

Agreement on Foreigners in the Icelandic Labour Market

The Icelandic Confederation of Labour (ASI) and the Confederation of Icelandic Employers (SA) have agreed on the following procedure in matters of disagreement concerning foreign employees.

Premises and common objectives

The organisations agree that Iceland's obligations according to the EEA Agreement on the free movement of goods, capital, services, and workers across national boundaries have a positive effect on the interests of individuals and companies in this country, simultaneous with an increased supply of goods and services, the dissemination of knowledge between countries, increased competition between companies, upward trends in various sectors of society, and the increase in the number of jobs.

Derived from the EEA Agreement is that nationals of member states may travel between countries for the purpose of seeking or engaging in work without a work permit. Companies established there are also entitled to provide services in other member states, using their own employees, without a special permit. Nationals of EFTA states have, in the main, the same rights according to the EFTA Convention.

The general rule is that other foreigners (third-country nationals) shall not be hired to work in this country without a work permit.

The parties to this agreement are of the opinion that changes in the composition of the work force due to increases in the number of foreigners in the Icelandic labour market should not disturb the current arrangement concerning the determination of wages and other terms of employment of workers through the collective agreements. The current rules about the enforcement of collective agreements will continue to be the basis for decisions.

It is the joint task of the parties to this agreement to see to it that companies using foreign workers in their production or services pay wages and terms of employment that are in accordance with the collective agreements and the laws of Iceland.

If collective agreements are not honoured, this undermines the operations of other companies and compromises the premises of normal competition, and diminishes the benefits of the entire society from a stable and healthy labour market.

The parties agree that the adaptation of foreign workers and foreign companies to the habits and customs of Iceland's labour market and society promote peace and trust in the relations between the parties involved.

The right of workers to carry out certain work is, by law, often bound by requirements that the workers have completed a specific education or have obtained special certification in order to be able to work in this field. The EEA Agreement states the right of foreign workers to have their education, occupational qualifications, and the experience that they have obtained in another EEA country recognised in this country, in accordance with the applicable laws and rules.

General rules concerning foreigners' terms of employment

With this agreement, ASI and SA wish to guarantee the enforcement of current legislation regarding the terms of employment for foreigners in the Icelandic labour market. These rules apply especially to the following areas:

- *Wages and other terms of employment.* Act no. 55/1980 on Working Terms and Pension Insurance Rights states that wages and other terms of employment agreed upon by the social partners shall be minimum terms, independent of nationality, applying to all workers in the field of work covered by the collective agreement.
- *Employees of foreign service undertakings, including temporary employment agencies.* Act no. 54/2001 on the Legal Status of Employees Posted Temporarily in Iceland in the Service of Foreign Undertakings states, among other things, that employees shall, while they work in this country, receive wages and enjoy vacations rights according to collective agreements and protection according to rules concerning health and safety in the workplace.
- *Freedom of movement for workers.* The EEA Agreement and Act no. 47/1993 on Freedom of movement for Workers Within the EEA state that any discrimination of workers of an EEA country other than that in which he works on grounds of nationality shall be prohibited regarding terms of employment, working conditions, and especially, as regards wages.
- *Work permits for nationals of third countries.* The Foreign Nationals' Right to Work Act, no. 97/2002, states that a permit to work in this country shall be granted according to the laws and regulations that apply to the Icelandic labour market and that there exists an employment agreement that guarantees the employee wages and other terms of employment equivalent to those of Icelanders, cf. Act no. 55/1980.

Information on wages and other terms of employment for foreign workers

It is the role of the shop stewards at the workplace to safeguard that the collective agreements that are made are enforced with respect to the employees, cf. Act no. 80/1938, Article 9. If there is a well-founded suspicion of a violation of the relevant collective agreement or the law regarding foreign workers' terms of employment, the shop steward has the right, on the basis of this agreement, to study information on the wages and other terms of employment for the foreign employees who are covered by this collective

agreement and who work for the employer in question and, as appropriate, information about the occupational qualifications of those in jobs where such qualifications are needed.

If there is no shop steward at the workplace, a representative of the labour union in question shall have the same power as the shop steward to study such information, and he shall have the same responsibilities.

In general, the shop steward shall have access to this information by being shown copies of payslips or other information that confirms wage payments and other terms of employment for the relevant employees. The shop steward is not permitted to remove this information from the workplace. The shop steward shall treat all the information he receives as a confidential matter. The shop steward is permitted, however, to consult the labour union concerned, and in that case, the representatives of the labour union are required to exercise strict confidentiality about information to which they have access.

If the employer does not agree to the shop steward's request for access to information about the wages and other terms of employment relating to the foreign worker and/or there is a disagreement over whether the provisions of collective agreements or law have been met, cf. Act no. 55/1980, Act no. 54/2001, and Regulation no. 1612/68/EEC on the free movement of workers, cf. Act no. 47/1993, and if the disagreement has not been settled within the company, the disagreement may be sent to the special Consultation Committee of ASI and SA.

Consultation Committee of ASI and SA

The Consultation Committee of ASI and SA, which deals with matters regarding foreigners in accordance with this agreement, shall have four representatives, two from ASI and the national organisation involved, and two from SA.

The Consultation Committee shall look for ways to cast a light on matters that are sent to the committee in accordance with the rules above and to settle the matter of disagreement with discussions between the parties.

A matter that is sent to the Consultation Committee shall be discussed by the Committee within two weeks unless unusual circumstances prevent this.

When studying the matter under discussion, the Committee may demand necessary information from the employer about wages and other terms of employment for the foreign employees involved and, if appropriate, about the occupational qualifications of those carrying out work that requires such qualifications. This power applies to the foreign employees who are covered by the collective agreements of the ASI member organisations; cf. Act 55/1980, Article 1.

The shop steward, or the union representative who has acted as a shop steward, is not bound by confidentiality in his communications with the Committee about matters under discussion within the Committee. In addition, members of the Consultation Committee may approach the shop steward or a the union representative who has acted as a shop

steward in accordance with what is stated above,-, in order to get more information on the matters under discussion.

The Consultation Committee and individual members of the committee shall exercise confidentiality about information that is received from the employer, the shop steward, or a union representative, and it is prohibited to give such information to a third party or to tell a third party about its contents.

The parties to the disagreement shall be told about the Committee's ruling.

It is permissible to bring a matter to court despite the Committee's ruling. If this is done, the duty to exercise confidentiality in accordance with what is stated above does not prevent the presentation of information in a court case.

Reykjavík, 7 March 2004

On behalf of The Icelandic Confederation of Labour (ASÍ) and its national organisations
On behalf of The Confederation of Icelandic Employers (SA)