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The International Comparative Legal Guide to: Real Estate 2011

A practical cross-border insight
into real estate law

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1 Real Estate Law

- 1.1 Please briefly describe the main laws that govern real estate in Iceland. Laws relating to leases of business premises should be listed in response to question 10.1. Those relating to zoning and environmental should be listed in response to question 11.1.**

In Iceland, there is a general Act regarding the sale and purchase of private and commercial real property, the Act on Purchase of Real Estate No. 40/2002 (in Icelandic: *Fasteignakaupalög*). The enactment of the Purchase of Real Estate Act codified practices developed by the Icelandic courts over the past decades.

The Icelandic Registration of Property Act No. 39/1978 (in Icelandic: *Þinglýsingalög*) contains detailed and important provisions on how rights in real estate are registered and protected.

The Act on Registration and Valuation of Real Estate No. 6/2001 (in Icelandic: *Lög um skráningu og mat fasteigna*) provides a legal definition of real estate and regulates the central registration in the Land Registry and valuation for tax purposes of all real estate in Iceland.

The Act on Fiscal Revenues of Municipalities No. 4/1995 (in Icelandic: *Lög um tekjustofna sveitarfélaga*) provides the legal basis and limits of the real estate tax chargeable by municipal authorities in Iceland.

The Act on Ownership and Use of Real Estate No. 19/1966 (in Icelandic: *Lög um eignarrétt og afnotarétt fasteigna*) provides legal restrictions on the acquisition and ownership of real estate by foreign nationals and entities, cf. question 2.1.

- 1.2 What is the impact (if any) on real estate of local common law in Iceland?**

As real estate and transactions regarding real estate are highly regulated by statutory law in Iceland, there is limited if any room for the application of local common law. However, the usages and practices developed by the Icelandic courts during the past decades play an important role when interpreting statutory law.

- 1.3 Are international laws relevant to real estate in Iceland? Please ignore EU legislation enacted locally in EU countries.**

International laws may only be indirectly relevant to real estate in Iceland through either:

- the Act on the Law Applicable to Contractual Obligations (in

Icelandic: *Lög um lagaskil á sviði samningaréttar*) implementing the 1980 Rome Convention on the Law Applicable to Contractual Obligations; or

- the Act on the Lugano Convention (in Icelandic: *Lög um Lúganósamninginn um dómvald og um fullnustu dóma í einkamálum*) implementing the 1988 Lugano Convention on jurisdiction and the enforcement of judgments in civil and commercial matters,

which may affect the jurisdiction and laws applicable to real estate transactions and disputes relating to real estate.

2 Ownership

- 2.1 Are there legal restrictions on ownership of real estate by particular classes of persons (e.g. non-resident persons)?**

Foreign nationals' acquisition of real property

Yes. As a main principle, non-Icelandic nationals, non-resident persons and undertakings whose registered office is not in Iceland must obtain the permit of the Icelandic Ministry of Justice in order to acquire real property in Iceland. Such permits are granted to persons holding a right to run a business in Iceland and wish to acquire title to or the right to use real estate for direct use in its business operations or as a private home, or otherwise if there are valid reasons justifying a permit. The Ministry of Justice tends to act in a positive manner and freely grants such permits.

However, EU/EEA nationals and undertakings established in accordance with the legislation of another EU Member State, or in a State that has acceded to the agreement on the European Economic Area, as well as EFTA Member State nationals and undertakings are exempt from obtaining a permit, provided they act in any of the following capacities exercising any of the four freedoms:

- Salaried employees or holders of EEA residence permit.
- Exercising the freedom of establishment.
- Having or intending to set up a branch or agency for the provision of services.
- As a part of the free movement of capital.

The Act on Rural Real Estate No. 81/2004 (in Icelandic: *Jarðalög*) limits the ability to sell rural real estate in that it grants a pre-emptive right of purchase to the local municipality and to farmland tenants at the proposed sale of such property.

Under the Act on Foreign Investment in Business Enterprises No. 34/1991 (in Icelandic: *Lög um fjárfestingu erlendra aðila í atvinnurekstri*) only Icelandic nationals, other Icelandic entities and nationals of Member States of the European Economic Area can

own hydropower rights in waterfalls and geothermal rights, thus limiting ownership of the real estate in question.

