

# Iceland

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Iceland (*Island*), an island in the North Atlantic, is an independent republic and a unitary state. Iceland was settled in the ninth and tenth centuries as a result of the Nordic Viking expansion. An independent republic was established about 930. In 1262–1264 the Icelanders swore allegiance to the

King of Norway. Along with Norway, Iceland came under the Danish King in 1380. It was recognized as a sovereign state in personal union with Denmark in 1918 and subsequently became a republic in 1944.

## I. CONSTITUTIONAL SYSTEM

### 1. Nationality

Nationality is regulated by art. 68 of the Constitution (“No alien may acquire citizenship except by law”) and the Icelandic Citizenship Act no. 100/1952. The provisions of this statute are based on principles similar to those applicable in Denmark and Norway. An alien wishing to be naturalized must send an application to parliament, usually through the Ministry of Justice. As a rule, a three or five year residence in the country is a necessary requisite.

### 2. Territorial Division

For the purposes of state administration Iceland is divided into one city (*borg*, i.e., Reykjavík, the capital), 13 boroughs (*kaupstaðir*) and 16 rural districts (*sýslur*). Each of the rural districts is divided into counties (*hreppar*), 212 in all. The Keflavík Airport area has a special status, which makes it in fact a borough.

For the purpose of local government the division is much the same; one city, 13 boroughs and 212 counties. The rural districts are composed, in this respect, of a number of counties and number 23 in all, as 7 of the above mentioned are divided for local government. The Keflavík Airport constitutes a part of the surrounding counties in this connection.

### 3. State Organs

a. *The general structure* is laid down in the Constitution, which states in art. 1 that “Iceland is a republic with a parliamentary government”. Ac-

ording to art. 2, the legislative power is vested in the parliament (*Althing*) and the president, the executive power in the president “and other governmental authorities in accordance with this Constitution and other laws of the land”, and the judicial power in the courts. That this article reflects the formal rather than the actual situation is taken for granted.

b. *The Head of State* is the president, who is chosen for a period of four years by direct and general elections. According to art. 13 of the Constitution “the President exercises his authority through his Ministers”. This means that his functions are mostly ceremonial.

c. *The parliament (Althing)*, established in 930, now has 60 members, elected for a term of four years by Icelandic citizens who are 20 years or older. The government has unlimited power to dissolve the *Althing* and call new elections. After each election the *Althing* nominates 20 of its members to sit in the Upper Chamber (*efri deild*), the remaining 40 sitting in the Lower Chamber (*nedri deild*). Bills can be introduced in either chamber by individual members, by a standing committee of the chamber and by the government. A bill is first read three times in each chamber. If the second chamber amends it, the bill is read once again in the chamber where it was originally introduced. If it is amended there again, it goes to the second chamber once more and has a fourth reading there. If in these eight readings the chambers do not agree, the bill is read once in the United *Althing*. The budget as well as most motions for a resolution are dealt with in the United *Althing*. Accord-

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ing to art. 28 of the Constitution, the president of the republic may issue provisional laws between sessions of the *Althing*.

d. *The government*, nominally headed by the president of the republic, is led by the cabinet ministers, who act personally, not as a body. The Central Government Act no. 73/1969 regulates the organization of the central government, which consists of 13 ministries. Councils of state are held for formal decisions, and cabinet meetings, provided for in the Constitution, are held for discussions which are of political and not of legal importance. By statute or presidential decree it may be ordered that certain affairs be decided by the cabinet as a whole, and there are a few examples of this. The cabinet cannot remain in office if a motion of no confidence is passed by the *Althing*. While in office, the cabinet has in fact a leading position in parliament, where the ministers are political leaders and where the government takes the initiative in most legislation. The state administration is in principle subordinated to the ministers, but there are a number of semi-autonomous directorates, some of them headed by boards of directors elected by parliament.

e. *The territorial authorities* are of two types: those of the state administration and the local authorities. The latter are led by councils elected for terms of four years in the city, boroughs and counties. The division of power between the state administration and the local authorities is somewhat complicated, but the latter are in fact of considerable importance, especially in the larger municipalities.

