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G-35/2021 – Revised circular relating to entry into force of the Regulations relating to entry restrictions for foreign nationals out of concern for public health

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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 on 24 September 2021, with amendments entering into force on 25 September 2021 at 16:00). 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)

With particular regard to foreign nationals who reside in Norway with a residence permit or right of residence

The exemption contained in a) above covers both EEA nationals and third-country nationals. In practice, the provision will only be relevant for third-country nationals, as EEA nationals will be covered by other exemptions, see Section 1 of the Regulations.

In this context, 'residing in Norway' or 'resides in Norway' (see section 2, first paragraph a, of the Act) refers to a foreign national with a fixed address in Norway, meaning that the foreign national has his or her primary residence here. The foreign national must have a residence permit or right of residence in Norway at the time of entry.

The exemption does not allow entry for the purpose of moving to Norway due to work or study. Nor does the exemption extend to foreign nationals who work in Norway but do not have their primary residence here.

Upon entry, a foreign national must be able to document being registered as a resident in Norway or having a fixed address in Norway. A foreign national who cannot document that he or she is registered in the National Population Register as a resident must submit other documentation showing that he or she has a fixed address in Norway, such as documentation of owning or renting a home in Norway. Examples of documentation showing home ownership include information from the property register, a copy of one's tax return/tax assessment or documentation of payment of municipal fees/shared costs or property tax. One way to obtain information from the property register is to download it from the Norwegian Mapping Authority's website by logging in to Altinn. For more information, see <https://seeiendom.kartverket.no>.

A housing rental can be documented with a rental contract that shows the foreign national had residency in Norway at the time of departure and has residency at time of entry. The clear general rule requires a contract that was current at the time of departure. If the foreign national has terminated his or her housing rental and entered into a new rental agreement prior to entry, supplementary documentation substantiating that the foreign national is in fact a resident in Norway is required. Such supplementary documentation will be an employment contract or confirmation of enrolment in school or higher education (letter of admission or student identity card).

A holiday property, whether owned or rented, is not considered a fixed address.

Foreign nationals who are not registered as residents in the National Population Register must also be able to substantiate that they are returning after a trip abroad/temporary stay abroad, for example by presenting the airline ticket from their departure from 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.

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

Section 2, first paragraph c), of the Act provides an exemption 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'.

Please see the list (in Norwegian) of critical public functions at regjeringen.no:

- 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

Please also see the list (in Norwegian) of organisations with critical public functions and key personnel: [Liste over kritiske samfunnsfunksjoner - regjeringen.no](http://regjeringen.no)

This exemption applies only to foreign nationals whose entry is *strictly necessary*. The exemption must be viewed in connection with the purpose of the entry restrictions and the need expressed by the health authorities to sharply reduce the number of entries. The exemption from entry restrictions must therefore be *applied strictly*, with approvals limited to the minimum necessary to ensure the continuity of critical public functions. The scope of this exemption is intended to be extremely narrow. The fact that a sector appears on the list of critical public functions does not mean that all employees in that sector are exempt from the entry restrictions.

It is emphasised that the following two criteria must be met:

- the work to be performed must be directly linked to the ability to ensure continuity in the critical public function
- the work cannot be postponed without causing unacceptable impairment of the ability to maintain continuity in the function.

Organisations with personnel in critical public functions will have to document that their employees are to be considered critical to the ability to ensure that critical public

functions are maintained, in accordance with the above criteria. It will rarely be the case that all of an organisation's employees fulfil the terms of the exemption.

A form has been prepared for documenting that a foreign national meets the terms of the exemption. The form is available at regjeringen.no. However, use of this form is not required, as long as the documentation provided contains the necessary information. It is pointed out that even if foreign personnel are covered by the exemptions provided in the Act or Regulations relating to entry restrictions, entry is conditional on fulfilling the entry provisions of the Immigration Act. To be clear, a completed form does not guarantee entry; the foreign national's presence in the realm must be deemed 'essential to maintain the proper operation of critical public functions or attend to fundamental needs of the population'.

Application-based scheme for the fruit and vegetable sector

For foreign workers in the fruit and vegetable sector, a special application-based scheme is in effect. It stems from the Regulations relating to applications for exemption from the entry restrictions for foreign nationals who are essential to maintain the proper operation of the fruit and vegetable sector, which came into force on 26 March 2021.