3 Real Estate Rights

3.1 What are the types of rights over land recognised in Iceland? Are any of them purely contractual between the parties?

There are the following three types of rights over land recognised in Iceland:

- Direct right of ownership.
- Right to use of real estate, lease or rent of real estate.
- Security rights over real estate, liens and mortgages.

All three types are most commonly purely contractual, whereas statutory liens are created in a non-consensual manner.

Basically, there are four ways of creating rights over land under Icelandic law. Firstly, and most predominantly, a contractual relationship between the owner of the land and the beneficiary forms the basis for such rights (including the enforcement thereof by way of legal proceedings). Secondly, a third party may be granted a prescriptive right over the land, if such right has existed for more than 20 years. Thirdly, rights over land may be created according to the Icelandic heritage rules. Last, but not least, rights over land may be created by way of or according to governmental Acts and orders, particularly with respect to planning, zoning and environmental issues.

4 System of Registration

4.1 Is all land in Iceland required to be registered? What land (or rights) are unregistered?

As a general rule all land is required to be registered both by size and registered owner. Real property in Iceland is further divided into so-called real estate and land numbers and is registered as such. However, in certain rural areas, as in the centre highlands, large areas are only registered by the owner without precise boundary limitations.

4.2 Is there a state guarantee of title? What does it guarantee?

There is no State guarantee as such, but if a person acting in good faith has relied on a registration that turns out to be wrong, the State of Iceland may be held liable for any foreseeable loss suffered by such person as a result thereof.

4.3 What rights in land are compulsory registrable? What (if any) is the consequence of non-registration?

No rights are compulsorily registrable, but in order to obtain protection against legal proceedings against the property and in relation to subsequent *bona fide* beneficiaries of rights to a real property, all rights must be registered. Accordingly, the consequence of non-registration is that earlier rights may be defeated by later rights, provided that the later rights are registered.

4.4 What rights in land are not required to be registered?

Rights granted by way of or according to judicial or governmental

Acts or orders covering amongst other things statutory liens, planning, zoning and environmental issues need no registration in order to be protected against third parties.

4.5 Where there is both unregistered and registered land or rights is there a probationary period following first registration or are there perhaps different classes or qualities of title on first registration? Please give details. First registration means the occasion upon which unregistered land or rights are first registered in the registries.

No, there is no probationary period or different classes of title on first registration.

4.6 On a land sale, when is title (or ownership) transferred to the buyer?

Upon the signing of the sale and purchase agreement the buyer obtains a conditional ownership, which is subject to the fulfilment of the conditions laid out in the purchase agreement, such as payment of the purchase price. Upon fulfilment of all conditions under the sale and purchase agreement, unconditional title passes to the buyer.

4.7 Please briefly describe how some rights obtain priority over other rights. Do earlier rights defeat later rights?

Yes, under Icelandic law earlier (unregistered) rights defeat later (unregistered) rights. Once registered, the later right may, however, defeat the earlier right if the latter has not been duly registered on the property.

5 The Registry / Registries

5.1 How many real estate registries operate in Iceland? If more than one please specify their differing rules and requirements.

There are 25 ordinary district commissioners maintaining Real Estate Registries (in Icelandic: *Pinglýsingabók*) and they are all subject to the same rules and legislation. All registrations of real estate sale and purchase agreements are made into the Real Estate Registries as well as mortgage registrations in order to protect the rights of the respective beneficiaries against legal proceedings against the property and in relation to subsequent *bona fide* beneficiaries of rights to a real property, cf. question 4.3 above.

The Real Estate Registries form a part of a single central Land Registry (in Icelandic: *Landskrá fasteigna*) which keeps track of all real estate and its taxable valuation. No filings for security purposes are made into this central Land Registry, whereas it electronically keeps track of and displays filings made at each district commissioner's Real Estate Registry. The Land Registry's Title and Interest part accurately reflects filings in Real Estate Registries around the country insofar as concerns urban property, whereas it is not yet up to date as concerns certain rural properties, in particular the status of mortgages and encumbrances on rural property, the reference for which the local Real Estate Registries need to be relied upon.

5.2 Does the Land Registry issue a physical title document to the owners of registered real estate? Can any transactions relating to registered real estate be completed electronically? Can information on ownership of registered real estate be accessed electronically?

