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Immigration Appeals Board

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G-28/2020 – Revised circular relating to entry into force of the Regulations relating to entry restrictions for foreign nationals out of concern for public health

1 Introduction

The Ministry of Justice and Public Security refers to the Interim Act of 19 June 2020 No. 83 relating to entry restrictions for foreign nationals out of concern for public health and the Regulations of 29 June 2020 No. 1423 relating to entry restrictions for foreign nationals out of concern for public health (last amended 20 November 2020, with amendments that enter into force at midnight (24:00)). The Act and the Regulations replace the Regulations of 15 March 2020 No. 293 relating to rejection etc. of foreign nationals out of concern for public health.

The Act and the Regulations must be seen in connection with the Regulations of 27 March 2020 No. 470 relating to infection control measures etc. in connection with the coronavirus outbreak (COVID-19 Regulations), which regulates the duty of quarantine among other matters.

The effect of infection control measures that have been introduced must be continuously assessed and balanced against important societal and business interests affected by the measures. This circular may be subject to rapid amendments and adjustments.

2 Main rules regarding entry restrictions and rejection

Under the Interim Act relating to entry restrictions for foreign nationals out of concern for public health, all foreign nationals not covered by exemptions specified in the Act or in regulations issued pursuant to the Act will be rejected without further consideration

of the risk of infection posed by each individual. Foreign nationals who have been rejected shall depart the realm without undue delay.

It is pointed out for clarity that even if the foreign national is covered by one of the exemptions specified in the Act or the Regulations relating to entry restrictions, the conditions for entry established by the Immigration Act must be fulfilled. As an example, foreign nationals for whom a visa is mandatory will still face a visa requirement even though practical challenges now exist in submitting a visa application. Also applicable are provisions of the Immigration Act that address when a residence permit is required.

The Act does not bar entry into Norway of Norwegian nationals and nationals of other Nordic countries who reside in Norway.

Section 2 of the Act establishes additional exemptions for:

- a) foreign nationals residing in Norway with a residence permit or right of residency under the Immigration Act
- b) foreign nationals who seek protection (asylum) in the realm or otherwise invoke a right to international protection due to risk of persecution etc.; see section 73 of the Immigration Act
- c) foreign nationals whose presence in the realm is essential to maintain the proper operation of critical public functions or attend to fundamental needs of the population (see section 3 of this circular)
- d) foreign nationals who have been granted a residence permit without deferred entry; see section 3 of the Act (see section 8 of this circular)
- e) foreign nationals who have been granted an entry visa under section 12 of the Immigration Act
- f) foreign nationals who have a visa and are covered by an exemption from the entry restrictions in the Act or the Regulations issued pursuant to the Act at the time of entry
- g) cases in which special reasons indicate a right to enter, such as specific care responsibilities for persons in Norway or other compelling welfare considerations (see section 4 of this circular)

3 A closer look at exemptions relating to the proper operation of critical public functions

Section 2 c) of the Act provides exemptions for foreign nationals whose presence in the realm is 'essential to maintain the proper operation of critical public functions or attend to fundamental needs of the population'. This may include foreign nationals invited by the Norwegian authorities for special purposes. Such foreign nationals could, for example, have special expertise in addressing virus outbreaks or other skills required by the health service or other critical public functions.

As a starting point, please see the following list of critical public functions prepared by the Directorate for Civil Protection:

- Administration and crisis management
- Defence
- Law and order
- Health and care services, including pharmacy and maintenance

- Rescue service
- Digital security in the civilian sector
- Nature and the environment
- Security of supply
- Water and wastewater
- Financial services
- Power supply
- Electronic communications
- Transport
- Satellite-based services

For more information, please see (in Norwegian):

<https://www.regjeringen.no/no/tema/samfunnssikkerhet-og-beredskap/innsikt/liste-over-kritiske-samfunnsfunksjoner/id2695609/>

4 A closer look at exemptions for special reasons

Under section 2, second paragraph, of the Act, a foreign national may be granted the right to enter if ‘special reasons so indicate, such as specific care responsibilities for persons in Norway or other compelling welfare considerations’. This applies to such cases as:

- Minor children and foster children of Norwegian or foreign nationals who live or work in Norway.
- Foreign nationals who have a special care responsibility for persons who live in Norway, including minor children or foster children or others with special care needs.
- Foreign nationals who, due to compelling welfare considerations, need to enter Norway, and the visit cannot wait; an example would be a foreign national who seeks to visit a dying or severely ill close family member in Norway. (spouse/cohabitant, sibling or family member in ascending or descending line).
- Foreign national ship passengers who began sailing before 16 March at 8 a.m. and need entry to Norway in order to return to their home country. Clarification is required as to how onward transport out of Norway is to occur in a sound manner that does not violate the COVID-19 Regulations.
- Foreign nationals who are a party to a legal proceeding in Norway, or who are to give evidence in such a proceeding.
- Foreign nationals who have a valid fishing licence for boat fishing in the Tana watercourse; see section 2, first paragraph 1) and 3) and second paragraph a) and c) of the Regulations relating to fishing in the Tana watercourse’s border river area. Foreign nationals who set out from the Finnish bank of the river may fish on the Norwegian side of the river but may not go ashore in Norway.

