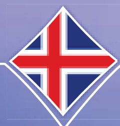

Iceland

Contributed by: **LOGOS Legal Services**

1. Does the state provide a pension, retirement income or social security program of some type?

Under the Social Security Act No. 100/2007, the state provides old age pensions, disability pensions, age-related disability supplements, pension supplements, disability allowances, and child pensions. Social security contributions made by employers fund, *inter alia*, the social security scheme under the Social Security Tax Act No. 113/1990.

Individuals aged 67 or older who have resided in Iceland for at least three years between the ages of 16 to 67 are entitled to old age pensions. Individuals who have resided in Iceland for at least 40 years between the ages of 16 and 67 are entitled to the full old age pension, but those who are residents for shorter periods receive prorated benefits. In the case of couples who are both pension recipients, the pensions of both partners may be based on the residence period

Iceland

of the partner with the longer entitlement period. Residence, for the purposes of old age pension entitlement, refers to legal domicile under the Legal Domicile Act.

2. Are employers required to maintain retirement plans/schemes, and what types of retirement plans/ schemes are employers permitted or required to maintain?

Employers are not required to set up or run retirement plans. They are, however, required to contribute to the Icelandic pension system, which operates on three levels.

First, under the Social Security Tax Act No. 113/1990, employers and self-employed individuals are required to pay a tax on all forms of wages, salaries, and emoluments from any kind of activity. The tax is composed of two parts: the general social security fee and the employment insurance fee. The rate for the general social security fee is 5.40%, although it was temporarily raised to 6.04% for the 2015 and 2016 tax years (income years 2014 and 2015).

Second, under the Pension Act No. 129/1997 (the "**Pension Act**"), all employees and self-employed individuals are obliged to participate in an occupational pension fund between the ages of 16 to 70. Minimum contributions are 12% of the contribution base, which is all wages and remuneration for any type of work, task, or service. In the private sector, the division of contributions between the employee and the employer may be determined by collective labor agreements. Usually, the employee's contribution amounts to 4% of total wages, and the employer's contribution amounts to the other 8%. In the public sector, banking sector, and others, the employer's contribution is higher.

Third, tax incentives are in place for employees who make voluntary private pension savings. The maximum tax-deductible contribution by employees is currently 4%. There is no statutorily prescribed minimum employer contribution level, but employers have agreed in collective labor agreements between the trade unions and the employer federations to contribute 2% to employees' voluntary pension savings provided that the employee's contribution is at least 2%. The total contribution can therefore often amount to 6%.

3. What are the principal statutes governing retirement plans/schemes that cover a broad cross-section of the workforce and what are the material requirements applicable to such plans/schemes?

As set out in question 2, the Pension Act requires all employees and self-employed individuals between the ages of 16 and 70 to participate in an occupational pension fund. Employees in the public sector contribute to the Pension Fund for State Employees, governed by the Pension Fund for State Employees Act No. 1/1997, and contribute 4% of their income to the Fund which is matched by at least an 8% contribution from the employer. Similar divisions of the 12% minimum occupational pension fund contribution required by the Pension Act are found in most collective labor agreements and employment contracts for employees in the private sector.

Iceland

4. What are the key features of the tax framework that applies to retirement plans/schemes?

For the employee, pension contributions of up to 8% of wages are tax-deductible as follows:

- contributions of up to 4% to occupational pension funds; and
- contributions of up to 4% to voluntary private pension funds.

Upon retirement, all pension payments (whether paid by the state or from occupational or voluntary pension funds) are fully subject to income tax, which is withheld when the pension is paid out.

For the employer, contributions to occupational and voluntary private pension funds are tax-deductible.

5. If an employer adopts a retirement plan/scheme, are employer contributions required?

Yes. As set out in question 2, under the Pension Act an 8% employer contribution is usually required for occupational pension funds, while under collective labor agreements between the trade unions and the employer federations a 2% employer contribution to voluntary private pension funds is required, provided in the latter case that the employee also contributes at least that amount. As employer contributions to voluntary private pension funds are decided by collective labor agreements, the trade unions and the employer federations could in theory agree to reduce or terminate the minimum employer contribution rate; this is, however, very unlikely to occur in practice.

6. What are the material rules governing retirement plan/scheme investments, and what liabilities attach for failure to satisfy those requirements?

Employers' roles in retirement schemes are limited to making contributions; employers do not manage plan investments.

Operating a pension fund requires a license, and the investment of pension funds is strictly regulated under Chapter VII of the Pension Act. The Financial Supervisory Authority (the "**Authority**") oversees the operations of pension funds, and pension funds are legally required to prepare and submit investment policy reports to the Authority. Of note, foreign investment by pension funds is limited by the Foreign Exchange Act No. 87/1992, although permission may be (and has been) granted by the Central Bank of Iceland.

Violation of the Pension Act may result in fines or imprisonment for up to one year. In the event of violations by legal entities, the same penalties may be imposed on their management and, in addition, the legal entities themselves may be fined.

Iceland

7. What reporting, disclosure and employee consultation rules apply and how are they enforced?

The occupational pension fund to which the employee is obliged to, or intends to, pay into should be specified in the employment contract. Other specific reporting, disclosure, and consultation rules do not apply to the employer but rather to the pension funds, which operate under the supervision of the Authority.

The Authority has access to all data and information on the pension funds that it considers necessary for supervision. The Authority can order the board of directors of a pension fund to obtain an actuarial assessment of the fund's financial situation based on assumptions other than those used in the fund's regular actuarial assessments if the Authority is of the opinion that the fund's financial situation provides cause for this. The Authority may provide a pension fund with a suitable period to correct funding problems under the Pension Act, except in the case of serious violations. The Authority may also exercise its powers under the Act on Public Supervision of Financial Activities, such as imposing daily and administrative fines, and engaging in the search and seizure of data to gather information and carry out supervision as provided for under the Pension Act.

8. What restrictions apply if the employer wishes to alter the terms of a retirement plan/scheme?

Employer pension contributions through social security taxes and employer contributions to occupational pension funds are required by statute, and contributions to voluntary private pension funds are required by collective labor agreements and cannot be unilaterally altered by the employer (see question 5 above on the ability of the trade unions and the employer federations to alter the collective labor agreements). Alterations to individual contribution arrangements are governed by contract law and generally cannot be unilaterally altered by the employer either.

9. Under what circumstances may an employer withdraw from or terminate a plan/scheme, and what liabilities may arise in connection with such withdrawal or plan/scheme termination?

Employer contributions to the state pension system and occupational pension funds are required by statute and cannot be withdrawn or terminated by the employer. Employer contributions to voluntary private pension funds are required under collective labor agreements and cannot be withdrawn or terminated by the employer (see question 5 above on the ability of the trade unions and the employer federation to alter the collective labor agreements).

10. Can employees take their pension/retirement benefit entitlement with them if they change jobs?

Occupational pension fund contributions are non-transferable. Upon changing jobs, an employee can generally continue to pay into the same occupational pension fund unless a specific occupational pension fund is required by the collective labor agreement or employment contract for the new job.

Iceland

To begin receiving pension funds on retirement, it is sufficient for an employee to apply to the pension fund to which he or she last contributed; that pension fund is then responsible for contacting any other pension funds to which the employee has contributed.

Whether voluntary private pension fund contributions can be transferred depends on the terms of the particular fund.

11. Do pension/retirement benefit payments need to be adjusted/increased after retirement?

Under the Pension Act, pension payments must be index-linked. Based on a 40-year contribution period, the minimum benefits provided by a pension fund must amount to 56% of the monthly wages in respect of which the contribution was paid.

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