

[Translated from the Icelandic]

This Act enters into force January 1st, 2003.

## **Act On Foreigners No. 96, 15 May 2002**

### **CHAPTER I General Provisions**

#### **Section 1 Sphere of Application**

The provisions of this Act shall apply to the right of foreigners to enter Iceland and to their stay in Iceland.

The special provisions of Chapter VI shall apply to foreigners subject to the Agreement on a European Economic Area.

Icelandic nationals may also bear duties under this Act.

This Act shall not apply to Icelandic ships at sea.

#### **Section 2 Purpose**

This Act provides for power to control the entry into Iceland of foreigners, their departure from Iceland and their stay in Iceland, in accordance with government policies at any particular time.

This Act defines the legal status of foreigners who come to or leave Iceland, stay in Iceland, or apply for permits according to this Act.

#### **Section 3 Implementation**

The Minister of Justice shall be in supreme charge of the matters subject to this Act, and shall issue rules in further detail on the rights of foreigners to come to Iceland and stay in Iceland.

In other respects the Immigration Office, police and other administrative authorities shall implement this Act.

The Minister of Justice shall appoint a Director for the Immigration Office for a term of five years at a time. The Director shall be a lawyer.

To the extent not provided for in this Act, the Minister of Justice shall lay down the sphere of the functions of those charged with implementing this Act.

### **CHAPTER II Arrival and Departure**

#### **Section 4 Passport Control**

Any person entering Iceland shall immediately report to passport control or the nearest police authority. Any person leaving Iceland shall be subject to departure control and shall, on departure, report to passport control or the nearest police authority. Travel across the internal

borders of the Schengen Area, and any other travel in conformity with rules laid down by the Minister of Justice, shall be exempt from these requirements.

Entry into Iceland and departure from Iceland shall take place at the locations and service hours decided by the Minister of Justice. A local commissioner of police may grant an exception from this. The internal borders of the Schengen Area may also be crossed outside accredited border posts. The provisions of the Customs Act shall apply to travel across the internal borders.

The Minister of Justice shall issue provisions in further detail on arrival and departure control and on exemptions from the provisions of the first and second paragraphs above concerning travel across the internal borders of the Schengen Area. The Minister shall also lay down rules concerning the duty of the captain of a ship or an aircraft to ensure that passengers are in possession of valid travel documents.

## **Section 5**

### **Passports**

A foreigner arriving in Iceland shall, unless a different arrangement is provided for in rules issued by the Minister of Justice, possess a passport or other identity document recognised as a travel document.

The Minister of Justice shall issue rules on the requirements to be fulfilled for a passport or other identity document to be deemed valid for entry into Iceland and for a stay in Iceland.

The Immigration Office may in special cases exempt a foreigner from the requirement of possessing a passport, or recognise a document other than ordinarily required.

## **Section 6**

### **Visas**

A foreigner must have a visa for entry into Iceland, unless a different arrangement is provided for by rules issued by the Minister of Justice. This shall not, however, apply to a foreigner possessing a permit to stay issued by a state taking part in the Schengen co-operation. The same shall apply to any foreigner possessing a provisional permit to stay issued by a state taking part in the Schengen co-operation, provided the foreigner in question also possesses a travel document issued by the same state.

A visa issued by a Schengen state shall be valid for arrival in Iceland and a stay in Iceland for the time the may visa specify.

The Minister of Justice may issue rules requiring visas for transit through airports.

A visa shall be valid for one or more arrivals to Iceland and a stay for up to three months in a defined period.

The Immigration Office shall decide on visa applications. Decisions on visa applications may also be committed to the Foreign Service. The granting of a visa application may also be committed to the foreign service of any other state taking part in the Schengen co-operation.

## **Section 7**

### **Crews of Ships and Aircraft**

A foreigner who leaves employment on board a ship or an aircraft, or a foreigner who has concealed himself on board, may not enter Iceland without police permission. The provisions on administrative authorities in cases of dismissal and on appeal shall apply in this respect as applicable.

The Minister of Justice shall issue provisions on shore leave for foreign seamen during a ship's stay in harbour, and on powers to deny entry ashore.

## **CHAPTER III Stay and Residence**

## **Section 8**

### **Stay without an Issued Permit**

A foreigner whose entry into Iceland is dependent on a visa may not remain in Iceland any longer than stated in the visa, unless this is specially permitted. Other foreigners may not, in the absence of a special permission, stay in Iceland for more than three months. A stay in the territory of a state taking part in the Schengen co-operation shall have the same effect as a stay in Iceland. The Minister of Justice may issue provisions concerning stay exceeding three months if this follows from an international agreement, and provisions in further detail concerning how periods of stay shall be calculated.

Danish, Finnish, Norwegian and Swedish nationals may stay in Iceland without the issue of a permit to that effect. The Minister of Justice may issue rules providing for further waivers of requirements for a permit to stay in Iceland.

## **Section 9**

### **Persons for Whom a Permit to Stay in Iceland is Required.**

A foreigner wishing to accept employment, with or without remuneration, or to work as a self-employed person in Iceland, must, in addition to a work permit when this is required by law, possess a permit to stay in Iceland, except if such a permit is unnecessary by virtue of the provisions of Section 8, the second paragraph.

A foreigner planning to remain in Iceland for a period longer than provided for in Section 8, the first paragraph, must possess a permit to stay in Iceland.

## **Section 10**

### **The Issue of Permits to Stay in Iceland**

A permit to stay in Iceland issued for the first time shall have been issued prior to arrival in Iceland. This requirement may however be waived if urgently recommended by considerations of fairness.

A permit to stay in Iceland issued for the first time shall generally be valid for one year. Such permit may be issued for a shorter or a longer period if this is considered reasonable with a view to the purpose of the stay or for other reasons.

The Immigration Office shall decide on the issue of such permits.

## **Section 11**

### **Conditions for a Permit to Stay in Iceland**

Upon application, a foreigner may be granted a permit to stay in Iceland if:

- a. his support, medical insurance and housing are secured in accordance with rules issued by the Minister of Justice in further detail;
- b. the conditions set for a permit to stay in Iceland in the rules issued in accordance with Section 3, the first paragraph, are fulfilled, and
- c. there are no facts that may have the effect of denying the foreigner entry into Iceland or a stay in Iceland in accordance with the other provisions of this Act.

