

# **REGULATIONS OF 15 OCTOBER 2009 ON THE ENTRY OF FOREIGN NATIONALS INTO THE KINGDOM OF NORWAY AND THEIR STAY IN THE REALM (IMMIGRATION REGULATIONS)**

## **Chapter 1 The scope and extent of the Act and the Regulations**

### **Section 5 of the Act. Further details regarding the persons to whom the Act applies**

#### *Section 1-1 Exemptions from the requirement of a residence permit in order to take employment*

The following foreign nationals who do not have an employer in the realm are exempted from the requirement of a residence permit for employment relationships of a duration of up to three months:

- (a) commercial and business travellers,
- (b) persons with technical qualifications who are to install, disassemble, inspect, repair, maintain or provide information on the use of machinery or technical equipment, and the need for such labour does not extend beyond three months,
- (c) foreign nationals in the private service of persons visiting the realm for a period of up to three months,
- (d) professional athletes and accompanying support personnel,
- (e) public employees in the pay of another state, when they come to the realm on the basis of a cooperation agreement between foreign and Norwegian authorities,
- (f) journalists and other personnel on assignment for a foreign media institution,
- (g) tourist guides for foreign travel companies in connection with a visit to the realm,
- (h) personnel on foreign trains, aircraft, buses and trucks in international traffic,
- (i) necessary security and maintenance crew on a foreign-owned laid-up ships in the realm.

Researchers, lecturers and religious workers are exempt from the requirement of a residence permit for employment relationships of a duration of up to three months. Religious workers are subject to a requirement that the need for such labour does not extend beyond three months.

Foreign nationals who are employed in an international company are exempt from the residence permit requirement when they are to undergo in-house training for a period of up to three months' duration. The Directorate of Immigration may establish guidelines concerning what is regarded as an international company and concerning the right to stay for the purpose of in-house training on more than one occasion.

Musicians, performers, artists or accompanying necessary auxiliary personnel are exempt from the residence permit requirement for assignments that in total do not exceed 14 days in the course of a calendar year.

Seamen working on board a foreign-registered cruise ship or a foreign ship registered in a ship register in an EEA country are exempt from the residence permit requirement. Seamen who are covered by bilateral shipping agreements are exempt from the residence permit requirement, see Appendix 1 to the Regulations.

Russian nationals from the Barents region who have been granted a municipal sales permit to sell wares at a market in Northern Norway are exempt from the residence permit requirement for stays of up to one day per month.

By decision of the Ministry exceptions may be made from the residence permit requirement for foreign nationals who are to carry out work in connection with a crisis situation in the realm.

Foreign nationals as mentioned in the first paragraph (i) and sixth paragraph have an obligation to report to the police in the district in which they are staying. Foreign nationals who are exempt from the residence permit requirement under the first paragraph (b) or fourth paragraph shall, prior to entering the realm, give written notification to the police in the districts concerned. Such notification may also be given by an employer, organiser, tour guide or other responsible person. The Directorate of Immigration may establish further guidelines regarding the implementation of the obligation of notification.

#### *Section 1-2 Exemption from the residence permit requirement for skilled jobseekers who do not require a visa*

Foreign nationals who are qualified skilled workers, see section 6-1 first paragraph, who do not require a visa and who are seeking employment, see section 6-1 first paragraph and section 6-2, may stay without a residence permit for a period of up to six months. A condition is that the foreign national has sufficient funds for the stay and the return journey, see section 10, first paragraph (b) of the Act and section 3-5 of the Regulations. The foreign national must also have such travel or sickness insurance as is mentioned in section 3-4a, second paragraph, of the Regulations.

Foreign nationals as mentioned in the first paragraph have an obligation to report to the police in the district in which they are staying after three months. They shall provide proof of their identity and information to the effect that they are jobseekers. The notification shall be registered in the Norwegian Computer System for Immigrant and Refugee Cases (DUF). The Directorate of Immigration may establish further guidelines.

#### *Section 1-3 Exemption from the residence permit requirement for foreign nationals who have the right to work until their application has been processed*

Foreign nationals who have received confirmation that a fully completed application has been submitted and that they have a right to start work for the specified employer before the application has been processed, see section 10-4, are exempt from the residence permit requirement until processing of the application has been completed if they are:

- a) skilled workers applying for a permit under section 6-1 first paragraph,
- b) specialists applying for a permit under section 6-2,
- c) seamen applying for a permit under section 6-6, or
- d) employees of international companies applying for a permit as seconded employees, see section 6-13, or trainees, see section 6-21. The Directorate of Immigration may establish guidelines regarding what is to be considered an international company.

#### *Section 1-4 Exemption from the residence permit requirement for diplomats, etc.*

Subject to the limitations that are approved in international law or that follow from an agreement with a foreign state, exemptions are made from the residence permit requirement for foreign nationals who are

- a) attached to diplomatic or paid consular missions (representations) in the realm,
- b) employees in intergovernmental organisations or treaty bodies, and
- c) persons carrying out an assignment for intergovernmental organisations or treaty bodies.

A condition is that the foreign national has been notified to and accepted by the Ministry of Foreign Affairs or another Norwegian authority, if relevant. Foreign nationals who are attached to diplomatic or paid consular missions must also have been seconded to the position by an authority of the sending state in accordance with a posting or a time-limited

service agreement. No permit is granted for the performance of other work in addition to this employment relationship, see section 60 of the Act.

The provisions of the first paragraph also apply to foreign nationals who are service staff at a diplomatic or consular mission or in the private service of a foreign national as mentioned in the first paragraph. The same applies to the provision of the second paragraph to the effect that the foreign national must be notified to and accepted by the Ministry of Foreign Affairs and that no permit is granted for other work in addition to the employment relationship in question. Foreign nationals who are service staff at a diplomatic or consular mission are further subject to the condition in the second paragraph to the effect that the foreign national must be seconded to the position by an authority of the sending state in accordance with a posting or a time-limited service agreement.

#### *Section 1-5 Residence for the spouse or cohabitant and children of diplomats, etc.*

The spouse or cohabitant and dependent children of diplomats, etc. as mentioned in section 1-4, first paragraph, are exempt from the requirement laid down in section 55, second paragraph, of the Act of a residence permit in order to stay in the realm for a period exceeding three months without taking employment. A condition is that the family member is notified to and accepted by the Ministry of Foreign Affairs, or another Norwegian authority, if relevant.

A residence permit that confers the right to take employment and carry on business in the realm may be granted to foreign nationals as mentioned in the first paragraph, if immunity under the Vienna Convention on Diplomatic Relations is relinquished for matters relating to the work or assignment of the person in question.

A declaration from the Ministry of Foreign Affairs documenting the applicant's status and the fact that immunity has been relinquished must be presented in connection with the application. The application may be submitted from the realm. The permit is not granted for a period exceeding the duration of the sponsor's employment relationship at the mission or in the organisation. The permit does not form the basis for a permanent residence permit, but may be renewed.

The spouse or cohabitant, see sections 40 to 41 of the Act, and children, see section 42, first and second paragraphs, of the Act, of foreign nationals as mentioned in section 1-4, third paragraph, of the Regulations may be granted a residence permit when strong humanitarian considerations argue for doing so. It is a prerequisite that means of subsistence and accommodation are assured. The permit is not granted for a period exceeding the duration of the sponsor's employment. The permit does not form the basis for a permanent residence permit, but may be renewed.

#### *Section 1-6 Special provisions on border crossing and border control*

The provisions of section 14, first paragraph, of the Act concerning entry and exit at an authorised border crossing point do not apply to foreign nationals covered by section 1-7, second and third paragraphs, of the Regulations, and those who come to or leave the realm at a Norwegian military airfield in a military aircraft belonging to a NATO member state

The obligation to report to the authorities under section 14, second paragraph, does not apply to military personnel covered by section 1-7, second and third paragraphs, of the Regulations, and those who come to a Norwegian military airfield in a military aircraft belonging to a NATO member state. The flight must have been cleared in accordance with the Rules of 1 April 1965 on access to Norwegian airspace for military aircraft belonging to any other NATO country in time of peace.

#### *Section 1-7. Exemption from the requirement of a passport in section 8 of the Act*

Instead of a passport, ca. section 8 of the Act, a valid identity document issued by the relevant international organisation to any of the following persons may be accepted:

- a) representatives of the United Nations (UN),
- b) officials permanently employed by the UN or by any UN specialised agency,
- c) judges of the International Court of Justice or officials of the secretariat of this court,
- d) other persons acting on behalf of a UN specialised agency or on behalf of the International Court of Justice,
- e) foreign nationals with a UN Laissez Passer travel document issued by special agreement with the UN,
- f) officials or other representatives of the European Union (EU).

For military personnel belonging to a NATO member state, including military personnel attached to an allied headquarters on an assignment, a personal identity card along with an individual or collective travel order may be accepted instead of a passport. The identity card must have been issued by the sending state and bear a photograph of the holder and contain information specifying the name, date of birth, rank and any service number. The travel order must have been issued by the relevant authority in the sending state or in NATO and confirm the individual's or group's status as a member or members of a force and the journey for which the order has been given.

For members of US, Canadian or British military forces stationed in Europe, the following identity documents may be accepted instead of a passport:

- (a) a US Armed Forces Identification Card or Armed Forces of the United States Card, both endorsed "Geneva Conventions Identification Card", issued by either the Department of the Air Force, the Department of the Navy, the Department of the Army or the Department of the Marine Corps, together with a separate travel order or movement order (travel permit) from the relevant military unit,
- (b) a Canadian Identification Card issued by the Department of National Defence, together with a Canadian Armed Services Leave Form from the relevant military unit,
- (c) a British Identity Card issued by the relevant branch of the armed services together with a separate travel order or movement order from the relevant military unit.

#### Section 1-8 *Special provisions on visas*

Diplomats as mentioned in section 1-4, first paragraph, and 1-5, first paragraph, and foreign nationals who come to the realm on an official assignment, must have a visa if there is a visa requirement between Norway and the state the foreign national represents and no special exemption has otherwise been made. A list of diplomats and officials who are exempt from the visa requirement is attached to these Regulations as Appendix 2.

Foreign nationals as mentioned in the first paragraph may be granted a visa by the Ministry of Foreign Affairs or a foreign service mission in accordance with further guidelines laid down by the Directorate of Immigration in consultation with the Ministry of Foreign Affairs.

Foreign nationals as mentioned in section 1-7, first and second paragraph, and their spouse or cohabitant and dependent children, and foreign nationals as mentioned in section 1-7, third paragraph, are exempt from the visa requirement. Military personnel who are to be stationed, or to participate in exercises, on Norwegian territory in pursuance of the Partnership for Peace Agreement are exempt from the visa requirement.

#### Section 1-9 *Special provisions on rejection and expulsion*

Decisions to reject or expel a foreign national with a diplomatic passport are made by the Directorate of Immigration. In such cases the Ministry may give instructions to the Directorate of Immigration, see section 76, third paragraph, of the Act.

The provisions of the Act regarding expulsion are not applicable in respect of foreign nationals who have or have been accorded diplomatic immunity. Decisions to the effect that a diplomatic or consular official is *persona non grata* or that any other members of the diplomatic mission's staff or of the consular staff is not acceptable are made by the Ministry of Foreign Affairs.

## **Section 6 of the Act The territorial extent of the Act**

### *Section 1-10 Mobile installations*

Foreign nationals intending to take employment on a mobile installation used on the Norwegian sector of the continental shelf is exempt from the requirement in the Act concerning a residence permit for the purpose of working and staying on the installation.

Mobile installations that are attached to a fixed installation and mobile installations that have entered a fixed production phase are subject to the provisions concerning fixed installations, see section 1-11.

Before the foreign national enters the realm, the employer shall give notification of the employment relationship using the prescribed form to the police district that is responsible for police matters in the relevant area of the continental shelf or via a Service Centre for Foreign Workers. The Directorate of Immigration, in cooperation with The Norwegian Labor Inspection Authority, the police and the Norwegian Tax Administration, gives further provisions on when such notification can also be given to a Service Centre for Foreign Workers. Before starting work and at the latest within one week after entry, the foreign national must report for registration in the police district.

Foreign nationals as mentioned in the first paragraph may upon application be granted a residence permit to stay on Norwegian land territory for a period of up to six months at a time, but not beyond the duration of the employment relationship. The permit does not confer a right to take other employment and does not form the basis for a permanent residence permit.

### *Section 1-11 Fixed installations*

Foreign nationals intending to take employment on a Norwegian or foreign fixed installation used on the Norwegian sector of the continental shelf or on a fixed installation that is connected to the Norwegian sector of the continental shelf must have a residence permit, see section 55, first paragraph, of the Act.

A residence permit may be granted to skilled workers, see section 6-1, first paragraph, and to specialists, see section 6-2.

The residence permit shall be linked to the work on the installation. The permit does not form the basis for a permanent residence permit, but may be renewed, see sections 60 and 61 of the Act.

The application shall be submitted to the police district that is responsible for police matters in the relevant area of the continental shelf or via a Service Centre for Foreign Workers. A foreign national who is exempt from the residence permit requirement under section 1-1, first paragraph (b), shall give notification under section 1-1, eighth paragraph, to the police district that is responsible for police matters in the relevant area of the continental shelf.

The provisions concerning group permits in sections 6-7 and 6-15 apply correspondingly.

### *Section 1-12 Passport and border control on mobile or fixed installations*

The police have access at all times to installations as mentioned in sections 1-10 and 1-11 in order to carry out passport and border control.

Where consent is given for entry or exit elsewhere than at an authorised border crossing point in connection with work as mentioned in sections 1-10 and 1-11, see section 4-3, first paragraph (a), see Article 4 (2) (c) of the Schengen Borders Code, it shall be made a condition that expenses relating to transport and stay in connection with control as mentioned in the first paragraph are to be covered by the employer.

#### *Section 1-13 Entry and exit between installations or plants on the continental shelf and Norwegian land territory*

The provisions concerning entry and exit in sections 14 to 20 of the Act and chapter 4 of the Regulations also apply to foreign nationals travelling between an installation or a plant on the continental shelf and Norwegian land territory. The provisions of sections 9 to 13 of the Act and chapter 3 of the Regulations apply to foreign nationals who require a visa in connection with travel to Norwegian land territory.

#### *Section 1-14 Application of the Act and Regulations to Jan Mayen*

The provisions of the Act and the Regulations apply to foreign nationals' access to and stay on Jan Mayen as far as they are relevant, subject to the exceptions and clarifications that follow from the Regulations laid down under the Act of 27 February 1930 No. 2 on Jan Mayen.

#### *Section 1-15 Control of travellers coming from or travelling to Svalbard<sup>1</sup>*

#### *Section 1-16 Application of the Act to Norwegian ships in foreign trade which call at Norwegian ports*

The provisions of section 16 of the Act and sections 4-17 to 4-21 and section 4-24 of the Regulations are applicable to Norwegian ships in foreign trade which call at Norwegian ports.

Norwegian fishing vessels that deliver their catch in a Norwegian port are not deemed to be engaged in foreign trade. Moreover, Norwegian ships are not deemed to be engaged in foreign trade when they take goods or passengers on board in a Norwegian port and deliver the goods or disembark passengers in another Norwegian port. However, this does not apply to ships that are covered by the Regulations on an extended trading area for cargo ships registered in the Norwegian International Ship Register (NIS), laid down by Royal Decree of 11 August 1989 No. 802 or to ships covered by section 3, second paragraph, of the Regulations of 30 June 1987 No. 579 on special trading areas for vessels and mobile installations that are engaged in petroleum activities and registered in the Norwegian International Ship Register.

