

Act On Foreigners No. 96 /2002

This Act entered into force January 1st, 2003.

This Act has been amended by Amendments No 27/2003, 20/2004, 106/2007, 86/2008, 88/2008, 154/2008, 65/2010, 114/2010, 115/2010, 116/2010 and 162/2010.

(No. 96 of May 15th, 2002)

SECTION I

General Provisions

Article 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. For the purposes of this Act, 'foreign national' (or 'foreigner') denotes any person who does not hold Icelandic citizenship.

Special rules shall apply to foreign nationals who are covered by the Agreement on the European Economic Area (EEA) or the Convention establishing the European Free Trade Association (EFTA); see Section VI.

Icelandic nationals may also bear duties under this Act.

This Act shall not apply to Icelandic ships at sea and Icelandic aircraft in flight.

Article 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.

Article 3

Implementation

The Minister of the Interior shall be in overall charge of the matters covered by this Act. He may issue rules in further detail on the right of foreigners to come to Iceland and stay in Iceland, including further conditions regarding temporary and permanent residence permits.

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

The Minister 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 shall lay down the sphere of the functions of those charged with implementing this Act.

SECTION II **Arrival and Departure**

Article 4 *Border control.*

All persons entering Iceland shall immediately report to a border post or to the nearest police authority. The same shall apply to persons leaving the country, who shall submit to departure control. Travel across internal borders within the Schengen Area and other travel in accordance with rules issued by the Minister shall be exempt from these requirements.

Entry into Iceland and departure from Iceland shall take place at the localities and during the service hours determined by the Minister. The provisions of the Customs Act shall apply to travel across internal borders within the Schengen Area.

The Minister shall issue further rules applying to travel across borders, including conditions for entry into Iceland, the conduct of inspection and the registration of data, and also on exemptions from the provisions of the first and second paragraphs of this Article regarding travel across internal borders within the Schengen Area. He shall also issue rules on the duty of the captain of a ship or aircraft to ensure that passengers are in possession of valid travel documents.

The Minister may, in the framework of a regulation, lay down more express rules on Iceland's participation in funds, organisations and practical collaboration regarding operational cooperation at external borders based on obligations in accordance with the agreement on Iceland's participation in the Schengen cooperation signed in Brussels 18 May 1999.

Article 5 *Passports*

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

The Minister 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.

Article 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. 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 visa specifies.

The Minister 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.

A foreigner may be granted a visa valid throughout the Schengen Area if the following basic conditions are met:

- a. he is in possession of a valid passport or other valid identification document accepted as a travel document on arrival in Iceland and other countries within the Schengen Area and which is valid, on the date of departure, for at least three months following the period for which the visa is sought,
- b. he is authorised to return to his homeland or another state, this authorisation being valid for at least three months following the period for which the visa is valid,
- c. he has sufficient financial resources to support himself during the proposed stay in Iceland and to pay for the journey back to his homeland or another country to which he has a secure right of entry, or is able to support himself in a lawful manner,
- d. he is able to demonstrate the purpose of his stay,
- e. no reason exists to refuse him entry into Iceland, or to expel him from Iceland, under Articles 18 or 20,
- f. he is not listed in the Schengen Information System with a view to preventing his coming to Iceland,

g. he is not considered as posing a threat to public order, national security or the international relations of Iceland or another state participating in the Schengen scheme,

h. he is in possession of valid guarantees of health insurance and the cost of his return journey.

If considerations regarding national foreign policy or public safety argue against it, then a visa shall not be granted. The same shall apply if there is reason to doubt the stated purpose of the foreigner's journey to Iceland or the truth of information he has given, and also where there is a suspicion that the applicant, or his or her child, will suffer abuse or violence. When the authorities consider there is particular reason to do so, they may request the comments of the police in order to obtain information on the criminal record of a host in order to assess whether the application should be rejected under this provision.

The Minister shall issue rules regarding visas, including conditions for granting them. When assessing a visa application, consideration shall be given not only to the foreigner's nationality but also to his social standing and the danger that he will remain in the Schengen Area for longer than permitted. When assessing visa applications, the experience and practice of other Schengen states may be taken into account. 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.

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

SECTION III **Stay and Residence**

Article 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 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.

The following foreign nationals may stay in Iceland without residence permits:

- a. Danish, Finnish, Norwegian, Swedish citizens,
- b. foreign nationals who acquired Icelandic citizenship at birth, but have lost it or renounced it,
- c. foreign nationals who have an Icelandic parent if they have been domiciled in Iceland and been in possession of temporary residence permits for two continuous years, providing that the parent has held Icelandic citizenship for not less than five years,
- d. foreign nationals who are legally competent and have a parent who is an Icelandic citizen, if they have been domiciled in Iceland and held temporary residence permits for five continuous years,
- e. foreign nationals who are married to Icelandic citizens and have cohabited with their partners in Iceland and held temporary residence permits continuously for three years following the establishment of the marriage,
- f. foreign nationals who are living in registered partnerships with Icelandic citizens and have been domiciled in Iceland, and held temporary residence permits, for five continuous years from the date of registration of the partnership, providing that both partners are unmarried and the Icelandic citizen has held Icelandic citizenship for not less than five years.

The Minister may set rules specifying further exemptions from the requirement regarding temporary residence permits.

The Directorate of Immigration may issue certificates to foreign nationals confirming that they do not require temporary residence permits in Iceland.

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

Article 10

Applications for temporary residence permits.

Subject to the provisions of Articles 45 and 46 a foreigner, applying for a temporary residence permit for the first time, shall file an application for the permit prior to his/her arrival in Iceland and may not enter Iceland before the application has been accepted. This requirement may be waived if cogent considerations of fairness so demand, or in accordance with rules set by the Minister.

The Directorate of Immigration shall take a decision regarding the temporary residence permit. The applicant shall sign the application with his own hand, stating, *inter alia*, that he consents to undergo a medical examination within two weeks of arriving in Iceland in accordance with current legislation and the instructions of the health authorities. The application shall be accompanied by a photograph of the applicant and he shall sign the application with his own hand, stating, *inter alia*, that he consents to undergo a medical examination within two weeks of arriving in Iceland in accordance with current legislation and the instructions of the health authorities. The application for a temporary residence permit shall also be accompanied by all the materials and certificates required by the Directorate of Immigration in order to confirm that the applicant meets the conditions set forth in legislation and regulations, such as statement from the Penal Register, a health certificate and confirmation of guarantees that the applicant is able to support himself and that he is in possession of health insurance. The Minister may issue regulations containing more detailed specifications of the documents and certificates to be submitted by the applicant.

Article 10 a

Issue of temporary residence permits.

A temporary residence permit may not be issued until the application for a temporary residence permit has been approved, the foreign national has arrived in Iceland, has undergone a medical examination as attested by a certificate issued by a health institution and has completed the registration of his address in Iceland. The Directorate of Immigration shall issue a certificate attesting that a temporary residence permit has been issued. The certificate shall be issued to the foreign national in his name and he shall be the holder of the residence permit. In order to enable identification of the holder of the temporary residence permit and establish that the holder is the individual he claims to be, a digital image of the applicant shall be taken and printed on the certificate. For the same purpose, the Minister may decide that the temporary residence permit certificate shall include a microchip containing the information registered on the card, together with the

holder's fingerprint. The certificate shall state, amongst other things, the foreign national's name and nationality, the name of his employer, where appropriate, and the term of validity of the temporary residence permit.

Article 11

Basic conditions for a temporary residence permit.

A foreign national may be granted a temporary residence permit under the provisions of Articles 12-12 *e* or Article 13 in response to an application if he meets the following basic requirements.

- a. his support, health insurance and accommodation are secure in accordance with further rules set by the Minister,
- b. he meets the requirements for a temporary residence permit as set forth in this Act and other regulations under the first paragraph of Article 3,
- c. he gives his consent to undergo a medical examination within two weeks of his arrival in Iceland in accordance with current legislation and the instructions of the health authorities, and
- d. no circumstances obtain which could result in his being refused entry into Iceland or residence in the country under other articles of this Act.

A foreign national's support under item *a* of the first paragraph is considered secure if he receives wages or payments from independent activities that are sufficient to support him, or if he receives secure regular payments that are sufficient to support him, or if he has sufficient private funds to cover his support during his stay in the country or if he receives a student loan or study grant that is sufficient to cover his support. Private funds, student loans or study grants must be denominated in a currency that is registered at the Central Bank of Iceland. Support may be based on more than one of these sources, in which case it shall be considered as secure if the foreign national is able to demonstrate that his overall financial capacity is sufficient to cover his support. Payment in the form of social assistance by the state or a local authority shall not be regarded as a secure means of support for the purpose of this article.

Under special circumstances, a foreign national who comes to Iceland for legitimate purposes and meets the requirements of the first and second paragraphs of this Article may be granted a temporary residence permit even though he does not meet the requirements of Article 12-12 *e* or Article 13 regarding temporary residence permits. Such temporary residence permits may not be granted for more than one year at a time and may not constitute the basis for permanent residence permits.