A foreigner may be granted a permit to stay in Iceland on urgent humanitarian grounds, or by reason of his particular ties to Iceland, even if the above conditions are not fulfilled.

The Immigration Office may, upon the request of a foreigner who has applied for asylum, issue to him a provisional permit to stay in Iceland until a decision has been taken on his application. Upon the request of a foreigner who has been finally denied asylum or a permit to stay, the Immigration Office may also, in cases when implementation of such decision is suspended, grant him a provisional permit to stay until the decision is implemented. The provisions of Chapters IV, V and VII of the Administrative Procedures Act concerning right of protest, service of a decision, reasoning and administrative appeal, and the relevant provisions of Chapter V of this Act, shall not apply to decisions to issue a provisional permit

to stay. A provisional permit to stay has no legal effects in excess of those expressly provided for by statute.

## **Section 12**

### **Common Protection in Case of Mass Refugee Problems**

The Minister of Justice may decide to implement the provisions of this Section in cases of mass refugee problems. The Minister shall also decide when the granting of common protection as provided for in the second and third paragraphs shall be discontinued.

A foreigner who becomes a refugee as a result of a mass refugee problem and arrives or stays in Iceland when the provisions of this Section are implemented may, upon application, be granted protection on the basis of a group assessment (common protection). This entails a permit to stay, issued on the basis of Section 11, the second paragraph. This does not make the person in question entitled to a residence permit.

The permit may be renewed or extended for up to three years as from when the applicant was first granted such permit. After this, a permit may be issued which may form the basis for a residence permit. When one year has passed with such a permit in effect a residence permit can be issued, provided the requirements for continued effect of the original permit remain fulfilled, and other relevant conditions are also fulfilled, cf. Section 15.

A decision on an application for asylum lodged by a foreigner to whom the second paragraph applies may be suspended for up to three years as from when the foreigner received his first permit. When, as envisaged in the first paragraph, common protection is no longer granted, or when three years have passed since the applicant was first granted a permit, the applicant shall be notified that his application for asylum will only be considered if he definitely expresses a request to that effect within a certain period of time.

The Immigration Office shall decide on the above permits and whether to suspend decision on an application.

The Minister of Justice may issue provisions in this regard in further detail.

## **Section 13**

### **Permits for Family Members to Stay in Iceland**

The closest family members of an Icelandic national or a national of another Nordic country residing in Iceland, or those of a foreigner staying in Iceland or allowed to stay in Iceland under a permit to stay which is not subject to limitations or under a residence permit, shall be entitled, upon application, to a permit to stay in Iceland, provided that the situation referred to in Section 11, the first paragraph, subparagraph (c), does not apply, and their support and housing has been secured, cf. Section 11, the first paragraph, subparagraph (a).

The closest family members within the meaning of the first paragraph shall be the foreigner's spouse, a partner in cohabitation or registered partnership, the foreigner's descendants within 18 years of age supported by the foreigner, and the foreigner's or his spouse's relatives by ascent supported by them.

A permit issued to a foreigner's family member to remain in Iceland shall generally be issued for the same period of time as the permit issued the former, and subject to the condition that it shall not remain valid longer than his permit.

## **Section 14**

### **Renewal**

A foreigner's permit to stay in Iceland may be renewed upon his application if the conditions set in Section 11 are fulfilled.

A renewed permit to stay in Iceland shall generally be issued for a period of one year, but may be issued for a different period of time if this is deemed advisable with a view to the purpose of the stay or for other reasons. A renewed permit to stay shall however not be issued for a period longer than two years.

A foreigner applying for renewal of his permit to stay in Iceland may be granted a permit for a continued stay in Iceland subject to the same conditions until a decision has been taken on his application, and shall be entitled to this if he submits his application at least one month before his permit expires.

## **Section 15**

### **Residence Permits**

A foreigner who has been staying in Iceland for a continuous period of three years under a permit not subject to any limitations and has attended a course in the Icelandic language for foreigners may, upon his application, be granted a residence permit at the end of that period, provided nothing has occurred that may result in his expulsion from Iceland, cf. Section 20, the first paragraph.

A residence permit grants a right to stay in Iceland indefinitely.

The Immigration Office shall decide on residence permits. The provisions of Section 14, the third paragraph, shall apply to applications for residence permits as applicable.

A residence permit is cancelled when its holder has been residing abroad, or has actually stayed abroad, for a continuous period longer than eighteen months. The Immigration Office shall decide on the cancellation of residence permits. Upon application, a foreigner can be allowed a longer stay abroad without affecting the validity of his residence permit.

The Minister of Justice shall issue rules on courses in the Icelandic language for foreigners as provided for in the first paragraph. These shall contain provisions on the duration of such courses, minimum attendance and certificates evidencing participation. They may also provide for exemptions from participating in such courses for foreigners who have acceptable command of the Icelandic language, and for examinations to confirm this. The regulations may also provide for a charge to be collected for participation in a course or an examination.

## **Section 16**

### **Revocation**

The Immigration Office may revoke a permit to stay in Iceland or a residence permit if the foreigner in question has wilfully provided incorrect information or concealed facts that may have been of material significance for the issue of the permit, if the conditions set for such permits are no longer fulfilled, or if this otherwise follows from the general principles of administrative law.

## **Section 17**

### **Duty to Report**

A foreigner who has been granted a permit to stay in Iceland before his arrival shall, within one week from his arrival, report to the Immigration Office or the Sheriff's office at his place of stay outside Reykjavík. The same shall apply to any foreigner who intends to apply for such permit or otherwise needs such permit.

Any foreigner who transfers his home to another location while a procedure subject to this Act is in progress shall report his change of address to police.

The Minister of Justice may issue rules providing that a foreigner for whom a permit to stay in Iceland is unnecessary shall report the location of his home, and his work or employment, to police.