It is pointed out that the list above is not exhaustive in relating examples of what may be regarded as ‘special reasons’. The Directorate of Immigration may issue further guidelines.

5 Exemptions for foreign nationals covered by the EEA Agreement or the EFTA Convention etc.

Section 1 of the Regulations provides exemptions for the following foreign nationals:

- a) An EEA national who is a cross-border worker or engaged as an employee; see section 112, first paragraph (a) of the Immigration Act.
- b) An EEA national who is self-employed; see section 112, first paragraph (a) of the Immigration Act.
- c) A service provider in an EEA country; see section 110, fourth paragraph, or section 112, first paragraph (b), of the Immigration Act.
- d) An EEA national who is enrolled at an approved educational institution; see section 112, first paragraph (d) of the Immigration Act.
- e) A family member of an EEA national (see section 110 of the Immigration Act), or an EEA national with corresponding family ties to a Norwegian national, who is to establish residence in Norway.
- f) An EEA national with family ties as specified in section 1, first paragraph e, who is to visit a family member residing in Norway or travel with a Norwegian family member. Exemption is to be granted from the provision in section 110, third paragraph (c), of the Immigration Act stating that a relative in direct line of descent must be under the age of 21.
- g) An EEA national who owns real property in Norway and the owner's household members, who are to visit the property
- h) An EEA national or a national of Andorra, Monaco, San Marino and Vatican City State and his or her family members, who needs to travel through Norway to get home.
- i) An EEA national who is resident in a third country.
- j) A spouse, registered partner, cohabitant or minor or adult child or stepchild of an EEA national as specified in section 1, first paragraph i, when such person travels to Norway with the EEA national or is joining the EEA national in Norway.

EEA nationals and their family members who reside or work in Norway do not include, in this context, EEA nationals or family members who live or work in Svalbard.

The stipulations of these Regulations concerning EEA nationals apply correspondingly to Swiss nationals; see section 1, second paragraph, of the Regulations; for nationals of the United Kingdom, see section 2 of the Act relating to a transitional period in connection with the United Kingdom's exit from the European Union.

Regarding a), b) and c), on work etc.

The exemptions apply to workers and service providers who have begun or are to begin a work assignment, and to self-employed persons who have established or are to establish business activity in Norway.

EEA nationals who work in Norway also include commuters. However, it is emphasised that only certain defined groups are exempt from the duty of quarantine.

Regarding e), f), g) and j), on family members etc.

The exemption specified in section 1, first paragraph e, of the Regulations applies to all family members covered by section 110 of the Immigration Act, including family members of a Norwegian national returning to Norway after having exercised the right

to freedom of movement in accordance with the EEA Agreement or the EFTA Convention; see section 110, second paragraph, of the Immigration Act. Section 1, first paragraph e, also applies to family members of a Norwegian national who have not exercised the right to freedom of movement, if the family member in question is himself or herself an EEA national.

For EEA nationals who are to visit family in Norway, exemption is to be made from the stipulation in section 110, third paragraph, of the Immigration Act that a relative in direct line of descent must be under the age of 21. Documentation of dependence shall not be required upon entry; see section 110, third paragraph (c) and (d), of the Immigration Act and section 19-7 of the Immigration Regulations. It is emphasised that the provisions of Chapter 13 of the Immigration Act do apply to family members' right of residence.

An EEA national is entitled to enter to visit a Norwegian family member who is resident here, and is also entitled to enter if travelling here together with a Norwegian family member.

The term 'cohabitant' refers to a permanent, established cohabitation relationship of at least two years or a relationship in which the parties jointly have or are expecting a child and intend to live together. This corresponds to the Immigration Act's definition of 'cohabitant'.

The exemption for EEA nationals who own real property in Norway applies to both the owner and the owner's household members. A 'household member' in this context refers to a person who lives permanently at the same address as the owner.

Regarding h), on EEA nationals etc. who need to travel through Norway

The exemption for EEA nationals and nationals of Andorra, Monaco, San Marino and Vatican City State and their family members who need to travel through Norway to get home applies to all transport, but must be seen in connection with the duty of quarantine set forth in section 5, sixth paragraph, second and third sentences, of the COVID-19 Regulations. The exemption also applies when a foreign national arrives in Norway and there is a reasonable explanation for why he or she does not have a ticket to travel onwards the same day – for example, that he or she has not yet managed to obtain a ticket. The foreign national is required to show clearly that he or she will do what is necessary to travel onwards as soon as possible, and to comply with the duty of quarantine while temporarily staying in Norway.

6 Exemptions on entering from certain countries and areas

Section 2 of the Regulations provide exemptions for the following foreign nationals:

- a) a foreign national who resides in the EEA, Andorra, Monaco, San Marino, Switzerland or Vatican City State
- b) (repealed)
- c) a foreign national who has a need to travel through the Norwegian mainland on the way to or from work or residence in Svalbard
- d) a foreign national who is resident in Svalbard

Regarding a), on foreign nationals who reside in the EEA etc.