Article 12

Temporary residence permits in connection with employment for which specialist skills are required.

Foreign nationals may be granted temporary residence permits in connection with employment in Iceland for which specialist skills are required. The conditions for granting temporary residence permits under this Article shall include the following:

- a. that the foreign national meets the requirements of the first and second paragraphs of Article 11,
- b. that a temporary work permit in connection with employment for which specialist skills are required has been granted in conformity with the Foreign Nationals' Right to Work Act.

Temporary residence permits under this Article shall not initially be issued for more than one year, and in no case for a longer period than the term of the work permit. Temporary residence permits may be extended for up to two years at a time providing that the conditions of the first paragraph are met.

A permit granted under this Article may constitute the basis for a permanent residence permit.

Article 12 a

Temporary residence permits granted in connection with labour shortages.

Foreign nationals may be granted temporary residence permits in connection with participation in the Icelandic labour market in conformity with Article 9 or Article 15 of the Foreign Nationals' Right to Work Act. The conditions for granting temporary residence permits under this Article shall include the following:

- a. that the foreign national meets the requirements of the first and second paragraphs of Article 11,
- b. that a work permit has been issued under Article 9 or Article 15 of the Foreign Nationals' Right to Work Act.

Temporary residence permits under this Article shall not initially be issued for more than one year, and in no case for a longer period than the term of the work permit. Temporary residence permits may be extended for up to one further year.

Permits may be extended for longer than the period specified in the second paragraph of this Article in the case of a clearly delineated work project which is of fixed duration which covers a period longer than that stated in that paragraph. In such cases, a temporary residence permit may be granted until the work project is complete, or for the period covered by the work permit.

A foreign national who has held a temporary residence permit under this Article may not be granted a new permit until he has been continuously resident abroad for two years following the end of the term of the permit. However, this provision shall not apply in cases where the foreign national has worked in Iceland for less than six months in each twelve-month period.

A permit granted under this Article may not constitute the basis for a permanent residence permit.

Article 12 b

Temporary residence permits for sportsmen.

Foreign nationals may be granted temporary residence permits in connection with work as sportsmen or trainers with a sports club within the Icelandic Sports and Olympic Federation. The conditions for granting temporary residence permits under this Article shall include the following:

- a. that the foreign national meets the requirements of the first and second paragraphs of Article 11,
- b. that a temporary work permit for a sportsman has been granted in conformity with the Foreign Nationals' Right to Work Act.

Temporary residence permits under this Article shall not initially be issued for more than one year, and in no case for a longer period than the term of the work permit. They may be extended for up to two years at a time providing that the conditions of the first paragraph of this Article are met.

A permit granted under this Article may not constitute the basis for a permanent residence permit.

Article 12 c

Agreements between Iceland and other states regarding temporary residence by their citizens in Iceland.

Citizens of certain states who are aged between 18 and 26 years may be granted temporary residence permits in Iceland for a maximum of one year under agreements which the Government of Iceland has made with the other states regarding temporary residence by their citizens in Iceland in order to acquaint themselves with the country and its culture. The conditions for granting temporary residence permits under this Article shall include the requirement that the conditions of the first and second paragraphs of Article 11 are met and that the foreign national has not previously been granted a temporary residence permit in Iceland under such an agreement.

A permit granted under this Article may not constitute the basis for a permanent residence permit.

Article 12 d

Temporary residence permits in connection with au pair engagements.

Foreign nationals may be granted temporary residence permits in connection with work as *au pairs* in the homes of families in Iceland. The conditions for granting temporary residence permits under this Article shall include the following:

- a. that the foreign national meets the requirements of the first and second paragraphs of Article 11,
- b. that the foreign national is not younger than 18 years and not older than 25 years,
- c. that a signed *au pair* contract between the parties is produced, stating, amongst other things, the period for which it is valid, the perquisites in the form of food and accommodation, the daily work period, the daily and weekly rest periods, the right to pursue studies and provisions regarding health and accident insurance,
- d. that the foreign national is provided with food and accommodation without charge,
- e. that the *au pair* has a separate room for his or her own use,
- f. that the host family guarantees the payment of the foreign national's return journey after the engagement period in the event of the termination of the engagement or if the foreign national becomes unfit for work for a long period due to an illness or accident, and
- g. that the host family guarantees that the *au pair* will receive sufficient time to pursue studies in Icelandic and to be able to attend to his or her own private interests.

Temporary residence permits under this Article shall not be issued for more than one year, and in no case for a period longer than the engagement period according to the *au*

pair contract. Permits may not be extended under this Article. Furthermore, the foreign national may not be granted a temporary residence permit under the provisions of Article 12-12 c until he or she has been continuously resident abroad for two years following the end of the term of the permit.

If the *au pair* engagement is terminated before the end of the engagement period according to the contract between the parties, both the *au pair* and the host family shall notify the party who acted as an intermediary in arranging the engagement and the Directorate of Labour. The *au pair* may move to a new host family. Combined periods spent with more than one host family shall not exceed one year. Foreign nationals who reside in Iceland under this Article may not engage in ordinary jobs outside the home during their residence period.

A permit granted under this Article may not constitute the basis for a permanent residence permit.

The Directorate of Immigration shall issue the forms necessary for *au pair* contracts.

The directorate shall also determine the minimum amount of pocket money for *au pairs*. The Directorate of Immigration may entrust another institution or enterprise with all intermediary functions and monitoring in connection with *au pair* engagements. The Minister shall issue more detailed rules regarding residence under this Article, including conditions to be met by the foreign national and the family involved in connection with the *au pair's* stay and the terms of service.

Article 12 e

Temporary residence permits in connection with study.

Foreign nationals intending to pursue full-time studies in Iceland may be granted temporary residence permits providing that they meet the requirements made in connection with preparatory education for the course of studies in question, including those regarding language skills. The conditions for granting temporary residence permits under this Article shall include the following:

- a. that the foreign national meets the requirements of the first and second paragraphs of Article 11 and
- b. pursues full-time studies in Iceland as attested by a certificate from the relevant educational institution.

'Full-time studies' constitute 100% continuous courses of study at university level, studies in a trade or other types of study for which the requirements regarding preparatory

education are similar to those regarding university-level education. Individual courses shall not be regarded as constituting study.

Foreign exchange students may be granted temporary residence permits under this Article if they come to Iceland through the agency of recognized student exchange organizations.

Temporary residence permits under this Article shall normally not be granted for more than six months at a time. Residence permits under this Article may be extended during a study period if the foreign national continues to meet the conditions of the first and second paragraphs of this Article and is able to demonstrate satisfactory academic performance.

Academic performance shall be regarded as satisfactory if the foreign national has completed at least 75% of full-time studies. For the first extension of a residence permit, academic performance shall be regarded as satisfactory if the foreign national has completed at least 50% of full-time studies.

A permit granted under this Article may not constitute the basis for a permanent residence permit.

[Art. 12 f

Residence permit on humanitarian grounds

A foreign national may be granted a temporary residence permit even though he/she does not fulfil all the requirements of Art. 11, if there are pressing humanitarian reasons for so doing or due to his/her special connection with the country.

[A temporary residence permit may be granted on the basis of humanitarian reasons if a foreign national can demonstrate an urgent need for protection, e.g. for health reasons, or due to the difficult social circumstances of the person concerned or due to difficult general circumstances in the person's home state or in a country to which he/she would be sent, or due to other events for which he/she cannot rightly be held responsible. Special consideration shall be given to cases where children are involved and a decision taken with a view to what is best for the child.

If a person has sought asylum, as provided for in Art. 46, it must first be determined whether the conditions for granting asylum exist before this provision is applied.

A foreign national who has held a temporary residence permit as referred to in Art. 12 g for at least two years may be granted a temporary residence permit in accordance with this Article if the conditions of the first paragraph are satisfied and there are no special reasons for not doing so.]¹⁾

A temporary residence permit as provided for in this Article shall not be granted for longer than one year. A temporary residence permit as referred to in this provision may be renewed for up to two years at a time provided the premises for granting it initially have not changed.

A permit granted as referred to in this provision can serve as the basis for a permanent

residence permit.]²⁾

¹⁾Act No. 115/2010, Art. 2. ²⁾Act No. 86/2008, Art. 10.

Article 12 g

Provisional temporary residence permits.

A foreign national who has applied for asylum in Iceland may be granted a provisional temporary residence permit, in response to an application, until a decision on his asylum application has been taken. A foreign national who has received a final rejection of his application for asylum or for a temporary residence permit, which does not take immediate effect, may also be granted a provisional temporary residence permit, in response to an application, until the rejection takes effect. The conditions for granting temporary residence permits under this Article shall include the following:

- a. that a statement regarding the asylum application has been taken from the applicant,
- b. that there is no doubt as to the identity of the applicant,
- c. that no circumstances obtain which may result in the expulsion of the applicant,
- d. that no request has been made for another state to receive him again (cf. Article 46, first paragraph, subparagraph (a)),
- e. that the foreign national has provided information and cooperated in working towards the resolution of his case.