#### 4. Judiciary

(See the Supreme Court of Iceland Act no. 57/1962; General Act on Civil Procedure in First Instance no. 85/1936; Criminal Procedure Act no. 82/1961; and other legislation). In each of the 31 territorial divisions (*supra* 2) there are five types of courts of first instance: the Town Court or the "Special Session" in the rural districts, the Sheriff's Court (for execution of judgements in civil cases, seizures, injunctions, etc.), the Probate Court, the Court of Auctions and the Criminal Court. The same judge usually sits in all these courts outside the capital, Reykjavík. Among other courts of first instance are 14 Maritime and Commercial Courts, where the regular judge of the district sits with two lay judges who are specially qualified. Otherwise the judge, who is a lawyer and appointed for life, usually sits alone. On special occasions, when the case has technical points, he is required to appoint two specialists to sit with him. They can overrule the regular judge. There are no juries. - Practically all decisions of the lower courts can be appealed to the Supreme Court of Iceland, which can rule both on fact and law. It is composed of five judges who hear all cases in plenum. Outside the general court system are the High Court of State, which rules on impeachment of cabinet ministers, and the Labour Court, that deals with cases under the Act on Trade Unions and Labour Disputes no. 80/1938. There are no special administrative courts, but the general courts may judge the legality of administrative acts. - The public prosecution is with a few exceptions carried out by the State Prosecutor or his deputies.

## II. SOURCES OF LAW

The Constitution came into force on 17 June 1944. It has been amended twice, in 1959 and 1968. Other statutes are mostly of recent origin, although the oldest in force is from 1275. The legal system is a branch of the Scandinavian or Nordic system, and forms together with the Norwegian and Danish systems the Western-Scandinavian legal system. There are no codes, but comprehensive statutes have been developed in certain areas. Statutes on very limited subjects also exist. - Delegated legislation is important (regulations, decrees, etc). It is as a rule issued by a minister, but often originates with local authorities.

Other sources of law generally recognized in Icelandic legal theory are custom, precedent, the

general principles of law and the "nature of the case". Icelandic courts have much the same attitude towards these sources as Danish and Norwegian courts. Neither legal writings nor international law are regarded as sources of Icelandic law, although it is clear that they in fact influence court decisions.

The courts have on some occasions declined to enforce statutes on the ground that they are unconstitutional. Delegated legislation has often been declared void as not compatible with the statute on which it has been based.

All statutes in force are published approximately every tenth year by the Ministry of Justice in the *Lagasafn* (Law Collection). New legislation is,

before entering into force, published in the *Stjórnartíðindi* (Government Gazette). Part A contains mainly statutes passed by the *Althing*, part B delegated legislation. There is also a part C containing new international treaties.

The *Lögbirtingablad* (Official Gazette) prints

some government regulations as well as other official announcements (appointments, bankruptcies, auctions, etc.). All judgements of the Supreme Court and the Labour Court are published in annual reports called respectively *Haestaréttardómar* and *Dómar Félagsdóms*.

### III. HISTORICAL EVOLUTION

Laws of the old Icelandic Republic are found in manuscripts that bear the common name *Grágás* (The Grey Goose). They are Germanic in origin and the most detailed old Germanic laws now known. New codes were enacted after Iceland came under the King of Norway: *Járnsíða* in 1271, superseded already in 1281 by *Jónsbók*. This in turn was gradually replaced through the centuries by individual statutes and custom, although a few of its provisions are still in force. Iceland has always had its own national law, although it was

mixed with Danish and Norwegian law to a considerable degree, especially from about 1700 up to the nineteenth century. The separate identity of Icelandic law was reinforced when the *Althing* regained legislative power in home affairs in 1874, when Iceland was given a special minister residing in Reykjavík in 1904, and when its own Law School was established in 1908. It became a faculty in the University of Iceland when this was founded in 1911.