Title documents are private documents issued by the relevant parties to a transaction, e.g. in a sales transaction the registered owner issues to the buyer a bill of sale which constitutes the physical title document. Individual Real Estate Registries do not issue physical title documents to the owners of registered real estate, but issue title certificates to any party in evidence of the registered ownership.

Transactions relating to registered real estate cannot be completed electronically, but require physical documents to be executed and filed in the relevant Real Estate Registry.

Information from individual Real Estate Registries can be accessed on line through the Land Registry. To the extent that the Land Registry is not accurate with respect to mortgages on certain rural property, the respective Real Estate Registry needs to be consulted directly in a non-electronic manner.

5.3 Can compensation be claimed from the registry/registries if it/they makes a mistake?

Yes, compensation can be claimed; see the answer to question 4.2.

5.4 Are there restrictions on public access to the register? Can a buyer obtain all the information he might reasonably need regarding encumbrances and other rights affecting real estate?

There are no restrictions regarding public access. In so far as rights over the property have been duly registered, information thereof is kept at the Land Registry and a copy thereof is kept with the Real Estate Registry, and this copy is available to the public.

6 Real Estate Market

6.1 Which parties (in addition to the buyer and seller and the buyer's finance provider) would normally be involved in a real estate transaction in Iceland? Please briefly describe their roles and/or duties.

a) Selling and purchasing agents (or realtors)

The seller will normally ask a real estate agent to promote the sale of the property and to find the right buyer who will pay the highest price for the property.

b) Lawyers

With respect to commercial properties both the seller and the buyer will usually be represented by their respective lawyers. The same may apply with respect to some high value private property. The buyer's lawyer will typically carry out due diligence investigations regarding the property and negotiate the terms and conditions of the sale and purchase agreement with the seller and his lawyer. Further, the buyer's lawyer will typically be the one conveying the purchase, including preparing the deed, registering the deed and arranging the transfer of the purchase price. The seller's lawyer will, on the other hand, represent the seller in all matters mentioned above.

c) Notaries

Notaries are not required to complete a real estate transaction in Iceland.

d) Others

In connection with carrying out the due diligence, the buyer often engages technical and environmental experts. In some complex real estate purchase transactions, the seller or buyer or both of them may be assisted by separate tax advisers or accountants, advising them on structuring the transaction in the most tax efficient way.

6.2 How and on what basis are these persons remunerated?

a) Selling and purchasing agents (or realtors)

The real estate agent's fee is normally paid by the seller and is based on a percentage of the purchase price. The percentage is negotiable but is normally on the range of one to two per cent of the purchase price depending on the value of the property, the complexity of the transaction and whether the agency is exclusive or not.

b) Lawyers

Normally, the seller and buyer bear the cost of their respective lawyers, who are paid by the hour and the invoice is made on the basis of the actual hours spent.

c) Real Estate Registry

The registration fee is calculated as a nominal basic fee plus a stamp duty of 0.4 per cent of the taxable valuation, except in case of a first purchase of real estate by individuals, which is exempt from stamp duty.

6.3 How has the real estate market in Iceland recovered or reacted following the global credit crunch and worldwide recession in 2008/2010? Please include both local and international investors in your answer.

The real estate market in Iceland is recovering at a very slow pace following the global credit crunch and worldwide recession in 2008/2010. The number of real estate transactions is growing only very slowly with the overall turnover of the real estate market increasing in 2010 by 16 per cent as compared with 2009 and the number of transactions going up by 25 per cent in the same period, whereas the market had hit its lowest level in 2009 since 1988. Neither the commercial banks, which collapsed in October 2008, nor savings banks have started lending again into real estate transactions, leaving the State Home Credit Fund as the principal financing source. Supply greatly outweighs demand both as concerns private housing as well as office buildings as a consequence of the construction boom between 2004 and 2008. Real estate prices and lease rates have gone down in real terms. The main commercial real estate leasing companies, who suffered as a consequence of the global credit crunch, emerged in 2010 following arrangements with their creditors, who now are among the companies' largest shareholders.

As for the international investor the devaluation of the Icelandic local Króna currency has created a quite favourable purchasing environment as real estate prices have plummeted on a foreign currency scale. This is though subject to the restrictions on the acquisition of foreigners on real estate set out in question 2.1.