The conditions of the first paragraph of this Article may be waived in special circumstances. A temporary residence permit may be granted in accordance with the present Article, even though all the conditions of Article 11 have not been met.

Temporary residence permits under this Article shall normally not be granted for more than six months. A temporary residence permit may be renewed in accordance with this provision, each time for up to one year, on the basis of a decision issued by the Icelandic Directorate of Immigration.

The provisions of Sections IV, V and VII of the Executive Procedure Act regarding the right of objection, the notification of decisions, reasoning, etc., and regarding appeals against executive decisions, and the appropriate provisions of Section V of this Act, shall not apply regarding decisions on provisional temporary residence permits. Provisional temporary residence permits shall not have any legal effects other than those specified in statutes or regulations. Legal effects of a provisional temporary residence permit may be laid down in the framework of a regulation adopted pursuant to Article 47 b.

A permit granted under this Article may not constitute the basis for a permanent residence permit.

[Art. 12 h

After receiving an application to this effect, and obtaining the opinion of the police, the Directorate of Immigration shall grant a foreign national, who is suspected of being a victim of human trafficking, a temporary residence permit for six months even though all the requirements of Art. 11 are not fulfilled. Notwithstanding the provisions of Art. 20, the individual concerned may not be deported during this period.

Should there be reasonable grounds to suspect a person is claiming to be a victim for the sole purpose of obtaining a temporary residence permit, and the opposite is not demonstrated indisputably, this shall not grant entitlement to a temporary residence permit. The same shall apply if the granting of a temporary residence permit is contrary to public order.

A permit granted as referred to in this provision cannot serve as the basis for a permanent residence permit.]¹⁾

¹⁾Act No. 116/2010, Art. 1.

[Art. 12 i

In exceptional circumstances the Directorate of Immigration may grant a victim of human trafficking a renewable temporary residence permit for one year, even if the requirements of Art. 11 are not fulfilled, if either of the following apply:

- a. it is considered necessary due to the personal circumstances of the person concerned;
- b. it is considered necessary in the opinion of the police due to co-operation with the authorities concerned in investigating and handling a criminal case.

A permit granted as referred to in this provision cannot serve as the basis for a permanent residence permit.]¹⁾

¹⁾Act No. 116/2010, Art. 1.

Article 12 j

Temporary Residence Permits for Refugees

In cases where refugees are granted asylum the Icelandic Directorate of Immigration will issue a temporary residence permit.

A temporary residence permit pursuant to the present Article shall be granted for a period of four years, the refugee in question being entitled to a renewal of his/her residence

permit, on expiry of that period, unless there are grounds for revoking the asylum or the rejection of renewal of the temporary residence permit is essential for the security of the State or when public interest so requires. A temporary residence permit may be renewed, even though all the conditions of Article 11 have not been met.

A permit pursuant to this provision can be a basis for a permanent residence permit. The Minister can lay down further rules on the issue of temporary residence permits for refugees and on the right of family members of refugees to residence, including rules limiting the right of family members of refugees pursuant to agreements to which the State of Iceland is a party.

Article 13

Temporary residence permits for immediate family members.

Members of the immediate family of an Icelandic citizen or of another Nordic citizen who is permanently resident in Iceland, or of a foreign national who lives in Iceland on the basis of a temporary residence permit under Article 12, Article 12 *b* and Article 12 *f*, or on the basis of a permanent residence permit, may, in response to an application, receive a temporary residence permit, providing that the circumstances referred to in item *d* of the first paragraph of Article 11 do not apply, in addition to which their means of support, health insurance and accommodation shall be guaranteed (*cf.* item *a* of the first paragraph of Article 11). The same shall apply to the members of the immediate families of persons who are pursuing doctorate studies in Iceland under Article 12 *e*.

For the purposes of the first paragraph of this Article, 'immediate family members' are the spouse, cohabiting partner, the children of the person concerned who are under the age of 18, are supported by him and under his custody and his relations, or those of his spouse, in direct line of descent, who are older than 66 and are supported by them.

If there is reason to suspect that a marriage or cohabitational partnership has been established solely with a view to obtaining a temporary residence permit, and no incontrovertible demonstration to the contrary is made, then this shall not confer an entitlement to a temporary residence permit. The same shall apply if there is reason to suspect that a marriage has not been established in accordance with the will of both partners, or if the establishment of the marriage violates public order and the general principles of Icelandic law. In all cases in which either spouse is aged 24 years or younger, an investigation shall be made as to whether the circumstances are of the type referred to in the first and second sentences of this paragraph.

Temporary residence permits as provided for in this Article may not be granted if the member of the applicant's immediate family has in the previous five years received a sentence or been subjected to security measures for a violation of the provisions of Sections XXI–XXIV of the General Penal Code, except where a refusal to grant a temporary residence permit would constitute an unfair measure against him or his immediate family members. The Directorate of Immigration may obtain statements

(criminal records) from the Penal Registry regarding applicants in order to establish whether or not applications should be rejected under this Article.

Temporary residence permits under this Article shall not initially be issued for more than one year. However, the temporary residence permit of a member of the immediate family of a foreign national who is resident in Iceland on the basis of a temporary or permanent residence permit may never be valid for longer than the latter's permit. Temporary residence permits under this Article may be extended in response to an application if the conditions for granting them are still met. Furthermore, the temporary residence permit of a foreign national who has lived in Iceland under this Article until the age of 18, but has lost the entitlement to a temporary residence permit under this Article on reaching the age of 18, may be extended providing that the conditions of the first paragraph of Article 11 are met and he is either pursuing studies or working in Iceland.

Furthermore if a marriage or cohabitational relationship is dissolved because the foreign national or his or her child has met with abuse or violence in the relationship, then under special circumstances and if cogent consideration of fairness favour such a course of action, a temporary residence permit issued under this Article may be extended even though the premises for residence in Iceland have changed, providing that the conditions of the first paragraph of Article 11 are met. In such cases, factors including the length of the marriage or cohabitational relationship and the connections that the foreign national has with Iceland shall be taken into consideration.

A temporary residence permit issued to a family members under this Article may constitute the basis for a permanent residence permit unless the foreign national from whom the foreign national derives his entitlement holds a temporary residence permit that does not constitute such a basis.

Article 14

Extension of temporary residence permits.

Foreign nationals' temporary residence permits may be extended, in response to an application, if the conditions on which they were granted continue to be met. Under special circumstances, however, the condition regarding a secure means of support (*cf.* item *a* of the first paragraph of Article 11) may be waived if the means of support has been uncertain for a short period due to unemployment, an accident or illness, and cogent considerations of fairness favour such a course of action.

A foreign national who desires an extension of his temporary residence permit shall apply for this not later than four weeks before the permit expires. If an application for extension is made before the stated deadline, the foreign national shall be permitted to reside in Iceland until the decision on his application is taken. Otherwise, the foreign national shall leave Iceland before the expiry of his permit.

In exceptional cases, the Directorate of Immigration may authorise the foreign national to continue to reside in Iceland until a decision is taken regarding his application for an extension of his permit if the application has been received after the deadline stated in the second paragraph of this Article, if the fact that it was not submitted earlier is excusable or if there are cogent considerations of fairness in favour of such a course of action.

The Directorate of Immigration shall take a decision to cancel a temporary residence permit when the holder has lived abroad continuously for more than three months. When the foreign national's domicile has been registered abroad for three months, the temporary residence permit shall lapse automatically. Even when a temporary residence permit lapses, this shall not prevent the foreign national from applying for an extension under this Article if this is done within the original term of the temporary residence permit and cogent considerations of fairness favour granting an extension.

Article 15

Permanent residence permits.

Foreign nationals may be granted permanent residence permits if they have lived in Iceland continuously for the previous four years on the basis of temporary residence permits which may constitute grounds for permanent residence permits. The conditions for granting permanent residence permits shall include the following:

- a. The foreign national has attended a course in Icelandic for foreigners.
- b. No circumstances obtain which may result in the expulsion of the applicant (*cf.* the first paragraph of Article 20).
- c. A foreigner proves that his/her maintenance has been secure during his/her residence time and that he/she has sufficient and legal means of subsistence in Iceland . The Icelandic Directorate of Immigration is *inter alia* authorised to acquire tax returns and data from tax authorities verifying this. For the purpose of this provision, allowances in the form of social assistance from the State or a community are not regarded as secure maintenance. A derogation from this condition is acceptable provided that maintenance has been insecure for a short period of time and that cogent arguments of fairness so demand. The provisions of this section do not apply if the applicant has had a residence permits as a refugees *cf.* Article 12 j or a residence permit on humanitarian grounds *cf.* Article 12 f (4).
- d. The foreign national has held a temporary residence permit on the same grounds for the four years preceding the submission of the application for a permanent residence permit and the conditions of that permit continue to be met.

e. The foreign national is not involved in a case in the criminal justice system which has not yet been brought to a conclusion in which he is suspected or accused of criminal conduct.

A permanent residence permit confers the right to reside in Iceland without a time restriction.