For simplicity, the text below refers to the EEA, but under section 2, first paragraph a, of the Regulations it applies correspondingly to Andorra, Monaco, San Marino, Switzerland and Vatican City State.

The decisive factor is the country or area where the foreigner resides, not the country of which he or she is a citizen. Students will be considered formally resident in their home countries, even if staying abroad for study purposes. Students who reside in the EEA will therefore be covered by the exemption cited in section 2, first paragraph a,, even if they are studying abroad and thus *actually* live in a third country. Under the COVID-19 Regulations, however, they will be subject to the quarantine rules that apply to the third country, i.e. the country from which they come to Norway.

If the foreign national is travelling within the EEA and plans to stop intermediately in Norway and remain only at the airport (transfer), he or she must present a ticket or a boarding pass documenting onward travel out of Norway. While staying at the airport, the foreign national must adhere to infection control routines in force at the airport.

Regarding c) and d), in respect of Svalbard

An exemption has been made for foreign nationals who have a need to travel through the Norwegian mainland on the way to or from work or residence in Svalbard; see section 2, first paragraph c, of the Regulations. This is to ensure that foreign nationals who live or work in Svalbard will be able to pass through the Norwegian mainland when they are travelling between a foreign country and Svalbard. However, the exemption for foreign nationals on the way *to* work or residence in Svalbard must also be viewed in connection with section 9 of the COVID-19 Regulations, under which everyone arriving from abroad must undergo quarantine on the Norwegian mainland before onward travel to Svalbard can take place. It is pointed out for emphasis that this requirement continues to apply.

Departure from Svalbard to a foreign country via the Norwegian mainland for persons other than those who have work or residence in Svalbard may be covered by the exemption for airport transit contained in section 3, first paragraph b, of the Regulations. Reference is also made to the paragraph above, stating that EEA nationals and their family members who need to travel through Norway to get home shall not be rejected (see section 1, first paragraph h, of the Regulations). It is noted that this exemption covers all transport.

An exemption has also been provided for foreign nationals residing in Svalbard; see section 2 d of the Regulations. This is to enable foreign nationals who are resident in Svalbard, and who otherwise qualify to travel into Norway, to do so now, conditional on fulfilment of the Immigration Act's provisions regarding entry. It is emphasised that the exemption applies both to residents travelling from Svalbard to the Norwegian mainland and to residents of Svalbard travelling to Norway from abroad. With regard to the latter, it is noted for emphasis that quarantine must be undergone before onward travel to Svalbard may take place; see above.

'Residents' in this context refers to persons validly registered into the population register for Svalbard. Such status may be documented by printout from the register. For

persons residing in Barentsburg, the documentation requirement is satisfied by confirmation of one's employment relationship.

It is additionally pointed out for clarity that the Act and the Regulations do not apply to Svalbard.

7 Exemptions in other cases

Section 3 of the Regulations provides exemptions for the following foreign nationals:

- a) a foreign national who is to carry out agreed or formalised parent-child contact or divided residence for children
- b) a foreign national who will only be staying in airport transit before departing Norway
- c) members of the Sami community in the exercise of reindeer herding
- d) a foreign national who performs commercial transport of goods and passengers for payment, or is en route to or from such an assignment
- e) journalists and other personnel on assignment for a foreign media institution
- f) a foreign national as specified in sections 1-4 and 1-5 of the Immigration Regulations, and who can present a diplomatic or service passport, or possibly a national passport in combination with a Norwegian ID card issued by the Ministry of Foreign Affairs, or in combination with a Schengen residence card for embassy personnel; the same applies to dual-accredited diplomats and diplomatic couriers
- g) military personnel as specified in section 1-7, second and third paragraphs, of the Immigration Regulations and their spouse, cohabitant or children who have been reported to and accepted by the Ministry of Defence, as well as members of a civilian component and civilian personnel working for military staffs or headquarters in Norway (including NATO departments in Norway) and their spouse, cohabitant or children
- h) a foreign national who works on mobile or fixed installations; see sections 1-10 and 1-11 of the Immigration Regulations
- i) a holder of a valid aviation personnel licence (see section 2-9 of the Immigration Regulations) en route to or from active service
- j) seamen, en route to or from active service, with an identity card as specified in section 2-8 of the Immigration Regulations or a Philippine Seafarer's Identification and Record Book or a Philippine national passport as specified in section 3-1 (j) of the Immigration Regulations
- k) a spouse, cohabitant or child of a posted foreign service officer at a Norwegian foreign service mission
- l) employees of international organisations or employees in organisations that perform international humanitarian efforts, and who are on assignment or en route to or from such assignment
- m) a foreign national invited by the Norwegian authorities to participate in international negotiations and similar activities, and a foreign national who is part of a delegation coming to Norway in accordance with Norway's international commitments
- n) passengers and crew on approved coastal cruises; see section 11 of the COVID-19 Regulations
- o) researchers and crew members participating in marine research expeditions with a Norwegian port of call

