

Act on the recognition of professional qualifications for the pursuit of an activity in Iceland

2010 No 26, 31 March

Entry into force 1 July 2010 *EEA Agreement*: Annex VII, Directive 2005/36/EC. *Amending acts*: Act No 126/2011 (entry into force 30 September 2011). Act No 63/2012 (entry into force 29 June 2012). Act No 90/2018 (entry into force 15 July 2018; *EEA Agreement*: Annex XI, Regulation No 2016/679). Act No 16/2020 (entry into force 12 March 2020); *EEA Agreement*: Annex VII and Annex X, Directive 2013/55/EU).

Any reference in this Act to “the Minister” or “the Ministry” not accompanied by express mention of or reference to a specific field of responsibility shall be understood as being a reference to the **Minister of Education, Science and Culture** or to the **Ministry of Education, Science and Culture** as responsible for the implementation of this Act.

■ Article 1 Scope

This Act applies in situations where there is a need to evaluate whether a person wishing to take up work in Iceland in an employed or self-employed capacity meets the conditions for exercising a profession which is subject to authorisation, licencing or other equivalent recognition by a regulatory authority based on professional qualifications acquired in another country.

[This Act also applies to the granting of partial access to a regulated profession and to the recognition of periods of vocational training pursued in another country.] ¹⁾

Moreover, this Act applies to cases of mandatory declaration of services which are provided in Iceland on a temporary or intermittent basis and which are subject to authorisation, licencing or other equivalent recognition by a regulatory authority.

¹⁾ Act No 16/2020, Article 1.

■ Article 2 Rights

Nationals of a Member State of the European Economic Area or of a country party to an agreement on the mutual recognition of professional qualifications are entitled to pursue a profession in Iceland in a self-employed or employed capacity under the same conditions as Icelandic nationals, [subject to the presentation of a certificate of professional competence or of evidence of the formal qualifications required], ¹⁾ provided that they meet the requirements laid down in:

a. Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications, and its annexes in their latest versions;

b. such agreements entered into between the governments of the Nordic countries as have come into force as far as Iceland is concerned and provide for general rules on the mutual recognition of professional qualifications,

c. the Hoyvík Agreement of 31 August 2005 between the Government of Iceland, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part.

- [The right to pursue a professional activity also extends to nationals of the Member States of the European Economic Area who have undergone vocational training in a country other than their home country, and to holders of a European Professional Card.
- The right to pursue a professional activity further applies to persons having obtained an education on the basis of a common training framework established by the European Commission or of a common training test established in the same manner.
- Persons benefiting from the recognition of professional qualifications must possess the language skills necessary to practise the profession concerned in Iceland.
- Further provisions on the conditions to be fulfilled for the recognition of professional qualifications under this Article are to be laid down by the Minister by means of a Regulation.] ¹⁾

¹⁾ Act No 16/2020, Article 2.

■ Article 3 *Competent authorities*

- A person who is covered by the Directive or any agreement on the recognition of professional qualifications, cf. Article 2, and who wishes to pursue an activity in Iceland must submit an application to [the Ministry], ¹⁾ unless another authority is competent to resolve the case pursuant to legislative or administrative provisions. [An applicant may choose to apply for a European professional card, where that option exists in the applicant's home Member State, or to apply for recognition using established procedures on arriving in Iceland. Further provisions on the issuance of the European professional card are to be laid down by the Minister by means of a Regulation.] ²⁾
- A person who is not covered by the Directive or any agreement on the recognition of professional qualifications, cf. Article 2, must submit an application to [the Ministry] ¹⁾ unless another authority is competent to resolve the case pursuant to legislative or administrative provisions.
- The authority responsible for issuing authorisations, licences or recognitions for the pursuit of a profession in Iceland is to verify that the conditions laid down in the Directive or in any of the agreements referred to in Article 2, [first paragraph,] ²⁾ points b and c, together with any other conditions pertaining to the profession, are fulfilled.
- [Competent authorities in Iceland are to grant partial access to a professional activity on a case-by-case basis, subject to conditions to be further laid down by means of a Regulation.] ²⁾
- A person wishing to take up work in Iceland in an employed or self-employed capacity, on a temporary or intermittent basis, must submit a written declaration of that intent in advance to the relevant authority, see further Article 5.
- [Competent authorities may require an applicant to undergo compensation measures, take an aptitude test, or complete an adaptation period, if the applicant's education or professional experience differ substantially from Icelandic requirements.] ²⁾

¹⁾ Act No 126/2011, Article 522. ²⁾ Act No 16/2020, Article 3.