A child born after its custodial parent arrives in Iceland may be granted a permanent residence permit providing that the parent holds a permanent residence permit in Iceland.

The Directorate of Immigration shall take decisions on permanent residence permits. A foreign national who wishes to acquire a permanent residence permit shall apply for it to the Directorate of Immigration not later than four weeks before his temporary residence permit is due to expire. He may continue to reside in Iceland until a decision regarding his application has been taken providing that the application is received by the Directorate of Immigration before the stated deadline. The provisions of the second and third paragraphs of Article 14 shall apply regarding applications received after the deadline.

The Directorate of Immigration shall take a decision to cancel a permanent residence permit when the holder has resided abroad for more than 18 continuous months. When the foreign national's domicile has been registered abroad for 18 months, the permanent residence permit shall lapse automatically. In response to an application, a foreign national may be permitted to reside abroad for a longer period without his permanent residence permit expiring.

The Directorate of Immigration shall issue a certificate certifying that a permanent residence permit has been granted. The certificate shall be issued in the name of the foreign national who is the holder of the permit. The provisions of Article 10 *a* shall apply regarding the issue of certificates confirming that permanent residence permits have been issued.

The Minister shall set further rules regarding permanent residence permits, including as regards longer periods of residence abroad under the fifth paragraph and courses in Icelandic for foreigners under the first paragraph of this Article. These shall include provisions on the length of the course, minimum attendance requirements and certificates confirming participation. Provisions may also be set regarding exemptions from participation in courses in Icelandic for foreigners who have a acquired satisfactory knowledge of Icelandic and on tests to confirm this. Furthermore, regulations may contain provisions on fees for participating in courses or for taking tests.

Article 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.

Following the revocation of a permit on the basis of false information having been provided or because facts were concealed that could have been of material significance for the issue of a permit, the legal status of the foreign national under this Act shall be the same as it would be if he had never been issued with a permit.

Article 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 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.

SECTION IV **Denial of Entry, and Expulsion**

Article 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 Article 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. Article 56, the first paragraph;
 - i. if he is registered in the Schengen Information System for the purpose of denying him entry, an
 - 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. A foreign national may be denied entry into Iceland temporarily within this period. No appeal may be lodged against a decision to this effect.

The case of a foreigner who claims to be a refugee under Article 44 or otherwise provides information indicating that the provisions of Article 45, the first paragraph, apply to him, shall be referred to the Immigration Office for procedure and a decision.

The Minister 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.

Article 19

Denial of Entry Subsequent to Arrival

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

Article 20

Expulsion

A foreigner may be expelled from Iceland:

- a. if he is living illegally in Iceland, or 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. The Minister shall set further rules covering prohibitions on re-entry into Iceland.

Article 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. Article 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.

Article 22

Administrative Authorities and Case Preparation

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

decisions in accordance with this Article.

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.

SECTION V Procedure

Article 23 *General Rules of Procedure*

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

The Directorate of Immigration may, after receiving the approval of the Minister, give applications under Article 12, Article 12 *a* and Article 12 *e* priority treatment.

The Directorate of Immigration may give applications under Article 12 and Article 12 *a* swift treatment on the basis of a declaration by an employer that has received recognition by the Directorate of Immigration. The employer shall declare that all the conditions for a temporary residence permit have been met and that he will submit satisfactory materials on behalf of the foreign national. The Minister may set rules on the exercise of this authorisation, including as regards the conditions that employers are required to meet in order to receive recognition.

Article 23 a

Procedure Rapidity

A decision in a case regarding a foreigner shall be made as soon as possible. A foreigner shall be informed regularly about the progress of his/her case.

The administrative authority concerned shall set a time-limit within which the foreigner may look at the documents and comment on the case. A case may not be suspended on request of a party unless it is necessary.

Article 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 Article 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.

Article 25
Duty to Provide Guidance

In cases concerning refusal of entry, expulsion or revocation of a permit and in cases concerning applications for asylum, the foreigner in question shall, at the beginning of the procedures, be advised, in a language that he/she may reasonably be presumed to understand, on the rights of the individual concerned and on the procedures. A foreigner shall be advised on:

- a. his/her right to seek, at his own expense, the assistance of a professional lawyer or other representative,
- b. his/her right to contact a representative of his home country, a representative of the United Nations High Commissioner for Refugees, and humanitarian or human rights organisations in Iceland.

In a case concerning an application for asylum, the foreigner in question shall, in addition to the provisions of paragraph 1, be advised on:

- a. his/her right to enjoy the assistance of an interpreter in all stages of his/her case. If a qualified interpreter is not available in Iceland within 24 hours of the submission of such a request, the authority in question shall offer the assistance on an interpreter from abroad over telephone,
- b. his/her right to have, when appealing against a decision, an appointed spokesman, *cf.* Article 34(2).

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

Article 26
Provision of Information to Foreign Countries

Government authorities handling issues relating to foreign nationals may provide foreign government authorities with information about a foreign national in connection with the handling of a case relating to a visa, temporary residence permit or asylum, to the extent that is necessary in connection with agreements into which Iceland has entered on points of reference and arrangements for determining which state is to handle an application for asylum submitted in Iceland or in one of the states that are party to the agreement. The Minister may issue rules in further detail on what information may be provided, and on any conditions to be fulfilled for provision of information.

Article 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.

Article 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.

Article 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 Article 3, the second paragraph. The Minister 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 Article 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. The same shall apply if there is reason to suspect that the marriage has been established solely with a view to obtaining a temporary residence permit, or without the will of both partners (*cf.* the third paragraph of Article 13). The decision to carry out a search shall be made by a judge's ruling unless the person concerned gives his consent for the search or there is a real danger that waiting for a judge's ruling would result in evidence being prejudiced.

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 may issue rules in further detail on the keeping and use of the registry.

If a foreign national refuses to reveal his identity, or there is reason to suspect that the foreign national has given false information concerning his identity or if he exhibits conduct which indicates that he may be dangerous, he may be arrested and remanded in custody in accordance with the provisions of the Code of Criminal Procedure, as appropriate. Furthermore, the police may require him to report to them or to remain within a specified limited area.

When deciding whether to grant a residence permit, the Directorate of Immigration may require the applicant for a residence permit under the first paragraph of Article 13 or his relatives to undergo an DNA test and to give a biosample for that purpose, in order to establish relationship under the second paragraph of Article 13 if the evidence submitted in that connection is not considered as giving satisfactory proof of the relationship.

When deciding whether to grant a residence permit, the Directorate of Immigration may require the applicant for a residence permit under the first paragraph of Article 13 or his relatives to undergo an DNA test and to give a bio sample for that purpose, in order to establish relationship under the second paragraph of Article 13 if the evidence submitted in that connection is not considered as giving satisfactory proof of the relationship.

Article 30 *Appeals*

A decision of police, and a decision of an embassy, permanent commission or consul taken in accordance with the eighth paragraph of Article 6, 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.

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.

Article 30 a

Notification of a Decision on Refusal of Entry and on Expulsion

After deciding on refusal of entry or the expulsion of a foreigner, the authority concerned shall notify him/her in writing of that decision as soon as possible. The foreigner in question shall be advised on the right of appeal, where to lodge an appeal and on the time limit for such lodging.

Where the decision is directed against a foreigner, who has claimed that the provisions of Article 44 or Article 45(1) should apply, the officials of the administrative authority concerned shall also be informed about the decision.

Article 31

When a Decision can be Implemented

A decision on denial of entry taken in accordance with Article 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 Article 14, the second paragraph, can not be implemented until taken finally. The same applies to a decision on revocation taken pursuant to Article 16 and to a decision on the expulsion of a foreigner holding a temporary residence permit or a permanent residence permit, an EEA foreigner, who has registered in Iceland pursuant to Chapter VI or a national from the Nordic countries who has been staying in Iceland longer than three months. The provisions of Article 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 Article 14, the second paragraph, can not be implemented until the foreigner in question has been granted an opportunity to lodge an appeal.

Article 32

At which Point in Time Decisions on Cases concerning Asylum or Protection against Persecution can be Implemented

Where a foreigner claims that his/her circumstances are such that the provisions of Article 44 and Article 45(1) do not apply, a decision to the effect that he/she should leave Iceland may not be implemented before the decision is final. However, this shall not apply:

- a. in cases pursuant to Article 46a when substantial examination of an application is rejected,
- b. in cases where the foreigner in question has an application for asylum pending in another state or if such application has been turned down there, and
- c. in cases where the Icelandic Directorate of Immigration deems obvious that the provisions of Article 44 and Article 45(1) do not apply.

The police shall submit a decision to suspend implementation to the Icelandic Directorate of Immigration, if a foreigner invokes the circumstances referred to in Article 44 or Article 45(1) 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 circumstances invoked. If the Icelandic Directorate of Immigration considers obvious that no such circumstances exist, it may conclude that the decision shall be implemented.

Decisions pursuant to paragraphs 1 and 2 may not be implemented before the foreigner in question has had the opportunity to lodge an appeal or before a ruling has been made in a case, where a foreigner has requested suspension of legal effects. In other respects the provisions of Article 29 of the Public Administration Act shall apply to suspension of legal effects.