7 Liabilities of Buyers and Sellers in Real Estate Transactions

7.1 What (if any) are the minimum formalities for the sale and purchase of real estate?

Usually, a real estate transaction in Iceland is completed in two steps. The sale and purchase agreement is signed first, which

constitutes the legally binding document between the parties outlining all terms and conditions of the transaction. Secondly, the deed of conveyance, which is signed by the parties as well, and is basically an extract of the most important terms and conditions of the sale and purchase agreement. Neither document is subject to any formalities apart from being drafted in Icelandic and the signatures of the seller and buyer being witnessed by two witnesses, unless the witness is qualified as an attorney or chartered accountant, then one witness suffices.

7.2 Is the seller under a duty of disclosure? What matters must be disclosed?

The seller has a duty to disclose all material information regarding the real estate that he is or ought to be aware of. The seller is not allowed to retain information regarding the property that would normally be considered of importance to the buyer, including information on defects.

7.3 Can the seller be liable to the buyer for misrepresentation?

Yes; if the representation is found to be negligent, the seller may be held liable.

7.4 Do sellers usually give contractual warranties to the buyer? What would be the scope of these? What is the function of warranties (e.g. to apportion risk, to give information)? Are warranties a substitute for the buyer carrying out his own diligence?

Yes, usually the seller gives certain warranties to the buyer. The catalogue of warranties is subject to negotiations but the seller would typically accept warranties against: (i) certain types of defects; (ii) illegal use of the property; (iii) wrongful calculation of rental income, if any; and (iv) disputes. Warranties are often softened up by adding words like “to the best knowledge of the seller” to the warranty. The purpose of a warranty is basically to apportion risk, as the seller may be held liable in the case of breach of the warranty. Warranties are not seen as substitutes for the buyer carrying out his own due diligence, but the due diligence may be less comprehensive when there are warranties in place.

7.5 Does the seller warrant its ownership in any way? Please give details.

The seller rarely gives any express warranty on his ownership, because of the fact that the seller may be held liable in any event and regardless of whether or not the seller has acted negligently. Also, the fact that the Sale and Purchase Agreement is normally not signed except with a new title and mortgage certificate having been obtained, which is a part of the buyer’s due diligence and the real estate agent’s role to ascertain ownership, makes a seller’s ownership warranty redundant.

7.6 What (if any) are the liabilities of the buyer (in addition to paying the sale price)?

The buyer’s secondary duties are only those related to the paying of the purchase price, i.e. to pay interest on any deferred part of the purchase part and to make all the necessary preparations in advance so that he will be able to fulfil his payment duties, such as financing arrangements with credit institutions.

8 Finance and Banking

8.1 Please briefly describe any regulations concerning the lending of money to finance real estate. Are the rules different as between resident and non-resident persons and/or between individual persons and corporate entities?

Traditionally, the vast majority of real estate in Iceland is financed by the State Home Credit Fund (in Icelandic: *Íbúðalánasjóður*), which uses a financing structure based on mortgage-backed bonds. Financing by the State Home Credit Fund is governed by the Act on Housing Affairs no. 44/1998. The State Home Credit Fund may finance up to 80 per cent of the purchase price of the property subject to a maximum loan amount of ISK 20 million. The State Home Credit Fund finances exclusively residential property for individual persons. Currently the State Home Credit Fund offers loans at a fixed interest rate of 4.50 per cent (with prepayment option), linked to the Consumer Price Index (in Icelandic: *Neyslúvísitala*), but 5.00 per cent (without prepayment option).

Commercial banks entered the real estate credit market in 2004 offering credit to individual persons and corporate entities. Following the credit crunch and real estate market crunch in the Fall of 2008, the three main commercial banks were nationalised and together with other commercial and savings banks have effectively retreated from the real estate financing market.

The same rules apply to resident and non-resident persons as concerns commercial bank credit, whereas the State Home Credit Fund requires debtors to be resident in Iceland.

Usually, the remaining part of the purchase price (between 20 and 40 per cent) will either be paid in cash by the buyer or be financed through a bank or another finance institution.

To the extent that mortgage deeds are to be registered as collateral for the repayment of the loan, stamp duties are payable in the amount of 1.5 per cent of the nominal value of the mortgage deed.