- p) foreign nationals with technical qualifications who are exempt from the requirement of a residence permit under section 1-1, first paragraph (b), of the Immigration Regulations
- q) a foreign national who has one of the following family relationships to a person resident in Norway:
 1. spouse, registered partner or cohabitant
 2. minor or adult child or stepchild
 3. parent or stepparent
 4. minor or adult grandchild or stepgrandchild
 5. grandparent or stepgrandparent
 6. established relationship of romantic partners of at least nine months' duration in which the parties have met each other physically, as well as the minor child of a romantic partner
- r) a foreign national who is to work with film or series production in Norway that has received a commitment by the Norwegian Film Institute of a grant from the incentive scheme; see the Regulations of 16 December 2015 No. 1684 relating to an incentive scheme for film and series productions
- s) a foreign national who is to work as a researcher, and who is exempt from the requirement of a residence permit for an employment relationship of up to three months; see section 1-1, second paragraph, of the Immigration Regulations
- t) contestants and support staff who come to Norway to participate in international sports competitions, and who are exempt from entry quarantine under section 6f of the COVID-19 Regulations
- u) a spouse, registered partner, cohabitant or minor or adult child or stepchild of a Norwegian national who is resident abroad, when such person travels on a visit to Norway with the Norwegian national or is joining him or her in Norway.

Regarding b), on airport transit

This exemption applies to foreign nationals transiting through international transit areas of an airport. It means that a foreign national who flies in from an area outside the EEA/Switzerland may stop intermediately in Norway as long as he or she will stay only in the transit area before onward travel to a destination outside the EEA/Switzerland.

Regarding g), on military staff personnel etc.

Foreign nationals covered by this exemption must present an ID card/authorisation that establishes employment (civilian or military) in the armed forces of a sending state or in NATO. Family members who are covered will normally have a diplomatic passport, service passport, ID card or similar documentation of their connection to the primary person. An ordinary passport in conjunction with a NATO Travel Order will also satisfy the documentation requirement.

Regarding q), on family relationships etc.

This provision deals with permission to enter for persons with family or a romantic partner in Norway. It applies regardless of whether the person resides in Norway, is a Norwegian national or a foreign national residing here. It is pointed out for clarity that foreign nationals who are exempt from the requirement of having a residence permit pursuant to sections 1-4 and 1-5 of the Immigration Regulations (diplomats etc. and their spouses, cohabitants and children) are to be regarded as persons 'resident in Norway' in this context.

The provision applies to all forms of stay or visit under the immigration rules pertaining to the family members in question. It thus applies to foreign nationals who have applied for or plan to apply for a residence permit to settle in Norway as well as to those who will only be visiting, with or without a visa. For this reason, the groups of persons are defined to a greater extent in this provision than in the rules governing family immigration. In any case the ordinary rules contained in the Immigration Act and the Immigration Regulations must always be fulfilled for the foreign nationals to be able to enter Norway.

It is pointed out that stepfamily relationships include those established by marriage, partnership and cohabitation. It is also noted that the stepgrandparent and stepgrandchild relationship includes all ways in which such a relationship can be established. Accordingly, the exemption will cover parents' stepparents, stepparents' parents and stepparents' stepparents as well as a child's stepchild, a stepchild's child and a stepchild's stepchild.

'Established relationship of romantic partners' in this context refers to a romantic relationship that has had a duration of at least nine months. The parties are required to have met each other physically.

To substantiate that he or she is a family member covered by the exemption, the foreign national may present a document such as a marriage or birth certificate. In the case of romantic partners, the foreign national is required to present a self-declaration form signed by the party residing in Norway. The self-declaration form is available on the website of the Directorate of Immigration, www.udi.no/globalassets/global/aktuelt/korona/solemn-declaration-on-relationship.pdf

As mentioned above, the exemption does not entail any change to Norway's ordinary entry and visa rules. This means that a family member or romantic partner requiring a visa who does not already have a valid visa must apply for, and be issued, a visa before travelling to Norway. Documentation of one's family or romantic relationship is submitted at the same time as the visa application. Foreign nationals who already have a valid visa, and foreign nationals not needing a visa (visa-free), submit documentation on arrival in Norway.

The exemption also permits family members covered by section 3, first paragraph q, to enter Norway and submit a family immigration application from Norway, consistent with the regulations and guidelines in force before the COVID-19 outbreak. Under the exemption, entry visas may also be issued to family members who intend to stay in Norway until a residence permit has been granted; see section 12 of the Immigration Act.

Regarding r), on foreign nationals who are to work with film or series production
Section 3, first paragraph r, of the Regulations creates an exemption from entry restrictions for a foreign national from outside the EEA/Switzerland who is to work with film or series production in Norway that has received a commitment by the Norwegian Film Institute of a grant from the incentive scheme; see the Regulations of 16 December 2015 No. 1684 relating to an incentive scheme for film and series productions.

The foreign national must be able to substantiate that he or she is to work with a film or series production in Norway that has received a commitment by the Norwegian Film Institute for a grant from the incentive scheme. This may be done by such means as submitting a written confirmation by the Norwegian Film Institute to the production company that the production has received such a commitment, accompanied by a letter from the production company stating that the foreign national will be working on the production.