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 legal effects. If the foreigner so requests, the Minister may nevertheless decide to suspend the legal effects of a final decision, when for reasons deemed justified. A request to that effect shall be filed not later than fifteen days from the date of notification of a final decision. Suspension of legal effects is subject to the condition that the foreigner in question brings the case to court within ten days from the date of notification of a decision on suspension of legal effects and that he/she applies for a rapid procedure. Where a request for rapid procedure is denied, legal proceedings shall be instituted within seven days from the date of the denial of the aforementioned request. The Minister 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.

In order to ensure that a decision under the first paragraph of this Article can be carried out, and in cases where the foreign national exhibits conduct which indicates that he may be dangerous, the police may require the foreign national to:

- a. report to them,
- b. hand over his passport or other identification document (*cf.* Article 5), and
- c. remain within a specified limited area.

The instructions stated in the third paragraph may only be given if there is reason to believe that the foreign national will avoid carrying out a decision under the first paragraph of this Article or in cases where the foreign national exhibits conduct that indicates that he may pose a threat to the community. When assessing whether there is reason to believe that the foreign national will avoid carrying out a decision under the first paragraph of this Article, general experience of such avoidance may be taken into consideration. The instructions shall not remain in force for more than four weeks, unless the foreign national gives his approval or a judge determines that this shall be the case in accordance with 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.

Article 34 *Legal Aid*

A judge shall, when custody is requested in accordance with Article 29, the seventh paragraph, or Article 36, the fifth paragraph, appoint a professional lawyer as a spokesperson for the foreigner in question. The same shall apply when measures are

requested in court under Article 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 Article 20, the first paragraph, subparagraphs (b) and (c), Article 21, the second paragraph, subparagraph (b), or Article 42, the second paragraph, in cases concerning conduct referred to in the second sentence 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 Article 12 f. If a judge grants a request for collection of evidence in court as provided for in Article 28, the costs to be borne by the foreigner for legal aid during its collection shall be paid by the State Treasury.

If an unaccompanied child, *cf.* Article 44(5), applies for asylum, the administrative authority concerned shall appoint a professional lawyer as a spokesperson for the child in question.

The provisions of Chapter IV 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.

SECTION VI

Special rules applying to foreign nationals who are covered by the Agreement on the European Economic Area (EEA) or the Convention establishing the European Free Trade Association (EFTA).

Article 35

Entry and periods of residence.

A foreign national who is subject to the rules of the EEA Agreement (an EEA foreign national) or the Convention establishing EFTA (an EFTA foreign national) may enter Iceland without a special permit and live or work in Iceland for up to three months from the date of his arrival, or up to six months if he is looking for employment. Periods of residence in another Nordic country shall not be deducted from this residence period. A foreign national who is neither a citizen of an EEA or EFTA state nor a relative of such a citizen, may enter Iceland without a special permit in order to provide a service for up to 90 working days during a calendar year if he holds a permit that is the equivalent of a permanent work permit in an EEA or EFTA state and is employed by a person who provides services or is established or in operation there. An EEA or EFTA foreign national who resides or works in Iceland for longer than the time stated in the first paragraph of this Article shall be obliged to register himself, and shall meet the conditions of Article 36.

Article 36
Rights regarding residence.

An EEA or EFTA foreign national (not, however, a foreign national in the category referred to in the second paragraph of Article 35) shall be entitled to reside in Iceland for longer than three months if he meets the following conditions:

- a. he is a worker covered by the Act on Workers' Freedom of Employment and Residence within the European Economic Area (cf. the item 2 of Annex V to the EEA Agreement),
- b. he intends to pursue independent business activities in Iceland or to provide or make use of a service in Iceland,
- c. he is in receipt of sufficient regular payments, or is in possession of sufficient private funds, and is covered by health insurance that covers all risks during his stay in Iceland, or
- d. he is registered at a recognized educational institution with the principal aim of acquiring education or vocational training there, is covered by health insurance that covers all risks during his stay in Iceland and is able to demonstrate that he has secure means of support.

An EEA or EFTA foreign national may be required to produce satisfactory travel documents and other materials demonstrating that he meets the conditions of the first paragraph of this Article.

The Minister may set more detailed rules regarding the right of EEA or EFTA foreign nationals to reside in Iceland, including the registration of their right of residence and documents as provided for in the second paragraph of this Article.

Article 37
Residence by family members.

Members of the family of an EEA or EFTA foreign national who is legally resident in Iceland shall be entitled to reside with him in Iceland.

The following persons are considered as members of the family of a foreign national who is covered by the first paragraph of Article 36:

- a. his or her spouse or cohabiting partner,
- b. the descendant of a foreign national who is resident in Iceland under the first paragraph of Article 36, and /or of his or her spouse, if the descendant is under the age of 21 or is supported by the individual concerned,

c. relatives of a foreign national who is resident in Iceland under the first paragraph of Article 36, or of his or her spouse, in direct line of descent, who are supported by the individual concerned.

A member of the family of an EEA or EFTA foreign national who intends to live with him in Iceland for longer than the period stated in the first paragraph of Article 35 and is himself an EEA or EFTA foreign national shall be obliged to register himself in Iceland in accordance with the third paragraph of Article 35.

Family members who are not EEA or EFTA foreign nationals shall be obliged to apply for residence cards within three months of arriving in Iceland.

The Minister shall set more detailed rules on residence by members of the family of EEA or EFTA foreign nationals, including conditions for their residence in Iceland.

Article 38

Continued Stay Following Cessation of Employment

The Minister may issue rules on the right of a foreigner to whom the provisions of Article 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 Article 37.

Article 39

Right of permanent residence.

An EEA or EFTA foreign national who has resided legally in Iceland continuously for five years under the first paragraph of Article 36 shall be entitled to reside in Iceland permanently. The same shall apply to members of his family who have lived with him in Iceland legally for five years.

Residence abroad for a total of less than six months each year, residence abroad in connection with military service or one period residence abroad for a maximum of one year in connection with pregnancy, childbirth, a serious illness, a course of study or vocational training shall not be considered as an interruption of continuous residence under the first paragraph.

The right to permanent residence in Iceland shall lapse if continuous residence abroad lasts for more than two years.

In response to an application, and if the stated conditions are met, a confirmation of the right of permanent residence shall be issued.

The Minister shall set more detailed rules on the conditions for permanent residence in Iceland applying to EEA or EFTA foreign nationals and their family members, and also on exemptions from those rules.

Article 40
Forfeiture of the right of residence.

The right of residence under this Article shall become forfeit if the foreign national has consciously provided false information, in instances of *pro forma* deeds of the type described in the third paragraph of Article 13 or if residence is for a purpose that is not compatible with the first paragraph of Article 36. This shall also apply in the case of other types of abuse.

The right of residence in Iceland under item *a* or *b* of the first paragraph of Article 36 shall not become forfeit due to temporary illness, an accident or because the EEA or EFTA foreign national becomes unemployed against his will after working in Iceland for more than one year. The Minister shall set more detailed rules regarding restrictions on the forfeiture of the right of residence.

The Directorate of Immigration shall take a decision as to whether the right of residence under the provisions of this Section is to become forfeit.

Article 41
Refusal of entry.

An EEA or EFTA foreign national may be refused the right to enter Iceland on arrival in the country or for up to seven days after arrival if:

- a. he does not meet the requirement set regarding travel documents or entry into Iceland,
- b. he has been expelled from Iceland and the prohibition on his re-entry is still in force and he has not been granted an authorisation to enter Iceland,
- c. he conducts himself in a way referred to in the first paragraph of Article 42, or
- d. this is necessary in view of the security of the state, urgent national interests or public health.

A police commissioner shall take the decision on refusal of entry under items *a* and *b* of the first paragraph; the Directorate of Immigration shall take decisions under items *c* and *d*. It shall be sufficient that the processing of the case begin before the end of the seven-day period.

If the processing of a case under the first paragraph does not begin within seven days, the EEA or EFTA foreign national may be expelled from Iceland by a decision of the Directorate of Immigration in accordance with items *b*, *c* and *d* within three months of his arrival in Iceland.

Article 42
Expulsion.

An EEA or EFTA foreign national, or a member of his family, may be expelled from Iceland if this is necessary in view of public order or public safety.

Expulsion under the first paragraph of this Article may be effected if the foreign national exhibits conduct, or may be considered likely to engage in conduct, that involves a substantial and sufficiently serious threat to the fundamental attitudes of society. If the foreign national has been sentenced to a punishment or special measures have been decided, then an expulsion on these grounds may only be effected if the conduct involved may indicate that the foreign national will again commit a criminal action.

An EEA or EFTA foreign national may also be expelled from Iceland if he does not meet the conditions regarding residence that are laid down in Articles 36-38.

Expulsion shall entail a prohibition on subsequent re-entry into Iceland. The prohibition on re-entry shall normally remain in force for not less than two years. In response to an application, a prohibition on re-entry may be lifted if new circumstances favour taking this course of action. The Minister shall set more detailed rules regarding prohibitions on re-entry.