8.2 What are the main methods by which a real estate lender seeks to protect itself from default by the borrower?

Before extending the loan, the main method is to assess the creditworthiness of the borrower, whereas once the loan has been made the protection is by way of registering a mortgage deed on the property in favour of the lender. As the vast majority of loans are granted on a full recourse basis, the lender could also seek enforcement in the borrower’s other assets.

8.3 What minimum formalities are required for real estate lending?

In case of individuals, the State Home Credit Fund requires a favourable credit assessment. Banks extending loans to individuals also require the borrower to pass a credit assessment. Companies seeking bank credit would normally have to get a credit committee approval. Other than that, only standard loan application completion is required and a filing of a mortgage as a condition precedent to funds disbursement.

8.4 How is a real estate lender protected from claims against the borrower or the real estate asset by other creditors?

The lender is protected by having a first priority mortgage registered on the property. However, the registration of such mortgage does not prevent other creditors from pursuing their

claims against the borrower or the real property. Accordingly, the property may be subject to a forced sale on the request of lower ranking secured creditors.

9 Tax

9.1 Are transfers of real estate subject to a transfer tax? How much? Who is liable?

Except for the stamp duty mentioned under question 6.2 (0.4 per cent of valuation of the real estate made by the Land Registry of Iceland, which is reviewed annually each December), the parties are under no obligation to pay any transfer tax with respect to the transfer of real estate.

9.2 When is the transfer tax paid?

Stamp duties are paid upon filing of the documents at the Real Estate Registry.

9.3 Are transfers of real estate subject to VAT? How much? Who is liable? Are there any exemptions?

Transfers of real estate are not subject to VAT in Iceland.

9.4 What tax or taxes (if any) are payable by the seller on the disposal of a property?

The general rule regarding private property is that if the ownership has exceeded 2 years then the disposal is tax-exempt. If the ownership is less than 2 years then a 20 per cent capital gain tax is levied upon the capital gain made from the disposal, however if a new property for own housing is acquired within 2 years from the sale then capital gain is postponed and will be absorbed with the new housing.

If a company disposes of a real property then the company can either purchase a similar real estate or property within 2 years or postpone the capital tax on the gains. The capital gain is taxed with the normal CIT rate of 20 per cent for the income year 2010. The tax base is calculated as the original purchase price with all accrued cost and amortisation and depreciations. If the real estate has been depreciated over the years then the tax base for calculation of capital gain tax can be zero.

9.5 Is taxation different if ownership of a company (or other entity) owning real estate is transferred?

Transfer of shares in a company owning properties is different in that it does neither trigger stamp duty nor capital gain on the property. If shares are transferred and they are held by individuals then they will trigger 10 per cent capital gain tax with respect to the shares. If the shares are held by a company it is possible to postpone the capital gain for 2 years by reinvesting in new shares or an 18 per cent tax rate will apply if no postponement is made.

10 Leases of Business Premises

10.1 Please briefly describe the main laws that regulate leases of business premises.

There is no specific law governing only the lease of business

premises, whereas the Rent Act No. 36/1994 (in Icelandic: *Húsaleigulög*) applies equally to residential houses and business premises. However, the Act is mandatory and cannot be derogated from as concerns residential homes, while its provisions are declaratory only with respect to business premises.

10.2 What types of business lease exist?

The Rent Act does not distinguish between various types of leases but covers all types of business leases. Accordingly, all business leases are subject to the same legal regime.

10.3 What are the typical provisions for leases of business premises in Iceland regarding: (a) length of term; (b) rent increases; (c) tenant's right to sell or sub-lease; (d) insurance; (e) (i) change of control of the tenant; and (ii) transfer of lease as a result of a corporate restructuring (e.g. merger); and (f) repairs?

(a) Length of term

Usually, leases are made for an indefinite period of time. Leases made for an indefinite period of time may usually be terminated by each party with 6 to 12 months' prior notice, unless specific restrictions on termination have been agreed. Fixed term leases cannot be terminated prior to the agreed expiry except on specifically agreed grounds.

(b) Rent increases

The landlord and the tenant have freedom of contract as regards the fixing of the rent, and the parties will be bound by such agreement on rent fixing and the adjustment thereof. The most common form of upwards adjustments of rent is a yearly fixed percentage increase or the increase of the rent based on increases of either the Building Cost Index or Consumer Price Index.

(c) Tenant's right to sell or sub-lease

Under the Rent Act as well as in the vast majority of leases the tenant may not sell or transfer its lease right or sub-lease the property to a third party.