## **CHAPTER IV**

### **Denial of Entry, and Expulsion**

## **Section 18**

### **Denial of Entry on Arrival**

A foreigner may be denied entry into Iceland on arrival, and for a period of up to seven days following arrival:

- a. if he does not fulfil the requirements set as regards passports, visas or manner of arrival;
- b. if he has been expelled from Iceland or from any other of the Nordic countries, a prohibition of re-entry is still in effect, and he has not been granted a permission to come to Iceland;
- c. if he does not possess the required permits to stay in Iceland or to work in Iceland, or if he is unable to substantiate the stated purpose of his stay in Iceland;
- d. if he can not demonstrate that he possesses, or has secured, adequate funds for his stay in Iceland and for travel back to his home country;
- e. if he has been sentenced as referred to in Section 20, the first paragraph, subparagraphs (b) or (c), or if there are, for other reasons, particular grounds to assume that he may commit, in Iceland or in any other Nordic country, a punishable act that may result in imprisonment for a period exceeding three months;
- f. if the provisions of Article 6 of the Nordic Passport Convention apply and the foreigner may be expected to travel to another Nordic country where he is likely to be denied entry on account of a failure to comply with the applicable rules on passports or visas, or if entry to the country in question may be denied for other reasons;
- g. if he, in the opinion of a medical doctor, is unable to control his personal affairs on his own while staying in Iceland, if there is a risk that he will, by his conduct, endanger himself or others, or if he suffers from a serious infectious disease;
- h. if he has not paid the costs of his prior deportation defrayed by public authorities, cf. Section 56, the first paragraph;
- i. if he is registered in the Schengen Information System for the purpose of denying him entry, and
- j. if this is necessary with a view to public order, national security or the international relations of Iceland or any other state taking part in the Schengen co-operation.

Procedure must be commenced within the period of seven days.

The case of a foreigner who claims to be a refugee or otherwise provides information indicating that the provisions of Section 45, the first paragraph, apply to him, shall be referred to the Immigration Office for procedure and a decision.

The Minister of Justice may issue rules providing for exemptions from the provisions of the first paragraph above in relation to foreigners possessing a permit to stay or a visa issued by a Schengen state.

## **Section 19**

### **Denial of Entry Subsequent to Arrival**

A foreigner may be denied entry into Iceland in accordance with the provisions of Section 18, the first paragraph, even if the period of seven days is over. Procedure in his case must however be commenced within three months from his arrival in Iceland.

A foreigner who possesses a permit to stay or reside in Iceland can not be denied entry into Iceland under this provision.

## **Section 20**

### **Expulsion**

A foreigner may be expelled from Iceland:

- a. if he has violated one or more provisions of this Act seriously or repeatedly, or if he fails to heed a decision involving an order to leave Iceland;
- b. if he has, during the five previous years, served a sentence abroad or been sentenced abroad on account of an act that under Icelandic law can result in imprisonment for more than three months; the same shall apply in case of particular measures taken on account of such criminal conduct;

c. if he has been sentenced in Iceland or if a court has ordered that he shall be subjected to security measures in consequence of conduct that can result in imprisonment for more than three months, or if he has been sentenced to imprisonment more than once in the previous three years;

d. if this is necessary with a view to national security or the public interest.

Expulsion under the first paragraph, subparagraphs (a), (b) or (c) shall not take place if, with a view to the facts of the matter and the links to Iceland of the foreigner in question, the measure would be deemed unreasonable with respect to him or his close family members. A foreigner possessing a permit to stay in Iceland or national of one of the Nordic countries who has been residing in Iceland for more than three months may only be expelled from Iceland if his criminal conduct may result in imprisonment for one year or more.

Expulsion involves a prohibition against returning to Iceland later. The prohibition against returning may be permanent or limited in time, however generally not for a period shorter than three years. A person who has been expelled may, on application, be granted a permit to return, however generally not sooner than two years after departure.

## **Section 21**

### **Denial of Entry and Expulsion of Foreign Nationals Possessing Residence Permits, etc.**

A foreigner born in Iceland, who has since resided permanently and continuously in Iceland, can not be denied entry to Iceland or expelled from Iceland.

A foreigner possessing a residence permit can only be denied entry to Iceland or expelled from Iceland if:

a. this is necessary with a view to national security, cf. Section 20, the first paragraph, subparagraph (d);

b. he has served a sentence or been sentenced on account of conduct punishable by imprisonment for at least three years under Icelandic law, and the offence was committed abroad five years ago or later, or in Iceland one year ago or later. Any particular measures ordered on account of such criminal conduct shall have the same effect.

Expulsion under the second paragraph, subparagraph (b), shall not take place if, with a view to the facts of the matter and the links to Iceland of the foreigner in question, the measure would be deemed unreasonable with respect to him or his closest family members.

## **Section 22**

### **Administrative Authorities and Case Preparation**

A commissioner of police shall decide on denial of entry as provided for in Section 18, the first paragraph, subparagraphs (a) – (i). The Immigration Office shall take other decisions in accordance with this Chapter.

Police shall prepare the cases to be decided on by the Immigration Office. If the police consider that the conditions for denial of entry or expulsion are fulfilled, they shall send the case file to the Immigration Office for its decision.

## **CHAPTER V**

### **Procedure**

## **Section 23**

### **General Rules of Procedure**

Subject to any other provisions of this Act, procedure shall be governed by the Act on Administrative Procedures.

## **Section 24**

### **Right of Protest**

Before a decision is taken in the case of a foreigner he shall be granted an opportunity to express his views on the matter in question, orally or in writing, if his views and the grounds on which they are based are not stated in the case file or if such expression is not obviously unnecessary. The right to make expressions in writing shall however not apply when a foreigner is to provide oral information to passport control authorities or police.

When handling cases concerning applications for asylum, cases subject to the provisions of Section 45, and cases concerning denial of entry or expulsion, the administrative authority shall to every extent possible see to that the foreigner is granted an opportunity to express his views in a language in which he is adequately capable of expression.

## **Section 25**

### **Duty to Provide Guidance**

In cases concerning denial of entry, expulsion or revocation of permits, and in cases concerning applications for asylum, the administrative authority shall inform the foreigner that he may, for his own account, seek the assistance of a lawyer or other representative, of his right to have a spokesman appointed as provided for in Section 34, the second paragraph, and of his right to contact a representative of his home country, a representative of the United Nations High Commissioner for Refugees, and domestic humanitarian or human rights organisations.

In other respects the general principle of Section 7 of the Act on Administrative Procedures relating to provision of guidance shall apply.