Regarding s), on foreign nationals who are to work as researchers

A foreign national who is to have a short-term employment relationship as a researcher in Norway is exempt from the entry restrictions. The duration of the employment relationship may be up to three months. The exemption applies to researchers who meet the conditions set forth in section 1-1, second paragraph, of the Immigration Regulations.

As stated in section 10 of this circular, a foreign national must be able to substantiate that he or she is exempt from the entry restrictions. This may be done by such means as presenting documentation from one's employer. Researchers who are required to have a visa must apply for, and be issued, a visa before travelling to Norway. Documentation of the employment relationship etc. is submitted at the same time as the visa application. Researchers requiring a visa who already have a valid visa, and researchers not needing a visa (visa-free), may present the documentation on arrival in Norway.

Regarding t), on international sports competitions

Section 3, first paragraph t, establishes an exemption from entry restrictions for contestants and support staff who come to Norway to participate in international sports competitions, and who are exempt from entry quarantine under section 6f of the COVID-19 Regulations. As of now, section 6f of the COVID-19 Regulations reads:

‘Contestants and support staff who come to Norway to participate in, or return from, the following international sports competitions are exempt from entry quarantine during work time when they have tested negative for SARS-CoV-2 after arrival in Norway:

- a. international matches between national teams and club tournaments at senior level under the auspices of the Union of European Football Associations (UEFA) that are held before 1 January, and that are subject to UEFA's "Return to Play" infection control protocol.'

When these persons have also tested negative in a second test taken at the earliest 48 hours after the first and at the earliest five days after arrival, quarantine is discontinued during free time as well.

Contestants and support staff who come to Norway to participate in, or return from, the following international sports competitions, are exempt from entry quarantine during work time when they have tested negative for SARS-CoV-2 after arrival in Norway and they are tested every third day for 10 days after arrival in Norway or until they leave the country:

- a. individual matches at senior level in international club tournaments under the auspices of the European Handball Federation (EHF), and individual

matches between national teams in handball at senior level, that are held by 15 January 2021, that are subject to the Norwegian Handball Federation's infection control protocol 'International (single) matches / Covid-19 protocol / NORWAY / Version 1.0', and for which the organiser ensures that local personnel and volunteers have tested negative for SARS-CoV-2 before they participate physically in carrying out the event.

In the event of a positive test, the person concerned shall enter isolation (see section 7) and the employer or client shall notify the municipality.'

The foreign national must be able to substantiate that he or she is to travel to Norway in connection with participation in one of the sports competitions listed in the provision at any given time. This can be done by presenting official accreditation to the event, confirmation from the organiser in Norway or Norwegian club hosting the event, or confirmation from the particular Norwegian or international association that is organising the sports event in question.

These foreign nationals normally will spend few days in Norway in connection with carrying out the competitions. The foreign national, or perhaps a team leader on behalf of all contestants and support staff, must document upon arrival in Norway the place where quarantine and/or quarantine during free time will take place until the time of departure. This can be done, for example, by presenting an itinerary overview and such details as the hotel where contestants and support staff will be staying in conformity with the requirements set out in the COVID-19 Regulations.

Regarding u), on family members of a Norwegian national living abroad

This provision deals with permission to enter for family members of a Norwegian national living abroad and makes it possible for the family to travel together on a visit to Norway, either as a group travelling to Norway or with family members following after the Norwegian national.

Substantiating that the foreign national is a family member covered by the exemption may be done by presenting a document such as a marriage or birth certificate.

8 Exemptions from entry restrictions for foreign nationals with a residence permit in Norway

In making a residence-permit decision the immigration authorities shall determine whether permission to enter is to be deferred until further notice; see section 3 of the Act. An entry visa shall be granted without deferment if the foreign national has been granted a permit on the basis of the provisions specified in section 4 of the Regulations (see below) or the immigration authorities find that the foreign national is covered by other exemptions from entry restrictions provided in the Act or the Regulations (see above).

If the decision expressly states that the foreign national is covered by exemptions specified in the Act or Regulations, this is to be recognised during entry control procedures as well, and the foreign national shall not be rejected.

Administrative decisions taken under section 3 of the Act, which concerns deferment of entry for foreign nationals granted a residence permit, may not be appealed. Although entry may be refused at the time of decision, subsequent events may bring about a situation in which entry shall be permitted. In that case the immigration authorities must, upon request submitted by the foreign national, conduct a new assessment before the foreign national travels to Norway.

Foreign nationals who come to the Norwegian border in contravention of entry restrictions established under section 3, first paragraph, of the Act shall as a general rule be rejected. The same applies to foreign nationals who until further notice are not granted an entry visa under section 3, second paragraph, of the Act.

