

# Act on the Icelandic Tourist Board

2018, No. 96, 26 June

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To enter into force on 1 January 2019; to be implemented acc. to instructions in Article 21

Any mention in this Act of a minister or ministry, which does not specify the name or area of competence of the minister or ministry, refers to the **Minister of Tourism, Industry and Innovation** or the **Ministry of Industries and Innovation**, which administers this Act.

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## Chapter I. Administration

### ■ Article 1

- The Icelandic Tourist Board is a government agency subject to the authority of the Minister.
- The agency is responsible for the administration of tourism pursuant to this Act and other Acts to which it is subject.
- The Minister shall appoint a Director General for a term of five years, who shall head the Icelandic Tourist Board. The Director General shall be responsible for the agency's activities and operations, defines its areas of focus, tasks and procedures, and is in charge of day-to-day management.

### ■ Article 2

- The Icelandic Tourist Board shall monitor and promote the development of tourism as an important and sustainable pillar of the Icelandic economy, having regard to the carrying capacity of Icelandic nature and society, as well as facilitate coordination, analyses and research in the tourism sector in accordance with government policy.

### ■ Article 3

- The main responsibilities of the Icelandic Tourist Board are the following:
  1. Issue of licences.
  2. Monitoring licensed activities, including safety plans.
  3. Implementing the tourism policy, planning and supporting regional development.
  4. Gathering, disseminating and processing of information, including statistics and other information on matters falling under the scope of the agency.
  5. Analysing the need for research that might benefit the government's policy work, in collaboration with the travel industry and research institutions in the area of tourism.
  6. Safety issues, quality issues and consumer protection in tourism.
  7. Custody and administration of the Tourist Site Protection Fund.
  8. Overseeing the activities of the Icelandic Tourism Council.
  9. Overseeing and monitoring traders' calculation of security and obligation to provide insolvency protection pursuant to the Act on Package Travel and Linked Travel Arrangements, and rules on the bookkeeping and financial reporting of travel agencies.
- The Icelandic Tourist Board may, by means of a service contract, assign some of its tasks to others and participate in cooperating projects.
- The Minister may by regulation lay down further provisions on the responsibilities of the

Icelandic Tourist Board.

#### ■ Article 4

The Minister shall appoint the Icelandic Tourism Council. The Icelandic Tourism Council shall be composed of nine members, and the Icelandic Tourist Board will supply an employee for the Council.

The Minister of Tourism shall appoint the chairman and vice-chairman without nomination. The Council shall include one member appointed by the minister in charge of government finances and generation of state revenue, one member appointed by the minister in charge of nature conservation and planning, and one member appointed by the minister in charge of transportation and regional and municipal affairs. The other members shall be appointed by the Minister upon nomination by the Icelandic Travel Industry Association, which shall nominate two members, and the Icelandic Association of Local Authorities, which shall nominate two members, one of whom shall represent the Regional Marketing Offices of Iceland.

Members shall be appointed for a term of four years; however, the term of appointment of the chairman, vice-chairman and members appointed by ministers shall be limited to the respective minister's term of office.

The Icelandic Tourism Council shall meet at least four times a year.

The Icelandic Tourism Council may establish a committee of experts and assign it tasks.

The Minister may issue a regulation on the activities of the Icelandic Tourism Council, including on the establishment and activities of expert committees.

The Director General and a representative of the Ministry will attend meetings of the Council with right to participate in discussion and submit motions.

#### ■ Article 5

The Icelandic Tourism Council shall advise the Minister on long-term policymaking and planning in the area of tourism. The Icelandic Tourism Council shall have an overview of the diverse aspects of tourism and work towards coordination between the industry and the government so that defined objectives with respect to the long-term policy making and future development of tourism may be achieved.

## Chapter II. Definitions

#### ■ Article 6

For the purposes of this Act the following definitions shall apply:

1. *Day tour operator* means a legal or natural person who, whether on his own initiative or at the request of a customer, combines, offers or sells for commercial purposes to the public organised tours that are not covered by the Act on Package Travel and Linked Travel Arrangements.

2. *Travel agency* means any natural person or any legal person, who combines, offers or sells packages or facilitates linked travel arrangements for commercial purposes, whether on his own initiative or at the request of a customer, either in Iceland or abroad.