## **Section 26**

### **Provision of Information to Foreign Countries**

Administrative authorities may provide foreign administrative authorities with information on foreigners on account of requests for residence permits, visas, or asylum, to the extent necessary to comply with Iceland's obligations on account of Iceland's participation in the Schengen co-operation and in co-operation under the Dublin Convention of 15 June 1990.

The Minister of Justice may issue rules in further detail on what information may be provided, and on any conditions to be fulfilled for provision of information.

## **Section 27**

### **Disqualification**

A public servant who has taken part in criminal procedure against a foreigner may not take part in preparing a decision or take a decision relating to his denial of entry, permit to stay in Iceland, residence permit or expulsion. This provision shall not apply to cases concerning violation of the provisions of this Act or any rules issued in accordance with it.

## **Section 28**

### **Collection of Evidence in Court**

A foreigner, and an administrative authority in charge of his case, may request that any evidence, which can not be satisfactorily collected in a case subject to procedure in accordance with this Act, is collected in court subject to the rules of Chapter XII of the Code of Civil Procedure, concerning collection of evidence without litigation having been commenced. The judge shall decide whether the conditions for granting the request are fulfilled.

The provision of the first paragraph shall not apply in cases concerning denial of entry, or when the person whose testimony is requested is abroad.

## **Section 29**

### **Investigative Measures**

Any foreigner has the duty of assisting in establishing his identity, to the extent this may be requested by an administrative authority referred to in Section 3, the second paragraph. The Minister of Justice shall issue rules in further detail, defining what may be required of a foreigner in order to comply with this duty.

If the identity of a foreigner is in doubt at the time he arrives in Iceland or later, police may seize his travel documents, carrier tickets and any other evidence that may serve to establish his identity. The same shall apply if his former place of stay is uncertain, provided this is of relevance for his right to stay in Iceland. Police shall inform the foreigner that he may refer the legality of such seizure to a judge subject to the provisions of the Code of Criminal Procedure.

If there are grounds to believe that a foreigner, contrary to orders given in accordance with the first paragraph, withholds or keeps secret information concerning his identity, or if he, contrary to the provisions of Section 53, withholds or keeps secret information concerning his former place of stay, police may conduct a personal search of the foreigner, his home or room, and any repositories, subject to the provisions of the Code of Criminal Procedure as applicable.

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

- a. can not prove his identity, or if there are grounds to believe that he has not stated his identity correctly;
- b. seeks asylum or applies for a permit under this Act;
- c. has been denied asylum or a permit under this Act, or
- d. has been denied entry to Iceland or expelled, or may be assumed to be staying illegally in Iceland.

Fingerprints taken in accordance with the fourth paragraph may be entered into a computerised registry. The Minister of Justice may issue rules in further detail on the keeping and use of the registry.

If a foreigner refuses to disclose his identity, or if there are grounds to believe that he has provided incorrect information concerning his person, police may order him to report at a certain place, or to stay within certain geographical limits. If such orders are not heeded or are deemed inadequate the foreigner may be arrested and, by judicial decision, committed to custody in accordance with the provisions of the Code of Criminal Procedure as applicable. Custody may not last longer than 12 weeks in total, except in special situations.

### **Section 30**

#### **Appeals**

A decision of police, and a decision of an embassy, permanent commission or consul taken in accordance with Section 6, the fifth paragraph, may be appealed against to the Immigration Office. A decision of the Immigration Office taken in its capacity of superior administrative authority is not subject to appeal. Other decisions can be appealed against to the Ministry of Justice.

A foreigner wishing to exercise his right of appeal shall make a declaration to that effect within 15 days from when the decision in question was notified him, to the authority that made the notification. In other respects appeals shall be governed by Chapter VII of the Act on Administrative Procedures relating to administrative appeals.

### **Section 31**

#### **When a Decision can be Implemented**

A decision on denial of entry taken in accordance with Section 18 may be implemented forthwith. A denial of an application for renewal of a permit to stay or a residence permit, lodged within the period provided for in Section 14, the third paragraph, can not be implemented until taken finally. The same shall apply to a decision on revocation taken under

Section 16, and a decision on expulsion of a foreigner possessing a permit to stay or a residence permit, or of a national of a Nordic country who has been staying in Iceland for longer than three months. The provisions of Section 29 of the Act on Administrative Procedures relating to suspension of legal effects shall apply in other respects.

A denial of an application for a permit to stay in Iceland that is submitted for the first time, and a denial of renewal applied for under the first paragraph following expiration of the period referred to in Section 14, the third paragraph, can not be implemented until the foreigner in question has been granted an opportunity to lodge an appeal, and in any event not before two days have passed since the decision was notified the foreigner.

## **Section 32**

### **When a Decision in Cases Concerning Asylum or Protection from**

**Persecution can be Implemented**

If a foreigner states that the situation referred to in Section 45, the first paragraph, applies to him, a decision ordering him to leave Iceland can not be implemented until finally taken. This shall however not apply to cases where the Immigration Office deems obvious that such a situation does not apply, and in cases where the foreigner in question has an application for asylum pending in another state or if such an application has been denied there.

Police shall submit the question whether to suspend implementation to the Immigration Office, if a foreigner invokes a situation as referred to in Section 45, the first paragraph, at the time the decision is to be implemented, and it is not shown that a stand has already been taken with respect to the situation invoked. If the Immigration Office considers obvious that no such situation exists, a decision of implementation may be taken.

The provisions of Chapters IV, V and VII of the Act on Administrative Procedures on right of protest, on notification of decisions, reasoning, etc, and on administrative appeals, shall not apply to decisions taken under the first and second paragraphs.

## **Article 33**

### **Implementation of Decisions**

A decision obligating a foreigner to leave Iceland shall be implemented by ordering the foreigner in question to leave the country at once or within a specified period. If the foreigner does not leave the country as ordered, or if it is likely that he will not do so, he may be deported by police. In special circumstances the foreigner may be deported to a country other than that from which he came. Decisions concerning implementation can not be subject to separate appeal. Legal action in court requesting invalidation of a final decision ordering a foreigner to leave Iceland does not suspend its effects. The Minister of Justice may however decide to suspend its implementation if it is established that the situation has changed significantly from when the decision ordering the foreigner to leave was taken.