Section 4 of the Regulations provides exemptions for the following foreign nationals:

- a) a foreign national with a residence permit in Norway granted under the Immigration Act's provisions on family immigration, and for whom the sponsor is a Norwegian national or a foreign national resident in Norway or is otherwise entitled to entry under the Act or under the Regulations
- b) a foreign national with a residence permit in connection with work; see sections 23, 24 or 25 of the Immigration Act
- c) a foreign national with a residence permit for students etc.; see section 6-19 of the Immigration Regulations
- d) a foreign national with an entry permit granted under section 35 of the Immigration Act
- e) a foreign national with a residence permit for employees of non-profit, religious or humanitarian organisations; see section 6-23 of the Immigration Regulations
- f) a foreign national with a residence permit who carries out research with his or her own funds; see section 6-20 of the Immigration Regulations

It is emphasised that the general conditions pertaining to a residence permit, including return conditions, shall be assessed in the normal way. In the case of family immigrants, entitlement to enter is valid only insofar as the sponsor also is entitled to entry into Norway.

9 Requirement of negative test result for SARS-CoV-2 on entry into Norway

Section 4a of the Regulations stipulates a requirement to submit certification showing a negative test result for SARS-CoV-2 for all travellers from areas that give rise to quarantine duty; see section 4, first paragraph a, of the COVID-19 Regulations. Foreign nationals who come to Norway without such certification may be rejected.

In accordance with section 4a of the COVID-19 Regulations, the following requirements are set for the test:

- Approved test methods are PCR testing or antigen rapid testing.
- The test is to be taken within the 72 hours prior to arrival in Norway.
- The certification must be in Norwegian, Swedish, Danish, English, French or German.

Exemptions from the requirement of a negative test result are to be granted for the following groups:

- a) foreign nationals who reside in Norway with a residence permit or right of residence under the Immigration Act; see section 2, first paragraph a), of the Interim Act
- b) foreign nationals who are essential to maintain the proper operation of critical public functions or attend to fundamental needs of the population, and there is a risk to life and health if entry is refused
- c) foreign nationals who are in transit
- d) foreign nationals who regularly arrive in Norway from Sweden or Finland to work or study, with the exception of health personnel who have been outside Norway for more than seven days
- e) foreign nationals who seek protection in the realm (asylum) or otherwise invoke a right to international protection due to risk of persecution etc.; see section 2, first paragraph b), of the Interim Act
- f) foreign nationals with an entry permit granted under section 35 of the Immigration Act; see section 4, first paragraph d
- g) foreign nationals with a residence permit in Norway granted under the Immigration Act's provisions on family immigration (see section 4, first paragraph a) or a family member of an EEA national who is to establish residence in Norway (see section 1, first paragraph e), if the sponsor is exempt from the requirement of a negative test result for SARS -CoV-2 on entry to Norway
- h) foreign nationals as specified in sections 1-4 or 1-5 of the Immigration Regulations, and who can present a diplomatic or service passport, or possibly a national passport in combination with a Norwegian ID card issued by the Ministry of Foreign Affairs, or in combination with a Schengen residence card for embassy personnel; dual-accredited diplomats and diplomatic couriers; see section 3, first paragraph f
- i) spouses, cohabitants or children of posted foreign service officers at a Norwegian foreign service mission as provided in section 3, first paragraph k
- j) foreign nationals invited by the Norwegian authorities to participate in international negotiations and similar activities, and foreign nationals who are part of delegations coming to Norway in accordance with Norway's international commitments; see section 3, first paragraph m
- k) military personnel as specified in section 1-7, second or third paragraphs, of the Immigration Regulations if they arrive in Norway by non-commercial transport
- l) foreign nationals who perform commercial transport of goods and passengers for payment, or are en route to or from such an assignment; see section 3, first paragraph d
- m) holders of a valid aviation personnel licence as specified in section 3, first paragraph i
- n) seamen as specified in section 3, first paragraph j
- o) foreign nationals who can document by an approved laboratory method that they have had COVID-19 and recovered in the last six months; see section 4 of the COVID-19 Regulations
- p) foreign nationals who are resident in Svalbard
- q) children under the age of 12

A foreign national is not to be rejected if special reasons weigh against such rejection; see section 4a, fifth paragraph, of the Regulations.

Foreign nationals who are exempt from the test requirement should nonetheless be encouraged to be tested after arrival.

A closer look at requirements for the test

A test by approved testing method must be taken shortly before departure to Norway. The test may not be more than 72 hours old when the foreign national arrives in Norway. This means that the foreign national must have taken the test and received a negative result between 0 and 3 days before arrival in Norway. It is pointed out for clarity that it is the time of test-taking that is decisive for the 72-hour requirement, not the time when the result is obtained.

A form will be created that can be used as documentation for a negative test result. However, the use of this form is not required, as long as the documentation provided contains the necessary information about test result, test method, time of test etc.

Regarding a), on foreign nationals who reside in Norway with a residence permit or right of residence under the Immigration Act

This exemption encompasses foreign nationals who are already resident in Norway with a residence permit. For foreign nationals who travel to Norway after having a resident permit application approved, the requirement of a negative test result is generally applicable, though not for foreign nationals specified in g).

“Resident in Norway” in this context refers to persons who are registered as resident in Norway or who have reported moving to Norway in the National Population Register. On entry they must be able to document residence in Norway. This may be done, for example, by referring to the Norwegian Tax Administration’s data on one’s registered place of residence.