Fruit and vegetable sector enterprises, defined as those producing potatoes, vegetables, fruits and berries, may apply to the Norwegian Agriculture Agency for a foreign national to be granted an exemption from section 2, first paragraph c), of the Act relating to entry restrictions. If the Agency approves the application, the foreign national will have the right to enter, assuming other terms of the entry restriction rules and the Immigration Act are met; see section 2, fourth paragraph, of the aforementioned Regulations. Such a decision does not provide exemption from the duty of quarantine etc.

A decision issued by the Norwegian Agriculture Agency is valid for entry for up to 30 days from the approval date. Foreign nationals covered by the exemption must when required be able to present the decision of the Norwegian Agriculture Agency upon entry, either in paper form or digitally. The authenticity of the approval decision is to be checked during border control.

This application-based scheme is the only way workers in the fruit and vegetable sector can gain exemption from entry restrictions under section 2, first paragraph c), of the Act relating to entry restrictions. A foreign national who invokes this exemption to work in the fruit and vegetable sector without being able to show an approval decision shall not be granted entry.

Foreign nationals who have been granted a residence permit without deferred entry as a seasonal worker in the fruit and vegetable sector between 29 January and 26 March 2021 may be granted exemption from the entry restrictions without a decision having been issued by the Norwegian Agriculture Agency, provided that other terms are met. However, these persons, too, may submit an application to the Norwegian Agriculture Agency in order to establish, prior to entry, that they are covered by the exemption in section 2, first paragraph c), of the Act.

Under section 2, fifth paragraph, of the Regulations relating to applications for exemption from the entry restrictions for foreign nationals who are essential to maintain the proper operation of the fruit and vegetable sector, a foreign national may

be rejected pursuant to section 2, third paragraph, of the Act relating to entry restrictions if an exemption has been granted on an incorrect basis or as a result of incorrect information. The case processing rules provided in sections 5 and 6 of the Act apply correspondingly, as does section 8 with respect to coercive measures. However, section 7 of the Act (on expulsion) and section 9 of the Act (on penalties) do not apply. Section 4, first paragraph, of the Act, regarding the liability of foreign nationals to cover expenses related to their own exit (see section 91 of the Immigration Act), is applicable if a foreign national is blameworthy for the circumstances that resulted in his or her rejection.

4 A closer look at exemptions for special reasons

Under section 2, second paragraph, of the Act relating to entry restrictions, 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.
- Foreign nationals travelling to be present at the birth of their own child, when the child's mother resides in Norway.
- Foreign nationals who are a judge, a party or representative of a party in a legal proceeding in Norway, or who are to give evidence in such a proceeding. The exemption also applies to arbitration cases.
- 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.

Allowance must be made for the ability of a foreign national to adapt to the rules currently in force. The 'special reasons' exemption may therefore be employed immediately after the entry into force of tightened entry restrictions, including colour code changes for countries or areas, in situations such as when a foreign national has already begun travelling to Norway or when a foreign national lives in Norway with a residence permit or right of residence without being 'resident' (see section 2, first paragraph a, of the Act) and was abroad when the tightening of the set of rules which previously had permitted entry even for persons not registered as resident entered into force. Similar considerations may also be applicable in the event of any subsequent tightening of the entry restrictions.

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

Section 1 of the Regulations provides exemptions for foreign nationals who have a right of residence under chapter 13 of the Immigration Act, i.e. foreign nationals covered by the EEA Agreement or the EFTA Convention. The reference to chapter 13 also covers provisions of the Immigration Regulations which are issued pursuant to these provisions of the Act. This means that foreign nationals who are covered by the Separation Agreement between the EEA/EFTA states and the United Kingdom, see Sections 19-33 to 19-35 of the Immigration Regulations, are also covered by this exemption. For other UK nationals, the rules apply insofar as they are relevant, meaning that exemptions from the entry restrictions are granted correspondingly for British nationals and their family members insofar as such persons are entitled to enter Norway under the Immigration Act and the Immigration Regulations. The provision in the second paragraph thus provides no extended entry rights for British nationals beyond what the ordinary regulations indicate.