### **Section 7 of the Act Special provisions out of regard for fundamental national interests and foreign policy considerations**

#### *Section 1-17 Special provisions out of regard for fundamental national interests*

A foreign national who is to take up a position that may give him/her knowledge of issues that are significant for the country's defence or civil preparedness or that are otherwise important in terms of security, shall only be granted a residence permit after the security-related circumstances have been further considered. If a residence permit is granted,

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<sup>1</sup> Not yet adopted

limitations or conditions may be imposed for the permit. Section 3-3 of the Regulations of 29 June 2001 No. 722 on personnel safety is applicable.

A residence permit may otherwise be refused or limitations or conditions may be imposed if the stay may give rise to knowledge of circumstances as mentioned in the first paragraph. This applies correspondingly if the stay may entail a security risk for other reasons.

If there is reason to presume that a foreign national who is entitled to a permanent residence permit, see section 62 of the Act, will take employment in an activity as mentioned in the first paragraph, a limitation may be imposed in the permanent residence permit to the effect that he/she may not take up such a position.

#### Section 1-18 *Power of decision*

The Directorate of Immigration makes decisions in cases under section 1-17 after obtaining the opinion of the Norwegian Defence Staff and the Norwegian Police Security Service.

### **Definition of cooperation under the Schengen Agreement, etc., see section 126 of the Act**

#### Section 1-19 *Definition of Schengen cooperation, etc.*

For the purpose of the Act and Regulations,

- a) “internal Schengen borders” means :
  - the Member States’ common land borders, including river and lake borders,
  - Member States’ airports for internal flights,
  - Member States’ sea, river and lake ports for regular ferry connections.
- b) “external Schengen borders” means: the Member States’ land borders, including river and lake borders, sea borders and their airports, river ports, sea ports and lake ports, provided that they are not internal borders.
- c) “Schengen countries”: States that participate in cooperation under the Schengen Agreement. A list of Schengen countries is attached to the Regulations as Appendix 3.

## **Chapter 2 Requirements relating to travel documents for entry to Norway**

### **Section 8 of the Act Travel documents**

#### Section 2-1 *Exemption from the travel document requirement*

The requirement of a travel document under section 8 of the Act does not apply to Nordic nationals who come to the realm from a Nordic country.

#### Section 2-2 *Additional requirements for couriers*

In addition to a travel document as mentioned in section 8, first paragraph, of the Act, couriers shall also have a document showing that they are couriers and the number of parcels comprised in the courier consignment.

#### Section 2-3 *Validity of the travel document for entry into Norway*

A travel document is valid for the period of time it indicates and does not give the holder the right of entry after the document’s expiry date.

#### Section 2-4 *Conditions for accepting a passport as a travel document*

A passport (national passport) shall be issued by the competent authority in the state of which the holder is a national, or by a competent consulate or embassy. The passport shall be

issued to an applicant appearing in person. It shall be valid for entry into Norway and confer entitlement to entry into the state of issue or a third country. The period of validity shall be indicated.

The passport shall contain a photograph of the holder, his/her full name, date of birth, nationality and signature.

The passport shall have text in Danish, English, French, German, Italian, Norwegian, Spanish or Swedish. The contents and appearance of the passport shall not have been changed after it was issued, unless the change has been confirmed by the issuing authority.

The Directorate of Immigration may decide that an exemption shall be granted from the conditions in this provision for accepting a passport as a travel document.

#### *Section 2-5 Conditions for accepting a refugee travel document and immigrant's passport as a travel document*

A refugee travel document issued by a state in conformity with the provisions contained in Article 28 with appendix of the Convention relating to the Status of Refugees of 28 July 1951 may be accepted as a travel document. The travel document must confer the right to return to the state of issue.

Furthermore, another travel document or immigrant's passport which a state has issued to a foreign national or a stateless person may be accepted as a travel document on condition that the document satisfies the other requirements which apply to passports, see section 2-4.

#### *Section 2-6 Family passport*

A joint passport (family passport) may be accepted for spouses or cohabitants and their children under the age of 16. The passport shall meet the conditions of section 2-4 for both spouses or cohabitants. For children who are entered in a family passport, it is sufficient that the full name and date of birth are given.

A family passport may also be used by a spouse or cohabitant travelling alone or together with his/her children.

#### *Section 2-7 Collective passport*

A joint passport (collective passport) may be accepted for foreign nationals who are to travel through the realm together in a party or to stay here for a short time for a common purpose, such as tourist parties, sports clubs, associations, etc. The group may consist of no more than 50 persons.

The collective passport shall be issued by a competent authority in the country of origin of the participating travellers, furnished with its stamp and made valid for entry into Norway. It shall confer the right to return to the issuing state. The period of validity shall be indicated. The passport must only include persons who are nationals of the issuing state. It shall provide information concerning the participants' full names, dates of birth and fixed abodes, the name of the tour leader, and the number and date of issue of the collective passport. The tour leader shall bring along two copies of the passport, of which one shall be given to the passport control authority upon entry and the other upon exit in those cases where exit control takes place.

The tour leader must have a passport (national passport), see section 2-4. The individual participants must have with them personal identity cards bearing a photograph issued by a public authority in the country of origin.

A collective passport for young persons under the age of 21 which is issued in pursuance of the Agreement of 16 December 1961 relating to young persons travelling on a

joint passport between the member countries of the Council of Europe may include refugees and stateless persons under this age limit if

- (a) the issuing state has guaranteed to readmit them even if these persons do not return together with the travel party,
- (b) the names of the refugees and stateless persons listed are kept separate from the names of the issuing state's own nationals with a clear indication of their status, and
- (c) the heading in the collective passport clearly indicates that the travel party does not only comprise the issuing state's own nationals.

#### *Section 2-8 Seaman's identity card*

A seaman's identity card may be valid as a travel document for a seaman coming to the realm

- (a) to take up a post on a ship that is in a port or that is in the process of arriving at a port in the Schengen territory. The seaman must provide proof of employment on the ship and intend to travel directly to the port concerned,
- (b) as a member of the crew of a ship, and who after signing off is to return to his/her country of origin or travel out of the Schengen territory. This is conditional on the seaman being able to show this to be probable by producing a ticket or documentary evidence of sufficient funds,
- (c) as a member of the crew of a ship who during shore leave is in the port in which the ship is lying,
- (d) to work as necessary security and maintenance crew on a laid-up ship, or
- (e) because entry is necessary for other reasons.

A seaman's identity card shall be issued by a competent authority in the state of which the holder is a national, confer the right to return to that state and satisfy the conditions of section 2-4, second and third paragraphs.

A seaman's identity card issued in accordance with the IMO Convention of 9 April 1965 on facilitation of international maritime traffic may also be valid as a passport for a seaman coming to the realm who falls under the first paragraph. The identity card shall satisfy the conditions in the second paragraph. The condition that the text must be in one of the languages indicated does not apply, however, but the passport control authority may require a written translation of the document into Norwegian or into one of the other languages indicated.

A seaman's identity card issued in accordance with ILO Convention No. 108 relating to such documents may also be valid as a passport for a seaman coming to the realm who falls under the first paragraph. The identity card shall satisfy the conditions in the third paragraph. However, information concerning nationality is not necessary if the holder is not a national of the state that has issued the identity card. Even if this is not apparent from the identity card, the issuing state is obliged to readmit the holder for at least one year after the given date of expiry of its validity, see Article 5 of ILO Convention No. 108.

#### *Section 2-9 Travel documents for aircraft crew members*

An aviation personnel licence (airline flight crew licence or crew member certificate) is recognised as a travel document for entry into and necessary stay in the realm for members of the crew of aircraft calling at a Norwegian airport in international commercial traffic, when the aircraft is registered in a state which is a member of the International Civil Aviation Organization (ICAO), or one with which Norway has agreed on such recognition. The same applies to crew members on their way to or from active service.

The licence or certificate must indicate the country which issued it and its number and kind. It shall be furnished with the stamp and signature of the issuing authority and the date of issue.

The licence or certificate shall contain a photograph of the holder and his/her full name, date of birth, nationality and signature.

#### Section 2-10 *Other identity documents that are valid travel documents*

A valid identity document that is issued by an EEA or EFTA country and is mentioned in Appendix 4 to the Regulations is also recognised as a travel document.

It may also be determined that valid identity documents other than those mentioned in this chapter shall be recognised as a travel document for entry into and stay in the realm.

#### Section 2-11 *Power of decision*

The Directorate of Immigration decides which documents are to be recognised as travel documents under the provisions of this chapter, see section 8, second paragraph, of the Act. Moreover, the Directorate of Immigration may in special cases exempt a foreign national from the passport requirement or accept a document other than that prescribed by the general rules, see section 8, third paragraph, of the Act.

Where the Directorate of Immigration has decided that a document is to be recognised as a travel document under this chapter, this is notified to the ministry which notifies the EU Council Secretariat that a change must be made in the table of travel documents entitling the holder to cross the external borders and which may be endorsed with a visa.

## **Chapter 3 Visas**

### **Section 9 of the Act Visa requirement and visa-free entry**

#### Section 3-1 *Exemption from the visa requirement*

The following foreign nationals are exempt from the visa requirement:

- (a) Nordic nationals, see section 5, second paragraph, of the Act,
- (b) foreign nationals who are nationals of a country that is a contracting party to the EEA Agreement or the EFTA Convention,
- (c) family members of foreign nationals who are nationals of a country that is a contracting party to the EEA Agreement or to the EFTA Convention, when the person concerned holds a residence card in another EEA country in accordance with Article 10 and Article 20 of Directive 2004/38/EC,
- (d) foreign nationals who hold a residence permit issued by a Schengen country, and who hold a valid travel document, see section 9, second paragraph, of the Act and Article 21 of the Schengen Convention. In this context, residence permit means any kind of permit that confers the right to stay in, and return to, the territory of the issuing country. Foreign nationals who hold a temporary residence permit issued by a Schengen country with a view to the processing of an application for asylum or residence must, in addition, hold a travel document issued by the country that has issued the residence permit,
- (e) foreign nationals with a valid passport (national passport) from the states with which Norway has entered into a visa waiver agreement at any given time, see Appendix 5 to the Regulations,
- (f) foreign nationals who are nationals of a country that is exempt from the visa requirement in accordance with Council Regulation (EC) No. 539/2001 and Annexes and current Amendment Regulations,

- (g) the holder of a refugee travel document issued in accordance with the Agreement of 15 October 1946 or the Convention relating to the Status of Refugees of 28 July 1951 by a state which has acceded to the European Agreement on the Abolition of Visas for Refugees of 20 April 1959 when it is apparent from the travel document that the holder has a valid residence permit in or a valid right to return to, the state that issued it. A list of the states that have acceded to the Agreement of 20 April 1959 is attached to these Regulations as Appendix 6,
- (h) the holder of a refugee travel document issued as mentioned under (g) by a state that has acceded to the Agreement relating to Refugee Seamen of 23 November 1957. It is a prerequisite that it is apparent that the holder has a valid right to return to the issuing state. The holder must substantiate that he or she is to take up a post on a ship in a Norwegian port or a port in a state that has acceded to the Agreement relating to Refugee Seamen and to which the holder may travel either directly or through any of the other contracting states. A list of the states that have acceded to the Agreement is attached to these Regulations as Appendix 7,
- (i) the holder of a valid aviation personnel licence as mentioned in section 2-9 used for such purpose as is mentioned there,
- (j) the holder of a seaman's identity card issued in accordance with ILO Convention 108, see section 2-8, fourth paragraph, of the Regulations. A list of the states that have acceded to the Convention is attached to these Regulations as Appendix 8,
- (k) the holder of a Philippine "Seafarer's Identification and Record Book" or a Philippine national passport, see the shipping agreement of 22 October 1999 between the Philippines and Norway. The holder must produce written confirmation from the shipowner or the shipowner's representative that the holder is to take up a post on a ship in a Norwegian port,
- (l) persons recognised as refugees and stateless and other persons with no nationality who are resident in an EU country and who hold a travel document issued by that country,
- (m) school pupils who require a visa and who are resident in an EU country that has implemented Council Decision 94/795/JHA, when they are on a school excursion accompanied by a teacher from the school in question.

*Section 3-2 National visa (type D visa) issued by a Schengen country for a duration exceeding three months*

A visa issued by another Schengen country for a stay exceeding 90 days is valid for entry to and stay in Norway when this is apparent in the permit, for a period of up to 90 days from the first day of the indicated time period, see Article 18 of the Schengen Convention and Council Regulation (EC) No. 265/2010 25<sup>th</sup> March 2010.

*Section 3-3 Total period of stay in the Schengen territory for foreign nationals who do and do not require a visa*

The total period of stay in the Schengen territory for foreign nationals who do and do not require a visa, see section 9, fourth paragraph, of the Act, may not exceed 90 days in the course of a period of 180 days, calculated from the date of their first crossing of an external Schengen border. If the foreign national holds a residence permit in another Schengen country, the period of stay begins on the date of the first crossing of an internal Schengen border. The stay in the Schengen country in which the foreign national holds, or has held, a residence permit is not to be included when calculating the period of stay.

If the foreign national has a residence permit in another Nordic country and is a national of a country with which Norway has a visa waiver agreement, see Appendix 5 to the Regulations, the period of stay begins on the date a Norwegian border was crossed. In such

case, only stays in the realm in the last six months are to be included when calculating the period of stay, see Article 5, second and fourth paragraphs, of the Agreement of 12 July 1957 concerning the waiver of passport control at the intra-Nordic frontiers.

For foreign nationals who require a visa, the permitted period of stay will be apparent from the visa that is granted.

## **Section 10 of the Act Schengen visas**

Section 3-4 [New. Contains reference to Schengen Visa Code]

### *Section 3-4a Conditions for a Schengen visa*

No visa under section 10, first paragraph, of the Act shall be granted if, based on the purpose of the stay, a residence permit is required. No visa shall be granted where there are circumstances that would have given grounds for refusing the foreign national access to the realm or a stay under section 17 (rejection) or section 66 (expulsion) of the Act, see Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the provisions governing the movement of persons across borders (Schengen Borders Code) and Annexes 1 to 8 and appurtenant amendment regulations:

- a) Regulation (EC) No 296/2008 of the European Parliament and of the Council of 11 March 2008,
- b) Regulation (EC) No 81/2009 of the European Parliament and of the Council of 14 January 2009.

The Regulations have been attached to the Regulations as Appendices 9 - 11.

As a general rule, the applicant shall present documentary evidence of travel or sickness insurance that covers any expenses that may be incurred in connection with being sent home for medical reasons, necessary medical treatment and emergency hospital care. The insurance shall apply to all the Schengen countries and provide a minimum cover of EUR 30,000. An exemption may be granted from the requirement of insurance if it may be assumed that there is sufficient insurance due to the applicant's occupational situation or if it can be established that it is impossible to take out such insurance. The Directorate of Immigration may establish further guidelines. If an exemption has been granted from the insurance requirement, this shall be shown in the visa.

The travel document must be valid for at least three months beyond the period of time for which the foreign national is granted a visitor's visa. A foreign national who has a permit to stay in a country other than his/her country of origin must have the right to return to the country of stay. The right of return must be valid for at least three months beyond the period of time for which the foreign national is granted a visitor's visa. The Directorate of Immigration may, in individual cases, grant exemption from the provisions of this paragraph.