A foreigner to whom the provisions of the first paragraph apply, who does not possess valid travel documents, has the duty of procuring such documents.

On order to ensure that a decision taken under the provisions of the first paragraph is implemented, police may order a foreigner to:

- a. report at a certain place;
- b. surrender his passport or other identification document cf. Section 5, and
- c. stay within a specified geographical area.

The orders provided for in the third paragraph shall only be given if there is a particular reason to believe that the foreigner in question will evade compliance. When assessing this, prior general experience of such evasion may be taken into account. The orders shall not remain in effect for more than two weeks, unless approved by the foreigner or decided by a judge in accordance with the provisions of the Code of Criminal Procedure.

If necessary in order to ensure implementation, the foreigner may be arrested and committed to custody by judicial decision in accordance with the provisions of the Code of Criminal Procedure as applicable. The same shall apply if a foreigner does not take the measures

necessary in order to procure a travel document as provided for in the second paragraph, for the purpose of bringing the foreigner before the representative of the relevant foreign country in order to obtain the issue of a travel document.

Custody shall not be ordered for a period longer than two weeks. The period can only be extended if the foreigner does not leave Iceland on his own accord, and if it is likely that he will, if not held in custody, evade the implementation of a decision referred to in the first paragraph. In such a case the period can be prolonged for a maximum of two weeks, however not more than two times.

A foreigner may neither be arrested nor committed to custody if such a measure is, with a view to the nature of the matter and the facts in other respects, unreasonable, or if the judge considers adequate that the foreigner is, instead, subjected to measures as provided for in the third paragraph.

Coercive measures under the third and fifth paragraphs may be taken when a decision is taken to order a foreigner to leave, and during procedure which may result in such order.

### **Section 34**

#### **Legal Aid**

A judge shall, when custody is requested in accordance with Section 29, the sixth paragraph, or Section 36, the fifth paragraph, appoint a spokesman for the foreigner in question from among professional lawyers. The same shall apply when measures are requested in court under Section 33, the third and fourth paragraphs, if this does not cause particular inconvenience or delay, and if the judge considers that it would be incautious to refrain from such appointment.

When appealing against a decision relating to denial of entry, expulsion or revocation of a permit, and in cases concerning applications for asylum, a foreigner shall be entitled to have a spokesman appointed by the relevant administrative authority. This shall however not apply in cases concerning expulsion under the provisions of Section 20, the first paragraph, subparagraphs (b) and (c), Section 21, the second paragraph, subparagraph (b), or Section 43, the second paragraph, in cases concerning conduct referred to in the second sentence of that provision, or when a foreigner who has applied for asylum lodges an appeal on the grounds that he has only be granted a permit to stay under Section 11, the second paragraph. If a judge grants a request for collection of evidence in court as provided for in Section 28, the costs to be borne by the foreigner for legal aid during its collection shall be paid by the State Treasury. The provisions of Chapter VI of the Code of Criminal Procedure shall apply as applicable to legal aid provided in accordance with the first and second paragraphs. Refund of costs paid for legal aid shall be claimed from the foreigner in whole or in part, if he has the means to pay them.

## **CHAPTER VI**

### **Foreigners to Whom the Agreement on the European Economic Area (the EEA Agreement) Applies**

### **Section 35**

#### **Permits to Stay in Iceland**

Foreigners to whom the provisions of the EEA Agreement on free movement of persons apply (EEA nationals) may enter Iceland without a particular permit and stay in Iceland for up to three months following arrival, or for up to six months if arriving for the purpose of seeking employment. A stay in any other Nordic country shall not be subtracted from these periods.

An EEA national who stays or works in Iceland for a period longer than provided for in the first paragraph must possess a permit to stay. The Minister of Justice may lay down rules providing for exemptions from the requirement for such permit, and rules imposing the duty to report to a certain place.

Application for a permit to stay may be lodged for the first time subsequent to arrival. The Immigration Office shall take decisions on permits to stay.

### **Section 36**

#### **Conditions for the Issue of a Permit to Stay**

Any EEA national is, upon application, entitled to a permit to stay, if he submits the travel document by which he entered Iceland and evidence to the effect that he:

- a. is a wage earner subject to the laws governing free movement of workers within the European Economic Area, cf. Annex V, point 2, to the EEA Agreement;
- b. intends to employ himself in Iceland as a self-employed person, or render or enjoy services in Iceland;
- c. receives adequate regular payments or possesses adequate means, and is insured under a medical insurance programme covering all risks while staying in Iceland, or
- d. is enrolled at an accredited educational institution with the chief aim of receiving education or occupational training there.

The Minister of Justice shall issue provisions on practical implementation in further detail.

Application for a permit to stay as provided for in the first paragraph may be denied if a situation applies which may provide an occasion to deny the foreigner entry into Iceland, a stay in Iceland, or employment in Iceland, under other provisions of law.

### **Section 37**

#### **Permits to Stay Issued to Family Members**

A family member of a foreigner who has, or receives, a permit to stay in Iceland in accordance with the provisions of Section 36, the first paragraph, is entitled, upon application, to a permit to stay, subject to conditions provided for by the Minister of Justice.

### **Section 38**

#### **Continued Stay Following Cessation of Employment**

The Minister of Justice may issue rules on the right of a foreigner to whom the provisions of Section 36, the first paragraph, subparagraphs (a) and (b), apply, to continued stay in Iceland following cessation of employment, and on his family members' right to a continued stay in accordance with Section 37.

### **Section 39**

#### **The Period of Effect and the Substance of a Permit to Stay**

A permit to stay issued for the first time under the provisions of Sections 36, 37 and 38 shall generally be issued for a period of five years.

If employment is intended for a period longer than three months and shorter than one year, the permit issued to a foreigner under the provision of Section 36, the first paragraph, subparagraph (a), shall be issued for a corresponding period.

A permit issued to a foreigner intending to render or enjoy service, as provided for in Section 36, the first paragraph, subparagraph (b), shall be issued for the period during which the service will be rendered or enjoyed.

The period of effect of a permit issued for the first time to a foreigner in accordance with the provision of Section 36, the first paragraph, subparagraph (c), may be limited to two years if the foreigner in question can not demonstrate that the conditions set for its issue will remain fulfilled for a period of five years.