(d) Insurance

The landlord will bear the cost of compulsory fire insurance coverage and any facultative house owner insurance. The Rent Act does not oblige the tenant to take out insurance for its inventory within the premises, cessation of business or other interests, whereas such obligation is increasingly seen as a contractual requirement from the landlord.

(e) (i) Change of control of the tenant

Change of control of the tenant usually does not require consent from the landlord, unless otherwise agreed in the lease.

(e) (ii) Transfer of lease as a result of a corporate restructuring (e.g. merger)

The consent of the landlord is not required, unless the surviving entity from the corporate restructuring (merger) is a different legal entity from the original tenant, in which case the landlord's consent is required as in the case of a sale or transfer of the lease in subparagraph (c).

(f) Repairs

Usually, the tenant will have the interior maintenance obligation in respect of the leased premises, whereas the landlord will have the exterior maintenance obligation, including maintenance of the actual building and the surrounding areas. Unless otherwise provided by the lease, the leased premises must be handed over in the same condition as they were at the tenant's takeover, normal wear and tear excepted.

10.4 What taxes are payable on rent either by the landlord or tenant of a business lease?

The landlord is obligated to pay normal income tax on the rent. Aside from that, payment/receipt of rent is not subject to any tax. If the property is registered for VAT purposes, the tenant shall pay 24.5 per cent VAT on top of the rent. The VAT is collected by the landlord.

10.5 In what circumstances are business leases usually terminated (e.g. at expiry, on default, by either party etc.)? Are there any special provisions allowing a tenant to extend or renew the lease or for either party to be compensated by the other for any reason on termination?

The vast majority of leases are made for a definite period of time and end on the prescribed expiry date, whereas automatic renewals are common and normally the tenant has a pre-emptive right to a further lease or purchase of the property if put on sale during the lease.

10.6 Does the landlord and/or the tenant of a business lease cease to be liable for their respective obligations under the lease once they have sold their interest? Can they be responsible after the sale in respect of pre-sale non compliance?

Upon transfer of a property, all rights and obligations will as of the effective time of the transfer be transferred to the new owner of the property, entailing that the previous owner will be released from his liability, save only for any agreed retained liabilities. The same principles apply if a tenant duly assigns rights and obligations under a business lease to a new tenant with the landlord's consent. Provided a pre-sale non compliance could be construed as a defect in the sold property or lease or a breach of warranty, the landlord or tenant could be held responsible with respect to such non compliance.

10.7 Green leases seek to impose obligations on landlords and tenants designed to promote greater sustainable use of buildings and in the reduction of the "environmental footprint" of a building. Please briefly describe any "green obligations" commonly found in leases stating whether these are clearly defined, enforceable legal obligations or something not amounting to enforceable legal obligations (for example aspirational objectives).

So far, provisions designed to promote greater sustainable use of buildings have not gained foothold in Icelandic leases. One will therefore normally not find any "green obligations" in leases on the Icelandic real estate market, neither for residential property nor business premises.

11 Zoning and Environmental Issues

11.1 What are the main laws which govern zoning and related matters concerning the use and occupation of land? Please briefly describe them and include environmental laws. Can the state force land owners to sell land to it? If so please briefly describe including price mechanism.

The rules governing zoning in Iceland are found in the Planning Act no. 123 of 22 September 2010 (in Icelandic: *Skipulagslög*). The entire country is divided into urban zones and rural zones (including

summer homes zones), and the planning takes place at four levels: National planning (introduced in 2010); regional planning; community master planning; and community detail planning. Planning at the community detail planning level is very detailed and typically defines the use, size and height of buildings as well as any requirements in terms of parking.

For certain building and construction projects which are estimated to have significant impact on the environment, a special report on the project's environmental impact must be prepared as a precondition to the relevant authority granting a licence for the project. The report sets out the environmental risks, if any, and the countermeasures to be adopted. The rules apply in particular to undertakings with a particular environmental impact listed in schedules 1 and 2 of the Environmental Impact Assessment Act No. 106/2000 (in Icelandic: *Lög um mat á umhverfisáhrifum*).

At the entry into force of a zoning plan under the Planning Act, the municipal authority obtains automatically a pre-emptive right of purchase which it can exercise in order to execute the plan. Municipal authorities, duly authorised by the central government, can expropriate real estate for purposes of executing local plans. Pricing is market value both in case of the exercise of pre-emptive rights and expropriation.