### *Section 3-5 The requirement of sufficient financial means to cover subsistence and return and transit*

In the assessment of whether the requirement of sufficient financial means to cover subsistence and return under section 10, first paragraph (b) of the Act is satisfied, importance may be attached to a guarantee provided by a person resident in Norway. A claim under the guarantee is enforceable by execution, see section 91, second paragraph, of the Act. The Directorate of Immigration may establish further guidelines, including to the effect that the guarantee shall cover the costs of security, etc. in connection with removal of a person from the realm and regarding reference amounts for sufficient means, see Article 5 (3) of the Schengen Borders Code.

### Section 3-6 *Bank guarantee as a condition for a visa*

The issue of a visa may be made conditional on the sponsor providing financial security in the form of a bank guarantee in the amount of NOK 50,000. Such a guarantee shall only be required in cases where there is otherwise reason to doubt whether the applicant will return upon expiry of the visa period. The purpose of the requirement of a bank guarantee shall be to increase the likelihood that the applicant will leave the Schengen territory upon expiry of the visa period, and to prevent misuse of the visa.

A bank guarantee may only be required when the purpose of the stay is a visit for personal reasons. However, no bank guarantee shall be required if the applicant is to visit his/her closest family members in Norway. "Closest family members" means spouse, parents and children, including children aged 18 and over.

The Directorate of Immigration may establish further guidelines for when a bank guarantee may be required, and how such security shall be provided.

### Section 3-7 *Due date of a bank guarantee under section 3-6*

Where a bank guarantee has been provided under section 3-6 of the Regulations, the amount falls due for payment if the foreign national after entry

- a) stays in Norway or another Schengen country without the necessary permit for longer than the period of time indicated in the issued visa,
- b) is expelled under the provisions of chapter 8 of the Act,
- c) seeks protection under section 28 of the Act or applies for a residence permit in the realm on other grounds without having the right to submit such an application under section 10-1 of the Regulations, or
- d) seeks protection in another Schengen country.

If payment falls due under the first paragraph (a) and the duration of the stay has not been more than one month longer than the period of time indicated in the issued visa, half of the amount falls due for payment. The remainder of the amount is released. If the duration of the stay has been more than one month longer than the indicated period, the entire amount falls due for payment. The amount does not fall due for payment if the foreign national substantiates that the overrun of the visa period is due to circumstances for which the person concerned cannot be blamed.

The Directorate of Immigration may waive the requirement if there are strong grounds of reasonableness for doing so.

The Directorate of Immigration may establish further guidelines, including guidelines for requirements of documentation that the foreign national has left Norway and the Schengen area in accordance with the visa conditions. The Directorate of Immigration may require that an obligation to report to a foreign service mission or another suitable place be imposed on the person concerned.

### Section 3-8 *Foreign nationals who require a visa and who are covered by the EEA Agreement or the EFTA Convention*

As a general rule, foreign nationals who require a visa and who are covered by the EEA Agreement or the EFTA Convention shall be granted a Schengen visa.

### Section 3-9 *Duration and content of the Schengen visa*

The Schengen visa is granted for stays of a specified duration not exceeding 90 days in the course of a period of 180 days, calculated from the date of first entry. The maximum duration is otherwise calculated under the provisions of section 9, fourth paragraph, of the Act, see section 55 of the Act and section 3-3 of the Regulations.

A period of validity is fixed in the Schengen visa according to the purpose of the visit. The first day of the period of validity shall not be fixed at more than six months from the date the decision is made, unless there are special reasons for doing otherwise. As a general rule, a visa shall not be issued more than three months prior to the first date of the period of validity.

A Schengen visa is usually granted for one entry. If there is a particular need, a Schengen visa may be granted for a specified or unspecified number of entries within a 12-month period. According to further guidelines laid down by the Ministry, a visa for particular categories of persons may be granted for a specified or unspecified number of entries within a period of up to five years.

The Schengen visa gives the holder the right to enter and stay for the indicated period of time in a Schengen country that recognises the travel document and that has not raised any objections to its issue, see section 3-17, second paragraph, provided the other conditions are met, see Article 5 of the Schengen Borders Code. A condition is that the provisions regarding expulsion under section 17 of the Act do not apply.

Section 3-10 [Cancelled]

#### Section 3-11 *Airport transit visa*

Nationals of states mentioned in Appendix 12 of the Regulations and holders of a travel document issued by such states, who are passing through a Norwegian airport's international transit area in connection with an intermediate landing or change of aircraft between two countries outside the Schengen territory, shall have an airport transit visa. The visa gives the holder the right to stay in such an area in connection with an intermediate landing or change of aircraft between two legs of a flight between two countries outside the Schengen territory.

Foreign nationals who hold a valid residence permit as mentioned in Appendix 13 to the Regulations are exempt from the requirement of an airport transit visa. The same applies to holders of diplomatic or service passports and foreigners covered by Schengen Visa Code Article 3 nr. 5.

An airport transit visa may be granted when the applicant has

- (a) a valid passport or other identity document that is recognised as a travel document, see section 8 of the Act,
- (b) the right to return to the country in which the applicant is staying or to another country, and
- (c) a valid ticket to another place outside the Schengen territory which is his/her main destination.

An airport transit visa may be refused when foreign policy considerations or fundamental national interests argue against granting such a visa, or when there are circumstances that would have given grounds to refuse the foreign national the right to enter or stay in the realm in pursuance of section 17 of the Act (rejection) or section 66 (expulsion), see Article 5 of the Schengen Borders Code.

#### **Section 11 of the Act Visa on humanitarian grounds, etc.**

##### Section 3-12 *Visa on humanitarian grounds (national visa)*

A visa granted under section 11 of the Act (national visa) is only valid for entry to and stay in Norway, and does not give the holder the right to transit through the Schengen territory. Where a national visa is issued, the other Schengen countries shall be notified, see section 17-31.

The provisions of section 3-9 regarding the duration and content of the visa are applicable, except for section 3-9, third paragraph, third sentence (multiple-entry visa) and fourth paragraph, first sentence (right to entry to and stay in other Schengen countries).

The Directorate of Immigration may establish further guidelines regarding conditions for issuing a visa in accordance with section 11 of the Act.

## **Section 12 of the Act Entry visa**

### *Section 3-13 Entry visa*

Where a foreign national requiring a visa is granted a residence permit, a foreign service mission with authority to issue visas, or the Governor of Svalbard, shall issue an entry visa that confers a right to stay for seven days, see section 12 of the Act.

Where a provisional confirmation, see section 10-4, has been issued to the effect that a foreign national who is a skilled worker, see section 6-1, first paragraph, a specialist, see section 6-2, or who is employed in an international company, see section 1-3 (d), is to be allowed to start work in Norway before the application for a residence permit has been processed, the foreign service mission shall issue a visa as mentioned in the first paragraph. The same applies to seamen who apply for a permit under section 6-6. Where a group permit is granted under sections 6-7 or 6-15, the foreign nationals covered by the permit shall be granted an entry visa as mentioned in the first paragraph.

In accordance with further guidelines established by the Directorate of Immigration, an entry visa may be granted to a foreign national who is qualified as a skilled worker, see section 6-1, first paragraph, and who has received a specific offer of employment from an employer in Norway.

In accordance with further guidelines established by the Directorate of Immigration, an entry visa may be granted to an applicant as mentioned in section 10-1, first and second paragraphs, even if a residence permit is required.

A foreign national who has a residence permit in Norway that confers the right of re-entry may, in special cases where there is a documented need, be granted an entry visa as mentioned in the first paragraph.

A foreign national who applies for the renewal of a renewable residence permit within the time limit laid down in section 61, sixth paragraph, second sentence, of the Act, or who applies for a permanent residence permit within the time limit laid down in section 11-7 of the Regulations, may be granted an entry visa while the application is being processed.

The provisions of section 3-9, second paragraph, regarding time limits for entry apply correspondingly.

The Directorate of Immigration may establish further guidelines.

## **Section 13 of the Act Power of decision and issue of visas**

### *Section 3-14 Power of decision*

Unless otherwise provided, applications for visas are decided by the Directorate of Immigration, see section 13, first paragraph, of the Act. With the approval of the Ministry of Foreign Affairs, the Directorate of Immigration may decide that a Norwegian foreign service mission shall be empowered to decide visa applications under sections 10 and 12 of the Act, generally or in specific cases. The Directorate of Immigration may, with the approval of the Ministry of Justice, decide that the Governor of Svalbard shall be empowered to decide visa applications under sections 10 or 12 of the Act, generally or in specific cases. The Directorate of Immigration may, with the approval of the Ministry of Justice, decide that the police shall

be empowered to decide visa applications at the border under section 3-18 of the Regulations, generally or in specific cases.

Where, under section 13, first paragraph, of the Act, an agreement is entered into with another Schengen country regarding representation in visa matters, the Directorate of Immigration may, with the approval of the Ministry of Foreign Affairs, decide that a foreign service belonging to another Schengen country shall be empowered to grant visa applications under section 10 of the Act.

A list of Norwegian missions that have power of decision is attached as Appendix 14 to the Regulations. A list of the foreign service missions of other Schengen countries which have granting authority, is attached as Appendix 15 to the Regulations.

Visa applications shall, as a general rule, be submitted to the Directorate of Immigration for decision when the foreign national is a refugee or stateless, or when there is doubt regarding his/her nationality. Where there is doubt as to whether to grant a visa, the application shall always be submitted to the Directorate of Immigration for decision. A visa application from a foreign national who has been expelled from Norway or another Nordic country, or who has been registered in the Schengen Information System (SIS) for the purpose of refusing him/her entry, may only be granted by the Directorate of Immigration. The Directorate of Immigration may establish further guidelines.

Applications for a visa extension under section 3-19, first paragraph, of the Regulations and applications for a re-entry visa under section 3-19, second paragraph, of the Regulations are decided by the police, except for applications relating to visas issued under section 11 of the Act. The Directorate of Immigration may give the police authority to reject applications relating to a visa granted under section 11 of the Act.

In cases where a Norwegian or another country's foreign service mission, the police or the Governor of Svalbard have been empowered to make decisions, the Directorate of Immigration may issue instructions in individual cases and general guidelines. This does not apply where power of decision rests with the Ministry of Foreign Affairs, see section 1-8, second paragraph.

### Section 3-15 *Issue of visas*

Visas are issued by a Norwegian foreign service mission that has been given issuing authority by the Ministry of Foreign Affairs and by the Governor of Svalbard, see section 13, third paragraph, of the Act. With the approval of the Directorate of Immigration, the Ministry of Foreign Affairs may decide that the foreign service missions of other countries shall also issue visas on behalf of the Norwegian authorities. Emergency visas under section 3-18 and extended visas or re-entry visas under section 3-19 are issued by the police.

A list of Norwegian missions that have issuing authority is attached as Appendix 14 to the Regulations. A list of the foreign service missions of other Schengen countries which have issuing authority is attached as Appendix 15 to the Regulations.

Visas are granted in the form of a sticker affixed to a passport or other identity document that is recognised as a travel document. If Norwegian authorities do not recognise the travel document, the visa may be issued on a loose sheet that satisfies the requirements for such documents in Council Regulation (EC) No. 333/2002. The Directorate of Immigration decides whether such a document is to be granted. If one or more Schengen countries do not recognise the travel document or object to it being issued, see section 3-9, fourth paragraph, and section 3-17, second paragraph, it shall be stated in the visa that it is not valid for these countries.

For foreign nationals with a family passport or collective passport, see sections 2-6 and 2-7, one visa is issued for each person.

### Section 3-16 *Visa application procedure*

Visa applications are to be submitted on the prescribed Schengen form or by means of an electronic visa application. In the course of the application process, a photograph of the applicant and the applicant's signature shall be obtained. Where Norway is the main destination in the Schengen territory, the visa application is to be addressed to a Norwegian foreign service mission or to the Governor of Svalbard. The application may also be addressed to another country's foreign service mission which has been given granting authority under section 3-14, second paragraph. The same applies when Norway is the country of first entry into the Schengen territory and it cannot be determined which of the Schengen countries is the main destination.

The Directorate of Immigration may establish further guidelines for the visa application procedure, and may in individual cases and for groups of applicants consent to the application being submitted in a manner other than that mentioned in the first paragraph.

### Section 3-17 *Processing of visa applications*

As a basic principle, an applicant shall be required to appear in person in connection with the processing of the application.

Applications for a Schengen visa shall be submitted to other Schengen countries for comment when this is prescribed by the Schengen regulations, see Article 17-2 of the Schengen Convention.

Where an application is submitted to a foreign service mission in a country other than that of which the applicant is a national, the foreign service mission shall obtain information regarding the applicant's basis for stay in the country in question.

The applicant must document his or her identity by producing a valid travel document to which a visa sticker may be affixed, and shall be required to document other information provided when this is considered necessary. The way in which the applicant's identity was confirmed shall be recorded.

The applicant shall be informed that overstaying the validity period of the visa may result in expulsion under section 66 of the Act, and that expulsion precludes subsequent entry. The same applies to a foreign national who is a member of the family of an EEA or EFTA national and who may be expelled in pursuance of section 122 of the Act, see section 19-5 of the Regulations.

A decision to grant a visa may contain conditions to the effect that the applicant must produce confirmation that the sponsor has provided a bank guarantee in accordance with section 3-6 before the visa is issued.

The Directorate of Immigration may establish further guidelines regarding the processing of visa applications.

### Section 3-18 *Visa issued at the border (emergency visa)*

If unforeseen and compelling grounds justify doing so, a foreign national requiring a visa who presents himself/herself to the passport control authority without a valid visa, may be granted a Schengen visa at the border if the conditions for issuing such a visa under section 10 of the Act are met.

Even if the conditions for issuing a visa under section 10 of the Act are not met, a visa may be issued at the border when particular grounds of reasonableness justify doing so, and the conditions for issuing a national visa under section 11 of the Act, or an entry visa under section 12 of the Act, see section 3-13, first paragraph (entry visa for a foreign national who has been granted a residence permit) are met.

Members of the crew of a ship who require visas and who are signing off a Norwegian or foreign ship while it is lying in a Norwegian port, see section 4-17, may be granted a visa at the border.

A foreign national who is at the Norwegian border and who is seeking protection (asylum) under the provisions of chapter 4 of the Act, or who otherwise provide information that suggests that the protection against refoulement under section 73 may be applicable, nonetheless has the right to enter without a visa, see section 9, first paragraph, of the Act.

The Directorate of Immigration may establish further guidelines regarding the issue of a visa at the border, including provisions regarding the duration of such a visa.

#### Section 3-19 *Extension of visa and re-entry*

During a foreign national's stay in the realm, a visa may be extended to a total of 90 days when unforeseen circumstances, humanitarian considerations or weighty business or personal reasons justify doing so. As a general rule, such extension of a visa may only take place on the basis of information that was not available at the time the visa was issued. A condition is that the conditions for granting and issuing the visa are still met.

On the same conditions as under the first paragraph, a foreign national who is in Norway on a visa, and who is to leave the Schengen territory or Norway, may be granted a visa for re-entry within the period of validity of the original visa.

The Directorate of Immigration may establish further guidelines regarding the practical implementation of the first and second paragraphs.

#### Section 3-20 *Visa for foreign nationals on a pleasure yacht*

A foreign national who requires a visa and who intends to sail in Norwegian territorial waters on a pleasure yacht must in advance obtain a visa under section 10 of the Act and a special sailing permit that is issued to each individual participant. Such permits are normally only granted in the period from 1 May to 15 September, and only once in the course of the period. At the latest two months prior to the scheduled departure from the country of origin, a visa application for each participant must have been submitted to a Norwegian foreign service mission. The visa application shall be accompanied by a separate list of all the participants and information regarding the vessel and its voyage in accordance with the prescribed form.