6 Exemptions on entering from certain countries and areas

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

- a) a foreign national who resides in the EEA/Schengen area or the United Kingdom;
- b) a foreign national who resides in a country which is specified in appendix C of the COVID-19 Regulations (selected countries and areas on the EU third-country list)
- 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.
- e) [Repealed]
- f) [Repealed]
- g) [Repealed]
- h) [Repealed]

Regarding a), on foreign nationals who reside in the EEA/Schengen area or the United Kingdom

Section 2, first paragraph a, of the Regulations relating to entry restrictions allows entry for persons who are resident in the EEA/Schengen area or the United Kingdom. The decisive factor is that the foreign national *resides* in one of these countries, not which country he or she is a citizen of. Each individual foreign national must when required be able to substantiate that he or she is resident in one of the relevant countries.

It is emphasised that the EEA/Schengen area in this context refers to all countries/areas listed in appendix A to the COVID-19 Regulations under 'Nordic countries' and 'Other countries in the EEA and Schengen area'. This includes, for example, Andorra, Monaco, San Marino and Vatican City State even though they are not to be regarded as EEA/Schengen area states in other contexts. Moreover, the rules relating to entry restrictions that pertain to residents of the United Kingdom apply in equal measure to the British crown dependencies of Guernsey, Jersey and the Isle of Man.

Regarding b), on “purple” countries

An exemption applies to foreign nationals who reside in a country which is specified in appendix C of the COVID-19 Regulations, i.e. selected countries and areas on the EU third-country list. Appendix C is regularly updated.

The decisive factor is that the foreign national *resides* in one of these countries, not which country he or she is a citizen of. Each individual foreign national must when required be able to substantiate that he or she is resident in one of the relevant countries.

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 layovers contained in section 3, first paragraph b, of the Regulations.

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.

Regarding e), on health personnel

Exemption is made for health personnel from Sweden or Finland who work in the health and care services in Norway; see section 2, first paragraph e, of the Regulations. The exemption covers health personnel resident in Sweden or Finland, whether they are Swedish or Finnish nationals or other foreign nationals residing in those countries. The exemption does not apply to other foreign nationals who only travel through Sweden or

Finland en route to Norway. Health personnel from other countries may only enter Norway if they are considered essential to maintaining the proper operation of critical public functions or attending to fundamental needs of the population; see section 2, first paragraph c), of the Act as well as section 3 of this circular.

'Health personnel' refers also to personnel without authorisation under section 48 of the Act relating to health personnel. To qualify for the exemption, however, foreign nationals must have work that involves providing health-related services in the health and care services in Norway. An example would be a care assistant in a nursing home.

Qualifying foreign nationals must be able to document that they have an employment relationship in the health and care services in Norway. Employment contracts and access cards are examples of acceptable documentation.

Regarding g), on commuters from Sweden and Finland

Exemption is to be made for foreign nationals living in Sweden or Finland who commute to and from work in Norway in the same day. A condition of entry is that the foreign national presents, on entry, confirmation from a Norwegian employer that he or she commutes to and from work in the same day. This confirmation must contain information about place of work and working hours as well as information indicating that the distance to the person's home is not an obstacle to commuting. A foreign national who commutes to and from work in the same day is defined as one who does not spend the night in Norway between work sessions but travels in and out of Norway the same day. A foreign national who works in Norway in the evening or at night is also considered such a commuter as long as he or she leaves Norway again after finishing work no later than the day after arrival. The foreign national is not required to work every day of the week in Norway. Part-time work is thus included.

Residence in Sweden or Finland must be documented by an official Swedish or Finnish document showing that the foreign national is resident in one of these countries.

Upon entry the foreign national must also present certification showing a negative test for SARS-CoV-2 taken during the seven days before arrival in Norway. The test must have been taken in Norway, Sweden or Finland. The test must have been taken before entry; it is not sufficient to be tested on entry.

Family members and romantic partners etc.

Special exemptions no longer apply for foreign nationals who reside in the EEA/Schengen area, and wish to visit family members or romantic partners who reside in Norway. The entry rules for this purpose are now the same for all foreign nationals, regardless of whether they are resident in the EEA/Schengen area or third countries. See the discussion below of section 3, first paragraph q, s and t, of the Regulations.