■ Article 4 *Services provided on a temporary or intermittent basis*

- A person meeting the requirements laid down in the Directive is entitled to provide services in Iceland on a temporary or intermittent basis provided that that person:
 - a. is legally established in a Member State of the European Economic Area for the purpose of pursuing the same profession there, and
 - b. [has pursued the profession in question for a period of at least one year in the ten years preceding the provision of the service in one or more Member States where the profession is not regulated]. ¹⁾ The requirement of [one year's] ¹⁾ professional experience does not apply when either the profession or the qualification required to exercise it is subject to authorisation, licencing or recognition by a public authority.

The assessment of the nature of a service provided on a temporary or occasional basis must in each case take into account its duration, frequency, regularity and continuity.

¹⁾ Act No 16/2020, Article 4.

■ Article 5 Declaration of services provided on a temporary or intermittent basis

A person wishing to provide a service in Iceland for the first time, cf. Article 4, must prior to commencement of the service submit a written declaration to the relevant authority stating, amongst other things, details of any insurance cover pertaining to it. The declaration must be re-submitted annually if the person concerned wishes to continue to provide services on a temporary or intermittent basis.

For the first provision of services, or if there is a material change in the situation on which an authorisation was based, the relevant authority may require that the applicant's declaration be accompanied by the following documents:

a. proof of the nationality of the applicant;

b. an attestation certifying that the holder is legally established in a Member State for the purpose of practising the profession concerned, and is authorised to do so at the moment of delivering the attestation;

c. evidence in the form of a diploma attesting to the applicant's professional qualifications to pursue the activity;

d. proof that the applicant has pursued the profession in question for at least [one year]¹⁾ in the preceding ten years, cf. Article 4, first paragraph, Point b;

e. [an attestation confirming that the applicant has not been suspended from employment, temporarily or permanently, or been convicted for criminal offences in the pursuit of a professional activity, such suspension or conviction entailing the loss or limitation of the right to pursue an activity in the security sector, in the health sector, or in professions related to the upbringing and education of minors, including in preschools, compulsory schools and upper secondary schools, where such attestation is required in Iceland];¹⁾

[f. a declaration that the applicant has the necessary knowledge of Icelandic when the professional activity in question has patient safety implications or involves teaching responsibilities in preschools, compulsory schools or upper secondary schools].¹⁾

[A competent authority may check the professional qualifications of the applicant prior to the first provision of services where the professional activity in question has public health or public safety implications and does not benefit from automatic recognition. Further provisions regarding checks of professional qualifications are to be laid down by means of a Regulation.]¹⁾

¹⁾ Act No 16/2020, Article 5.

■ Article 6 Documentation

[In the event of justified doubts, the relevant authorities may ask the competent authorities of the home Member State to provide any information relevant to the legality of the service provider's establishment and making clear whether the service provider has been subjected to disciplinary sanctions or forfeited rights in a professional context. Where the relevant authority decides to check the service provider's professional qualifications it may ask the competent authorities of the home Member State for information about the service provider's education and training to the extent necessary to assess substantial differences likely to be harmful to public health or safety.]¹⁾

¹⁾ Act No 16/2020, Article 6.

■ Article 7 Processing and exchange of information

Icelandic authorities are to cooperate with any national authority responsible for the implementation of the Directive, including on the exchange of information liable to have

consequences for the right to pursue a profession for which an authorisation, licence or other equivalent recognition is required. [Information must be provided regarding disciplinary sanctions or criminal convictions against the applicant which are considered likely to have consequences for the pursuit of activities in the security sector, in the health sector, and in professions related to the upbringing and education of minors, including in preschools, compulsory schools and upper secondary schools. Competent authorities must inform all other Member States of instances where courts have restricted or prohibited, even temporarily, the pursuit by a person of a professional activity, in its entirety or parts thereof, on their territory. Further provisions on such notifications are to be laid down by means of Regulations.] ¹⁾

The authority responsible for recognising professional qualifications covered by the Directive may process personal data and other information considered necessary for the application of the Directive. For this purpose, the authority may create a special register to hold the data and share it with the competent authorities of the other Member States of the European Economic Area, provided that any such exchange of information takes place through the Internal Market Information System and subject to the provisions of [Article 16 of the Data Protection Act]. ²⁾ Similarly, the authority may receive information from such a system and store it in a special register. The information may not be communicated by other means.