All the participants must have a valid travel document.

The permit shall state the period of time during which sailing is permitted, the name of the vessel, the port of call for passport and customs control and the sailing route with an indication of the ports at which the vessel is permitted to call. It is not permitted to call at ports other than those indicated in the sailing permit, unless an emergency situation arises.

Visas and sailing permits are granted by the Directorate of Immigration.

## **Chapter 4 Control of entry and exit, etc.**

### **Section 14 of the Act Border crossing and border control**

#### Section 4-1 *The Schengen Borders Code (Regulation (EC) of the European Parliament and of the Council No 562/2006 of 15 March 2006)*

Entry and exit control shall be carried out in accordance with the Regulation (EC) of the European Parliament and of the Council No 562/2006 of 15 March 2006 establishing a Community Code on the provisions governing the movement of persons across borders (Schengen Borders Code) with Annexes I to VIII and associated amendment regulations:  
(a) Regulation (EC) of the European Parliament and of the Council No 296/2008 of 11 March 2008,

(b) Regulation (EC) of the European Parliament and of the Council No 81/2009 of 14 January 2009.

The Regulations are included as Appendix 9 to 11 to these Regulations.

#### Section 4-2 *Border crossing*

The Ministry of Justice determines which border crossing points are approved, see section 14 of the Act and Article 4 (1) of the Schengen Borders Code. A list of border crossing points is attached as Appendix 16 to the Regulations.

#### Section 4-3 *Exemption from the requirement that external borders may only be crossed at authorised border crossing points*

An exemption may be made from the requirement that external borders may only be crossed at authorised border crossing points and within fixed opening hours

- (a) in cases as mentioned in Article 4 (2) of the Schengen Borders Code,
- (b) for officers or crew of aircraft in international traffic, when permission has been obtained in advance from the Civil Aviation Authority to land at a place other than an authorised border crossing point, see section 4-4 of the Regulations, and
- (c) for officers or crew who come to or leave the realm on a vessel with the right to engage in commercial fishing and hunting under section 4 of the Act of 26 March 1999 No. 15 relating to the right to participate in fishing and hunting (the Fishing and Hunting Participation Act), provided that there is no conflict with the interests of public order and the internal security of a Schengen country, see Article 4 (2) (c) of the Schengen Borders Code.

Consent for entry or exit at a place other than an authorised border crossing point in accordance with the first paragraph is given by the chief of police or the person authorised by the chief of police. The Directorate of Police may establish further guidelines.

#### Section 4-4 *Permission to land at a place other than an authorised border crossing point*

The pilot of an aircraft in international traffic shall, not later than 48 hours prior to departure, obtain permission from the Civil Aviation Authority to land at a place other than an authorised border crossing point. Consent for such landing shall be given by the chief of police or the person authorised by the chief of police before permission is granted.

#### Section 4-5 *Permission to continue a flight*

If an aircraft has landed at a non-authorised border crossing point without permission under section 4-4, the aircraft may continue its flight only after obtaining permission from the chief of police or the person authorised by the chief of police.

#### Section 4-6 *Temporary reintroduction of border control on internal borders*

A decision to reintroduce border control temporarily on internal Schengen borders under section 14 of the Act is made in accordance with the provisions of Article 23 to 31 of the Schengen Borders Code.

Such decision to reintroduce border control temporarily on internal Schengen borders is made by the Ministry of Justice. If special grounds warrant doing so, the decision shall be made in consultation with the ministry which has the main responsibility for immigration administration. The Ministry of Justice may give the National Police Directorate authority to make decisions regarding the temporary reintroduction of border control on internal borders. Where there are special grounds for doing so, the chief of police may make a decision to introduce such control in his/her own police district in accordance with further guidelines laid down by the Ministry of Justice.

*Section 4-7 Border crossing when border control on internal borders has been temporarily re-introduced*

In the event of temporary re-introduction of border control under section 14 of the Act, see section 4-6 of the Regulations and Article 23 et seq. of the Schengen Borders Code, Swedish and Norwegian nationals resident in border zones between Sweden and Norway, according to an exchange of notes between Sweden and Norway on 30 August 1917, and Finnish and Norwegian nationals covered by the Agreement on Certain Norwegian/Finnish Border Issues on 4 January 1983 No. 1 may, however, cross over at a place other than an authorised border crossing point.

*Section 4-8 Obligation to report when crossing a border*

Anyone who has an obligation to report to the border control authorities or the closest police authority in accordance with section 14, second paragraph, of the Act has an obligation to provide proof of his/her identity and such information as is necessary to enable the border control authorities to carry out control under section 4-12 of the Regulations.

*Section 4-9 Obligation to report for the master of a pleasure craft carrying a foreign national who requires a visa*

Where a pleasure craft carrying a foreign national who requires a visa arrives in Norwegian territorial waters, the master shall without delay proceed to the port stated in the sailing permit, see section 3-20, and immediately report to the police. The master shall also report to the police in each of the permitted ports of call and has an obligation to provide information regarding his departure time, sailing plan and next port of call.

*Section 4-10 Exemption from the obligation to report in section 14, second paragraph, of the Act for crew members on board a ship or an aircraft who are not signing off*

The obligation to report under section 14, second paragraph, of the Act does not apply to crew members on board a ship or an aircraft who are not signing off, see section 4-19.

## **Section 15 of the Act Implementation of border control**

*Section 4-11 Control points*

Entry and exit control shall be carried out at border crossing points on external Schengen borders.

In individual cases or for a specific period of time, entry and exit control may be carried out at other places along an external Schengen border, on the coast or from a surveillance ship in Norwegian territorial waters and the contiguous zone, see section 4 of the Act of 27 June 2003 No. 57 relating to Norway's territorial waters and contiguous zone.

The Directorate of Immigration makes decisions regarding control under the second paragraph. The Chief of Police makes decisions regarding such control in his/her own police district.

*Section 4-12 Implementation of border checks*

On entry and exit, all persons shall undergo a minimum check to establish their identity on the basis of the production of travel documents, in accordance with Article 7 (2) of the Schengen Borders Code.

Anyone who is not covered by the EEA Agreement or the EFTA Convention shall, on entry and exit, be subject to a thorough check in accordance with Article 7 (3) of the Schengen Borders Code and Regulation (EC) No 81/2009 of the European Parliament and of

the Council of 14 January 2009.

#### *Section 4-13 Control of passports and other travel documents before entry*

In order to prevent any passport or other travel document from going astray, the chief of police may decide to carry out a check and require the presentation of a passport or other travel document by a foreign national before entry into the realm, see section 15, fifth paragraph (b), of the Act. The police may also make copies of such documents.

To the extent that a foreign state consents, such checks and requirement of presentation of documents, as well as copying, may also take place on foreign territory. Decisions to this effect are made by the Ministry of Justice.

#### *Section 4-14 Checking of passengers on tourist ships*

On tourist ships (cruise ships) arriving from a port outside the Schengen territory, upon calling at a Norwegian port, a check of passengers shall be carried out which may be limited to checking the passenger list without passengers' appearance in person, see Article 18 of the Schengen Borders Code and Annex VI, point 3.2. Passengers who go ashore shall be checked on entry in the usual manner, see section 15 of the Act and section 4-12 of the Regulations. Checks of passengers who go ashore may nevertheless be omitted if an assessment of risks indicates that such checks are not necessary.

Where a cruise ship sails from a Norwegian port to a port outside the Schengen territory, the exit check shall ordinarily be limited to the passport control authority requiring a copy of the passenger list which shall show which passengers have left the ship, and a statement from the ship's master or any authorised person to the effect that the other passengers are on board the ship departing the realm.

The Directorate of Police may establish further guidelines; these may include a requirement to present passengers' passports or travel documents along with passenger lists when the check is limited under the first paragraph, first sentence.

#### *Section 4-15 Checking of travel documents by transport companies*

The master of a ship or commander of an aircraft, or a carrier engaged in commercial passenger transport by land, has an obligation to check that travellers have a valid travel document and that foreign nationals who require a visa have a valid visa.

At the time of embarkation, a check shall be made to make sure that the travellers have a passport or other identity document that is recognised as a travel document and valid for entry to Norway, and that foreign nationals who require a visa have a valid visa.

Responsibility under this provision does not apply to crossing of an internal Schengen border, provided that border control was not temporarily re-introduced under section 14, first paragraph, of the Act, see section 4-6 of the Regulations.

#### *Section 4-16 Disembarking or delivery of any person who has committed an offence, etc. on board an aircraft*

Even if there are grounds for rejection, the border control authority shall always grant a request from the commander of an aircraft for the disembarking or delivery of a person under Article 8 (1), see Articles 12 or 9 (1), see Article 13 (1), of the Tokyo Convention of 14 September 1963 relating to offences and certain other acts committed on board aircraft.

### **Section 16 of the Act Permission to sign off a ship. Shore leave. Stowaways**

#### *Section 4-17 Check of a seaman who is signing off a ship in a Norwegian port*

If a foreign national wishes to sign off a Norwegian or foreign ship while it is in a

Norwegian port, the master of the ship shall notify the police, who decide whether permission shall be granted to go ashore, see section 16, first paragraph, of the Act.

The foreign national may be refused permission to go ashore if there are grounds for rejection under section 17 of the Act. A rejection decision entailing refusal of permission to go ashore is made by the chief of police or the person authorised by the chief of police, see section 18 of the Act.

Permission to go ashore may only be granted where the foreign national is in possession of a valid passport, sea service book or other identity document recognised as a travel document. Foreign nationals who require a visa must have a visa or special consent from the Directorate of Immigration. A condition is that there are no grounds for rejection, see section 17 of the Act.

A foreign national who is to travel to a destination outside the realm must in addition present a visa or special permit to travel through those countries which are to be crossed in order to reach his/her destination, and if necessary permission to enter the country where the destination is located.

Even if the conditions set out in the third and fourth paragraphs are not met, the police may grant permission to go ashore to any seaman holding a seaman's identity card, see section 2-8,

- (a) who is to sign on a ship that is already lying in a port or that is in the process of arriving at a port in the Schengen territory,
- (b) who is to return to his/her country of origin or travel on to a country outside the Schengen territory, or
- (c) when entry is necessary for other reasons.

When a foreign seaman with an identity card issued in accordance with ILO Convention No 108, see section 2-8, fourth paragraph, goes ashore, the person concerned shall be subject to an entry check in accordance with section 15 of the Act. Such foreign nationals do not require a visa, see section 3-1, first paragraph (j).

Where a seaman has been granted permission to sign off a ship, a notation of this shall be made in his/her passport or other identity document or, if relevant, be shown in a separate document.

The master of the ship (captain) has an obligation to take on board again any member of the crew who has been refused permission to go ashore, or by other means take the person concerned out of the realm as further directed by the police.

#### Section 4-18 *Guarantee for expenses in connection with a foreign seaman going ashore*

Where it is deemed necessary, the police shall require a guarantee from the ship's owner, charterer, master or agent for the expenses for which the latter is liable under section 17-16, see section 91, of the Act, when a foreign seaman goes ashore without permission from the police. It may also be required that a guarantee be provided as a condition for granting such permission.

It shall not be required that a guarantee be provided for a Nordic national unless there are special reasons for doing so.

The Directorate of Immigration may waive the requirement of a guarantee and omit to bring liability to bear where this is found reasonable in the individual case.

#### Section 4-19 *Check of foreign seamen wishing to exercise their right to shore leave*

Foreign seamen who are in possession of a seafarer's identity card issued in accordance with ILO Convention No. 185 of 2003 shall not be subject to entry or exit checks under section 15 of the Act unless otherwise prescribed by the second paragraph. The person concerned may, without the permission of the police, undertake visits during shore leave and

stay in the port where the ship is lying for the time during which it is lying there, but not for more than three months. The chief of police decides the geographical delimitation of the area in which such right to shore leave may be exercised.

Entry and exit checks shall be carried out in the usual manner in pursuance of section 15 of the Act when

- a) a foreign national wishes to travel to another place in the realm or to another Schengen country during the ship's stay in the realm,
- b) the ship's total time in a Norwegian and any other port in the Schengen territory exceeds three months,
- c) a foreign national is to sign off, see section 4-17, or
- d) an assessment of risks related to internal security and illegal immigration indicates that it is necessary, see Annex VII (3) of the Schengen Borders Code.

For such cases as are mentioned in the second paragraph (b), a residence permit is required in order to go ashore and stay in the Norwegian port or ports at which the ship calls, see section 55 of the Act.

Where the master of the ship has an obligation to report under section 4-24, it is a condition for shore leave or exemption from entry and exit checks under this provision that the name of the foreign national is on the list of crew members and that the list is checked.

The police may refuse a foreign crew member shore leave when this is found to be necessary for reasons of order and security or other particular reasons.

The police may carry out checks of foreign crew members' identity documents as required or as spot checks. The chief of police or the person authorised by the chief of police may, in individual cases, decide that entry checks of foreign crew members are to be carried out at an earlier time than stated in the first and second paragraphs.

#### Section 4-20 *Stowaways*

The provisions of sections 4-17 and 4-18 apply correspondingly to foreign stowaways on Norwegian or foreign ships who wish to go ashore in a Norwegian port.

On the basis of humanitarian grounds, national considerations or consideration for international obligations, permission to go ashore may be granted even if the conditions of section 4-17, third paragraph, are not met. The police shall refer the question of whether such permission shall be granted to the Directorate of Immigration for decision.

#### 4-21 *Application for asylum by a foreign stowaway or seaman*

If a foreign stowaway or seaman claims to be a refugee or otherwise provides information that indicates that the protection provisions in section 73 of the Act are applicable, the case shall be submitted to the Directorate of Immigration for consideration and decision. Such foreign nationals shall normally be granted permission to go ashore, but subject to the conditions imposed in a decision by the Directorate of Immigration.

### **Section 19 of the Act Foreign nationals' obligation to notify the authorities**

#### Section 4-22 *Reporting to the authorities after entry, etc.*

A foreign national who has been granted a residence permit before entry shall not later than one week after entry report in person to the local police, see section 19 of the Act, first paragraph. The same applies to a foreign national who has submitted an application from abroad, but who enters the realm before processing of the application has been completed.

Employees who are covered by a group permit, see sections 6-7 and 6-15, shall also report to the police as mentioned in the first paragraph. After arrival, the employee will be granted an individual permit to work in the group, see section 6-7, fifth paragraph, and section

6-15, sixth paragraph, unless there are circumstances that give reason for refusing the employee access to or a stay in the realm in pursuance of other provisions of the Act, see section 59 of the Act.

Where a foreign national submits an application for a residence permit or protection in the realm, the foreign national shall appear in person at the police station, see section 10-2 of the Regulations and section 93, first paragraph, of the Act.

Provisions regarding the obligation to report for foreign nationals who are exempt from the requirement of a residence permit under chapter 1 of the Regulations are laid down in section 1-1, eighth paragraph, and section 1-2, second paragraph.

When the foreign national is to stay in the realm for more than three months, the police shall make him or her aware of the obligation to undergo tuberculin testing under the Act of 5 August 1994 No. 55 relating to Control of Communicable Diseases (Communicable Diseases Act). The police shall notify the relevant health authority of the name and address of foreign nationals who are to stay in the realm for more than three months.

#### *Section 4-23 Reporting to the authorities in the event of a change of abode*

A foreign national who has an obligation to report a change of abode to the police under section 19, second paragraph, of the Act shall notify the police in writing in the former or the new district in which he/she is residing at the latest within one week after moving.