Regarding b), on foreign nationals who are essential to maintain the proper operation of critical public functions or attend to fundamental needs of the population etc.

The critical public functions are laid out in section 3 of this circular. A condition for being exempted from the test requirement is that a risk to life and health would exist if entry is refused.

Personnel in critical public functions must document that their assignment qualifies for the exemption provision. The employer or client must provide documentation that the person in question has a critical public function and that he or she is to carry out work necessary to avoiding a risk to life and health. This may include foreign nationals who contribute critical expertise. The documentation requirement can be met by presenting an SMS or an email, for example. If there is a need to obtain further information, the employer or client may be contacted.

Regarding d), on commuters from Sweden and Finland

It is pointed out for clarity that this exemption applies to foreign nationals who live in Sweden or Finland and who commute to Norway; it does not apply to foreign nationals who only travel through Sweden or Finland en route to Norway.

Regarding g), on family members

This exemption only encompasses family members who are to move to Norway, not visitors. Family of EEA nationals is to be understood in the same way as in section 1, first paragraph e, of the Regulations; see further discussion in section 5 of this circular.

Regarding o), on foreign nationals who have had COVID-19

One's having had the illness must be documented with certification stating the test result and test method used, as well as personally identifiable information and the date the test was taken. At present, the only recommended laboratory method for SARS-CoV-2 testing is RT-PCR. Having recovered from "probable COVID-19" does not provide exemption from quarantine. The certification must be in Norwegian, Swedish, Danish, English, French or German.

A closer look at exemptions based on special reasons

Even when a foreign national is unable to submit the necessary certification of a negative COVID-19 test result, he or she is not to be rejected if special reasons so indicate. This provision will be relevant if, for example, the foreign national's purpose in travelling is considered extremely important and obtaining the required certification has not been practically possible.

The Ministry assumes that the exemption may be particularly applicable in the period immediately after section 4 a of the Regulations has entered into force, in situations where it has not been practically possible for a foreign national to obtain certification in time for an already planned trip. The ability of travellers to adapt to the new rules must be taken into account.

The exemption may also be applicable if a foreign national has certification of a negative test result, but the test is too old (taken more than 72 hours ago) because, for example, the foreign national has landed on a delayed aircraft and the flight delay is the reason the 72-hour requirement has not been met.

10 A closer look at documentation requirements

Individual foreign nationals must be able to substantiate when necessary that they are covered by one of the exemptions from the entry restrictions. With regard to documenting a negative test result for SARS-CoV-2 and documenting having had COVID-19, please see section 9 in this circular.

11 Relationship to quarantine regulations

In themselves, the exemptions to entry restrictions do not constitute exemption from the rules relating to quarantine and isolation in force at any given time. Appendix A of the COVID-19 Regulations provides an overview of which countries and areas give rise to quarantine duty upon arrival in Norway.

The general rule is that everyone who is to undergo entry quarantine is to carry it out at a quarantine hotel; see section 5, first paragraph, of the COVID-19 Regulations.

Under section 5, second paragraph, of the COVID-19 Regulations, the duty to stay in a quarantine hotel does not apply to

- a) persons who reside in or own a home in Norway, and who stay in the home or another suitable place of accommodation
- b) persons who have come to Norway to perform work or an assignment, and have an employer or client who has provided a suitable place of accommodation with a private room during the quarantine period
- c) asylum seekers and resettlement refugees

For a more detailed description of whom the exemptions cover and of the documentation requirement, please see revised circular G-26/2020 on quarantine hotels.

12 Relationship to the Immigration Act's rules on rejection

The Ministry points out that the Interim Act and the Regulations relating to entry restrictions are supplements to the Immigration Act's rules on rejection. Foreign nationals may still be rejected pursuant to the rules of the Immigration Act, including on public health grounds under section 17, first paragraph (l) and section 121 (see also section 123), provided that the conditions are in place and ordinary procedural rules are followed.

Rejection under the Immigration Act may not take place solely by reference to the general situation relating to the COVID-19 outbreak. In such cases, an individual assessment must be made with focus on specific circumstances of the foreign national who is being considered for rejection. The Ministry accepts that there may be grounds for rejecting foreign nationals who pose a special infection risk, for example due to behaviour contravening official advice and guidelines. For more detailed discussion of rejection out of concern for public health, please see section 4.1.1 of Prop. 5 L (2020–2021).

Rejection under the Immigration Act due to criminal acts may also, depending on the circumstances, be relevant for foreign nationals who fail to comply with rules introduced in connection with the pandemic. Of special note are gross or intentional violations of the COVID-19 Regulations that are punishable under section 19 of those Regulations; see also section 8-1 of the Act relating to control of communicable diseases. Fines or imprisonment for up to 6 months may be imposed. Under section 17, first paragraph (g), of the Immigration Act (see also section 66, first paragraph (b)), a foreign national may be rejected, first and foremost, if he or she *has been punished* for such violations of the COVID-19 Regulations, as these are offences that may result in imprisonment. In addition, one may be rejected "where other circumstances give reason to fear that the foreign national, here in the realm or in another Schengen country, has committed or will commit a criminal act punishable by imprisonment". A finding that a violation has occurred may thus lead to rejection, even if no criminal case is opened. A well-founded suspicion that a violation will occur in future may also form grounds for rejection.

