition and collection costs].¹⁾

[Other matters concerning decisions by the Directorate of Labour on *per diem* fines shall be subject to the Administrative Procedure Act.]¹⁾²⁾

¹⁾ Act No. 75/2018, Article 21. ²⁾ Act No. 96/2010, Article 4.

[Article 15 b
Administrative fines.

The Directorate of Labour may impose administrative fines on a self-employed individual who fails to provide the directorate with information and/or access to materials in accordance with the first, second and third paragraphs of Article 7 at the proper time and/or gives the directorate incorrect or unsatisfactory information, in the view of the directorate, irrespective of whether this is done intentionally or through negligence on the individual's part.

The Directorate of Labour may impose administrative fines on an undertaking that fails to provide the directorate with information and/or access to materials in accordance with the first, second, fourth or fifth paragraph of Article 8 and also the second paragraph of Article 10 at the proper time and/or gives the directorate incorrect or unsatisfactory information, in the view of the directorate, irrespective of whether this is done intentionally or through negligence on the part of the undertaking.

Administrative fines may amount to as much as ISK 5,000,000.

When administrative fines are determined, consideration shall be given, amongst other things, to the seriousness of the violation, how long it has lasted, whether it is a repeated violation and whether the party committing the violation has shown a willingness to collaborate with the investigation. Consideration shall also be given to whether the violation may be seen as having been committed to serve the interests of the undertaking or self-employed individual.

Decisions on administrative fines shall be announced in writing and in a verifiable manner to the parties to which they apply, or to their representatives, in the case of undertakings (*cf.* Article 10), and shall be accompanied by reasoning stated in writing.

The due date for the payment of an administrative fine is 30 days after the decision to impose the fine is taken. If an administrative fine has not been paid within 15 days of the due date, arrears interest shall be paid on the fine amount as from the due date. Decisions on the imposition of arrears interest, and calculation of arrears interest, shall be subject to the Interest and Indexation Act.

The Directorate of Labour's authorisation to impose administrative fines under this provision shall expire when five years have elapsed since the end of the conduct described in the first paragraph.

Administrative fines shall be paid to the Treasury following deduction of the cost of their imposition and collection.

Decisions by the Directorate of Labour to impose administrative fines are enforceable.

Other matters concerning decisions by the Directorate of Labour on *per diem* fines shall be subject to the Administrative Procedure Act.¹⁾

¹⁾ Act No. 75/2018, Article 22.

[SECTION VI
Miscellaneous provisions.]¹⁾

¹⁾ Act No. 75/2018, Article 23.

Article 16

Venue.

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

¹⁾ Act No. 75/2018, Article 24.

Article 17

Appeals.

Appeals may be lodged with [the Ministry]¹⁾ against [decisions taken by the Directorate of Labour under this Act]²⁾ within three months of the date on which the parties involved are informed of the decision. Appeals shall be regarded as having been submitted to the ministry by the deadline if a letter presenting the appeal is received by the ministry, or has been committed to the postal service, before the deadline.

[The Ministry]¹⁾ shall seek to deliver its ruling within two months of the date on which it receives matters for adjudication.

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

¹⁾ Act No. 162/2010, Article 35. ²⁾ Act No. 75/2018, Article 25.

Article 18

Punishments.

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

Fines shall be paid to the State Treasury.

...¹⁾

¹⁾ Act No. 88/2008, Article 233.

Article 19

Regulations.

[The Minister]¹⁾ may issue regulations concerning the application of this Act in further detail, including [as regards electronic procedures and]²⁾ collaboration and the exchange of information between the competent institutions within the Member States of the European Economic Area, EFTA States or the Faroe Islands.

¹⁾ Act No. 162/2010, Article 35. ²⁾ Act No. 75/2018, Article 26.

Article 20

Incorporation of a directive.

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

Article 21

Commencement.

This Act shall take immediate effect. ...

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

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

Article 22

...

[Interim provisions.

The Minister shall appoint an *ad hoc* committee for a term of three years, consisting of representatives from the Confederation of Icelandic Labour, the Alliance of University Graduates, the Federation of State and Municipal Employees, the Ministry of Finance and Economic Affairs, the Association of Local Authorities and the Directorate of Labour. The Minister shall appoint one representative to the committee without nomination who shall be its chairman. The role of the committee shall be to monitor conditions on the labour market and to make recommendations to the Minister on amendments to this Act if conditions on the labour market are such as to render it important to provide that user undertakings' liability as provided for under Article 11 apply to user undertakings in occupational sectors other than construction or civil engineering. The committee shall also deliver a report to the Minister in autumn 2019 on the state of affairs, and trends, regarding foreign workers who are posted temporarily to Iceland in order to provide services. Furthermore, the report shall include the committee's assessment as to whether this Act should be amended so as to have Article 11 apply to user undertakings' liability in occupational sectors other than construction or civil engineering.]¹⁾

¹⁾ Act No. 75/2018, Article 27.

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