A foreign national who has a permanent residence permit shall notify the police in writing when moving out of or into the realm at the latest within one week after moving.

### **Section 20 of the Act Obligation in other cases to notify the authorities**

#### *Section 4-24 Obligation of the commander of an aircraft or master of a ship to give advance notification*

On request, the commander of an aircraft which is coming from or going abroad shall give the police a list of the passengers and crew, after the check-in process has been completed, see section 20, first paragraph (a) of the Act. The list shall contain the same information as the passenger list. If any of the passengers are stowaways, the commander of the aircraft shall give the police a list on his own initiative.

The master of a ship that is to cross the border on its way to a Norwegian port shall give the police a list of the passengers, including any stowaways, and crew, see section 20, first paragraph (b) of the Act. The list shall be provided on forms that are recognised by the Norwegian authorities. If possible, the list shall be provided 24 hours prior to arrival in internal waters. "Internal waters" means all waters lying inside the base line.

The master of a tourist ship (cruise ship), or the ship's agent, if relevant, shall send the ship's itinerary (sailing plan) and the cruise programme to the police at the latest 24 hours before the ship leaves the port and before it calls at every single port on the territory of the Member States.

The master of a ship that is to cross the border on its way from a Norwegian port shall notify the police of the time of departure and provide a list as mentioned in the second paragraph.

The following vessels may be exempted from the provision of the second and fourth paragraphs:

- (a) ferries sailing in a direct and regular service between Norway and a Schengen country,
- (b) pleasure craft arriving directly from another Schengen country,
- (c) military vessels, and
- (d) coastal fishing vessels.

If there are stowaways on board the vessel, it cannot be exempted from giving advance notification under this provision.

The police may by agreement with other public authorities decide that the commander of an aircraft or the master of a ship shall deliver the list to those authorities who will forward it to the police.

The Directorate of Immigration may establish further guidelines.

#### *Section 4-25 Places providing overnight accommodation*

Any person running a hotel, boarding house, lodging house, camping site, etc. shall keep a list of all persons staying overnight, see section 20, first paragraph (c), of the Act. The list shall contain information regarding the guest's name, date of birth, occupation, place of abode, nationality and date of arrival. If the guest is travelling together with a child under the age of 18, the name and date of birth of the child shall be noted. The guest shall personally fill out and sign a declaration containing the information mentioned in the second sentence. His/her identity shall be checked by requiring the production of a valid identity document. For persons other than Nordic nationals, a travel document is required. The type of travel document and its number shall be noted in the list.

The provisions of the first paragraph, third to seventh sentences, do not apply to participants in group tours.

The chief of police or the person authorised by the chief of police shall approve the way in which the list is kept and shall at all times have the opportunity to examine the list.

When the police so request, places providing overnight accommodation as mentioned in the first paragraph shall give the police a list of all foreign overnight guests except for Nordic nationals.

#### *Section 4-26 Security or emergency considerations*

Where security or emergency considerations so warrant, the Ministry of Justice may decide that any person letting a foreign national stay overnight in his/her premises shall notify the police thereof, see section 20, first paragraph (c), of the Act. This measure may be implemented for the entire realm or for a specified police district. The obligation to give notification shall not apply to Nordic nationals.

#### *Section 4-27 Employers*

When the police so request, an employer shall give the police a list of foreign national employees who are not Nordic nationals, see section 20, first paragraph (d), of the Act.

If the police need such a list of foreign national employees attached to diplomatic or paid consular missions (representations) in the realm, such an inquiry must be made through the Ministry of Foreign Affairs. The same applies to inquiries regarding employees of or persons commissioned to carry out an assignment for intergovernmental organisations or treaty bodies in respect of whom Norway has an obligation as host country.

#### *Section 4-28 Education institutions*

When the police so request, education institutions shall give the police a list of foreign pupils or students, see section 20, first paragraph (g), of the Act.

The list shall contain information regarding the foreign national's name, date of birth, address and nationality.

### **Section 21 of the Act General immigration control**

*Section 4-29 Power to make a copy of identity documents in connection with general immigration control*

The police may make a copy of documents presented in connection with general immigration control under section 21 of the Act.

**Section 22 of the Act Control authority**

*Section 4-30. Checks carried out by customs authorities*

When the customs authorities carry out customs checks at an external Schengen border, the customs authorities shall assist the police in controlling the entry and exit of foreign nationals under section 22 of the Immigration Act, see section 15. The same applies to customs checks at an internal Schengen border if temporary border control has been introduced under section 14 of the Immigration Act.

If the customs authorities, during a customs check at an internal Schengen border, otherwise discover that a foreign national lacks valid entry documents, or the foreign national declares that he/she wishes to apply for asylum, or if there is otherwise reason to suspect that the foreign national is not entitled to lawful entry to Norway, the customs authorities may carry out an identity check, which may include making a copy of his/her passport or other travel or identity documents and other items of proof, and report this to the police.

The Ministry of Justice and the Police may establish further guidelines for implementation of the obligation to provide assistance under the first and second paragraphs after consultation with the Ministry of Finance.

*Section 4-31 Other authorities' competence to carry out border checks*

Under guidelines established by the Ministry of Justice, the chief of police may authorise military officers or other persons without police authority to carry out border checks.

The station commander concerned is responsible for border checks of allied military personnel travelling on aircraft as mentioned in section 1-6, second paragraph.

**Chapter 5 Rejection**

**Section 17 of the Act Rejection, see section 126**

*Section 5-1 Exemption from the provisions regarding rejection in section 17, first paragraph, of the Act, for the holder of a visa or a residence permit issued by a Schengen country*

A foreign national under the age of 20 who is permanently resident in one of the other Nordic countries, and who is participating in group travel of a limited duration (class trip, sports club, etc.) led by an adult person, shall not be rejected under section 17, first paragraph (a), of the Act even if the person concerned lacks a valid passport or other recognised travel document.

A foreign national who holds a residence permit or a visa for return issued by a Schengen country shall not be rejected under section 17, first paragraph, of the Act if the purpose of entry is to pass through Norwegian territory. A condition is that the foreign national has not been expelled from the realm with a prohibition on entry that is still in effect. In these Regulations, "residence permit issued by a Schengen country" means a permit as mentioned in section 98, second paragraph, second and third sentences, of the Act.

A foreign national who has a visa issued by a Schengen country for a stay of more than three months' duration shall not be rejected under section 17, first paragraph (a), (b), (d), (e) or (f), of the Act even if the person concerned lacks a visa for entry to the realm, does not

have sufficient means, or cannot substantiate the stated purpose of the stay, if the purpose of entry is to pass through Norwegian territory. A condition is that the foreign national has not been expelled from the realm with a prohibition of entry that is still in effect.

The Directorate of Immigration may establish further guidelines regarding what are to be deemed to be sufficient means, see section 17, first paragraph (f), of the Act. The Directorate of Immigration may also establish guidelines on the significance of such guarantee from a third party as is mentioned in section 3-5 of the Regulations.

## **Section 18 of the Act Power of decision in cases regarding rejection**

### *Section 5-2 Power of decision in cases regarding rejection*

Where there is no doubt that the conditions laid down in section 17, first paragraph (a), (b), (d), (e) or (f) are met, decisions regarding rejection as mentioned in section 18, second paragraph (b) of the Act are made by the chief of police or the person authorised by the chief of police until the foreign national has been in the realm for three months after the expiry of the visa-free period or the period of validity of his/her visa.

Decisions regarding rejection are otherwise made by the Directorate of Immigration.

### *Section 5-3 Rejection of an asylum seeker*

Where the condition for rejection under section 17, first paragraph (a) or (b), of the Act is met, a foreign national whose application for asylum has been rejected, see section 28 of the Act, and who is not granted a residence permit under section 38 of the Act, shall be rejected on this basis if it is likely that implementation can take place before the foreign national has been in the realm for six months.

A foreign national as mentioned in the first paragraph shall otherwise be rejected under section 17, first paragraph (d) or (e), of the Act if it is likely that implementation can take place before the foreign national has been in the realm for three months. A foreign national who has applied for asylum is deemed to have had the intention of staying for more than three months, see section 55, second paragraph, of the Act.

### *Section 5-4 Provisions of procedure in rejection cases*

A foreign national who is rejected shall receive guidance as mentioned in section 82 of the Act and shall be notified of the decision, see section 27 of the Public Administration Act, in a language that he/she understands. The foreign national shall be given such information as mentioned in section 27, third paragraph, of the Public Administration Act, and the case sheet shall show that such information has been given.

A notation shall be made of the decision regarding rejection in the foreign national's passport or other travel document, unless there are grounds for assuming that this may expose the owner of the travel document to a penalty or other sanctions in his/her country of origin or in the country to which the rejected person is being sent, or it otherwise appears to be unreasonable in respect of the foreign national.

## **Chapter 6 Residence permit in connection with employment and studies, etc.**

### **Section 23 of the Act Residence permit for employees who are to work for an employer in the realm**

#### *Section 6-1 Residence permit for skilled workers, etc.*

Employees who have special training which as a minimum corresponds to upper secondary school level, have a craft certificate or have a university college or university education or who have special qualifications are entitled to a residence permit. A condition is that

- (a) the expertise is deemed to be relevant to the position,
- (b) the relevant specialist authority has given its approval or authorisation in the case of occupations/professions that are subject to statutory or regulatory qualification requirements, and
- (c) the employee falls within the quota for skilled workers and specialists, see section 6-12.

For categories of employees, the conditions may be made more stringent when special considerations so warrant, by requiring specialist training at a level higher than upper secondary school for a permit as mentioned in the first paragraph. The Directorate of Immigration may establish further guidelines.

A permit may be granted even if the specific offer of full-time employment is not for continuous employment, see section 23, first paragraph (d), of the Act. The Directorate of Immigration may establish further guidelines.

If no quota has been established or if the quota has been filled, a permit may be granted when the position cannot be filled by domestic labour or labour from the EEA or EFTA area.

For a permit granted under the first paragraph to an employee who is a national of a country that is a member of the World Trade Organisation and is employed in an international company, the first paragraph (c) or fourth paragraph do not apply, see section 23, first paragraph (c), of the Act. The Directorate of Immigration may establish further guidelines regarding what is considered to be an international company.

A permit under the first paragraph is valid for a specific type of work, while a permit under the second and fifth paragraph is valid for specific work for a specific employer. The permit forms the basis for a permanent residence permit.

#### *Section 6-2 Residence permit for specialists*

Employees who on the basis of the salary offered to them are deemed to be specialists are entitled to a residence permit. A condition is that

- (a) the salary offered must be at least NOK 500 000 per year not including benefits in kind,
- (b) the offer of employment has been made by an employer who meets the conditions under section 6-8,
- (c) the relevant specialist authority has given its approval or authorisation in the case of occupations/professions that are subject to statutory or regulatory qualification requirements, and
- (d) the employee falls within the quota for skilled workers and specialists, see section 6-12.

Employees who are covered by guidelines established by the Directorate of Immigration, see section 6-1, second paragraph, may not be granted a permit under this provision.

A permit may be granted even if the specific offer of full-time employment is not for continuous employment, see section 23, first paragraph (d), of the Act. The Directorate of Immigration may establish further guidelines.

If no quota has been established or if the quota has been filled, a permit may be granted when the position cannot be filled by domestic labour or labour from the EEA or EFTA area.

For a permit granted under the first paragraph to an employee who is a national of a country that is a member of the World Trade Organisation and who is employed in an international company, the first paragraph (c) or fourth paragraph do not apply, see section 23,

first paragraph (d) or fourth paragraph, see section 23, first paragraph (c) of the Act.. The Directorate of Immigration may establish further guidelines regarding what is considered to be an international company.

The permit applies to work for a specific employer, and it forms the basis for a permanent residence permit.

#### *Section 6-3 Residence permit for seasonal workers, etc.*

Employees who do not meet the conditions for a permit for skilled workers, see section 6-1, may be granted a residence permit for a period of up to six months for work in a seasonal activity or in connection with ordinary holiday replacement. The Directorate of Immigration may establish further guidelines.

For work in seasonal activities in agriculture or forestry, a condition is that the employees fall within the quota for seasonal work in agriculture and forestry, see section 6-12. If no quota has been established, the quota has been filled or the application concerns work in other seasonal industries, a permit may be granted when the position cannot be filled by domestic labour or labour from the EEA or EFTA area.

For work in connection with ordinary holiday replacement, a condition is that the position cannot be filled by domestic labour or labour from the EEA or EFTA area.

The six months may be divided between several permits for work for the one and the same or for different employers, in total equivalent to full-time employment, see section 23, first paragraph (d), of the Act.

Employees who have had a permit for six months under this section may be granted a new permit after a stay of six months outside Norway. When a permit is granted repeatedly for periods of less than six months, the total period of stay may not exceed six months in the course of a 12-month period.

The permit applies to specific work for one or more specific employers, and it does not form the basis for a permanent residence permit.

#### *Section 6-4 Residence permit for unskilled Russian employees, etc..*

Employees in enterprises that require unskilled labour may be granted a residence permit for a period of up to two years.

The permit may be granted to Russian nationals from the Barents region for work in enterprises in Nordland, Troms or Finnmark.

The Ministry of Labour may establish further guidelines regarding the industries and geographical areas for which a permit may be granted under this provision, including guidelines to the effect that the provision shall apply to groups other than the one mentioned in the second paragraph.

A condition is that the position cannot be filled by domestic labour or labour from the EEA or EFTA area.

An advance assurance may be given in the administrative decision to the effect that the employees shall be entitled to a new permit within the two-year period if they receive a specific offer of the same work on the same conditions of employment. The labour market assessment under the fourth paragraph applies to the entire two-year period.

Employees who have had a permit under this section with a total period of residence of two years may be granted a new permit after one year's absence from Norway.

The permit applies to specific work for a specific employer, and it does not form the basis for a permanent residence permit.

#### *Section 6-5 Residence permit for Russian cross-border commuters*

Russian nationals who are resident in the Barents region, and who commute to part-time work in enterprises in Nordland, Troms or Finnmark, may be granted a residence permit for part-time work, i.e. an 80 per cent or smaller fractional position. A condition is that the relevant specialist authority has given its approval or authorisation in the case of occupations/professions that are subject to statutory or regulatory qualification requirements.

A permit may be granted even if the specific offer of part-time employment is not for continuous employment, see section 23, first paragraph (d), of the Act. The Directorate of Immigration may establish further guidelines.

A condition is that the position cannot be filled by domestic labour or labour from the EEA or EFTA area.

The permit is valid for specific work for a specific employer, and it does not form the basis for a permanent residence permit.

#### *Section 6-6 Residence permit for seamen*

Employees on board a foreign-registered ship that loads goods or embarks passengers in a Norwegian port and delivers the goods or disembarks the passengers in another Norwegian port may be granted a residence permit. This applies to ships engaged in regular or significant activities between Norwegian ports, and not to ships that only occasionally take part in such activities. The Directorate of Immigration may establish further guidelines.

The permit applies to work for a specific employer, and it does not form the basis for a permanent residence permit.

#### *Section 6-7 Group permit for employers*

For specific work of limited duration, employers may be granted a permit (group permit) by the Directorate of Immigration to employ a specific number of employees.

A precise description must be given of the nature of the work. The work must occupy at least six persons, including necessary manpower for a shift system, if relevant, and to serve as replacements. The group must consist of a specific number of persons.