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 landing intermediately at an airport in Norway before departing

- 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 in the Norwegian sector of the continental shelf (see sections 1-10 and 1-11 of the Immigration Regulations), a foreign national who works on a mobile installation located in Norwegian internal waters or in the Norwegian territorial sea when the work is necessary to the activity on the continental shelf, and a foreign national who works on a mobile installation carrying out a temporary assignment on the British shelf
- 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) [Repealed]
- o) researchers and crew members participating in marine research expeditions with a Norwegian port of call
- p) [Repealed]
- 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 children or stepchildren,
 3. parents or stepparents
 4. minor or adult grandchildren or step-grandchildren,
 5. grandparents or step-grandparents
 6. [Repealed]
- r) [Repealed]
- s) a foreign national over age 18 who is in an established romantic relationship of at least nine months' duration with a person over age 18 who is resident in Norway,

- has met the romantic partner physically, and has had an application for entry granted by the Directorate of Immigration; see section 5, second paragraph
- t) a minor child of a foreign national as specified in s above
 - u) a spouse, registered partner, cohabitant or minor or adult child or stepchild of a Norwegian national resident abroad, when such person travels on a visit to Norway with the Norwegian national or is joining this person in Norway
 - v) a foreign national who has received a decision granting exemption from the entry restrictions under the Regulations relating to an application-based scheme for exemption from entry restrictions for foreign nationals out of concern for public health
 - w) a foreign national who in a manner described in appendix D of the COVID-19 Regulations can document that he or she:
 1. has been fully vaccinated against SARS-CoV-2; see section 3, sixth paragraph, of the COVID-19 Regulations
 2. by use of an approved laboratory method has tested positive for SARS-CoV-2, with an effective period that extends from the end of isolation to a date six months after the test date.
 - x) top-level athletes and necessary support staff who are exempt from entry quarantine under section 6f, first paragraph b, of the COVID-19 Regulations
 - y) a minor child of a foreign national who is exempt from entry restrictions, when such child travels to Norway with the foreign national.

Regarding a), on carrying out parent-child contact

This exemption applies to cases in which a parent is to carry out agreed or formalised parent-child contact and divided residence as well as cases in which a parent is to facilitate the other parent's contact, such as by picking up or bringing the child.

Regarding b), airport layovers

This exemption applies to foreign nationals who stop intermediately at airports in Norway before departing. The exemption covers both international airport transit and transfer within the Schengen area.

Regarding d), on transport assignments

This exemption applies chiefly to operators of the means of transport. In rare cases it may also include persons who have a necessary function directly connected to the transport itself, when such a function cannot be performed another way. Entry may be granted in rare cases to prepare for especially challenging transport assignments, if the preparations cannot be performed another way.

Regarding g), on military staff personnel etc.

Foreign nationals covered by this exemption, must when required be able to 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 i), on aviation personnel licence

This exemption applies to all who have a valid aviation personnel licence, as long as they are travelling into Norway in connection with their duties, or are en route to or from service.

Regarding q), on immediate family relationships

This provision applies to entry permission for foreign nationals with immediate family in Norway. Section 3, first paragraph q, nos. 1 to 5, of the Regulations applies independently of the foreign national's nationality and location of residency.

Exemptions under section 3, first paragraph q, apply independently of whether the person residing 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 term 'cohabitant' in section 3, first paragraph q, refers to a permanent, established cohabitation relationship of at least two years' duration 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'.

It is pointed out that stepfamily relationships include those established by marriage, partnership and cohabitation.

The foreign national himself or herself must substantiate a family relationship covered by the exemption, such as by submitting a birth certificate, marriage certificate or other relevant documentation if possible.

Section 3, first paragraph q, 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. In all cases, the general rules contained in the Immigration Act and the Immigration Regulations, including entry and visa rules, must be fulfilled for the foreign nationals to be able to enter Norway. This means that a family member 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 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), must when required be able to 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 are covered by section 3, first paragraph q, and who intend to stay in Norway until a residence permit has been granted; see section 12 of the Immigration Act.

Regarding s) and t), on romantic relationships and accompanying children

These provisions apply to the right of entry for foreign nationals with romantic partners in Norway. Section 3, first paragraph s and t, of the Regulations apply regardless of the foreign national's nationality and location of residency.

An 'established romantic relationship' refers to a romantic relationship that has had a duration of at least nine months. The parties must have met each other physically, and both must be more than 18 years of age.

Permission to enter is predicated on one's having received prior authorisation for such a romantic partner visit. This is obtained by applying to the Directorate of Immigration. For more information on the application scheme, see section 5, second, third and fourth paragraphs, of the Regulations. See also section 13 of this circular.

The foreign national's minor children are also entitled to enter (see section 3, first paragraph t) but are not included in the application scheme for romantic partners; see section 5, second paragraph, of the Regulations. The family relationship between the foreign national and the child must therefore upon request be documented in the usual way during border control procedures.

