

The legal aid scheme in Iceland is based on Chapter 20 of the Act on Civil Procedure and the Regulation on legal aid issued by the Ministry of the Interior.

Individuals who intend to participate in proceedings in a civil case before an Icelandic court may apply for legal aid to the Ministry of the Interior in Iceland. The Ministry then submits the application to the Committee on Legal Aid which decides whether to grant legal aid or deny the application.

The Minister of the Interior appoints the Committee on Legal Aid composed of 3 lawyers according to Art. 125(2). One is nominated by the Association of Judges, one by the Bar Association and the chairman is appointed by the Minister without nomination. The Committee's function is to receive and handle applications for legal aid.

When the committee has decided on an application it submits its recommendations to the Ministry and the Ministry issues legal aid or sends a reasoned denial of legal aid. The Minister cannot grant legal aid unless the committee has approved the application.

If an individual is granted legal aid he is exempt from all legal fees payable to the State treasury. Other legal costs, including the lawyer's remuneration according to the judge's decision, is paid by the Ministry of the Interior.

The conditions for legal aid can be found in Art. 126. Legal aid is only granted if the applicant has sufficient reason to initiate proceedings or defend himself in civil proceedings in court in Iceland and one of the following conditions are fulfilled:

1. The applicant's financial situation is such that he could not afford defending his interests and the case is of such a nature that it would be considered appropriate that legal aid in the case would be financed by public funds,
2. The outcome of the case would have great general significance or matter greatly to the employment, social status or other personal status of the applicant.

The provision then allows the Minister to issue a regulation to further regulate the conditions for legal aid, when there is sufficient reason to initiate proceedings, what should be considered when evaluating the financial situation of the applicant and when the Committee on Legal Aid can restrict legal aid to a certain amount of money or certain aspects of legal costs, such as restrict it to legal fees and the evaluation of one court appointed specialist.

The regulation on legal aid further explains the conditions for granting legal aid. The Committee on Legal Aid looks into the merits of the case and whether it is ready to be taken to court. According to the regulation legal aid is not granted when the case regards the business of the applicant that is strongly connected with his professional activity and he has with his actions or inaction gotten himself into the situation that the case is intended to remedy. When the disagreement is within families. When the case regards interests that are not in proportion with the foreseeable legal costs and when the applicant has shown great indifference in the matter causing difficulties obtaining proof.

The committee is also to look to factors such as whether the applicant has tried to settle the case, for example by administrative appeals and whether there is a chance that the case would be successful in court, by looking at case-law of the courts.

*Art. 5 of the regulation on legal aid and the legal aid committee nr. 45/2008 provides that when the committee evaluates merit of the case it shall look towards the following main considerations:*

*1. The case is of the nature that it is acceptable to be paid for by public funds. Legal aid should as a rule not be granted when the dispute is the following unless special reasons allow for legal aid:*

*a. The dispute regards business of the applicant and is in connection with the applicant's work and the applicant has with his actions or inactions gotten him or herself in the dispute that the case is supposed to handle,*

*b. The dispute is between closely related individuals,*

*c. The dispute regards insignificant interests and the costs are impropportionate to the likely costs of the case going before the courts*

*d. The applicant has shown great negligence that results in a difficult burden of proof*

*2. The case is clear enough that it is necessary and at the appropriate point in time to be brought before the courts. The following shall be considered:*

*a. The circumstances and arguments are clear enough so that it is ready to be handled by the courts*

*b. Whether the individuals concerned have tried to solve the matter outside the courts, ie by administrative committees,*

*c. Whether all documents have been acquired and a court case is necessary at this point in time.*

*3. The case seems to be likely to succeed at court. For example the committee can look to whether the courts have handled similar cases.*

*4. If the case regards a dispute that is already before the courts and is a similar case, that will likely set a precedent, it is permitted to refuse legal aid until it is possible to see whether the case is likely to succeed.*

The income criteria for legal aid are ISK 2 million per individual each year before taxes and ISK 3 million per couple. Additional ISK 250.000 are allowed for each child supported by the applicant. This criteria is not definite and the regulation lists factors to be looked into when evaluating whether to grant legal aid despite income.

If the applicant has based his application on the 2nd part of Article 126 (The outcome of the case would have great general significance or matter greatly to the employment, social status or other personal status of the applicant), legal aid can be granted regardless of the financial situation of the applicant. This possibility was introduced into the Act on Civil Procedure in the summer 2012.

The committee also needs to look to specific Acts in the Icelandic legislation that address legal aid, but require applications for legal aid to be submitted to the Ministry. These are for example provisions in the Act on Criminal Procedure regarding tort claims because of arrests and or police detention, the Act on Child Protective Services, and the Act on Adoption.

In some cases the judge can decide that all of the costs of the individual should be paid for by the State and in these cases no application for legal aid needs to be submitted and this is regardless of the financial status of the individual. This is for example in cases where a child initiates proceedings in court to be fathered and when an individual has been involuntarily committed to a psychiatric hospital.