A condition is that the employer shall undertake to take on employees each of whom meets the conditions for a permit for skilled workers, see section 6-1, first paragraph, first sentence, and second sentence (a) and (b). A permit may be granted even if some of the employees do not have such qualifications if it is substantiated that the participation of the person concerned is a necessary prerequisite for the group's ability to function. The Directorate of Immigration may establish further guidelines. The provisions of section 6-1, first paragraph (c) and fourth paragraph, apply correspondingly.

A group permit granted to an employer is tied to specific work and shall apply to a specific number of employees.

After their arrival, employees who are covered by a group permit are granted individual residence permits for work in the group. The permit is registered as part of the quota for skilled workers and specialists, see section 6-12, even if the employee concerned does not possess such qualifications. The permit is tied to specific work for a specific employer. The permit does not form the basis for a permanent residence permit. *Section 6-8 Requirements for employers in connection with early work start*

#### *Section 6-8 Requirement for an employer's use of the early work-start scheme*

Employers who can produce a VAT and tax certificate and a self-declaration of compliance with statutory Norwegian health, safety and environmental (HSE) requirements, see sections 3-3 and 3-4 of the Public Procurement Regulations, have the right to let employees start work before a permit has been granted unless the employer is barred from doing so under section 6-34. The Directorate of Information may establish further guidelines.

The early work-start scheme applies to employees who are applying for a residence permit and who are qualified skilled workers, see section 6-1, first paragraph, or specialists, see section 6-2.

Employers are responsible for ensuring that the employees meet the conditions for the permit, including the condition that the relevant specialist authority has given its approval or authorisation in the case of occupations/professions that are subject to statutory or regulatory qualification requirements.

#### *Section 6-9 Employers – offer of employment form*

Employers who have made a specific offer of employment to employees who are applying for a permit under sections 6-1 to 6-7 are responsible for submitting the necessary information regarding the employment relationship on the prescribed offer of employment form. The form shall be signed by the employer and the applicant, unless the Directorate of Immigration has prescribed otherwise in guidelines.

The Directorate of Immigration may establish further guidelines regarding who is an employer under section 23 of the Act.

#### *Section 6-10 Pay conditions*

What is considered to be pay under section 23, first paragraph (b), of the Act, is determined by the Directorate of Immigration.

#### *Section 6-11 Revocation in connection with employment relationships. Unemployment – jobseeker period*

A residence permit may be revoked under general rules of administrative law if the employment relationship ceases, see section 63 of the Act, unless the conditions laid down in the second paragraph are met.

Employees with a permit under section 6-1, first paragraph, may stay in the country in order to seek employment for a period of up to six months after the employment relationship ceases if the original permit does not expire. A condition is that the employees notify the police within seven days after the employment relationship ceases. It is likewise a condition that the employees notify the police within seven days if they start work in a new employment relationship.

Notifications as mentioned in the second paragraph shall be registered in the Norwegian Computer System for Immigrant and Refugee Cases (DUF). The Directorate of Immigration may establish further guidelines.

#### *Section 6-12 Labour market assessment in connection with employment relationships and establishment of quotas for various categories of employees*

Where a labour market assessment is to be carried out in an individual case to ascertain whether the position can be filled by domestic labour or by labour from the EEA or EFTA area under sections 6-1 to 6-7, it is a prerequisite for granting a permit that the Norwegian Labour and Welfare Administration consents thereto in accordance with further guidelines issued by the Norwegian Directorate of Labour and Welfare.

The Ministry of Labour, in consultation with the Ministry of Trade and Industry and the Ministry of Finance, establishes an annual quota for skilled workers and specialists as mentioned in sections 6-1 and 6-2. The Norwegian Directorate of Labour and Welfare establishes the quota for seasonal workers in agriculture and forestry as mentioned in section 6-3.

The Directorate of Immigration may, in consultation with the Directorate of Labour and Welfare, establish further guidelines regarding the quota arrangements.

## **Section 24 Residence permit to provide services as a seconded employee or an independent contractor**

### *Section 6-13 Residence permit for seconded employees*

Employees in a foreign enterprise who have entered into a contract with a principal to provide services of a limited duration may be granted a residence permit for a total of four years.

A condition is that the employee has qualifications as a skilled worker, see section 6-1, first paragraph, first sentence and second sentence (b), and the qualifications are deemed to be relevant to carrying out the assignment. What is considered to be pay under section 24, first paragraph (b), of the Act is determined by the Directorate of Immigration.

Exemptions are made from the requirement that it is not possible to procure domestic labour or labour from the EEA or EFTA area to carry out the assignment, see section 24, first paragraph (c) of the Act.

A permit may be granted even if the specific offer of an assignment is not for a continuous period, see section 24, first paragraph (d) of the Act. The Directorate of Immigration may establish further guidelines.

The permit is tied to the assignment(s) specified in the contract, and it does not form the basis for a permanent residence permit.

### *Section 6-14 Residence permit for independent contractors*

Self-employed persons who have established a business abroad may be granted a residence permit for a period of up to four years. A condition is that

- (a) a contract has been entered into with a principal for the provision of services of a limited duration,
- (b) the contractor has qualifications as a skilled worker, see section 6-1, first paragraph, first sentence and second sentence (b), and the qualifications are deemed to be relevant to carrying out the assignment, and
- (c) it is stated in the contract that the contractor shall receive remuneration that is at least equivalent to the pay to which employees covered by the provision governing skilled workers are entitled, see section 6-1 and section 6-13, second paragraph.

A permit may be granted even if the specific offer of an assignment is not for a continuous period, see section 24, first paragraph (d) of the Act. The Directorate of Immigration may establish further guidelines.

Exemptions are made from the requirement that it is not possible to procure domestic labour or labour from the EEA or EFTA area to carry out the assignment, see section 24, first paragraph (c), of the Act.

The permit is tied to the assignment(s) specified in the contract, and it does not form the basis for a permanent residence permit.

### *Section 6-15 Group permit for principals*

For a specific assignment for a limited period of time, principals may be granted a permit (group permit) by the Directorate of Immigration to use a specific number of foreign service providers (seconded employees).

A precise description must be given of the nature of the assignment. The assignment must entail employment for at least six persons, including necessary manpower for a shift system, if relevant, and to serve as replacements. The group must consist of a specific number of persons.

A condition is that the principal shall undertake to take on seconded employees each of whom satisfies the conditions for a permit for skilled workers, see section 6-1, first paragraph, first sentence, and second sentence (b), and the qualifications are deemed to be relevant to carrying out the assignment. A permit may be granted even if some of the employees do not have such qualifications if it is substantiated that the participation of the person concerned is a necessary prerequisite for the group's ability to function. The Directorate of Immigration may establish further guidelines.

Exemptions are made from the requirement that it is not possible to procure domestic labour or labour from the EEA or EFTA area to carry out the assignment, see section 24, first paragraph (c) of the Act.

A group permit granted to an employer is tied to the assignment specified in the contract and shall apply to a specific number of seconded employees.

After arriving in Norway, seconded employees who are covered by a group permit are granted individual residence permits for work in the group. The permit is tied to the assignment specified in the contract, and it does not form the basis for a permanent residence permit.

#### *Section 6-16 Principal – offer of assignment form*

The principal shall inform the foreign national's employer abroad of the requirement regarding pay and working conditions that applies to persons who apply for a permit under sections 6-13 and 6-15, see section 24, first paragraph (b) of the Act.

The principal shall ensure that the applicant's employer abroad satisfies the requirement regarding pay and working conditions during the assignment, and shall be able to present documentary evidence of this upon enquiry from the supervisory or immigration authorities.

The principal is responsible for presenting necessary information concerning the assignment and the employment relationship abroad on the prescribed offer of assignment form. The form shall be signed by the principal, the employer abroad and the applicant, unless otherwise determined by the Directorate of Immigration in guidelines. The contract between the principal and the contractor abroad, and the applicant's employment contract with the employer abroad, shall also be presented.

The Directorate of Immigration may establish further guidelines regarding who is a principal under section 24 of the Act.

#### *Section 6-17 Revocation in connection with the provision of services*

A residence permit may be revoked under general rules of administrative law if the employment relationship ceases, see section 63 of the Act.

The residence permit may be revoked if an employer abroad does not satisfy the requirement regarding pay and working conditions during the assignment, see section 24, first paragraph (b) of the Act. The permit may also be revoked if the principal does not fulfil the obligations under section 6-16, second and third paragraphs, of the Regulations. Advance notice that revocation is being considered shall be given to the foreign national, to the principal and to the employer abroad.

### **Section 25 of the Act Residence permit in order to engage in independent business activities**

#### *Section 6-18 Residence permit for self-employed persons*

Self-employed persons who intend to engage in a permanent business activity are entitled to a residence permit if the presence of the self-employed person in Norway and

active participation in running the business is necessary for the establishment or continued operation of the business. A condition is that

- (a) the work that is to be done in the business requires the self-employed person to have qualifications as a skilled worker, see section 6-1, first paragraph, first sentence and second sentence (b),
- (b) it is substantiated that there is an financial basis for the business, and
- (c) permission for the business has been granted under other legislation.

Documentation must be presented to substantiate the qualifications of the self-employed person and role in the business. An accurate description of the nature of the business, financing and budget plans, and financial statements if available, must also be presented. A statement in advance to the effect that necessary permits from other authorities will be granted must also be presented. A statement regarding the financial basis for the business shall be obtained from the county municipality concerned and, if necessary, from a trade or professional organisation. The Directorate of Immigration may establish further guidelines.

The permit is tied to the specific enterprise, and it forms the basis for a permanent residence permit.

## **Section 26 of the Act Residence permit for studies and for scientific, religious or cultural purposes, etc.**

### *Section 6-19 Residence permit for students, etc.*

Students who have documentation of admission to an approved education institution may be granted a residence permit. The Directorate of Immigration may, in consultation with the Ministry of Education and Research, establish further guidelines regarding which education institutions and courses of study may be approved. A condition is that the studies are the purpose of the stay and that it is a question of full-time studies. The applicant shall present a plan of study. The Directorate of Immigration may issue special guidelines for applicants from regions determined by the Ministry of Labour in consultation with the Ministry of Justice and the Ministry of Foreign Affairs.

Students at a folk high school or a religion/belief-based school may only be granted a permit for a total of one year. The Directorate of Immigration may establish further guidelines.

Foreign nationals who are qualified skilled workers, see section 6-1, first paragraph, may be granted a permit for a total of one year to study the Norwegian language, even if the purpose of their stay is to obtain work in Norway. The Directorate of Immigration may establish further guidelines.

Foreign nationals who are qualified skilled workers, see section 6-1, first paragraph, but who need additional education or practical experience in order to obtain the necessary approval of their education in Norway, may be granted a permit for a total of two years. The Directorate of Immigration may establish further guidelines.

The permit does not form the basis for a permanent residence permit.

### *Section 6-20 Residence permit for researchers with their own funds*

Researchers who are to carry out research at a university, an institute or the like may be granted a residence permit when the stay is to be financed with their own funds. The Directorate of Immigration may establish further guidelines.

The permit does not form the basis for a permanent residence permit.

### *Section 6-21 Residence permit for trainees*

Trainees who have not completed vocational training at upper secondary level or who do not have a craft certificate, see section 6-1, first paragraph, may be granted a residence permit for a total of two years. The Directorate of Immigration may establish further guidelines, including regarding pay and working conditions. The Directorate of Immigration may establish special guidelines for applicants from regions determined by the Ministry of Labour in consultation with the Ministry of Justice and the Ministry of Foreign Affairs.

The permit does not form the basis for a permanent residence permit.

#### *Section 6-22 Residence permit for musicians, performers and cultural workers, etc.*

Musicians, performers, artists and necessary accompanying support personnel who do not meet the conditions for a permit for skilled workers, see section 6-1, first paragraph, may be granted a residence permit for a period of up to one year. The applicant must submit a contract for an engagement for a specific, continuous period of time with one or more employers or principals. The Directorate of Immigration may determine that exemptions shall be made from the requirement that the engagement shall apply to a specific, continuous period of time. The Directorate of Immigration may establish further guidelines, including regarding pay and working conditions.

Foreign nationals who have been placed as a working guest in agriculture through an organisation may be granted a permit for a total of three months. The Directorate of Immigration may establish further guidelines, including regarding pay and working conditions.

A permit may otherwise be granted for a total of two years to foreign nationals on the basis of another cultural purpose. The Directorate of Immigration may establish further guidelines.

Persons who have held a permit under the first and second paragraphs of this section may only be granted a new permit after three months' absence from Norway, unless otherwise determined in guidelines established by the Directorate of Immigration.

The permit does not form the basis for a permanent residence permit.

#### *Section 6-23 Residence permit for employees of non-profit, religious and humanitarian organisations*

Employees of an established organisation whose purpose is to engage in non-profit or humanitarian activities may be granted a residence permit for a total of four years. A condition is that either foreign labour is deemed to be necessary for the activities, or the activities in Norway are part of an international exchange programme. The Directorate of Immigration may establish further guidelines, including regarding pay and working conditions.

Employees, including religious workers in an established organisation whose purpose is to engage in religious activities may be granted a permit under the first paragraph. If the foreign national is to perform work that entails that the person concerned would have been subject to a requirement of vocational training at a level higher than upper secondary school under the provision regarding skilled workers, see section 6-1, second paragraph, a permit may be refused. The Directorate of Immigration may establish further guidelines.

The permit does not form the basis for a permanent residence permit.

#### *Section 6-24 Residence permit for Peace Corps volunteers*

Peace Corps volunteers who have been engaged by a Norwegian cooperation partner of the Peace Corps in accordance with the statutes of the Peace Corps may be granted a residence permit for a total of four years. The Directorate of Immigration may establish further guidelines, including regarding pay and working conditions.

The permit does not form the basis for a permanent residence permit.

*Section 6-25 Residence permit for au pairs*

Au pairs may be granted a residence permit for a total of two years when their contract satisfies conditions laid down by the Directorate of Immigration. A condition is that the purpose of the stay is cultural exchange.

The permit does not form the basis for a permanent residence permit.

*Section 6-26 Residence permit for Russian market traders*

Russian nationals from the Barents Region who are to sell wares at a market in North-Norway in connection with a municipal cultural event may be granted a residence permit for a period of up to two weeks. A condition is that the municipality in question provides a financial guarantee. The Directorate of Immigration may establish further guidelines.

Russian nationals who have held a permit under the first paragraph of this section may be granted a new permit after they have been absent from Norway for six months.

The permit does not form the basis for a permanent residence permit.

*Section 6-27 Residence permit for young people on a working holiday*

Young people who are to take a working holiday and who are covered by a working holiday agreement between Norway and another state, see Appendix 17 to the Regulations, may be granted a residence permit for a total of two years. The Directorate of Immigration may establish further guidelines, including regarding pay and working conditions.

The permit does not form the basis for a permanent residence permit.

*Section 6-28 Residence permit for foreign nationals who are to receive medical treatment, etc.*

Foreign nationals who have been offered medical treatment at a treatment institution may be granted a residence permit for a total of one year. A condition is that the foreign national

- (a) has an agreement with the treatment institution to the effect that the treatment is to be financed by personal funds or public funds provided by the foreign nationals country of origin, and
- (b) can produce confirmation from the treatment institution that the treatment is not taking place to the detriment of patients resident in Norway.

A necessary companion for a foreign national as mentioned in the first paragraph may be granted a permit.

The Directorate of Immigration may establish further guidelines regarding the conditions for a permit under the first and second paragraphs.

The permit does not form the basis for a permanent residence permit. Nor does the permit form the basis for membership in the Norwegian National Insurance Scheme, see section 2-1 of the National Insurance Act.