A permit issued to a foreigner issued in accordance with Section 36, the first paragraph, subparagraph (d), shall be issued for the period corresponding to the duration of the studies, however not for more than one year.

A permit to stay grants its holder the right to remain in Iceland and to become engaged as a wage earner or a self-employed person anywhere in Iceland, subject to any limitations that may be provided for in the permit itself or follow from rules issued in accordance with this Act.

#### **Section 40**

##### **Renewal of a Permit to Stay**

A permit to stay issued in accordance with the provisions of Sections 36, 37 and 38 shall be renewed upon application, if the conditions set for its issue remain fulfilled. A permit to stay shall generally be renewed for a period of five years, provided the purpose of the stay or employment, or other reasons, recommend a shorter period of effect.

The Minister of Justice may issue provisions on renewal of permits to stay in further detail.

#### **Section 41**

##### **Revocation of a Permit to Stay**

A permit to stay may be revoked if the situation referred to in Section 16 applies. Revocation is however not permitted only for the reason that the foreigner is no longer employed, irrespective of whether this is due to sickness, accident, or that the foreigner in question is unemployed despite his desire for employment.

Revocation of a permit to stay issued for the first time to foreigners to whom Section 39, the first paragraph, subparagraphs (a)-(c), apply, is furthermore allowed in case of an interruption of residence lasting more than six consecutive months which is not due to military service.

#### **Section 42**

##### **Denial of Entry**

An EEA national may be denied entry into Iceland on arrival and for a period of up to seven days following arrival:

- a. if he does not fulfil the requirements set as regards passports, visas or manner of arrival;
- b. if he has been expelled from Iceland or from any other of the Nordic countries, a prohibition of re-entry is still in effect, and he has not been granted a permission to come to Iceland;
- c. in cases of the conduct referred to in Section 43, the first paragraph;
- d. this is necessary with a view to state security or urgent national interest.

A Commissioner of Police shall decide on denial of entry in accordance with points (a) and (b) of the first paragraph, and the Immigration Office shall take such decisions in accordance with points (c) and (d) of the first paragraph. Commencement of procedure within the period of seven days shall be sufficient.

If procedure in a matter referred to in the first paragraph has not commenced within the period of seven days, an EEA national who does not have a permit to stay in Iceland may be expelled by a decision of the Immigration Office taken in accordance with points (b), (c) or (d).

#### **Section 43**

##### **Expulsion**

An EEA national may be expelled from Iceland if this is necessary with a view to public order and security.

Expulsion may take place if the foreigner in question evinces, or is reasonably deemed to have evinced, personal conduct involving a real and sufficiently serious threat to fundamental societal values. A foreigner who has been sentenced, or with respect to whom special measures have been ordered, may generally only be expelled for this reason if his conduct is suited to indicate that he will commit a criminal offence again.

An EEA national may also be expelled from Iceland if he does not fulfil the requirements of Sections 36-38 for staying in Iceland.

Expulsion shall not take place if, with a view to the facts of the matter and the links to Iceland of the foreigner in question, the measure would be deemed unreasonable with respect to him or his closest family members.

Expulsion entails a prohibition against returning to Iceland later. The prohibition against returning may be permanent or limited in time, however generally not for a period shorter than two years. A person who has been expelled may, on application, be granted a permit to return if new facts recommend this.

The Immigration Office shall decide on expulsions and on return permits to expelled foreigners.

## **CHAPTER VII**

### **Refugees and Protection Against Persecution**

#### **Section 44**

##### **The Term 'Refugee'**

A 'refugee' under this Act is a foreigner to whom Article 1 (A) of the Convention relating to the Status of Refugees, of 28 July 1951 (the Refugee Convention), with Protocol dated 31 January 1967, applies.

A decision may be taken not to grant a refugee falling under the terms of sections C-F of Article 1 of the Refugee Convention the protection and rights provided for in this Chapter, in part or in full, except for the provisions on procedure. A refugee falling under the terms of sections C-E of Article 1 of the Refugee Convention shall however enjoy the protection provided for in Section 45.

#### **Section 45**

##### **Protection Against Persecution**

This Act does not permit the sending of a foreigner to an area where he has reasons to fear persecution capable of giving rise to the legal status of a refugee, or if it is not guaranteed that he will not be transferred to such an area. A foreigner who for reasons similar to those giving rise to the legal status of a refugee is in imminent danger of losing his life or being subjected to inhumane treatment shall be granted similar protection.

An administrative authority handling a matter subject to this Act shall, if it is discovered that the provisions of the first paragraph do not apply to a foreigner, examine on its own accord whether the provisions of Section 11, the second paragraph, shall be applied.

A foreigner shall not be granted the protection provided for in the first paragraph if he can be assumed to present a danger to state security or if he has been finally sentenced on account of highly serious crimes and, for that reason, presents a danger to society. Nor shall a foreigner to whom Article 1, section F, of the Refugee Convention applies, enjoy this protection.

The protection provided for in the first paragraph relates to any decisions taken in accordance with this Act.

#### **Section 46**

##### **Right of Asylum**

A refugee in Iceland or arriving in Iceland is, upon application, entitled to asylum. This does not, however, apply to a refugee if:

- a. he is exempted from the provisions on protection by Section 44, the second paragraph, or Section 45, the third paragraph;
- b. he has been granted asylum in another country;

- c. he has arrived in Iceland on his own initiative after having been afforded protection in another country, or after having stayed in a country or territory where he was not subject to persecution and did not have to fear being returned to his home country;
- d. another Nordic country may be requested to receive the foreigner by reference to the terms of the Nordic Passport Convention;
- e. another country participating in co-operation under the Dublin Convention of 15 June 1990 may be requested to receive the foreigner;
- f. if he may be refused entry on account of important national interests.

A refugee shall not be sent to another country under the provisions of the first paragraph, subparagraphs (c), (d) or (e), if his connections to Iceland are such as to make asylum in Iceland the most reasonable alternative.

The spouse of a refugee, or a refugee's partner in cohabitation or registered partnership, and the children of a refugee under the age of 18 years without spouses or partners in cohabitation or registered partnership are, in the absence of particular reasons to the contrary, also entitled to asylum.

A passport or other travel document, which an applicant may have in his possession, shall be delivered with his application.