Any authority or other entity entrusted by law with the recognition of professional qualifications in accordance with the Directive, or with the monitoring of the activities of those authorised to pursue an activity in Iceland pursuant to the Directive, must have access to the recorded data.

The provisions of the Data Protection Act must be adhered to in regard to other aspects of the processing of data as referred to in the second paragraph, including providing data subjects with information about the handling of the data, [cf. Article 17 of the Act]. ²⁾ The authority responsible for the recognition or granting of the relevant professional qualifications shall be regarded as ‘controller’ for the purposes of that Act.

¹⁾ Act No 16/2020, Article 7. ²⁾ Act No 90/2018, Article 54.

■ **Article 8** *Authorisation to issue administrative provisions – Fees to be charged*

The relevant minister may issue a Regulation ¹⁾ granting exemption from legal provisions regarding nationality, residence or the recognition of diplomas to the extent necessitated by obligations resulting from the Directive or any of the agreements referred to in Article 2.

The relevant minister issues rules on aptitude tests or complementary training, as appropriate. The relevant minister may furthermore decide that costs incurred in assessing aptitude and/or providing complementary training be borne by the applicant. The fee charged may cover the costs incurred for the translation of documents, training, assessment, and other administration work in connection with complementary training in the field in question.

[The relevant minister issues rules on fees that may be charged for the processing of applications for authorisation to pursue a profession in Iceland and applications for a European Professional Card, and for the evaluation of documents. Any fees charged must be reasonable and commensurate with the workload necessary to assess the merits of the application.] ²⁾

¹⁾ Regulation No 243/2018. ²⁾ Act No 16/2020, Article 8.

■ **Article 9** *Coordination, Regulation, etc.*

[The Ministry] ¹⁾ is responsible for overseeing and coordinating the implementation of the Directive and of the agreements referred to in Article 2.

[The Minister] ¹⁾ lays down more detailed provisions on the transposition and implementation of the Directive by means of a Regulation ²⁾, including on authorisations to gather information from those authorities responsible for granting authorisations or licences in accordance with the

Directive. The Regulation must also provide in more detail for the conduct of assessments and the procedure to be followed when an authority examines applications for recognition to exercise a regulated profession in Iceland.

[The relevant minister, as designated by legislative and regulatory provisions on the division of responsibilities between the ministries forming part of the Government Offices of Iceland, may issue regulations pertaining to the professions falling under that minister's responsibility in the manner provided for in the second paragraph.] ³⁾

[The Minister] ¹⁾ may conclude agreements entrusting competent bodies with the implementation of aptitude tests and the provision of complementary training in accordance with Article 8, second paragraph. Such bodies may furthermore be entrusted with assessing whether applicants meet the legally prescribed requirements for exercising the profession and with accepting and processing applications, cf. Article 3, second and third paragraphs. Official decisions made on the basis of such agreements are final and not subject to appeal to a higher authority.

Moreover, [the Minister] ¹⁾ may issue, by means of a Regulation, more detailed provisions on the processing and exchange of data essential to the implementation of the Directive, subject to the provisions of the [Data Protection Act]. ⁴⁾

¹⁾ Act No 126/2011, Article 522. ²⁾ Regulation No 374/2010. Regulation No 375/2010. Regulation No 376/2010. Regulation No 879/2010. Regulation No 461/2011. Regulation No 585/2011, cf. No 1324/2011. Regulation No 544/2012. Regulation No 414/2013. ³⁾ Act No 63/2012, Article 1. ⁴⁾ Act No 90/2018, Article 54.

■ Article 10 *Transposition of the Directive*

This Act constitutes the transposition of Directive of the European Parliament and of the Council 2005/36/EC of 7 September 2005 on the recognition of professional qualifications, as incorporated into the Agreement on the European Economic Area by Decision of the EEA Joint Committee No 142/2007, published on 10 April 2008 in the *EEA Supplement to the Official Journal of the European Union* No 19/2008.

[This Act transposes Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation'), as incorporated into the Agreement on the European Economic Area by Decision of the EEA Joint Committee No 94/2017, published on 7 February 2019 in the *EEA Supplement to the Official Journal of the European Union* No 11/2019.] ¹⁾

¹⁾ Act No 16/2020, Article 9.

■ Article 11 *Entry into force*

This Act shall enter into force on 1 July 2010. ...

■ Article 12 *Amendments to other Acts ...*

Disclaimer: This is an English translation. The original Icelandic text, as published in the Law Gazette (*Stjórnartíðindi*) is the authoritative text. Should there be discrepancy between this translation and the authoritative text, the latter prevails.