*Section 6-29 Residence permit for graduates and researchers, etc. for the purpose of seeking employment as a skilled worker*

Foreign nationals who are qualified skilled workers, see section 6-1, first paragraph, may be granted a residence permit for a period of up to six months in order to seek employment, see section 6-1, first paragraph, and section 6-2. A condition is that the foreign national has previously held a permit under section 6-19, first, third or fourth paragraphs, section 6-20 or section 6-22, third paragraph.

A condition is that the means of subsistence requirement under the provisions of section 10-7 is met.

The permit does not form the basis for a permanent residence permit.

*Section 6-30 Residence permit for jobseekers who are skilled workers and require a visa*

Foreign nationals who are qualified skilled workers, see section 6-1, first paragraph, may be granted a residence permit for a period of up to six months in order to seek employment, see section 6-1, first paragraph, and section 6-2.

A condition is that the means of subsistence requirement under the provisions of section 10-7 is met. The foreign national must also have such travel and sickness insurance as mentioned in section 3-4a, second paragraph, of the Regulations.

Jobseekers who have held a permit under this section may be granted a new permit after one year's absence from Norway.

The permit does not form the basis for a permanent residence permit.

*Section 6-31 Residence permit for other foreign nationals*

Journalists or other personnel in a foreign media institution may be granted a residence permit when their salary is paid by a foreign employer or principal.

Foreign nationals who are to carry out work in connection with a crisis situation may be granted a permit in accordance with further guidelines laid down by the Ministry.

Necessary security and maintenance crew on laid-up ships may be granted a permit for a total of two years. The Directorate of Immigration may establish further guidelines, including regarding pay and working conditions.

Foreign nationals on a pleasure yacht who are to spend the winter in a Norwegian port may be granted a permit for a total of six months. The Directorate of Immigration may establish further guidelines.

A permit under this section does not form the basis for a permanent residence permit.

*Section 6-32 Age requirement*

In order to be granted a residence permit under sections 6-19 to 6-31, the foreign national must have reached the age of 15 at the time the administrative decision is made. Where the foreign national is aged between 15 and 18, his or her parents or other persons exercising parental responsibility must give their consent.

In order to be granted a residence permit under sections 6-28 and 6-30, the foreign national must have reached the age of 18 at the time of application.

*Section 6-33 The purpose of the residence permit and the right to take employment*

A residence permit under sections 6-19 to 6-31 is granted for the purpose specified in the provision. The foreign national is not entitled to take employment unless this is stated in the permit.

Foreign nationals who are granted a permit under section 6-19 shall at the same time be granted a permit for part-time employment for 20 hours a week and full-time employment in the ordinary holiday periods, as well as full-time employment for a limited period of time, if relevant, when there is documentary evidence that the work is part of the course of study. A permit for full-time employment may also be granted for a limited period of time when the employment is an essential prerequisite for admission to further education in the same branch of study, and a specific offer of employment has been made.

Foreign nationals who are granted a permit under section 6-20 and section 6-22, third paragraph, may be granted a permit for part-time employment and holiday employment. The Directorate of Immigration may establish further guidelines.

Foreign nationals who are granted a permit under section 6-29 shall at the same time be granted a permit for full-time employment.

## **Section 27 a of the Act Misuse of the early work-start scheme**

### *Section 6-34 Misuse of the early work-start scheme*

An employer who does not meet the conditions of section 6-8, first paragraph, and who lets employees start work before their permits have been granted, or who after having furnished incorrect information has been given the right to let employees start work before their permits have been granted, see section 6-8, third paragraph, may be excluded from the early work-start scheme for a period of up to one year. The Directorate of Immigration may establish further guidelines.

## **Chapter 7 Protection**

### **Section 28 of the Act Residence permit for foreign nationals in need of protection (asylum)**

#### *Section 7-1 The possibility of internal flight*

Even if section 28 of the Act is applicable when considering returning an applicant to the area from which he/she has fled, it shall only be deemed to be unreasonable to direct the foreign national to seek protection in safe and accessible parts of his/her country of origin if the situation upon return will be such that the person concerned meets the conditions for a residence permit under section 38 of the Act. In the assessment of whether the conditions for a residence permit under section 38 of the Act are met, the fact that the foreign national has no connection with a safe and accessible part of his/her country of origin is not in itself sufficient.

#### *Section 7-2 Refugee status for the refugee's closest family members*

The refugee's spouse or cohabitant and children who meet the conditions for entitlement to a residence permit under sections 40 to 42 of the Act are entitled to a residence permit as a refugee under section 28, sixth paragraph, of the Act unless

- (a) the applicant is the refugee's spouse or cohabitant and their family life was established after the refugee left the country in which the refugee risks persecution,
- (b) the applicant has a different nationality than the refugee,
- (c) the applicant does not wish to have refugee status, or
- (d) there are other special grounds to the contrary.

### **Section 32 of the Act International cooperation etc. on examination of applications for residence on grounds of protection**

#### *Section 7-3 Definition of Dublin cooperation*

The term "Dublin cooperation" means cooperation on criteria and mechanisms for deciding which state is responsible for examining an application for protection that is submitted in one of the states that participate in the cooperation in accordance with the following agreements:

- (a) Agreement between the Kingdom of Norway and the Republic of Iceland and the European Community concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway (Association Agreement),

- (b) Agreement between the Kingdom of Norway, the Republic of Iceland and the Swiss Confederation concerning Switzerland's association with Schengen and Dublin cooperation (tripartite agreement)

#### *Section 7-4 Power to examine applications on their merits under the Dublin II Regulation*

Even though examination of an application for a residence permit on its merits under section 32, first paragraph (b) of the Act may be refused because it may be demanded that the applicant be accepted by another country participating in cooperation under the Dublin Agreement'), the application for a residence permit under section 28 of the Act shall nonetheless be examined on its merits if the foreign national has a connection with the realm that makes it most logical that Norway examine it, see section 32, second paragraph, of the Act. Where the connection is family members in the realm, the definition of a family member 'in Article 2 (i) of the Dublin II Regulation shall be applied.

In cases other than those mentioned in the first paragraph, the power to examine an application for protection on its merits shall only be used if there are special grounds for doing so. As a general rule, health factors shall not be deemed to be such a ground.

#### **Section 34 of the Act Collective protection in a mass flight situation**

##### *Section 7-5 Residence permit in pursuance of section 34 of the Act (collective protection)*

A foreign national who is granted a residence permit under section 34 of the Act may be granted a registration certificate, see section 17-22 of the Regulations.

#### **Section 35 of the Act Resettlement of refugees at the request of international organisations, etc. (resettlement refugees)**

##### *Section 7-6 Resettlement of foreign nationals at the request of international organisations, etc. under section 35 of the Act (resettlement refugees)*

The Ministry of Labour, in consultation with the Ministry of Justice and the Ministry of Foreign Affairs, establishes further guidelines for the resettlement of refugees, etc., see section 35, first paragraph, of the Act. Bodies that may request that a foreign national be granted an entry permit under section 35, first paragraph, of the Act are:

- (a) the UN High Commissioner for Refugees,
- (b) Norwegian foreign service missions,
- (c) other intergovernmental organisations,
- (d) international criminal courts with which Norway has entered into a witness relocation agreement, and
- (e) Norwegian voluntary organisations in accordance with guidelines established by the Ministry.

##### *Section 7-7 Power of decision in cases relating to resettlement refugees*

In certain situations, the Ministry may decide that decisions regarding resettlement may be made by an authority other than the Directorate of Immigration.

##### *Section 7-8 Provisions of procedure in cases relating to resettlement refugees*

At the same time as making a decision regarding resettlement, the Directorate of Immigration may decide whether the foreign national is to be granted refugee status. The provisions regarding the processing of cases concerning protection in chapter 11 of the Act and chapter 17 of the Regulations are applicable in so far as they are appropriate.

Foreign nationals who are granted a permit to enter Norway shall be informed that this also entails a residence permit. A foreign national who is simultaneously granted refugee status and a residence permit under section 28, second paragraph, of the Act, or a permit under section 38 of the Act, shall be informed of this and of the effect of the decision. Foreign nationals who are only granted an entry permit shall be informed that the question of refugee status will be decided after their arrival.

The foreign national shall be made aware of his/her obligation to report to the police at the latest within one week after entry and the obligation to undergo tuberculin testing, see section 4-22, fifth paragraph.

#### *Section 7-9 Effect of a decision to resettle refugees etc. under section 35 of the Act*

A residence permit that is granted under section 35, third paragraph, of the Act, is valid for a period of up to one year at a time and may be renewed. The permit lapses when the foreign national is granted a residence permit under section 28 or section 38 of the Act. Section 60, third paragraph, of the Act otherwise applies correspondingly.

Resettlement refugees shall be issued with a registration certificate for asylum seekers, see section 17-22 of the Regulations.

## **Chapter 8 Residence permit on the grounds of strong humanitarian considerations or a particular connection with the realm**

### **Section 38 of the Act Residence permit on the grounds of strong humanitarian considerations or a particular connection with the realm**

#### *Section 8-1 Requirement of a case-by-case assessment, etc. under section 38 of the Act*

In the application of section 38 of the Act, the individual situation of each applicant shall be assessed. The decisive factors are not the applicant's nationality or the geographical region from which he/she originates, but the individual applicant's possibilities of returning to his/her country of origin. The Ministry may instruct the Directorate of Immigration to make exemptions in certain cases, see section 76, third paragraph, of the Act.

#### *Section 8-2 Residence permit for a foreign national whose application for protection has not been decided by the Directorate of Immigration within 15 months*

A foreign national whose application for protection has not been decided by the Directorate of Immigration within 15 months after the foreign national reported to the police in person to apply for protection may be granted a residence permit in the realm under section 38 of the Act, provided the foreign national does not meet the conditions for protection under section 28, first paragraph, of the Act. A condition is that the foreign national, when submitting his/her application, must present a passport or other recognised travel document. In special cases, other documents may be recognised. The Directorate of Immigration may establish further guidelines regarding such documentation. At the time the decision is made there must be no such circumstances as mentioned in section 66 of the Act.

The first paragraph does not apply to foreign nationals who

- a) have presented false documents to substantiate their application for protection,
- b) have stayed at an unknown address for more than three days or have exited the realm without permission,
- c) have furnished incorrect information regarding prior stays in a safe first country of asylum or in a country participating in cooperation under the Dublin Regulation, or
- d) are to blame for the fact that the application has not been decided within 15 months.

If the application for protection has not been decided within 15 months pending the trial of a criminal case under section 8-4, no residence permit shall as a general rule be granted on the grounds that the case has not been decided within 15 months.

#### *Section 8-3 Period of reflection etc. for victims of human trafficking*

Where there are reasons to believe that a foreign national staying in the realm is a victim of human trafficking and is prepared to accept help and participate in measures offered by the authorities, a residence permit (period of reflection) may be granted that does not form the basis for a permanent residence permit under further guidelines established by the Directorate of Immigration.

A foreign national who has had a period of reflection under the first paragraph may be granted a new residence permit that does not form the basis for a permanent residence permit at the end of the period of reflection in accordance with guidelines established by the Directorate of Immigration. The Directorate of Immigration may also establish guidelines to the effect that a residence permit may be granted to a foreign national who has not had a period of reflection under the first paragraph and regarding the renewal of permits.

A residence permit under the first and second paragraphs requires the foreign national to stay in the realm. The permit does not entitle the holder to re-enter the realm, unless otherwise specially stipulated in the permit or the right to re-entry has been granted in advance upon application. If the foreign national has exited the realm without having been granted a re-entry permit, the residence permit may be revoked.

Applications for a residence permit under the first and second paragraphs and applications for permission to exit and enter the realm shall be submitted to the police and decided by the Directorate of Immigration.

#### *Section 8-4 Residence permit for witnesses in cases concerning human trafficking*

A foreign national who applies for protection after having given testimony as an aggrieved party in legal proceedings in which an indictment has been preferred under section 224 (human trafficking) of the General Civil Penal Code shall be granted a residence permit that form the basis for a permanent residence permit under section 38 of the Immigration Act, unless

- (a) the foreign national meets the conditions for protection under section 28 of the Act, or
- (b) there are special grounds for not granting a permit.

Even if the conditions for a residence permit under the first paragraph are not met, a residence permit may be granted to a foreign national who has given testimony to the court or to the police in a case under section 224 (human trafficking) or section 202, first paragraph, (procurement) of the General Civil Penal Code, if there are grounds to deem that the foreign national, on account of his/her testimony, is in a situation as difficult as that of such foreign national as mentioned in the first paragraph.

The provision regarding the requirement of documented identity in section 8-12 applies correspondingly.

#### *Section 8-5 Assessment of strong humanitarian considerations in section 38 of the Act in connection with children's applications for a residence permit*

In the assessment of strong humanitarian considerations under section 38 of the Act, particular importance shall be attached to children's connection to the realm.

#### *Section 8-6 Need for a statement from the parent remaining in the country of origin before a residence permit is granted to accompanying children*

If a child under the age of 18 applies for a residence permit together with only one of his/her parents, consideration must be given to whether a statement shall be procured from the other parent if the latter shares parental responsibility. In the assessment of whether a statement shall be procured, importance shall be attached to the child's best interests and regard shall be paid, inter alia, to

- the actual and formal relationship between the parent concerned and the child,
- whether it is justifiable, in the light of the circumstances of the case, to assume that the parent concerned will not object to the child being granted a residence permit in Norway,
- the practical possibilities of procuring a statement that provides adequate evidence of the relevant facts,
- how long it will take to procure a statement, and
- whether it is obvious that a residence permit should be granted even if the parent concerned refuses to give his/her consent.

**Section 8-7** *Residence permit in pursuance of section 38 of the Act in the event of practical obstacles to return that are beyond the control of the foreign national*

The Immigration Appeals Board may, upon request for reversal of a decision, grant a residence permit under section 38 of the Act to an asylum seeker whose application has been finally rejected. A condition for the permit is that the following conditions are met:

- (a) It has been three years since the case was opened without the rejection having been implemented, and it is moreover unlikely that it will be possible to carry out the implementation.
- (b) There is no doubt as to the identity of the applicant. As a general rule, the applicant must have assisted in clarifying his/her identity during the period as asylum seeker, see section 17-7.
- (c) The applicant has contributed to making his/her return possible, including helping to procure a travel document issued by his/her country of origin.

If legal proceedings have been instituted for expulsion under section 66 of the Act, no permit may be granted until the question of expulsion has been clarified, except in cases where the ground for expulsion is an overstay of the time limit for departure.

Unless there are special grounds that warrant doing so, a permit under the first paragraph shall not be granted until one year has passed since the final rejection and the processes of clarifying the asylum seeker's identity and issuing a travel document have been completed.

Before a permit is granted, a statement shall be procured from the police. Such statement shall contain an assessment of whether the applicant has assisted in clarifying his/her identity and contributed to making his/her return possible, and whether the process of clarifying his/her identity and issuing travel documents has been completed.

A permit under the first paragraph may form the basis for a permanent residence permit.

**Section 8-8** *Limited residence permit for unaccompanied asylum-seeking minors aged 16 or older due to the lack of proper care on return*

Unaccompanied asylum-seeking minors who have reached the age of 16 at the time the decision is made and who do not have any grounds for stay other than that the Norwegian authorities deem that the applicant would be without proper care if he/she were returned may be granted a residence permit under section 38, first paragraph, of the Act until they reach the age of 18. The permit may not be renewed and does not form the basis for a residence permit for family members under chapter 6 of the Act.

