

Act No 72/2004 respecting Employees' Inventions.

IVR04010066

TRANSLATED FROM THE ICELANDIC

ACT

No. 72/2004

respecting Employees' Inventions

CHAPTER I

General Provisions

Art.1

Definitions

The word "invention" denotes in the present Act merely an invention for which a Patent may be obtained in this Country.

The word "employee" denotes any person who is engaged in service with the authorities or a private party.

Art. 2

Deviation Act

The provisions of the present Act may be deviated from by means of agreements, unless there be unequivocal alternative stipulations in the present Act.

CHAPTER II

Employee's and Employer's Legal Status

Art. 3

Employee's right to an invention

An employee is entitled to an invention which he presents to the extent that an alternative arrangement does not result from the present Act or other Laws.

Art. 4

Conveyance of right to employer

In case an employee has presented an invention being within the scope of his work an employer may require conveyance of the right covering the invention to himself, provided that utilization thereof be within the employer's field of work. The employer holds the same right although the utilization of the invention be not within his field of work if the employee's invention is linked to a specific task with which the employer has charged him.

The provisions of para. 1 also apply if more than a single employee, engaged for service with the employer, jointly submit an invention.

Art. 5

Notification of invention

In case an employee has presented an invention in accordance with Art. 4 he shall without undue delay give the employer notice in a verifiable manner of the invention, thus granting information about it so that the employer can assess the importance thereof.

Art. 6

Employer's time to act, confidentiality and patent application

In case an employer desire to acquire the right to an invention in accordance with Art. 4 he shall advise the employee accordingly within three months of the receipt of notification as per Art. 5.

Prior to the respite expiring an employee is not permitted, cf. however para. 3, without the employer's approval in writing, to advise others about the invention or dispose of it to the effect that it be possible to publish information on the invention or use it for the benefit of others. This does not apply, however, if the employer has declared in writing that he be not interested in the invention.

Prior to the end of the respite and after having satisfied his duty to give notice as per Art. 5 the employee may apply for a Patent in respect of the invention, but he shall, however, previously advise the employer thereof. The employee cannot in advance relinquish his right to apply for a Patent, unless the provisions of Art. 3 and 4 have been deviated from by means of an agreement between the employer and an employee who is engaged to present inventions.

Art. 7

Fair remuneration

In case an employer acquires the right to an employee's invention under Art. 4 or on another basis the employee is entitled to fair remuneration, even though another arrangement has been negotiated, unless the value of the invention does not exceed that which may reasonably be expected of the employee to effect having regard for his overall terms.

Upon determining the remuneration special regard shall be had for the value of the invention and its importance for the employer's activities, the employee's terms of engagement and the employee's contribution to the invention. If the employee is engaged to present inventions it may be negotiated that a fair remuneration for an invention be included solely in the employee's terms of engagement.

A claim for remuneration lapses in ten years. The respite for obsolescence is counted as of the time the employer has indicated that he wish to acquire the invention. In other respects there apply the provisions of the Act respecting the Obsolescence of Indebtedness and Other Rights of Claim, as applicable.

Although an alternative arrangement has been negotiated agreements on remuneration may be amended upon the requirement of either party at a later stage when the circumstances having formed the basis have been altered to a considerable extent or other special circumstances recommend this. On the basis of the 1st sentence there shall, however, never be refunded moneys which an employee has accepted in accordance with a previous determination on remuneration.

Art. 8

End of service

An invention to which Art. 4 extends is deemed to have originated during a term of service if a Patent for it is applied for within six months as of the actual end of service, unless it may be considered likely that the invention has originated after the actual end of service.

Any accord between an employer and an employee limiting the employee's right to arrange for the inventions which originate over a year after formal end of service is null and void.

CHAPTER III

Entry into Force

Art. 9

Entry into Force

The present Act enters into force on 1 January 2005. The Act applies solely to inventions which are presented following upon the entry into force of the Act. Invariable provisions of the Act shall apply vis-à-vis agreements concluded prior to the entry into force of the Act concerning inventions presented following upon the entry into force thereof, cf. however, the special provisions on the engagement of employees to present inventions.