



VELFERÐARRÁÐUNEYTIÐ

Ministry of Welfare

Act on Patient Insurance, No. 111/2000, as amended by Act No. 176/2000, Act No. 160/2007, Act No. 112/2008, Act No. 162/2010, Act No. 126/2011 and Act No. 85/2015.

Patients covered by the Act.

Article 1

Patients, as defined in Article 2 of the Act on Patients' Rights, who suffer physical or mental damage in Iceland in connection with examination or medical treatment in a hospital, health-care centre or other health institution, during medical transport, or in the care of a self-employed health-service worker certified as such by [the Medical Director of Health],¹⁾ are entitled to compensation pursuant to this Act. The same applies to those who lose their principal provider upon the death of such patients.

Patients who urgently require hospitalisation in a foreign hospital or other health institution abroad, *cf.* [Article 23 of Act on Health Insurance],¹⁾ and suffer physical or mental damage as a result of examination or medical treatment in the institution in question are entitled to compensation under this Act, following deduction of any compensation to which they may be entitled in the foreign state.

People participating in medical experiments that are not part of the diagnosis or treatment of the illness of the party concerned shall have the same rights as patients under this Act, unless otherwise specified.

Donors of tissue, organs, blood or other body fluids shall have the same rights as patients under this Act, unless otherwise specified.

¹⁾ Act No. 112/2008, Article 61.

Incidents of damage covered by the Act.

Article 2

Compensation shall be paid irrespective of whether anyone may be liable for damages according to rules of tort, provided that the damage suffered can in all probability be traced to any of the following incidents:

1. It may be assumed that damage could have been avoided if the examination or treatment under the circumstances in question had been conducted in the best possible manner and based on existing knowledge and experience in the relevant field.
2. Damage results from a malfunction or defect in instruments, tools or other equipment used during examination or medical treatment.
3. Subsequent evaluation reveals that damage could have been avoided by employing a different available treatment method or technique, which would from a medical point of view have been equally useful in the treatment of the patient.
4. Damage results from treatment or examination, including operations conducted for diagnostic purposes, and the damage is suffered from infections or other side effects which are more extensive than the patient should reasonably be expected to endure without compensation. On the one hand, account shall be taken of the extent of the damage, and on the other hand the illness and general health of the patient. It shall also be taken into consideration whether it is common for damage to result from treatment of the type received by the patient, and whether or to what extent the risk of such damage could have been anticipated.

Article 3

Compensation shall be paid for damage resulting from incorrect diagnosis in instances described in items 1 and 2 of Article 2. However, this does not apply to instances falling under items 3 and 4 of Article 2.

In the event that a patient is injured from causes other than those described in item 2 of Article 2, compensation shall be paid only if the patient was undergoing examination or treatment at the hands of an institution or other party covered by this Act, and if the accident occurred in such a manner that such institution or other party must be regarded as liable for damages pursuant to the general rules of tort.

Compensation under this Act shall not be paid if the damage can be traced to the characteristics of a medical product used in examination or medical treatment.

Article 4

Compensation shall be paid to individuals referred to in paragraphs 3 and 4 of Article 1 if they suffer damage as a possible result of a medical experiment, removal of tissue, etc., unless all the indications are that the damage can be traced to another cause.

The provisions of paragraph 1 do not apply to damage that can be traced to the characteristics of a medical product used in examination or treatment, *cf.* paragraph 3 of Article 3.

Determination of the amount of compensation.

Article 5

The determination of the amount of compensation under this Act shall be conducted in accordance with the law of tort, *cf.* however paragraph 2 of Article 10.

Compensation pursuant to paragraph 1 shall be paid if the damage suffered is assessed at ISK 50,000 or more. However, the maximum amount of compensation accorded for a single incident of damage shall be ISK 5,000,000. These amounts shall be adjusted as of 1 January each year according to [the consumer price index].¹⁾

The provisions of paragraph 2 do not apply to damage described in paragraph 1 of Article 4, *cf.* paragraphs 3 and 4 of Article 1.

Compensation shall not be paid pursuant to this Act for the satisfaction of reimbursement claims.

¹⁾ Act No. 176/2000, Article 1.

Own fault.

Article 6

Compensation may be reduced or cancelled if a patient is involved in causing the damage, intentionally or as a result of gross negligence.

Law of Tort pursuant to general rules.

Article 7

No claim for damages shall be made on any party subject to liability under the rules of tort, unless the damage in question has not been fully compensated in accordance with Article 5, and then only for the residual amount due.

Reimbursement claims.

Article 8

In the event that a liable party pursuant to Article 9, or an employee or former employee of such party, is liable to pay damages to a patient pursuant to the rules of tort, no reimbursement claims shall be made against the liable party for payment pursuant to Article 5, unless the damage in question was caused intentionally.