The general conditions for right of entry and residence specified in the Immigration Act and Immigration Regulations must be met in order to be entitled to enter. For example, a romantic partner who is subject to a visa requirement must hold a valid visa.

Upon entry, foreign nationals covered by the exemption must when required be able to present the Directorate of Immigration's decision, either on paper or digitally. The decision's authenticity is to be checked during the border control procedures.

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

This provision concerns permission to enter for family members of a Norwegian national who resides abroad. It facilitates family trips to visit Norway, whether the family as a whole travels to Norway or family members come after the Norwegian national.

A foreign national can substantiate that he or she is a family member covered by the exemption by such means as presenting a marriage certificate or birth certificate.

Regarding v), on the application-based scheme

This exemption covers people travelling for work who have been granted an exemption from the entry restrictions in a decision taken by the Norwegian Maritime Authority upon application by an enterprise; see section 2, first paragraph, of the Regulations of 19 February 2021 No. 470 relating to an application-based scheme for exemption from entry restrictions for foreign nationals out of concern for public health. The decision's period of validity for entry is governed by section 8, first paragraph, of the aforementioned Regulations.

Upon entry, foreign nationals covered by the exemption must when required be able to present the Norwegian Maritime Authority's decision, either on paper or digitally. The decision's authenticity may be checked during the border control procedures.

It is emphasised that even if a foreign national is granted an exemption from the entry restrictions in response to such application, the foreign national is only permitted to enter if he or she meets the other conditions specified in the Interim Act relating to entry restrictions as well as the general conditions establishing a right to enter and stay specified in the Immigration Act. Exemption from entry restrictions does not provide exemption from quarantine duty or other infection control rules; see also section 2, third paragraph, of the Regulations relating to a scheme for exemption from entry restrictions.

It follows from section 2, fifth paragraph, of the Regulations relating to a scheme for exemption from entry restrictions that if exception is granted on the basis of incorrect assumptions or as a result of incorrect information, the foreign national in question may be rejected under section 2, third paragraph, of the Interim Act relating to entry restrictions for foreign nationals out of concern for public health. The case processing rules provided in sections 5 and 6 of the Act apply correspondingly, as does section 8 in respect of coercive measures. However, the section 7 of the Act (on expulsion) and section 9 of the Act (on penalties) do not apply. Section 4, first paragraph, of the Act, which pertains to liability of foreign nationals for expenses related to their own exit (see section 91 of the Immigration Act), is applicable if a foreign national is blameworthy for the circumstances that resulted in his or her rejection.

Regarding w), on foreign nationals who have been fully vaccinated or have had COVID-19

This exemption covers foreign nationals who are fully vaccinated against SARS-CoV-2 (see section 3, sixth paragraph, of the COVID-19 Regulations) or who have tested positive for SARS-CoV-2 in the past six months. Permission to enter is conditional on being able to document this status using a method described in appendix D of the COVID-19 Regulations. Appendix D is updated regularly. An overview of countries that have connected to the EU's system may be viewed here: [EU Digital COVID Certificate | European Commission \(europa.eu\)](https://ec.europa.eu/eu-digital-certificate/).

Regarding x), on top-level athletes and necessary support staff

This exemption covers top-level athletes and necessary support staff who are exempt from entry quarantine under section 6f, first paragraph b), of the COVID-19 Regulations. This means that the exemption only applies to events which are held during the time period specified in section 6f, first paragraph b), of the COVID-19 Regulations, and that the event must be listed in appendix E of the COVID-19 Regulations.

A foreign national must be able to substantiate that he or she is to travel to Norway in connection with participation in one of the relevant sports competitions. This can be done by submitting official accreditation to the event, confirmation from the organiser in Norway or the Norwegian club hosting the event, or confirmation from the Norwegian or international federation that organises the sport in question.

Regarding y), on minor children

This exemption applies to all minor children who travel to Norway with a parent who is exempt from entry restrictions under this Act or these Regulations. The Regulations already contain a number of exemptions for children in specific situations, but section 3, first paragraph y), is a collective provision allowing exemption for all minor children, regardless of the parent's basis for exemption. Because exemptions have already been made for children in a number of situations (for example, for children of persons

residing in Norway, see section 3, first paragraph q, no. 2; and for children of romantic partners, see section 3, first paragraph t), this provision in practice will primarily be applicable to minor children of foreign nationals who are exempt from the entry restrictions on the basis of having a valid COVID-19 certificate; see section 3, first paragraph w.