The term "travel agency" refers to traders within the meaning of the Act on Package Travel and Linked Travel Arrangements, i.e. organisers, retailers and traders who facilitate linked travel arrangements, as these entities are defined in that Act.

A travel agency may also perform and offer for sale all travel services offered by a day tour operator, whether in the form of a package or not.

3. *Organised tour* means a service or recreation which a travel agency or day tour operator, combines, offers or sells to the public for commercial purposes, whether on their own initiative or at the request of a customer.

4. *Operations requiring a licence* means all operations and services offered by day tour operators and travel agencies as defined in this Act, whether provided by an individual, company or organisation.

5. *Safety plan* means a written plan consisting of a risk assessment, procedures, incident report and contingency plan.

6. *Information centre* means an entity that provides impartial information to the public.

### **Chapter III. Licensing**

#### **■ Article 7**

Anyone intending to operate as a travel agency or day tour operator shall obtain a licence for such operations from the Icelandic Tourist Board. Issued licences are valid for an indefinite period.

A licence holder who is subject to the Act on Package Travel and Linked Travel Arrangements is required to provide insolvency protection in accordance with Chapter VII of that Act.

The licence holder shall in all advertisements promoting his operations and on his website use a graphic numbered identification provided by the Icelandic Tourist Board. The Icelandic Tourist Board may in special circumstances grant exemptions from this provision at the request of a licence holder.

Licence holders shall conduct their operations at fixed premises open to the public. However, this requirement may be waived if the service is operated solely on an electronic basis, in which case the licence holder must meet the requirements of Article 6 of Act No. 30/2002 on Electronic Commerce and Other Electronic Services, with respect to the information that must appear on the licence holder's website.

A licence holder may operate a branch on the basis of the licence, in which case the person responsible for the branch shall be subject to the same requirements laid down in this Act as the licence holder.

The Icelandic Tourist Board shall maintain a register of those holding licences under this Act and publish it in an accessible manner, for instance on its website. The revocation of licences shall also be notified on the website.

The Icelandic Tourist Board decides which Icelandic travel associations shall be exempt from the provisions of this Act with respect to travel within Iceland.

#### **■ Article 8**

Applications for licences to conduct operations requiring a licence under this Act shall be submitted to the Icelandic Tourist Board at least two months before commencement of the proposed operations.

The applicant, or his representative if the applicant is a legal person, must meet the following requirements in order to obtain a licence:

a. he must reside in a Member State of the European Economic Area or a state which is party to the Convention establishing the European Free Trade Association or in the Faroe Islands;

b. he must be of legal majority and be competent to manage his own finances, and may not, during the preceding four years in connection with a commercial activity, have been convicted of any offence punishable under this Act, the General Penal Code or the Acts on limited liability companies, private limited liability companies, accounting practices, annual accounts, bankruptcy etc. or government taxes;

c. he must have registered the operations with the Directorate of Internal Revenue;

d. he must present confirmation that he is covered by liability insurance issued by an insurance company licensed to operate in the European Economic Area.

The Icelandic Tourist Board may request such further information as it considers necessary to decide whether a licence should be granted.

If the licence holder is subject to the Act on Package Travel and Linked Travel Arrangements, as an organiser, a trader who facilitates linked travel arrangements or a

retailer, the licence holder shall present confirmation of insolvency protection before being granted a licence.

The application shall state the name of the licence holder and shall specify any alternative names that he intends to use in his operations. The operations may not be conducted under other names than those stated in the licence.

Alternative names may be added to valid licences by submitting a special application for such additions to the Icelandic Tourist Board, which will then issue a new licence at no charge.

Foreign travel agencies or foreign day tour operators intending to open a place of business in Iceland shall apply for a licence.

A licence holder may return his licence to the Icelandic Tourist Board. However, insolvency protection provided under the Act on Package Travel and Linked Travel Arrangements may not be withdrawn until such withdrawal is confirmed by the Icelandic Tourist Board.

#### ■ Article 9

Anyone intending to operate an information centre shall notify so in writing to the Icelandic Tourist Board. The Icelandic Tourist Board shall maintain a register of information centres and publish it in an accessible manner, for instance on its website.

Information centres shall be permitted to use the graphic logo of the Icelandic Tourist Board.

Information centres that receive government funding shall keep that part of their operations financially separate from other parts of the operations. The Minister may issue further rules on the accounting and financial separation of services that receive government funding from other operations.