### IV. PRIVATE LAW

Private law in Icelandic legal theory is one of the two categories of internal law, the other being public law. Commercial law is not a category by itself, but rules on commerce are an integral part of private law. As mentioned above, Icelandic law and jurisprudence are closely related to those of the other Nordic countries. Many important statutes on private law have been drafted by inter-Nordic committees and then enacted in the different countries, often with certain modifications.

#### 1. Law of Persons

The main statute on the *law of persons* is the Legal Competence Act no. 95/1947 which, as amended in 1967, decrees that a person is a minor until the age of 20 or until marriage, if this occurs earlier. Ability to decide on domicile and work is acquired at 16. The statute does not deal with legal entities, but this concept is used as in Denmark and Norway. – Rules on names are a part of the law of persons. The Persons' Names Act no. 54/1925 states that every child shall be given one or two names and also called after his father or his mother (the latter is in practice never done). This is done by adding son or daughter (*son* or *dóttir*) to the name of the father. Family names can only be used in special circumstances. A woman does not

take the name of her husband when they marry.

#### 2. Family Law

Family law is to a large extent based on inter-Nordic legislative drafts. The main statutes are: Act on Marriage and Dissolution of Marriage no. 60/1972; Act on Duties and Rights of Spouses no. 20/1923; Act on Relations of Parents to Legitimate Children no. 57/1921; Act on Relations of Parents to Children Born out of Wedlock no. 87/1947; and the Adoption Act no. 19/1953. The main principles of this legislation, among them the special Nordic system of joint property, are dealt with in the chapters on Denmark and Norway. It may be noted that in Iceland both separation and divorce are almost always granted by administrative acts, but it is legally possible to obtain divorce by going to court. Separation is granted in practically all cases, even if only one of the spouses applies for it.

#### 3. Inheritance

Inheritance is dealt with in the recent Inheritance Act no. 8/1962, which is Nordic in origin. Its main principles are the same as those of the Danish Statute of 1963. In Iceland, however, a testator can

only dispose of one third of his estate if he has descendants or a spouse. A surviving spouse is entitled to one third of the estate of the deceased as against descendants. Where there are no descendants, the surviving spouse will be entitled to two thirds if parents, one or both, of the deceased are alive, but otherwise to the whole.

#### 4. Law of Property and Obligations

The law of property and obligations in Iceland is in principle very similar to Danish and Norwegian law. Only a few divergencies will be mentioned.

a. *Property law.* – The Land Registration Act no. 30/1928 is much more limited in scope than the Danish Act of 1926, but the main principles of the Icelandic case law in this field are similar to the Danish and Norwegian rules. The Icelandic mortgage system has not developed in the same way as in Denmark. Public mortgage societies and pension funds are important lenders, but a state-directed Building Fund operated under the State Housing Directorate Act no. 30/1970 leads in this field. It grants mortgaged loans in respect of apartments built by the state, municipalities and individuals. Most apartments built by the state and municipalities are later sold to individuals on conditions that limit resale to a certain extent. – The Act on the Rights of Ownership and Use of Real Estate no. 19/1966 confines these rights to

Icelandic citizens, to associations with personal liability, in which all personally liable members are Icelandic citizens, and to institutions and companies without personal liability which are domiciled in Iceland and in which all the members of the board of directors are Icelandic citizens. In marketable share companies, at least 80 per cent of the share capital also must be owned by Icelandic citizens. Exemptions from these rules can be granted by the Minister of Justice. Such an exemption is not necessary for a lease of real estate for a period shorter than three years or for a lease that can be terminated with up to one year's notice. The rules described here also apply to real estate acquired by inheritance. The utilization of relatively large parts of the country, especially highlands, that are not habitable, is dealt with by Statute no. 42/1969 on Mountain Grasslands and Herding of Domestic Animals.

b. *Law of obligations.* – The Icelandic Statute no. 7/1936 on Contracts, etc., is practically verbatim the same as the Danish Statute of 1917. The same can be said of the Sale of Goods Act no. 39/1922 (Denmark 1906).

c. *Torts.* – The principles described in the reports on Denmark and Norway apply also to Iceland. Certain rules on liability of the owners of motor-cars are an exception.

