

Rundskriv

National Police Directorate
Directorate of Immigration
Immigration Appeals Board

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G-22/2020 – 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 October 2020 with effect from 21 October 2020). 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 below)
- d) foreign nationals who have been granted a residence permit without deferred entry; see section 3 of the Act (see section 8 below)
- e) foreign nationals who have been granted an entry visa under section 12 of the Immigration Act
- f) foreign nationals who have been granted a visa under section 10 of the Immigration Act by the Norwegian decision-making authority subsequent to 15 March 2020
- 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 below)

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.

Reference is made to 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 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, who can document a place of accommodation where entry quarantine is to be carried out in accordance with section 5, fourth paragraph, of the COVID-19 Regulations.
- j) A spouse, registered partner, cohabitant or minor or adult child or stepchild of an EEA national as specified in section 1i, when such person travels to Norway with the EEA national or is joining the EEA national in Norway, and can document a place of accommodation where entry quarantine is to be carried out in accordance with section 5, fourth paragraph, of the COVID-19 Regulations.

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.

The exemptions for EEA nationals provided in section 1 a-h have limited significance beyond the exemptions specified in sections 1 i and 2 a when a foreign national is exempt from entry quarantine under the COVID-19 Regulations or can document a place of accommodation where quarantine will be carried out; see section 5, fourth paragraph, of the COVID-19 Regulations.

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) and g), on family members etc.

The exemption specified in section 1 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 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.

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'.

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 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, second 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.