Persons covered by the EEA's body of rules (see chapter 13 of the Immigration Act) may also, depending on the circumstances, be rejected due to criminal acts. Under section 122 of the Immigration Act (see also section 121), relevant persons may be rejected in the interests of public order or security if "the personal circumstances of the foreign

national present, or must be assumed to present, a real, immediate and sufficiently serious threat to fundamental societal interests”.

13 Rules on administrative procedures

According to section 5, first paragraph, of the Act, neither Chapter IV of the Public Administration Act (concerning case preparation for individual decisions) nor Chapter V (concerning the formulation of decisions) is applicable to rejection decisions. Those rules will, however, apply to expulsion decisions made under section 7 of the Act.

Section 5-4 of the Immigration Regulations, concerning guidance and information, does not apply in rejection cases under the Interim Act. The procedural rules contained in Chapter 11 of the Immigration Act and Chapter 17 of the Immigration Regulations apply only insofar as they are consistent with simplified and expeditious processing of rejection decisions.

Section 5, second paragraph, of the Interim Act states that the rules on free legal advice contained in section 92, first paragraph, of the Immigration Act do not apply to rejection decisions under the Interim Act. However, the rules on free legal advice will apply to expulsion cases made under section 7.

According to section 6 of the Interim Act, decisions relating to rejection shall be written. The grounds given may be brief and standardised but shall state the rules on which the decision is based, and information on the right of appeal shall be provided. Oral decisions may be allowed if a determination is urgent or if providing a written decision is impracticable for other reasons. In such cases, the decision-making body shall confirm in writing the decision and its grounds if the party so requests.

Decisions relating to rejection are taken by the Directorate of Immigration or the police. Such a decision may be appealed to the Directorate of Immigration, or to the Immigration Appeals Board if the Directorate of Immigration has made the initial decision. The rules contained in Chapter VI of the Public Administration Act are applicable. Section 42 of the Public Administration Act, concerning deferred implementation, does not apply.

14 Immigration control and use of coercive measures

Under section 21 of the Immigration Act the police may request, in connection with the control of foreign nationals' entry and stay in the realm, proof of identity and information necessary to clarify their identity and the lawfulness of their stay in the realm.

Under section 8 of the Act, coercive measures may be employed on the basis of provisions in Chapter 12 of the Immigration Act. This means, among other things, that decisions on arrest and detention may be taken in accordance with the same provisions and conditions of the Immigration Act that apply to rejection cases in general.

In a case, for example, when someone is stopped by the police under section 21a of the Immigration Act and is most likely to be rejected under the Interim Act and the Regulations relating to entry restrictions, then section 106, first paragraph (i), of the

Immigration Act may provide grounds for arrest. If the police believe it is necessary to hold the foreign national for more than 24 hours (see section 106b, third paragraph, final sentence, of the Immigration Act), the most relevant legal basis for assessing this will likely be section 106, first paragraph b), of the Immigration Act, concerning risk that implementation of an administrative decision will be evaded.

15 Liability for expenses etc.

According to section 4 of the Interim Act, foreign nationals directed out of the realm under the Interim Act are correspondingly subject to section 91 of the Immigration Act, which obliges foreign nationals to cover the cost of their own exit. A foreign national may therefore also be rejected upon subsequent entry if he or she has not paid expenses previously incurred by the public authorities; see section 17, first paragraph (k), of the Immigration Act.

Additionally, the transport carrier's liability under section 91, third paragraph, of the Immigration Act applies correspondingly in the case of rejection decisions taken under the Interim Act relating to entry restrictions for foreign nationals out of concern for public health; see section 4, second paragraph, of the Act. Transport carrier liability does not apply in connection with crossing of the internal Schengen border, even if internal border controls have been established. For more detailed information, see Prop. 124 L (2019–2020).

16 Expulsion and penalty

Section 7 of the Act authorises expulsion for gross or repeated breaches of entry restrictions specified in the Act, for failure to implement a decision imposing a duty to leave the realm, and for materially inaccurate or manifestly misleading information given in connection with entry controls or subsequent processing of the question of permitting entry. As indicated in Prop. 124 L (2019–2020), it is not foreseen that the expulsion provision will be extensively used; but the ability to crack down on serious, repetitive violations is deemed important when an overall assessment has indicated a need to ensure respect for the regulations.

Section 9 of the Act makes it punishable to violate entry restrictions specified in the Act or to provide materially incorrect or manifestly misleading information in connection with entry controls or subsequent processing of the question of permitting entry. The criterion of guilt in both cases is intent. The penalty is a fine or imprisonment for up to six months, or both. As indicated in Prop. 124 L (2019–2020), it is assumed that the penalty provision will not frequently be used; but the ability to impose a penalty in response to the most serious cases is deemed important as a means of preserving respect for the regulations and the objectives behind them.

With regards,

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The document is approved and distributed without signature