The Minister of Justice may issue rules obliging a foreigner applying for asylum to stay within a certain municipality and in certain premises provided for him there, until a final decision is taken on his application.

## **Section 47**

### **The Legal Effects of Asylum**

The granting of asylum provides a foreigner with the legal status of a refugee, and with a permit to stay. His legal status shall be governed by Icelandic law and the Refugee Convention or other international instruments concerning refugees.

Asylum may be revoked if a refugee no longer comes under the definition of refugee, cf. Section 44, or if this otherwise follows from general administrative principles. The Immigration Office shall decide on such revocations.

## **Section 48**

### **Travel Documents for Refugees and Passports for Foreigners**

A refugee who stays or is allowed to stay lawfully in Iceland shall, upon application and provided no reasons are against this, be provided with a travel document for refugees for travel abroad. A refugee who has been issued a travel document in another country shall only be issued such a document if he has been granted asylum or a residence permit in Iceland, or if the issue of a refugee's travel document is obligatory for Iceland under the terms of an international agreement.

A foreigner who has, or obtains, a permit to stay in Iceland following an application for asylum, without asylum having been granted, shall be issued a foreigner's passport for travel abroad in accordance with rules which the Minister of Justice may issue in further detail. The rules thus issued may also provide for the issue of passports to foreigners in other situations.

A passport or other travel document in the possession of an applicant for a foreigner's travel document or a foreigner's passport shall be delivered with the application lodged.

The Minister of Justice may lay down rules on the issue, scope, renewal and revocation of foreigners' travel documents and passports for foreigners, and set conditions for their issue in further detail.

## **Section 49**

### **Applicability of Foreign Decisions Concerning Refugee Status**

A foreigner who has been granted asylum or provided with a travel document for refugees in another country shall be deemed to be a refugee with permanent residence in that country. If

such refugee applies for an asylum or a travel document for refugees in Iceland, the earlier decision on his refugee status shall not be challenged, except if the decision is wrong or if this is dictated by some other particular reasons.

## **Section 50**

### **Administrative Authorities, and Procedure**

The Immigration Office shall take the necessary decisions in matters relating to protection against being sent from Iceland, refugee status and asylum, and in matters concerning travel documents and passports for foreigners.

The Immigration Office shall also decide whether a foreigner arriving in Iceland as envisaged in Section 51 shall be granted refugee status.

When handling a case under the first and second paragraphs, the Immigration Office shall, on its own initiative, collect the necessary and available information. Notwithstanding the legal provisions on confidentiality the United Nations High Commissioner for Refugees may be informed of the substantial content of the case file. Such information may also be provided to humanitarian and human rights organisations to the extent this is necessary for collection of information.

## **Section 51**

### **Groups of Refugees**

The Immigration Office may permit groups of refugees to enter to Iceland as may be decided by Government authorities having received the proposals of the Refugee Council of Iceland. This shall also apply to groups of foreigners who do not have refugee status.

The provisions of Chapters IV and V of the Act on Administrative Procedures concerning right of protest, reasoning, etc, and the relevant provisions of Chapter V of this Act, shall not apply to decisions taken under the first paragraph. Appeal against a decision can only be lodged by a person to whom the decision directly relates.

A foreigner who is permitted to enter Iceland as provided for in the first paragraph shall be issued a permit to stay in Iceland. When a final decision has been taken to the effect that a foreigner shall have the legal status of a refugee, cf. Section 50, the second paragraph, he shall be entitled to asylum and to a travel document issued to refugees, cf. Sections 46-48.

## **CHAPTER VIII**

### **Miscellaneous Provisions**

## **Section 52**

### **Special Provisions Relating to State Security, etc.**

A person may be denied entry to Iceland, denied the issue of a permit to stay or a residence permit, or limitations or conditions imposed thereto, if this is deemed necessary with a view to Icelandic foreign policy, state security, or urgent national interests. A decision may, for the same reasons, be implemented earlier than provided for in Sections 31 and 32. The Immigration Office shall take any decisions as envisaged in this paragraph.

The Minister of Justice may, if this is considered necessary with a view to state security, provide for a duty to report at a certain place in further detail than laid down in Section 17 or in rules issued in accordance with Section 54.

## **Section 53**

### **The Duty of Foreigners to Provide Information, and to Report at a Certain Place**

Any foreigner shall, when requested by police, show his identity documents and provide information, if necessary, in order that his identity and the lawfulness of his stay in Iceland may be ascertained.

The Minister of Justice may decide that foreigners, except Danish, Finnish, Norwegian and Swedish nationals, shall carry passports or other personal identity documents at all times while staying in Iceland. The Minister may exempt other foreigners from this duty.

When procedure in accordance with this Act is in preparation, a foreigner to whom the matter relates may be ordered to appear in person and to provide information that may be of importance for its resolution.

## **Section 54**

### **The Duty of Others to Report**

The Minister of Justice may issue rules providing:

- a. that persons providing lodging of any kind or operating camping sites and similar facilities shall keep a registry of persons staying there and report this to police, and, if considered necessary with a view to security or special preparations, that others shall also provide the Immigration Office with information on foreigners staying in their premises;
- b. that the person in charge of an aircraft arriving to or leaving Iceland shall provide the police with a list of passengers and crew;
- c. that the captain of a ship crossing the limits of Icelandic territorial waters bound for an Icelandic harbour or leaving an Icelandic harbour shall provide police with a list of passengers and crew;
- d. that a person engaging a foreigner to provide services or as a wage earner shall report this to the Immigration Office before the provision of the service or work commences;
- e. that employment reference services shall notify the Immigration Office of any foreigners seeking or receiving employment;
- f. that the National Registry shall notify the Immigration Office of any foreigners registered in Iceland or removed from the Registry;
- g. that educational institutions shall, upon request, provide the Immigration Office with lists of foreign students;
- h. that administrative authorities shall, upon request, inform the Immigration Office or police of the name and residence of a foreigner for the purposes of procedure according to this Act, notwithstanding the provisions on confidentiality in the Municipal Social Services Act and the Act on Protection of Children.

The Minister of Justice may issue rules in further detail on the information to be contained in lists to be provided in accordance with the first paragraph above.

Persons on whom notifications or reports shall be made have the duty of providing the information necessary for this end.