The Directorate of Immigration shall take decisions regarding expulsion, and also on authorising foreign nationals who have been expelled to re-enter the country.

Article 43
Restrictions on the authorisation to effect expulsions.

A decision to expel a foreign national shall not be taken if, taking into consideration the circumstances of the case and the connections that the foreign national has with Iceland, this would constitute an unfair measure against him or his closest relatives. When assessing the situation, factors including the length of the foreign national's residence in Iceland, his state of health, his family and financial circumstances and his connections with his homeland shall be taken into consideration.

An EEA or EFTA foreign national, or his relative, who is permanently resident in Iceland under Article 39 may not be expelled unless such a course of action is demanded by serious circumstances concerning public order or public safety.

If the EEA or EFTA foreign national has resided legally in Iceland for more than ten years, the reasons for expulsion under Article 42 must be cogent. The same shall apply to EEA or EFTA foreign nationals who are not legally competent, unless other arrangements must be considered necessary in view of their interests.

SECTION VII Refugees and Protection Against Persecution

Art. 44

The term "refugee"

[For the purposes of this Act, a refugee is a foreign national who is not in his/her own country due to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, and cannot or is unwilling to, owing to such fear, avail him-/herself of the protection of that country; or who, not having a nationality and being outside the country of his/her former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, cf. Point A of Art. 1 of the international Convention and Protocol Relating to the Status of Refugees of 28 July 1951 and Protocol to the Convention of 31 January 1967. The requirements to be considered a refugee are prescribed in more detail in Art. 44 a.

For the purposes of this Act a refugee may also be a foreign national who is not a refugee in accordance with the provisions of Point A of Art. 1 of the International Convention and Protocol Relating to the Status of Refugees if there are reasonable grounds to expect that he/she would be in danger of capital punishment, torture or other inhumane or degrading treatment or punishment if he/she were sent back to his/her home state. The same shall apply to a stateless person.

For a foreign national to be considered a refugee as referred to in the first or second paragraph, he/she is not required to have satisfied the requirements stated there upon leaving his/her home state or state of previous habitual residence. A decision may, however, be taken to refuse protection to a person who, through his/her actions outside the home state, has created a situation which results in a need for protection, if it is demonstrated that the purpose of such behaviour was to create such a need or if the actions concerned constitute a criminal offence.

An assessment as referred to in the first and second paragraphs shall show appropriate consideration in the case of a child.

Appropriate provisions shall be applied when an unaccompanied child applies for asylum. An unaccompanied child shall mean a single individual under the age of eighteen years who enters the territory of a state unaccompanied by an adult who is responsible for the child by law or custom, as long as the child has not in fact been taken under the care of the adult. This shall also apply if the child is left unaccompanied after it has entered the state's territory.]¹⁾

¹⁾Act No. 115/2010, Art. 14.

[Art. 44 a

On persecution as referred to in Art. 44

In order for persecution, as referred to in the first paragraph of Art. 44, to exist there must be a question of actions which by their nature, or because they are repeated, comprise a serious violation of basic human rights, in particular inalienable basic human rights such as the right to life or freedom from torture or inhuman or degrading treatment or punishment, freedom from slavery or forced labour and freedom from extrajudicial punishment. The same shall apply to an accumulation of actions, including illegal discrimination, which have or could have the same or comparable effect on an individual.

The reasons for persecution as referred to in the first paragraph shall be assessed with reference to the definitions in subparagraphs a-e of this paragraph. It makes no difference for the assessment referred to in the first paragraph of Art. 44 whether the individual has the characteristics or opinions which are referred to if the persecutor considers this to be so, but:

- a. race refers especially to skin colour, family background, and social groups of a specific origin;
- b. religion refers especially to religious and other existential beliefs, including atheism, and their expression, participation in any type of religious organisation whether public or not, or a decision not to take part in such, actions based on religious beliefs and the freedom to change religion;
- c. nationality includes not only citizenship or statelessness but may include persons who belong to a specific race or group of people who speak the same language or have a common cultural self-image or a common geographical or political origin, or a group which is defined based on its connection with a group of people in the territory of another state;
- d. social group refers in particular to a group of people who, in addition to being persecuted share common characteristics or a background which cannot be changed or share common characteristics or attitudes towards life which are so important for their self-image that no demand should be made that this be changed, or they are considered to belong to a certain social group which differs from others in the society;
- e. political opinions refer in particular to opinions on governments which may apply persecution and opinions of their policies and methods, regardless of whether the person concerned has taken any action to express his/her views.

Those parties which may cause persecution or inhumane or degrading treatment are:

- a. the state,
- b. groups or organisations which control the state or a substantial portion of its territory and
- c. other parties which do not exercise the power of a state, if it is demonstrated that the state or groups or organisations as referred to in subparagraph b of this paragraph, including international bodies, cannot or will not provide protection against persecution or treatment covered by the second paragraph of Art. 44, for instance by charging them or punishing them for actions which involve persecution.

The Minister may lay down detailed instructions in a Regulation.]¹⁾

¹⁾Act No. 115/2010, Art. 15.

Art. 45

[Prohibition against deportation or return to where a person's life or freedom may be in jeopardy (non-refoulement)]¹⁾

According to law a foreign national may not be sent to a region where he/she has reason to fear persecution, which may mean that the person should be considered a refugee, or if it is not ensured that he/she will not be sent on to such a region. A foreign national who, for similar circumstances to those defined in the concept of refugee, is in imminent danger of being killed or subjected to inhumane or degrading treatment shall enjoy similar protection.

[If the circumstances are such that the first paragraph applies, a foreign national may be granted a temporary residence permit based on Art. 12 f if he/she enjoys protection under Art. 44].¹⁾

A foreign national shall not enjoy protection as provided for in the first paragraph if there are reasonable grounds to expect he/she poses a threat to national security, has been convicted of a very serious criminal offence or presents for these reasons a danger to the society. Nor shall a foreign national enjoy protection if [subparagraph b of the second paragraph of Art. 46]¹⁾ applies.

Protection as provided for in the first paragraph shall apply to any type of decision taken with reference to this Act. [In deciding on rejection or deportation the authorities may, however, decide that a foreign national shall not enjoy protection as provided for in the first paragraph if this is necessary due to national security, cf. subparagraph j of the first paragraph of Art. 18, subparagraph d of the first paragraph of Art. 20 or subparagraph a of the second paragraph of Art. 21. A decision to this effect cannot be implemented until the circumstances discussed in the first paragraph no longer exist.]¹⁾

[If the situation described in the third paragraph exists, a provisional temporary residence permit may be issued as referred to in Art. 12 g, which may be made subject to the condition that it does not grant the right to exemption from a work permit or other rights conveyed by a provisional temporary residence permit.]¹⁾

¹⁾Act No. 115/2010, Art. 16.

Art. 46

Right to asylum

[A refugee as referred to in Art. 44, who is in Iceland or arrives in Iceland, is upon application, entitled to asylum.

The provision of the first paragraph shall not apply, however, to:

- a. a refugee covered by Point D or E of Art. 1 of the Refugee Convention;
- b. a refugee when there are strong grounds to expect that:

1. he/she has committed a crime against peace, a war crime or crime against humanity, as they are defined in international conventions concluded to provide for such crimes,

2. he/she has committed a serious non-political offence outside of Iceland prior to being received as a refugee, or

3. he/she has been convicted of actions which violate the purpose and principles of the United Nations;

c. a refugee as referred to in the second paragraph of Art. 44, if there are reasonable grounds to expect he/she poses a threat to national security, has been finally convicted of a very serious criminal offence and presents for these reasons a danger to the society; or

d. a refugee as referred to in the second paragraph of Art. 44 if the foreign national has left his/her home country or country where he/she most recently had a fixed residence for the sole purpose of avoiding punishment for one or more crimes liable to imprisonment under the Icelandic Penal Code.

Foreign nationals covered by the second paragraph, but who may not be deported due to provisions of Art. 45 shall be subject to the provisions of that Article.]¹⁾

A refugee's spouse [or co-habiting partner]²⁾ and children under the age of 18 years without a spouse [or co-habiting partner]²⁾ shall be entitled to asylum unless special reasons warrant otherwise. [The Minister]³⁾ may adopt further instructions on the entitlement of family members to asylum in a Regulation.]¹⁾

An application for asylum must be accompanied by a passport or other travel documents possessed by the applicant.

[The Minister]³⁾ may adopt rules providing for a foreign national applying for asylum in Iceland to dwell in a specific municipality and in accommodation provided until a final decision is available on the application.

[[The Minister]³⁾ may set rules on handling of cases referred to in this Chapter.]⁴⁾

[If the authorities in a case covered by this Act conclude that provisions of the first paragraph do not apply to the foreign national they must, on their own initiative, examine whether the provisions of Art. 12 f should be applied.]¹⁾

¹⁾Act No. 115/2010, Art. 17. ²⁾Act No. 65/2010, Art. 18. ³⁾Act No. 162/2010, Art. 172. ⁴⁾Act No. 86/2008, Art. 32.