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).

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 have been granted a residence permit, but who are not yet resident in Norway, may be rejected if they come to the Norwegian border in contravention of the entry restrictions in force at any given time; see section 2, third paragraph, of the Act. This is the case even if a foreign national was covered by an exemption from the entry restrictions when the residence permit application was granted (see section 4 of the Regulations) and the permit was granted without deferred entry (section 2, first paragraph d, of the Act). Foreign nationals who have received a residence permit to work in Norway, and who are not already resident here, may not enter Norway until further notice unless they are covered by exemptions from the entry restrictions stipulated in section 2 of the Act or sections 2 and 3 of the Regulations.

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) [Repealed]
- c) a foreign national with a residence permit for students etc. (see section 6-19 of the Immigration Regulations) , and a foreign national with a residence permit granted in connection with a Ph.D. programme at a Norwegian research and educational institution
- d) a foreign national with an entry permit granted under section 35 of the Immigration Act
- e) [Repealed]
- f) [Repealed]

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.

The exemption for foreign nationals with a residence permit for students etc. (see section 4, first paragraph c) covers anyone with a residence permit granted under section 6-19 of the Immigration Regulations. The exemption also covers Ph.D. programmes, regardless of whether the foreign national has been granted a residence permit as a student or a skilled worker, see section 6-1 of the Immigration Regulations.

9 Rejection upon violation of testing or registration requirements under the COVID-19 Regulations

Under section 4c, first paragraph, of the Regulations, a foreign national who does not comply with the requirements flowing from section 4d of the COVID-19 Regulations (testing requirement for those who have stayed in an area that gives rise to quarantine duty) or section 5b of the COVID-19 Regulations (registration duty upon entry) may be rejected.

A foreign national is not to be rejected if special reasons weigh against such rejection. This exemption is intended as a type of relief valve to be employed in cases where rejection would be a highly unreasonable or disproportionate response given such factors as compelling humanitarian considerations or unforeseen practical obstacles that have made it unduly hard to comply with the duty. It may also be appropriate to waive rejection in cases that are not considered punishable under section 24 of the COVID-19 Regulations because the person in question had 'reasonable grounds' for committing the violation.

In section 4c, second paragraph, additional exceptions are made for:

- a) foreign nationals who reside in Norway with a residence permit or right of residence under the Immigration Act
- b) foreign nationals who seek protection in the realm (asylum) or otherwise invoke a right to international protection due to risk of persecution etc.
- c) foreign nationals with an entry permit granted under section 35 of the Immigration Act
- d) children under the age of 12
- e) foreign nationals who are to carry out agreed or formalised parent-child contact or divided residence for children
- f) foreign nationals who are 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
- g) foreign nationals invited by the Norwegian authorities to participate in international negotiations and other 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.

Please note that some foreign nationals are exempt from the testing and registration obligations, and accordingly may not be rejected for not being tested or registered.

Under section 4c, third paragraph, the rules on case processing, coercive measures, expulsion and penalties etc. provided under the Interim Act relating to entry restrictions will apply in cases of rejection as stated in the first paragraph.

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.

11 Relationship to quarantine regulations and rejection upon violation of entry restrictions

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.

A legislative amendment that entered into force on 22 January 2021 introduced statutory authority – in section 2, third paragraph, second sentence, of the Interim Act relating to entry restrictions – to reject foreign nationals for clear and serious violations of the entry quarantine rules contained in the COVID-19 Regulations. A description of the rule and the reasons for it are given in Prop. 61 L (2020–2021) *Amendments to the Interim Act relating to entry restrictions for foreign nationals out of concern for public health (requirement of negative COVID-19 test result for right of entry and rejection in connection with violation of entry quarantine rules)*. Under this provision a rejection – as with expulsion in the case of a violation of entry restrictions – may be implemented in accordance with the simplified administrative procedures described in section 13 of this circular.