The notification to the Icelandic Tourist Board of the operation of an information centre shall include the following information, as applicable:

a. name of the operations, social security number, address, telephone number and e-mail address;

b. name and identification number of the person responsible for the operations;

c. the legal form of the operations;

d. a detailed description of the operations;

e. whether the operations receive government funding, and if so, how much;

f. the opening hours of the centre.

The Icelandic Tourist Board may remove an information centre from the register if its operations have been suspended or the scope of the operations has expanded so that it no longer falls under the definition of a day tour operator or travel agency. The Icelandic Tourist Board rules in case of a dispute as to which category the operations belong to.

#### ■ Article 10

The Minister may by regulation issue further provisions on applications for licences, the procedure for the issue of licences and the monitoring of licence holders, including on the categorisation of licences.

### Chapter IV. Safety plans and research

#### ■ Article 11

Anyone intending to perform organised tours within Icelandic territory shall prepare a written safety plan for each type of tour, regardless of whether the entity concerned sells the tour directly to a traveller or through a third party. The safety plan shall be available in writing in Icelandic and English at all times. Such tours may not be offered for sale, promoted or marketed in any way whatsoever in the absence of a safety plan. A safety plan is composed of a risk assessment, procedures, contingency plan and incident report.

- The risk assessment encompasses an assessment of the potential risks associated with a particular trip, and participants shall be provided with clear and comprehensive information on the main risk factors. When organising a tour, the risk assessment shall be used as a basis for the selection of employees, including tour guides, for the timing of the tour, for an assessment of external conditions, for the selection of equipment, etc.
- The working procedures shall be based on the risk assessment of the tour. They shall include information on the knowledge, experience and skills of the employees involved in the tour and how to respond to danger, including with respect to communications.
- The contingency plan shall be based on the risk assessment and shall include a description of actions to be taken in the case of imminent danger or accident.
- The incident report shall include information on an incident that has or may have occurred, the persons involved in the incident and the action taken in response to the incident.
- Anyone offering organised tours in the territory of Iceland is responsible for updating the safety plan regularly and as soon as warranted.
- The Icelandic Tourist Board will monitor that safety plans are in place and are updated as needed. The Icelandic Tourist Board may require the submission of a safety plan. If the safety plan is clearly inadequate or if no safety plan has been prepared, the Icelandic Tourist Board shall give the entity concerned a reasonable period of not less than 14 days to take corrective action. If the entity concerned does not take appropriate corrective action within the given time period, the Icelandic Tourist Board may impose daily fines in accordance with Article 20 until such action has been taken.
- A regulation may be issued containing further provisions on the form and content of safety plans and the procedures for reviewing and following up on safety plans.

#### ■ Article 12

- The Icelandic Tourist Board shall gather information that is useful for decision-making and target-setting in tourism and publish it. The agency shall also promote research and analyse the need for research in the field of tourism, and develop a research plan in collaboration with research institutes, universities and industries, in which the need for research is defined and projects are prioritised.
- A regulation may be issued containing further provisions on the gathering and processing of information and research.

### Chapter V. Monitoring and loss of licence

#### ■ Article 13

- The Icelandic Tourist Board may require entities subject to this Act to provide it with any information deemed necessary for the monitoring of licensed entities. Information may be requested orally or in writing, and shall be provided within a reasonable period set by the agency.
- The Icelandic Tourist Board may request information and documents from other authorities in order to perform its monitoring function, including from the tax authorities.

#### ■ Article 14

- Licences issued pursuant to this Act shall be revoked in the event of the suspension of operations or insolvency of the licence holder or the person responsible for the licence holder, or if they lose their financial autonomy. Licences will also be revoked if the insolvency protection that the trader is required to provide under the Act on Package Travel and Linked Travel Arrangements is cancelled or does not meet the requirements of that Act.
- The Icelandic Tourist Board may revoke a licence issued under this Act if the licence holder or person responsible for the licence holder no longer meet the requirements set out in the second paragraph of Article 8, if the safety plan referred to in Article 11 is inadequate, or if they otherwise violate the provisions of this Act.