[Art. 46 a

An application for asylum is not accepted for substantial examination

With a proviso concerning the provisions of Art. 45, the authorities may refuse to accept for substantial examination an application as referred to in the first paragraph of Art. 46, if:

a. the applicant has been granted asylum in another state;

b. the applicant has arrived in Iceland on his/her own initiative after having obtained protection in another state or after having resided in a state or region where he/she did not have to suffer persecution nor to fear being returned to his/her home state;

c. another Nordic country may be requested to accept the applicant in accordance with the terms of the Nordic Passport Convention, or in accordance with an agreement between the Faroe Islands and Iceland, on return of foreign nationals arriving in Iceland on the ferry Norröna; or

d. another state participating in co-operation on the basis of an agreement concluded

with Iceland on points of reference and arrangements for determining which state is to handle an application for asylum submitted in Iceland or one of the contracting states, may be requested to accept the applicant.

An application for asylum shall, however, be accepted for substantial examination under the circumstances described in subparagraphs b, c or d of the first paragraph if the foreign national has specific connections with Iceland which make protection in Iceland the most reasonable alternative, or if other special reasons so warrant.

The Minister shall issue a Regulation containing further provisions on the implementation of this Art.¹⁾

¹⁾Act No. 115/2010, Art. 18.

Art. 47

Legal effect of asylum

The granting of asylum gives the foreign national the legal status of a refugee and a temporary residence permit [as referred to in Art. 12 j].¹⁾ The refugee's legal status is determined by Icelandic law and the Refugee Convention or other international agreements on refugees. [The same shall apply to a child of a refugee who is born after the refugee arrives in Iceland.]²⁾

[The Minister may set detailed rules in a Regulation on refugees' access to education, vocational training and continuing education in connection with employment on an equal basis with Icelandic nationals or other foreign nationals who are legally resident in Iceland. The same applies to recognition of refugees' professional qualifications and education. The Minister shall consult with the relevant line ministry in adopting a Regulation.

The Minister may in a Regulation set provisions so that in the case of a refugee who has been granted asylum as provided for in Art. 46 it may be possible to derogate from provisions of legislation on the waiting time and minimum period of residence required for social assistance, social security rights or other rights. The Minister may also decide in a Regulation that to this same end a provisional temporary residence permit as referred to in Art. 12 g or an asylum seeker's registration certificate may be considered equivalent to a temporary residence permit as referred to in Art. 12 j. The Minister shall consult with the relevant line minister in adopting a Regulation.

When an unaccompanied child is granted asylum as referred to in Art. 46, the child protection authorities shall immediately take a decision on the appointment of a guardian or the placement of the child in a suitable location. The Minister may in a Regulation set further rules on the placement of unaccompanied children who are granted asylum in Iceland and their rights.]¹⁾

¹⁾Act No. 115/2010, Art. 19. ²⁾Act No. 20/2004, Art. 13.

[Art. 47 a

Revocation of asylum

The granting of asylum may be revoked if a refugee is no longer covered by the definition of refugee, as provided for in Art. 44, i.e. if:

- a. the refugee has voluntarily sought the protection of his/her home state once more,
- b. the refugee has voluntarily regained his/her lost nationality,
- c. the refugee has acquired a new nationality and enjoys the protection of his/her new home state,
- d. the refugee has voluntarily settled once more in the state from which he/she left or did not reside in for fear of persecution,
- e. the refugee can no longer refuse to avail him-/herself of the protection of the home state because those conditions which resulted in his/her being recognised as a refugee no longer exist, or
- f. the refugee can once more return to the state where he/she normally resided because those conditions which resulted in his/her being recognised as a refugee no longer exist, in the case of a stateless person.

Asylum shall not be revoked as provided for in subparagraphs e or f of the first paragraph if the foreign national can provide significant grounds for refusing to return to the land where he/she previously was a permanent resident because of the previous persecution.

Asylum may be revoked if it is revealed that a foreign national covered by provisions of Points 1 or 2 of subparagraph b of the second paragraph of Art. 46 has been granted asylum in Iceland.

The Directorate of Immigration shall inform a refugee in advance when revocation of asylum is being considered and why this is being considered. If asylum is revoked, the authorities shall examine whether the perspectives referred to in the first paragraph of Art. 45 may apply or whether Articles 12 f or 12 g apply.¹⁾

¹⁾Act No. 115/2010, Art. 20.

[Art 47 b

Legal status of asylum seekers

The Minister may adopt rules providing for a foreign national applying for asylum in Iceland to dwell in a specific municipality and in accommodation provided until a final decision is available on the application.

A regulation shall provide for the rights of asylum seekers, including:

- a. minimum living expenses and necessary health care services, having regard for those persons who need special assistance,
- b. access to education and vocational training,
- c. ensuring a child who applies for asylum access to compulsory education or similar education within the public school system or at the child's residence.

If it turns out that an asylum seeker did not need the assistance provided, the Directorate of Immigration may demand repayment of part or all of the cost.

As soon as possible after an application for asylum is submitted, the Directorate of Immigration shall issue the asylum seeker with a certificate of registration. A foreign national who applies for asylum shall also be informed of his/her right to apply for a

provisional temporary residence permit, as referred to in Art. 12 g and the legal effect thereof. The registration certificate shall be valid for a specific period of up to six months and the applicant must return it to the police or Directorate of Immigration upon being issued with a temporary residence permit, a provisional temporary residence permit, a travel document for a refugee or a passport for a foreign national; if he/she is deported from Iceland; or if the refugee for other reasons receives a passport from his/her home state once more.

An asylum seeker's registration certificate shall not serve as confirmation that the personal data listed is correct. It is not valid as a travel document.]¹⁾

¹⁾Act No. 115/2010, Art. 20.

Art. 48

Travel documents for refugees and passports for foreigners

A refugee who resides or is allowed to reside lawfully in Iceland shall, upon application be provided with a travel document for refugees to travel abroad, provided no special reasons warrant otherwise. If a refugee has a travel document issued by another state he/she may only be issued with a document if he/she has been granted asylum or a permanent residence permit in Iceland, or if the issue of a travel document for refugees is obligatory under an international agreement.

A foreign national who has or obtains a temporary residence permit in Iceland following an application for asylum, without asylum having been granted, shall receive a passport for foreign nationals to travel abroad in accordance with detailed rules set by [the Minister].¹⁾ The issuance of a passport for foreign nationals may also be authorised in other instances.

An application for a travel document for refugees or a passport for foreign nationals must be accompanied by a passport or other travel documents possessed by the applicant.

[The Minister]¹⁾ may set rules on the issuance, validity, renewal and revocation of travel documents for refugees and passports for foreign nationals and detailed requirements in this connection.

¹⁾Act No. 162/2010, Art. 172.

Art. 49

Applicability of foreign decisions on refugee status

A foreign national who has been granted asylum or provided with a travel document for refugees in another state shall be considered a refugee with permanent residence in that state. If such a refugee applies for asylum or a travel document for refugees in Iceland, a previous decision on his/her status as a refugee shall not be challenged unless the decision is incorrect or unless other reasons so warrant.

Art. 50

Authorities and procedure

The Directorate of Immigration shall take a decision in matters concerning protection from deportation [as referred to in Art. 45],¹⁾ the legal status of a refugee and asylum [as referred to in Articles 44 and 46 and revocation of asylum as referred to in Art. 47 a],¹⁾ as well as concerning travel documents for refugees and passports for foreign nationals.

The Directorate of Immigration shall also decide whether a foreign national who arrives in Iceland as envisaged in Art. 51, shall be granted refugee status.

In dealing with cases as referred to in the first and second paragraphs, the Directorate of Immigration shall on its own initiative gather the necessary and available information. Notwithstanding legal provisions on confidentiality, the substance of documents may be communicated to the United Nations High Commissioner for Refugees. Humanitarian and human rights organisations may also be informed of the substance of documents to the extent this is necessary for gathering of information.

[In cases concerning application for asylum, the authorities are obliged to co-operate with the UN High Commissioner for Refugees and to seek information from this office as appropriate.

The Minister may issue a Regulation on the detailed implementation of this Article and handling of cases under this Chapter of the Act.]¹⁾

¹⁾Act No. 115/2010, Art. 21.

[Art. 50 a

Initial proceedings in an application for asylum

An application for asylum as referred to in Art. 46 shall be submitted to the police. It must be determined whether a spouse, co-habiting partner and children accompanying the applicant also apply for asylum.

Together with the application, the applicant must provide a passport or other travel documents he/she possesses. The same shall apply to the applicant's spouse or co-habiting partner and children, whether they accompany the applicant or subsequently apply for asylum.

As soon as possible after an application for asylum is submitted, and before the initial questioning takes place, an employee of the Directorate of Immigration shall be summoned. In the case of an unaccompanied child, as referred to in the fifth paragraph of Art. 44, a representative of the child protection authorities in the region where the application is being handled shall also be informed of the case.