11.2 Which bodies control land/building use and/or occupation and environmental regulation? How do buyers obtain reliable information on these matters?

Land/building use policy is set by local, politically elected planning authorities, aided by expert civil servants. The National Planning Agency (in Icelandic: *Skipulagsstofnun*) controls and supervises the environmental regulation. Information on land/building use and/or occupation is publicly accessible by buyers at the local building and planning authority.

11.3 What main permits or licences are required for building works and/or the use of real estate?

Provided a detailed plan is in place a building permit needs to be obtained to start building works. Use of real estate is not subject to a specific licence, whereas its use must be consistent with its designated use pursuant to the local detail planning document.

11.4 Are building/use permits and licences commonly obtained in Iceland? Can implied permission be obtained in any way (e.g. by long use)?

Building permits are a prerequisite to building works. There are no tacit approvals to non-permitted building or use.

11.5 What is the appropriate cost of building/use permits and the time involved in obtaining them?

The cost of a building permit is a fixed minimum charge of ISK 7,700 plus ISK 77/m³. The time involved in obtaining a permit depends to a large extent on whether there is opposition to the proposed building or not, but a minimum time for presentations and public announcements is 3 to 4 months, excluding the preceding design phase.

11.6 In what circumstances (if any) is environmental cleanup ever mandatory?

In any situation involving a serious and/or imminent threat of

contamination to air, land or sea, the health and environmental authorities have rather discretionary powers to order a mandatory environmental cleanup.

11.7 Please briefly outline any regulatory requirements for the assessment and management of the energy performance of buildings in Iceland.

Apart from general building insulation requirements for maximum permitted heat escape values (U-values in W/m²K), there are no specific regulatory requirements on energy performance.

12 Climate Change

12.1 Please briefly explain the nature and extent of any regulatory measures for reducing carbon dioxide emissions (including any mandatory emissions trading scheme).

Measures for reducing carbon dioxide emissions are regulated in Iceland by Act No. 65 of 28 March 2007 on Greenhouse Gas Emissions (in Icelandic: *Lög um losun gróðurhúsalofttegunda*) and administrative regulations issued thereunder. Further, Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community ("EC Directive") forms a part of the European Economic Area Agreement ("EEA Agreement") and thus applies in Iceland. The Act on Greenhouse Gas Emissions provides for the granting of greenhouse gas emission allowances, supervision and penalties. Currently, no local Icelandic operation falls within the ambit of the EC trading scheme such that the trading scheme has not been fully implemented in Iceland. The scheme will, however, have an impact in Iceland in the very near future, as following amendments to the EC Directive, the EC trading scheme will apply to aviation by 2012 and aluminium and alloys smelters as of 2013. Provided the amendments will be implemented into the EEA Agreement, then the EC emissions trading scheme will apply to over 40 per cent of greenhouse gas emissions in Iceland within a few years' time.

12.2 Are there any national greenhouse gas emissions reduction targets?

According to an Environmental Action Plan issued by the Ministry for the Environment on October 2010, the greenhouse gas emissions reduction target for the year 2020 is set at 19 per cent as compared with 2008. This target does not take into account emissions by power intensive industries as such emissions will be subject to other regulation, i.e. emissions trading schemes.

12.3 Are there any other regulatory measures (not already mentioned) which aim to improve the sustainability of both newly constructed and existing buildings?

The National Building Regulation provides in general terms only, that heating systems of buildings under construction from time to time shall be designed in a power saving and efficient way such as to prevent risk of fire, contamination etc.



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Erlendur Gíslason is a 1991 law graduate from the Law Faculty of the University of Iceland and did post-graduate studies in European and Air Law at the Autonomous University of Barcelona. He was admitted to the Icelandic Bar in 1992 and is qualified as an attorney before the District Courts and Supreme Court of Iceland. He was an associate at Adalsteinsson & Partners from 1991 before becoming a partner in 1998. Erlendur Gíslason has been a partner with LOGOS legal services since 2000. His primary areas of practice are aviation and air law, while also advising on insolvency and restructuring, real estate, construction and public procurement law. He has lectured at the University of Iceland and Reykjavik University and has published articles on air law and construction law.

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