## **Section 55**

### **Processing of Personal Information**

The Immigration Office and police authorities may process personal data, including data that may be classed as sensitive, to the extent such processing is deemed necessary for the implementation of this Act. When processing personal data, information in the possession of the Immigration Office and information in the possession of police may be compared by electronic means as needed. In any other respects the handling of personal data shall be governed by the Act on Protection of Individuals with Regard to Processing of Personal Data. The Minister of Justice, having obtained the opinion of the Data Protection Authority, shall issue rules specifying what data files shall be maintained by the Immigration Office and by police.

## **Section 56**

### **Liability for Costs**

A foreigner deported from Iceland under this Act shall pay the costs of his departure. The foreigner shall also pay the costs of detention when this is necessary on account of his failure

to leave Iceland of his own accord. The claim for this cost may be collected by distraint, and may also provide grounds for denial of entry under Section 18, the first paragraph, subparagraph (h), on later arrival in Iceland. Police may seize travel tickets to be used for departure, that may be found in a foreigner's possession.

If a foreigner who has come to Iceland by ship or aircraft is denied entry under the provisions of Sections 18 or 42, the owner or lessee of the craft, and the captain or agent in Iceland on the owner's or lessee's behalf, shall either receive the foreigner again on board or otherwise transport him from Iceland, or refund the expenses paid by the authorities for the foreigner's transport from Iceland. They shall likewise be obliged to receive on board persons to escort the foreigner, and pay the costs ensuing from escorting the foreigner to a foreign country, if police consider this necessary.

Any costs of transporting a foreigner from Iceland not paid in accordance with the first or second paragraphs above shall be paid by the State Treasury.

The provisions of the second paragraph above shall apply to liability for costs if a foreigner for whom police permission is necessary as provided for in Section 7 enters Iceland without such permission. The same principle shall generally apply as regards any expenses defrayed by public authorities as a result of the foreigner's stay in Iceland for up to three months.

Liability as provided for in the second and fourth paragraphs shall not apply to arrival across the inner borders of the Schengen Area.

## **Section 57**

### **Penal Provisions**

Fines or imprisonment for up to six months shall be ordered if a person:

- a. intentionally or negligently violates the provisions of this Act, or any rules, prohibition, order or condition laid down in accordance with this Act, or
- b. provides, intentionally or as a result of gross negligence, information for procedure under this Act that is in significant points incorrect or obviously misleading.

Fines or imprisonment for up to two years shall be ordered if a person:

- a. intentionally or as a result of gross negligence makes use of the working ability of a foreigner who has not obtained a permit required by law, or
- b. intentionally or as a result of gross negligence acts as an intermediary for employment or housing for a foreigner or improperly exploits a foreigner's personal situation by publishing or disseminating any declarations, pronouncements or documents intended for procedure under this Act, or
- c. intentionally entices a foreigner to Iceland for the purpose of settling down in Iceland by giving rise to, strengthening or making use of a wrong or unclear idea, or in any other improper manner, or
- d. provides another person with a passport, a travel document for refugee, any other travel document or any similar document that may be used as a travel document, which the person so doing knows or should know may be used by a foreigner for entering Iceland or some other country, or
- e. for purposes of financial gain assists a foreigner in staying illegally in Iceland or assists a foreigner in staying illegally in any other country taking part in the Schengen co-operation, or
- f. for purposes of financial gain assists a foreigner in entering Iceland illegally or assists a foreigner in illegally entering any other country taking part in the Schengen co-operation.

Fines or imprisonment for up to six years shall be ordered if a person, for purposes of financial gain, operates an organisation for providing assistance to foreigners in entering Iceland or any other country illegally.

If a foreigner is carried to Iceland without an adequate travel document, and the captain of the ship or aircraft has failed to ascertain that the foreigner is in possession of a valid travel document, cf. Section 4, the third paragraph, the captain of the craft may be fined.

When an offence is committed in the course of the operations of a legal person, the legal person may be fined as provided for in Chapter II A of the General Penal Code.

Attempted violation of the provisions of this Act is punishable and accomplices are criminally liable as provided for in Chapter III of the General Penal Code.

## **CHAPTER IX**

### **Administrative Regulations, and Entry into Force**

#### **Section 58**

##### **Administrative Regulations**

The Minister of Justice may, by administrative regulations, provide for the implementation of this Act in further detail.

#### **Section 59**

##### **Entry into Force**

This Act shall enter into force 1 January 2003.

As from the same time Act No. 45, of 12 May 1965, on Control of Foreign Nationals, as later amended by Acts No. 19 of 26 March 1991; Act No. 133 of 31 December 1993; Act No. 90 of 13 June 1996; Act No. 82 of 16 June 1998; Act No. 23 of 16 March 1999; Act No. 25 of 9 May 2000 and Act No. 7 of 13 March 2001, is repealed.

As from the same time, the following statute provisions are amended as follows:

1. The words 'Immigration Office' shall replace the words 'Foreign Nationals Office' in Section 14, the second paragraph, of the Act on Notification of Change of Residence, No. 73 of 25 November 1952.
2. The Act on Icelandic Citizenship, No. 100 of 23 December 1952, cf. Act No. 62 of 12 June 1998, is amended as follows:
  - a. The words 'Immigration Office' shall replace the words 'Foreign Nationals Office' in Section 5, the first paragraph, subparagraph (a).
  - b. The words 'Immigration Office' shall replace the words 'Foreign Nationals Office' in Section 6, the second paragraph.
3. The words 'Immigration Office' shall replace the words 'Foreign Nationals Office' in Section 4, the first paragraph, subparagraph (6), of the Act on a National Registry and Public Registration, No. 54 of 27 April 1962.
4. The words 'Director of the Immigration Office' shall replace the words 'Director of the Foreign Nationals Office' in Section 22, the first paragraph, subparagraph (7), of the Act on Rights and Duties of Public Employees, No. 70 of 11 June 1996, cf. Act No. 150 of 27 December 1996 and Act No. 23 of 16 March 1999.
5. The Passports Act, No. 136 of 22 December 1998, cf. Act No. 23 of 16 March 1999, is amended as follows:
  - a. The words 'Immigration Office' shall replace the words 'Foreign Nationals Office' in Section 2, the first paragraph; Section 7, the first paragraph; and Section 9.

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