The police shall right at the beginning inform a foreign national who has applied for asylum as fully as possible on how the case will be handled and of his/her rights. Such instructions shall be in writing or accessible in a video or audio medium.

A foreign national who has applied for asylum shall be informed of his/her obligation to provide the information requested and the consequences should the person fail to answer truthfully and correctly or conceal information which may be of consequence in

resolving the case.]¹⁾

¹⁾Act No. 115/2010, Art. 22.

[Art 50 b

Police investigation in connection with an application for asylum

The police shall, as promptly as possible, obtain personal details on a foreign national who has applied for asylum through the intermediation of the International Department of the National Commissioner of Police to verify the person's identity. The same shall apply to gathering information on the route travelled.

If doubt arises as to the age of an unaccompanied child, the police, at the request of the Directorate of Immigration, shall have the child's age determined using recognised methods. The person concerned may refuse to undergo such examination, in which case an employee of the Directorate of Immigration shall explain how such refusal affects processing of the case. Rejection of an application for asylum may not be based exclusively on a person's refusal to undergo age determination.

The police may apply the investigative remedies authorised in this Act as appropriate. The Minister may in a Regulation set further provisions on the application of investigative remedies.]¹⁾

¹⁾Act No. 115/2010, Art. 22.

[Art. 50 c

Interviews with asylum seekers

Asylum seekers are entitled to an interview with the Directorate of Immigration together with a spokesperson if they so request. An employee of the Directorate of Immigration shall interview the applicant. The person conducting the interview shall ensure that information is provided on the applicant's situation which is of significance for his/her application as far as possible and request an interpreter if necessary.

It shall be explained to the applicant that the information provided will be used as a basis for a decision on his/her application. The applicant shall be asked whether he/she agrees to information being obtained from other public authorities, including public authorities in states other than his/her home state, if necessary for the handling of the case.

When an interview as referred to in the first paragraph is conducted with an unaccompanied child, an employee of the Directorate of Immigration who has special expertise in children's affairs shall conduct the interview if at all possible and handle the case. The child's spokesperson, as provided for in Art. 34, must be present at the interview with the child. The spokesperson shall be given an opportunity to speak with the child and instruct it concerning the interview before it takes place.

The Minister may set further rules on conducting interviews, in particular concerning interviews involving children or other persons who, because of their situation, need more

extensive protection or assistance, and the right to a spokesperson.]¹⁾

¹⁾Act No. 115/2010, Art. 22.

[Art. 50 d

Special handling of cases - accelerated procedure

The Directorate of Immigration may decide that a case which is accepted for substantial examination be subject to accelerated procedure, for instance, if:

a. it is probable that an application for asylum will be approved or when the special reasons of an applicant so warrant, for instance, in the case of an unaccompanied child or individual in need of extensive protection or assistance;

b. the application is manifestly unfounded, i.e.

1. the foreigner is a national of a state where he/she does not need to fear persecution or treatment which violates Art. 44 of the Act, or the same applies to a state where a stateless person has previously had regular residence, or

2. the foreigner may be sent to a state where he/she does not need to fear persecution or treatment which violates Art. 44 of the Act;

c. the applicant has provided insufficient or misleading information in support of his/her application or the information which the applicant has provided does not give reason to expect that Art. 44 of the Act applies to him/her,

d. this is a repeat application after refusal of an application for asylum or an application which was withdrawn, or

e. it can be considered certain that application is made for the purpose of delaying the implementation of a decision on deportation.

The Directorate of Immigration may, in the cases referred to in subparagraphs b, c, d and e of the first paragraph, take a decision without conducting an interview with the asylum seeker.

The Minister shall in a Regulation set further conditions for the application of accelerated procedure as referred to in the Article.]¹⁾

¹⁾Act No. 115/2010, Art. 22.

Art. 51

Groups of refugees

The Directorate of Immigration may authorise groups of refugees to enter Iceland in accordance with a decision by the government, acting on a proposal from the Refugee Council of Iceland. The same shall apply to groups of foreign nationals who do not have refugee status.

The provisions of Chapters IV and V of the Public Administration Act, on the right to object and making public of a decision, provision of grounds etc., and the relevant provisions of Chapter V of this Act shall not apply to decisions as referred to in the first paragraph. A decision may only be appealed by a person to whom the decision directly

relates.

A foreigner who is authorised to enter Iceland as referred to in the first paragraph shall be issued an unrestricted temporary residence permit [for four years].¹⁾ Once a final decision has been taken to accord the foreigner refugee status, cf. the second paragraph of Art. 50, he/she shall be entitled to asylum and to a travel document for refugees, cf. Articles 46-48.

¹⁾Act No. 115/2010, Art. 23. ²⁾Act No. 20/2004, Art. 14.

[Art. 51 a]¹⁾

Collective protection in a mass flight situation

Where a mass flight is concerned [the Minister]²⁾ may decide to apply the provisions of this Article. The Minister also decides when authorisation to provide collective protection as referred to in the second and third paragraphs shall be cancelled.

A foreigner, who is involved in a mass flight and arrives in Iceland or is in Iceland when the provisions of the Article are applied, may upon application be granted protection on the basis of a group assessment (collective protection). This means that the foreigner will be granted a temporary residence permit as provided for in [Art. 12 f].¹⁾ The permit shall not serve as authorisation for the issuance of a permanent residence permit.

The residence permit may be renewed or extended for up to three years from the time it was first issued to the applicant. After that a permit may be issued which can serve as authorisation for the issuance of a permanent residence permit. One year after such a permit is issued a permanent residence permit may be issued, provided that requirements for holding the permit still exist and that requirements are satisfied in other respects, cf. Art. 15.

An application of a foreigner, covered by the second paragraph, for asylum may be placed on hold for up to three years from the time the applicant first received a residence permit. Once the authorisation to grant collective protection has expired, cf. the first paragraph, or when three years have passed since the applicant first received a residence permit, the applicant shall be informed that the application for asylum will only be accepted for processing if he/she requests this unequivocally within a specified time limit.

The Directorate of Immigration shall take decisions on permits and on placing an application on hold.

[The Minister]²⁾ may set detailed rules.

¹⁾Act No. 86/2008, Art. 9. ²⁾Act No. 162/2010, Art. 172.

SECTION VIII

Miscellaneous Provisions

Article 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 Articles 31 and 32. The Immigration Office shall take any decisions as envisaged in this paragraph.

The Minister 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 Article 17 or in rules issued in accordance with Article 54.

Article 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 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.

Article 54

The Duty of Others to Report

The Minister 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 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.

Article 55 *Processing of Personal Information*

The Directorate of Immigration and the police may process personal data, including data that may be regarded as sensitive, to the extent that such processing is considered necessary for the application of this Act. To the extent necessary to ensure that foreign nationals live and work legally in Iceland, data held by the Directorate of Immigration, the Directorate of Labour, the police, the tax authorities and the National Registry may be linked. Such linking shall be carried out without data from individual institutions being sent to another of the above institutions to a greater extent than is necessary for pre-defined matters to be examined. In other respects, the handling of personal data shall be subject to the Personal Data Act.

The Minister, 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.

Article 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 Article 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. The same shall apply to monies for the payment of claims in connection with the costs of his departure and custody under this provision.

If a foreigner who has come to Iceland by ship or aircraft is denied entry under the provisions of Articles 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 Article 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.

Article 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. on purpose or through gross negligence assists a foreign national to reside illegally in Iceland or in another state, or
- f. on purpose or through gross negligence assists a foreign national to enter Iceland or another state illegally, or

g. intentionally or through gross negligence obtains, or attempts to obtain, a temporary residence permit on the basis of marriage (*cf.* the third paragraph of Article 13), or

h. is in possession of a forged passport, forged identification documents or a forged visa.

Involvement in organized activities to assist foreign nationals to enter Iceland or another state illegally shall be punishable by fines or up to six years' imprisonment, irrespective of whether or not the activities are carried out for profit.

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.* Article 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.

SECTION IX

Administrative Regulations, and Entry into Force

Article 58

Administrative Regulations

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

Article 59

Entry into Force

This Act shall enter into force 1 January 2003.

[Interim provisions.

I. Item *a* of the first paragraph of Article 36 of this Act shall not apply to citizens of Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic and Hungary until 1 May 2006. Up to that time, the first paragraph of Article 35 of this Act, regarding the right of EEA foreign nationals to reside in Iceland without a special permit for up to six months if they are looking for employment, and the fourth paragraph of Article 35 of

this Act, regarding the right of EEA foreign nationals to apply for residence permits after arriving in Iceland shall not apply to workers from these states.]¹⁾

[II. Item *a* of the first paragraph of Article 36 of this Act shall not enter into force regarding citizens of Bulgaria and Romania until [1 January 2012].¹⁾ Furthermore, the first paragraph of Article 35 of this Act, regarding the right of EEA or EFTA foreign nationals to live in Iceland for six months without a special permit if they are looking for employment ... ¹⁾ shall not apply to citizens of Bulgaria and Romania until [1 January 2012].¹⁾²⁾