Rejection under section 2, third paragraph, second sentence, of the Interim Act may only occur if there are ‘specific grounds indicating a clear likelihood’ that the foreign national in question ‘intentionally has committed or will commit a serious violation of the requirement to carry out entry quarantine’. It is pointed out that multiple violations that would be deemed less serious if viewed individually may be considered serious when viewed in combination. The provision provides an exemption for foreign nationals specified in section 2, first paragraph a) and b), i.e. foreign nationals who are legally resident in Norway or are seeking protection. Since the provision only applies to serious, intentional violations, the potential also exists in principle to reject persons who have some connection to Norway, especially when it is obvious at the border that the person in question does not intend to comply with key entry quarantine rules. However, the rule is formulated as a ‘may’ provision, and the threshold must be set higher for rejecting foreign nationals with a residence permit, family in Norway or both than those who do not. In cases where a violation of quarantine rules is discovered after entry, and the foreign national has a residence permit or family in Norway, the Ministry assumes that rejection using this provision would be less likely. Nor is the statutory authority considered relevant when information about a rule violation emerges after expiration of the entry quarantine period.

Foreign nationals covered by the EEA body of rules are among the persons subject to this rejection rule. For these foreign nationals, however, a rejection or expulsion decision must be based on a higher degree of determination that they pose a *future* danger to interests, a factor which must be taken into account in the assessment. Also to be considered is the requirement of proportionality, as expressed in section 122, fourth paragraph, of the Immigration Act, among other places. A higher threshold for rejection is also to be employed in EEA cases when they concern persons with an established connection to Norway, including family ties. Foreign nationals who live in Norway with a right of residence are exempted; see reference to section 2, first paragraph a).

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 intentional or grossly negligent violations of the COVID-19 Regulations that are punishable under section 24 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, except in the case of violations of sections 4d and 5b, which are punishable only by fines. Pursuant to 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 violations of COVID-19 Regulations carrying a penalty that may include 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 carrying such a sentencing framework has occurred may thus lead to rejection, even if no criminal case is opened. A well-founded suspicion that a violation of these rules 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 as a consequence of offences that provide grounds for expulsion, such as criminal acts, or out of concern for public health. 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'. For members of this group, a stricter application of proportionality is required; also required is a higher degree of determination that they pose a future threat, typically substantiated through conduct already exhibited; see also section 19-29 of the Immigration Regulations. EEA nationals may also be rejected pursuant to section 121, first paragraph (c); see section 123, 'when this is necessary in the interests of public health and the authorities have implemented protective measures in relation to their own nationals'.

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.

A closer look at the application scheme for those in a romantic relationship

Section 5, second, third and fourth paragraphs, of the Regulations detail how the application scheme for romantic partners is to be regulated; see section 3, first paragraph s, of the Regulations; see also section 7 of this circular, above.

Under section 5, second paragraph, the Directorate of Immigration may, upon application, grant entry permission to a foreign national who is in an established romantic relationship with a person resident in Norway; see section 3, first paragraph s,

of the Regulations. Such permission to enter lasts until the application scheme is terminated. The permit, in other words, is good for an unlimited number of entries, for as long as this application scheme is in effect.

Applications for entry are sent to the Directorate of Immigration on a prescribed form. If the couple in the relationship are not covered by the exemption provided in section 3, first paragraph s, or have not furnished sufficient information, the application may be disallowed or rejected. An administrative decision taken by the Directorate of Immigration pursuant to this provision cannot be appealed.

Section 5, third paragraph, of the Regulations stipulates that the Directorate of Immigration may pass along to the Directorate for Civil Protection information concerning the fact that an application for entry under section 3, first paragraph s, has been granted, rejected or disallowed. The Directorate of Immigration and the Directorate for Civil Protection may register such information as mentioned in the first sentence into the entry register. During border control procedures, the police or the agency the police have authorised may obtain such information as mentioned in the first sentence from the Directorate of Immigration's register of decisions or via the entry register, which gets information from the Directorate of Immigration's register of decisions. Such information collection may occur by direct search.

Section 5, fourth paragraph, of the Regulations stipulates that applications submitted pursuant to the second paragraph may be processed by means of automated case processing. The registered person is entitled to a manual review of the administrative decision. Such manual review takes place at the applicant's oral request to the Directorate of Immigration.

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.

The Act does not contain specific statutory authority for expulsion due to violations of the entry quarantine rules etc. contained in the COVID-19 Regulations. Any expulsion on those grounds must therefore occur in accordance with rules provided under the Immigration Act. Depending on circumstances, the most practical basis may be section 66, first paragraph (c), of the Immigration Act. According to this provision, a foreign national without a residence permit may be expelled when a penalty has been imposed for an offense punishable by imprisonment. Foreign nationals covered by the EEA body of rules may be expelled, depending on circumstances, as a consequence of criminal acts or out of concern for public health; see section 12 of this circular, final paragraph.

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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