The Icelandic Tourist Board may revoke a licence if the trader does not meet the requirements of the Act on Package Travel and Linked Travel Arrangements concerning the submission of annual financial statements and other materials necessary to assess the insolvency protection required for packages and linked travel arrangements, or if the trader fails to comply with the decision of the Icelandic Tourist Board regarding an increase in the amount of required security within a month of such decision being notified, see the relevant provisions in the Act on Package Travel and Linked Travel Arrangements.

■ **Article 15**

Before revoking a licence under the second and third paragraphs of Article 14, the Icelandic Tourist Board shall send a warning of the intended revocation of licence stating the reason for the revocation, and the licence holder shall be given a period of not less than 14 days to take corrective action.

In the event that a licence is revoked under the second and third paragraphs of Article 14, the Icelandic Tourist Board shall send to the licence holder a written notification of the revocation which shall state the effective date of the revocation.

The Icelandic Tourist Board shall announce the revocation of licences in a reliable manner in both the Official Gazette and on its website. The Icelandic Tourist Board may also announce the revocation of licences by such other means as considered appropriate in each case.

The revocation of a licence under the second and third paragraphs of Article 14 is the equivalent of a suspension of operations within the meaning of the Act on Package Travel and Linked Travel Arrangements, allowing enforcement of the insolvency protection provided by the relevant operator.

**Chapter VI. Penalties and miscellaneous provisions**

■ **Article 16**

All services rendered electronically by licence holders shall comply with the Act on Electronic Commerce and Other Electronic Services.

■ **Article 17**

Administrative decisions taken by the Icelandic Tourist Board may be appealed to the Minister. The procedure for appeals is governed by the Administrative Procedure Act.

■ **Article 18**

The Icelandic Tourist Board charges a service fee for the issue of licences under this Act. The tariff shall be confirmed by the Minister and published in the B-series of the Official Journal of the Icelandic Government.

The fees charged shall be based on the costs generally incurred in issuing licences.

■ **Article 19**

Anyone who conducts operations requiring a licence without the required licence, or operations which are not consistent with the licence issued, shall be subject to fines unless more severe penalties apply under other laws.

If operations requiring a licence under this Act are conducted without a licence, the Police Commissioner, at the request of the Icelandic Tourist Board, shall suspend the operations without notice or warning, including by closing the premises of the operations and its website, provided that no licence was issued for operations requiring a licence, the licence was cancelled, withdrawn or revoked, or operations requiring a licence exceeded the limits prescribed in the issued licence.

■ **Article 20**

If instructions given by the Icelandic Tourist Board under this Act are not complied with, the Icelandic Tourist Board may decide that those required to comply with the instructions shall pay periodic penalties until compliance is met. The Icelandic Tourist Board may also

impose periodic penalties on those who do not meet the requirements of the Act on Package Travel and Linked Travel Arrangements with respect to the obligation to provide insolvency protection, as well as those who conduct operations requiring a licence without a licence, see Article 19.

A decision to impose periodic penalties shall notified in writing by verifiable means to those subject to the decision. Periodic penalties can range from ISK 50 thousand to ISK 500 thousand per day.

A decision to impose periodic penalties may be appealed to the Minister within fourteen days of being notified to the affected person. Periodic penalties will not begin to accrue until after the expiry of this period.

Periodic penalties are legally enforceable by writ of execution after expiry of the time limit for appeals, but an appeal to the Minister will delay enforcement until a final decision has been rendered. Action brought before the courts will not delay enforcement.

## **Chapter VII. Entry into force**

### **■ Article 21**

This Act will enter into force on 1 January 2019 ... However, the provisions of Articles 4 and 5 will not be implemented until 1 January 2020.

## **Temporary provisions**

### **■ I**

Organiser licences and registered booking services under Act No. 73/2005 that are valid at the time of entry into force of this Act, shall remain valid until 1 March 2019. Prior to this time, anyone intending to continue their operations shall apply for a new licence with the Icelandic Tourist Board, which will assess whether the relevant operations, after the entry into force of this Act, fall under the definitions of "travel agency" or "day tour operator". No fees shall be charged for new licences issued to these entities.

### **■ II**

Tourism operators who are required to have in a place a safety plan under Article 11 of this Act must complete and implement such a plan by 1 January 2019 at the latest.

### **■ III**

Until 1 January 2020, the Iceland Tourism Council shall conduct its activities in accordance with Articles 5 and 6 of Act No. 73/2005 on Tourism Administration.