



VELFERÐARRÁÐUNEYTIÐ

Ministry of Welfare

Act on the Free Right to Employment and Residence within the European Economic Area, No. 105/2014, as amended by Act No. 75/2018.

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](#).

Article 1

Regulation (EU) No. 492/2011 of the European Parliament and of the Council, on freedom of movement for workers within the Union, as amended by the Agreement on the European Economic Area, shall have the force of law in Iceland.

The Regulation is printed as an Appendix to this Act. Provisions of Section 2 and 3 of Chapter I of the Regulation shall furthermore apply to citizens of the signatory states to the Treaty on the European Free Trade Association and of the Faroe Islands.

Article 2

Relatives of citizens of EEA or EFTA member states who are legally resident in Iceland shall have the right to engage in employment or work as self-employed individuals on the Icelandic labour market, irrespective of their nationality.

For the purpose of the first paragraph, the following shall constitute relatives of citizens of EEA or EFTA member states:

- a. a spouse, cohabiting partner or registered same-sex partner,
- b. a descendant of the citizen and/or his/her spouse, if the descendant is under the age of 21 years or is supported by them,
- c. a relative of the citizen or his/her spouse, in direct line of descent, who is supported by them.

[Article 2 a

Employers may not make workers who enjoy freedom of employment and residence within the European Economic Area suffer negative consequences if they claim their rights under this Act.

In the event of an allegation that a violation of the first paragraph has taken place, the employer involved shall demonstrate that the reasons on which the treatment in question was based were not related to the fact that the worker in question sought to claim his or her rights under this Act. If the alleged violation takes place more than one year after a complaint, charge or demand for correction was made under this Act, on the other hand, then no violation shall be considered as having taken place.]¹⁾

¹⁾ Act No. 75/2018, Article 68.

Article 3

The Minister shall appoint a three-man committee to monitor the application of this Act; the committee may give instructions to those concerned regarding the application. The Icelandic Confederation of Labour shall nominate one member, the Confederation of Icelandic Employers shall nominate one member and the third member, who shall be the chairman, shall be appointed without nomination. Alternates shall be appointed in the same manner. The committee's term of appointment shall be four years.

In the event of a dispute as to whether the provisions of Article 7 of Regulation No. 492/2011, on freedom of movement for workers within the Union, as amended by the Agreement on the European Economic Area, has been complied, it may be referred to the committee, *cf.* the first paragraph, which shall seek to resolve the dispute. For this purpose, the committee may seek information from institutions, organisations or single companies which can provide the committee with the necessary information about general terms of engagement and employment in occupational sectors and companies. If no agreement can be effected between the parties, they may consult the courts.

When the committee deals with matters that apply specifically to civil servants who come under the employment and residence entitlements applying in the European Economic Area, then in addition to the members listed in the first paragraph, two members shall take seats on the committee. One of these shall be nominated by the relevant federation of civil servants and the other by the Minister in charge of the employment affairs of the state or the Association of Local Authorities in Iceland, as appropriate.

When the committee deals with matters that apply specifically to workers' or employers' federations other than those mentioned in the first and third paragraphs, members of those federations shall take seats on the committee.

Article 4

The Minister may issue regulations containing further instructions on monitoring as provided for under Article 3.

[Article 4 a

[This Act transposes Directive 2014/54 of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers, reference to which is made in Annex V to the Agreement on the European Economic Area as amended by Decision of the EEA Joint Committee No. 219/2015 of 25 September 2015.]¹⁾

¹⁾ Act No. 75/2018, Article 69.

Article 5

This Act shall take effect immediately. ...

Interim Provisions.

Provisions of Articles 1–6 of Regulation (EU) No. 492/2011 of the European Parliament and of the Council, on freedom of movement for workers within the Union, shall nevertheless not take effect regarding the rights of employment and residence of citizens of Croatia until 1 July 2015. The same shall apply regarding relatives of these citizens under Article 2 of this Act.

*[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.]*

Appendix

Provisions of Regulation of the European Parliament and of the Council (EU) No. 492/2011, on freedom of movement for workers within the Union, with amendments and additions resulting from Annex V, Protocol 1, of the Agreement on the European Economic Area and other provisions of the Agreement.*

** The regulation is adapted subject to a proviso regarding the application by the EFTA member states of individual aspects of it.*

**REGULATION (EU) No 492/2011
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 5 April 2011
on freedom of movement for workers within the Union
(codification)
(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 46 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee (OJ C 44, 11.2.2011, p. 170),

Acting in accordance with the ordinary legislative procedure (Position of the European Parliament of 7 September 2010 (not yet published in the Official Journal) and decision of the Council of 21 March 2011),

Whereas:

- (1) Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJ L 257, 19.10.1968, p. 2) has been substantially amended several times (See Annex I). In the interests of clarity and rationality the said Regulation should be codified.
- (2) Freedom of movement for workers should be secured within the Union. The attainment of this objective entails the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment, as well as the right of such workers to move freely within the Union in order to pursue activities as employed persons subject to any limitations justified on grounds of public policy, public security or public health.
- (3) Provisions should be laid down to enable the objectives laid down in Articles 45 and 46 of the Treaty on the Functioning of the European Union in the field of freedom of movement to be achieved.
- (4) Freedom of movement constitutes a fundamental right of workers and their families. Mobility of labour within the Union must be one of the means by which workers are guaranteed the possibility of improving their living and working conditions and promoting their social advancement, while helping to satisfy the requirements of the economies of the Member States. The right of all workers in the Member States to pursue the activity of their choice within the Union should be affirmed.

- (5) Such right should be enjoyed without discrimination by permanent, seasonal and frontier workers and by those who pursue their activities for the purpose of providing services.
- (6) The right of freedom of movement, in order that it may be exercised, by objective standards, in freedom and dignity, requires that equality of treatment be ensured in fact and in law in respect of all matters relating to the actual pursuit of activities as employed persons and to eligibility for housing, and also that obstacles to the mobility of workers be eliminated, in particular as regards the conditions for the integration of the worker's family into the host country.
- (7) The principle of non-discrimination between workers in the Union means that all nationals of Member States have the same priority as regards employment as is enjoyed by national workers.
- (8) The machinery for vacancy clearance, in particular by means of direct cooperation between the central employment services and also between the regional services, as well as by coordination of the exchange of information, ensures in a general way a clearer picture of the labour market. Workers wishing to move should also be regularly informed of living and working conditions.
- (9) Close links exist between freedom of movement for workers, employment and vocational training, particularly where the latter aims at putting workers in a position to take up concrete offers of employment from other regions of the Union. Such links make it necessary that the problems arising in this connection should no longer be studied in isolation but viewed as interdependent, account also being taken of the problems of employment at the regional level. It is therefore necessary to direct the efforts of Member States toward coordinating their employment policies, within the Union.

HAVE ADOPTED THIS REGULATION:

CHAPTER I
EMPLOYMENT, EQUAL TREATMENT AND WORKERS' FAMILIES

SECTION 1

Eligibility for employment

Article 1

1. Any national of a Member State shall, irrespective of his place of residence, have the right to take up an activity as an employed person, and to pursue such activity, within the territory of another Member State in accordance with the provisions laid down by law, regulation or administrative action governing the employment of nationals of that State.

2. He shall, in particular, have the right to take up available employment in the territory of another Member State with the same priority as nationals of that State.

Article 2

Any national of a Member State and any employer pursuing an activity in the territory of a Member State may exchange their applications for and offers of employment, and may conclude and perform contracts of employment in accordance with the provisions in force laid down by law, regulation or administrative action, without any discrimination resulting therefrom.

Article 3

1. Under this Regulation, provisions laid down by law, regulation or administrative action or administrative practices of a Member State shall not apply:

- (a) where they limit application for and offers of employment, or the right of foreign nationals to take up and pursue employment or subject these to conditions not applicable in respect of their own nationals; or
- (b) where, though applicable irrespective of nationality, their exclusive or principal aim or effect is to keep nationals of other Member States away from the employment offered.

The first subparagraph shall not apply to conditions relating to linguistic knowledge required by reason of the nature of the post to be filled.

2. There shall be included in particular among the provisions or practices of a Member State referred to in the first subparagraph of paragraph 1 those which:

- (a) prescribe a special recruitment procedure for foreign nationals;
- (b) limit or restrict the advertising of vacancies in the press or through any other medium or subject it to conditions other than those applicable in respect of employers pursuing their activities in the territory of that Member State;
- (c) subject eligibility for employment to conditions of registration with employment offices or impede recruitment of individual workers, where persons who do not reside in the territory of that State are concerned.

Article 4

1. Provisions laid down by law, regulation or administrative action of the Member States which restrict by number or percentage the employment of foreign nationals in any undertaking, branch of activity or region, or at a national level, shall not apply to nationals of the other Member States.

2. When in a Member State the granting of any benefit to undertakings is subject to a minimum percentage of national workers being employed, nationals of the other Member States shall be counted as national workers, subject to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

Article 5

A national of a Member State who seeks employment in the territory of another Member State shall receive the same assistance there as that afforded by the employment offices in that State to their own nationals seeking employment.

Article 6

1. The engagement and recruitment of a national of one Member State for a post in another Member State shall not depend on medical, vocational or other criteria which are discriminatory on grounds of nationality by comparison with those applied to nationals of the other Member State who wish to pursue the same activity.

2. A national who holds an offer in his name from an employer in a Member State other than that of which he is a national may have to undergo a vocational test, if the employer expressly requests this when making his offer of employment.

SECTION 2

Employment and equality of treatment

Article 7