## V. COMMERCIAL LAW

Commercial law is an integral part of the general rules of obligations, associations and procedure (as regards bankruptcy). – The main statutes on commerce are these: Marketable Share Companies Act no. 77/1921. Co-Operative Societies Act no. 46/1937, Insurance Act no. 20/1954, Bills of Exchange Act no. 93/1933, Cheques Act no. 94/1933, Accounting Act no. 51/1968, Shipping Act no. 66/1963 with important amendments in Statute no. 14/1968 and Bankruptcy Act no. 25/1929. – The establishment and operation of business enterprises in Iceland is generally subject to licence. In the field of commercial trade, governed by the Trade Act no. 41/1968, such a licence is freely available to persons who are Icelandic nationals and residents, are not legally incompetent, and who have a modicum of commercial education or training. Business associations with personal liability must be registered and domiciled in Iceland and all members who act for

the association must fulfill the conditions of Icelandic nationality and residence. Associations without personal liability must be registered and domiciled in Iceland and their managers and at least one member of the board of directors must fulfill the conditions of Icelandic nationality and residence; and in marketable share companies, at least 50 per cent of the share capital must be owned by Icelandic residents. Similar rules apply in the field of industrial manufacturing, governed by the Industry and Handicrafts Act no. 18/1927, except that the condition of nationality is not a requisite. Artisans are subject to special requirements for professional education and training. In certain branches of industry, such as fish processing, licensing is more restrictive than noted above and the condition of nationality is rigorously applied. – Banking is regulated by statutes that give special concessions to each bank. – As can be seen from what has been said in this chapter, it has

been a policy in Iceland to limit the operation of foreign risk capital in the country. This policy has been modified recently in connection with special

concessions to set up an aluminium industry and certain other plants.

## VI. STATE DIRECTION OF THE NATIONAL ECONOMY

The Icelandic economy is in principle not regulated by state planning. On the other hand the state has considerable influence on the economic life through many channels, some of them provided for by legal rules, such as rules on foreign

trade and prices. The Statutes on the Central Bank no. 10/1961 and the Economic Development Institute no. 93/1971 provide for measures that may be used to carry out, within fixed limits, the economic policy of the government.

## VII. INDUSTRIAL PROPERTY RIGHTS AND COPYRIGHT

Iceland has ratified the Paris Convention for the Protection of Industrial Property (the London text of 1934), the Berne Convention for the Protection of Literary and Artistic Works (the Paris text of 1971) and the Universal Copyright Convention of 1952. – The Act on Commercial Registers, Firms and Procurations no. 42/1903 states

that registration of firms is necessary except when one person operates a business in his own name. The Patent Act no. 12/1923 provides for protection for 15 years. The Trade Marks Act no. 47/1968 is similar to such statutes in other Nordic countries. The same can be said of the Copyright Act no. 73/1972.

## VIII. PRINCIPLES OF JUDICIAL PROCEDURE IN CIVIL CASES

As stated before, the Icelandic court system has two instances. All cases are first decided in a court of first instance. The principles of procedure are the same as in Denmark and are laid down in the

General Act on Civil Procedure in First Instance no. 85/1936 (*supra* I 4). The execution of judgments in civil cases is carried out by a special court (the Sheriff's Court).

## IX. PRIVATE INTERNATIONAL LAW

The principles are the same as in Denmark. It need only be mentioned, that Iceland has not ratified

the Hague Convention on the Law Applicable to International Sales of Goods of 1955.

## X. SELECTIVE BIBLIOGRAPHY

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## 2. Translations of Legislative Texts

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*Chapter V: Shipping Registration Act no. 17 of 18 March 1948 [excerpts]: Nationality of Ships 79-81; The Central Bank of Iceland Law of 29 March 1961 as amended through 31 July, 1966: Aufrecht, Central Banking II 345-354.*

*Chapter VII: Law no. 13 on Copyright and Printing Rights of 20 Oct. 1905, as amended up to 2 Feb. 1956, and other regulations concerning this matter: Copyright Laws [Iceland] Item 1-3.*

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