*Section 8-9 Residence permit for foreign nationals who have been detained abroad against their will*

A foreign national who would have been entitled to a residence permit under section 53, first paragraph (b), of the Act if he/she had stayed in the realm may be granted a residence permit under section 38 of the Act if the foreign national has left the realm and against his/her will is not allowed to return to the realm.

*Section 8-10 Residence permit for foreign nationals with a Norwegian parent at the time they were born*

A foreign national who is born to parents of whom at least one was a Norwegian national at the time the applicant was born is entitled to a residence permit.

*Section 8-11 Residence permit for foreign nationals who have been permanently employed by a Norwegian shipping company*

A foreign national who has been permanently employed by a Norwegian shipping company and held a position on board a ship registered in the Norwegian Ship Register (NOR) for at least four of the last six years prior to submitting an application is entitled to a residence permit.

*Section 8-12 Requirement as to documentation of identity before a residence permit is granted*

As a condition for granting a residence permit under section 38 of the Act, it is required as a general rule that the foreign national produce documentation to substantiate his/her identity, see section 83, third paragraph, of the Act, unless the stated identity is most probably correct, and

- (a) the foreign national's country of origin lacks a functioning central administration, or it is impossible for other reasons to produce an original valid passport or other equivalent identification documents that provide adequate evidence of the foreign national's identity, or
- (b) in the interests of the applicant's safety, the person concerned cannot be required to contact the authorities of his/her country of origin.

If, in cases other than those mentioned in the first paragraph, a decision is made to grant a residence permit under section 38 of the Act, a limited permit may be granted under section 38, fifth paragraph, of the Act.

## **Chapter 9 Family immigration**

### **Sections 40, 41 and 48, see section 126, of the Act Residence permit for spouses and cohabitants**

Section 9-1 [New Section added. Contains a new requirement of four years of work or education in Norway for a sponsor to be eligible for family establishment with a new wife or cohabitant. Not yet translated]

*Section 9-1a Requirement of documentation that a previous marriage has been dissolved as a condition for granting a residence permit for a new spouse or cohabitant*

If the sponsor has previously had another spouse who has been granted a residence permit under section 40 of the Act, it must be documented that the parties are not registered as married in the former spouse's country of origin or in the country in which the previous

marriage was contracted, before a new spouse or cohabitant from the same country may be granted a permit under sections 40, 41 and 48 of the Act.

Exemptions are granted if there are significant impediments to meeting the condition in the first paragraph, or if the applicant's country of origin and the country in which the previous marriage was contracted, have ratified the Hague Convention of 1 June 1970 on the Recognition of Divorces and Legal Separations.

### **Section 41 of the Act Residence permit for cohabitants**

#### *Section 9-2 Residence permit for cohabitants*

If all or parts of the prior cohabitation took place in Norway, both parties must have had lawful residence in the realm in order for the period of cohabitation to be taken into account under section 41, first paragraph, of the Act. The Directorate of Immigration may establish further guidelines in this respect.

The parties may not accumulate time as cohabitants under section 41, first paragraph, of the Act if one or both parties are married to another person. An exception applies if there is a final decision regarding separation, see section 20 of the Marriage Act. If a separation was obtained in another country, it must be recognised by the county governor in accordance with the Act of 2 June 1978 No. 38 on the recognition of foreign divorces and separations.

An exemption may be granted from the condition in section 41 of the Act to the effect that neither of the parties may be married at the time the decision is made, if the parties have or are expecting a child of the relationship and there is a final decision regarding separation, see section 20 of the Marriage Act. If a separation has been granted in another country, it must be recognised by the county governor in accordance with the Act of 2 June 1978 No. 38 on the recognition of foreign divorces and separations.

### **Section 45 of the Act Residence permit for a mother or father with right of access to a Norwegian child**

#### *Section 9-3 Residence permit for a mother or father with right of access to a Norwegian child*

The condition that the applicant has lived with the child or has exercised right of access of a certain extent in the last year outside Norway, see section 45, first paragraph (a) of the Act, must be met in the last year before the child moves to Norway. Unless there are special grounds for not doing so, the application for a residence permit must be submitted within three months after the child has moved to Norway.

As a general rule, access of a certain extent, see section 45, first paragraph (a) and (b), of the Act, shall be equivalent to one afternoon a week, every other weekend, fourteen days during the summer holidays, and Christmas or Easter.

If the extent of access is less than specified in the second paragraph, a permit under section 45 of the Act may nonetheless be granted if special grounds so warrant. In the assessment, importance may be attached, inter alia, to the duration of earlier cohabitation and time spent together by the parent and the child, the child's age, the fact that access has been rendered more difficult for a short period due to great distances, or the fact that there is a plan to increase access to the necessary extent, see second paragraph, in the near future.

### **Section 47 of the Act Short-term stay to visit a child in the realm**

*Section 9-4 Short-term stay to visit a child in the realm. Basis for calculating the time limit when applying after entry, calculation of period of quarantine, etc.*

Where a residence permit is applied for after entry, see section 10-1, first paragraph (j), the duration of the permit is calculated from the date of entry.

The time limit requirement of one year laid down in section 47, fifth paragraph, of the Act is met when the applicant has been absent from the realm for a total of one year, regardless of whether the stay abroad has been interrupted by visits to Norway.

### **Section 48 of the Act Residence permit in order to contract a marriage**

#### *Section 9-5 Residence permit in order to contract a marriage*

A condition for granting a residence permit under section 48 of the Act is that it has been documented that there are no impediments to contracting a marriage.

The provision of section 9-1a regarding the requirement of documentation of the dissolution of a previous marriage applies correspondingly.

In the assessment of whether a permit shall be granted, importance shall be attached to the likelihood of the applicant leaving the realm if an application for further residence is rejected. Weight may otherwise be given to, inter alia, whether the wedding date has been set, the parties' prior relationship and their knowledge of one another.

### **Section 49 of the Act Family immigration in other cases**

#### *Section 9-6 Residence permit for the closest family members of a foreign national with a residence permit that cannot form the basis for a permanent residence permit*

A residence permit may be granted to an applicant as mentioned in sections 40 to 42 of the Act when the sponsor, see section 39 of the Act, has or will receive a permit as mentioned in

- (a) section 1-10, fourth paragraph (mobile installations),
  - (b) section 1-11 (fixed installations),
  - (c) section 6-7, fifth paragraph (employee covered by a group permit),
  - (d) section 6-13 (*seconded employees*) if the applicant is employed by an international company
  - (e) section 6-19, first, third and fourth paragraphs (students, etc.)
  - (f) section 6-20 (researchers with own funds),
  - (g) section 6-21 (au pairs),
  - (h) section 6-22, first and third paragraphs (musicians, performers and cultural workers, etc.),
  - (i) section 6-23 (employees of non-profit, religious and humanitarian organisations),
  - (j) section 6-24 (Peace Corps volunteers), or
  - (k) section 6-31, first paragraph (other foreign nationals)
- of the Regulations.

A residence permit may also be granted to an applicant as mentioned in sections 40 to 42 of the Act when the sponsor has or will be granted a permit as a service provider for an assignment that lasts more than six months under

- (a) section 6-13 (seconded employees),
  - (b) section 6-14 (independent contractors), or
  - (c) section 6-15, sixth paragraph (seconded employees covered by a group permit)
- of the Regulations.

A residence permit may be granted to children under section 42 of the Act when the sponsor holds a permit granted under section 8-3 of the Regulations (period of reflection and residence permit, etc. for victims of human trafficking). A condition is that the child's safety

is deemed to be in grave danger in his/her country of origin and that it is impossible for the child to obtain protection there.

*Section 9-7 Residence permit for family members other than those mentioned in sections 40 to 53 of the Act*

Under section 49 of the Act, a residence permit may upon application be granted to foreign nationals who have the following connection to a sponsor as mentioned in section 40, first paragraph, of the Act:

- (a) a child between the ages of 18 and 21 with no spouse or cohabitant when the applicant has previously had a lengthy stay in the realm with a permit,
- (b) a dependent child aged 18 or older with no spouse or cohabitant who is to continue to be part of his/her parents' household, when the child concerned is or will be remaining in the country of origin with no parents or siblings who are aged 18 or older or married, or when it is substantiated that for medical reasons the person concerned is completely dependent on personal care provided by parents living here,
- (c) a foster child under the age of 18, when it is substantiated that the child is an established member of the household and that those persons exercising parental responsibility for the child are doing so lawfully in accordance with the legislation of the country of origin. Where the child's biological parents are alive, documentary evidence must be submitted confirming that parental responsibility has been transferred. The Norwegian child welfare authorities must have approved the foster home or undertake such approval after the child's arrival,
- (d) a full sibling under the age of 18 with no parents and no other carer in the country of origin or the country in which he or she is staying. A condition is that the person resident here is suited to be a carer. A statement in this respect shall be provided by the child welfare service in the municipality in which the sponsor is resident.

Where the need is temporary or other special grounds so warrant, it may be determined that a permit granted under section 49 of the Act may not form the basis for a renewed or permanent residence permit. It may also be determined that the permit shall not form the basis for a residence permit under chapter 6 (family immigration) of the Act for the foreign national's family members, and that the permit shall not confer the right to take employment.

**Section 50 of the Act Children under the age of 18**

*Section 9-8 Cut-off time for applications concerning children under the age of 18 when the application is decided after the child's 18th birthday*

Where an application is submitted within the time limit laid down in section 50 of the Act, but is not decided until after the child's 18th birthday, the conditions must be met on both the 18th birthday and at the time the decision is made. It is not a condition that the sponsor has been granted his/her permit before the applicant reached the age of 18, if the sponsor's application had been received by the immigration authorities before this date.

**Section 52 of the Act Continued residence permit on the basis of an arrangement giving right of access to a child**

*Section 9-9 Continued residence permit on the basis of an arrangement giving right of access to a child*

The provision of section 9-3, second and third paragraphs, regarding the requirement as to a certain extent of access to the child applies correspondingly.

## Chapter 10 General rules regarding residence permits

### Section 56 of the Act Application for a residence permit

#### Section 10-1 *Right to apply for a first-time residence permit after entry*

The requirement in section 56, first paragraph, of the Act that a first-time residence permit shall be granted prior to entry does not apply to

- (a) a foreign national who is a qualified skilled worker, see section 6-1, first paragraph,
- (b) a foreign national who is deemed to be a specialist on the basis of the salary offered to him or her, see section 6-2,
- (c) seasonal workers, see section 6-3,
- (d) a foreign national who is employed by an international company, see section 1-3(d),
- (e) a spouse, cohabitant, child or adopted child, who is covered by sections 40 to 42 of the Act, or section 49 when the sponsor is subject to section 6-13 of the Regulations and is employed by an international company. In the case of spouses and cohabitants, a condition is that the basis for the stay is not a Schengen visa under section 10 of the Act or a visa granted on humanitarian grounds, etc. under section 11 of the Act, or that the basis for the stay is an equivalent visa issued by another Schengen country. If the applicant is a child as mentioned in section 42, second paragraph, of the Act, documentary evidence must be presented to show that the sponsor has joint parental responsibility for the child. If the sponsor does not have sole parental responsibility, the other parent must consent to the application for a residence permit for the child,
- (f) a parent of a Norwegian child, see section 44 of the Act,
- (g) a foreign national covered by the EEA Agreement or the EFTA Convention, see sections 109 and 110 of the Act,
- (h) a foreign national who is born to parents of whom at least one was a Norwegian national at the time the child was born, see section 8-10,
- (i) a foreign national who has been permanently employed by a Norwegian shipping company and falls within the scope of section 8-11. A condition is that the person concerned signs off in the realm or travels here immediately after signing off abroad,
- (j) a foreign national who applies for a short-term stay under section 47 of the Act to visit a child in the realm,
- (k) seamen on board a foreign-registered ship who apply for a permit under section 6-6,
- (l) necessary security and maintenance crew on board a ship that is laid up in the realm, see section 6-31, third paragraph, and
- (m) a foreign national who meets the conditions for collective protection, see section 34 of the Act.

The Directorate of Immigration may establish further guidelines and grant exemptions from the requirement that a first-time residence permit must have been granted prior to entry for applicants as mentioned in sections 6-19 to 6-31 of the Regulations, and for the spouse, cohabitant and children of such an applicant.

In order to be entitled to submit an application from the realm under the first and second paragraphs, a condition is that the applicant is lawfully staying in the realm and that he/she is not staying in the realm in connection with an application for asylum or waiting to exit after his/her application for asylum was rejected. A spouse, cohabitant, child or adopted child as mentioned in the first paragraph (e), and the parent of a Norwegian child as mentioned in (f), may nonetheless submit an application from the realm even if the person concerned is lawfully staying in the realm in connection with an application for asylum. The condition of lawful stay does not apply to children born in the realm.

Even if the conditions for submitting an application from the realm under the first to third paragraphs are not met, the authorities shall on their own initiative always consider whether strong grounds of reasonableness nonetheless warrant processing the application, see section 56, third paragraph, of the Act.

Where the applicant does not meet the conditions for applying from the realm, the application is rejected on this basis. The same applies when the applicant does not meet the conditions for entering the realm before a residence permit has been granted.

#### *Section 10-2 Procedure for applying for a residence permit*

The Directorate of Immigration establishes further guidelines regarding how an application for a residence permit shall be submitted. The Directorate of Immigration may in this respect require that the application shall be submitted using the prescribed form, or may allow applications to be submitted electronically. The authority which receives the application shall make sure that it is correctly completed and that the necessary appendices are attached to the application.

The applicant must provide documentary evidence of identity by presenting a passport or other identity document issued by a public authority, and shall be required to document any other information given when this is deemed to be necessary. A note shall be made as to how the applicant's identity was confirmed, see also section 100 of the Act and section 18-1 of the Regulations.

Where the applicant is outside the realm, the application shall be submitted through a Norwegian foreign service mission in the country of which the applicant is a national, or through a Norwegian foreign service mission in the country in which the applicant has held a residence permit in the last six months. The foreign service mission shall obtain information regarding the applicant's basis for stay in the country concerned. In accordance with further guidelines established by the Directorate of Immigration, a foreign national who has lawfully stayed in Svalbard for six months may submit an application for a residence permit through the Governor of Svalbard. The person concerned may be required to appear in person.

An application from the realm shall be submitted in person to the police in the district in which the applicant is habitually resident. The Directorate of Immigration, in cooperation with The Norwegian Labor Inspection Authority, the police and the Norwegian Tax Administration, gives further provisions on when an application can also be submitted to a Service Centre for Foreign Workers. An application submitted from the realm by the sponsor shall be submitted through the police in the district where the sponsor is resident. Applications for a permit for seamen, see section 6-6, shall be submitted through the police in the district in which the ship first calls. Where the application is submitted by an employer or a principal, the provisions of section 10-3 also apply.

The provisions of the first to fourth paragraphs also apply where the applicant is under the age of 18. A person aged 18 or older may apply on behalf of any such applicant who cannot complete and sign the application himself or herself. This person must appear in person with the applicant when submitting the application.

If strong grounds of reasonableness so warrant, the Directorate of Immigration may in individual cases and for groups of applicants consent to the application being submitted in a different way. This includes determining that a sponsor may apply on behalf of the applicant. The sponsor must then submit the application in person.

A sponsor covered by the interview arrangement, see section 56, fourth paragraph of the Act, and who wishes to undergo a prior interview under the provision of section 56, fourth paragraph (a) of the Act, may also apply on behalf of the applicant and submit the application from the realm, provided that the sponsor has written authorisation.

Where an application has not been submitted in accordance with the requirements laid down in the first to fourth paragraphs, the application may be rejected on this basis. The same applies where the fee has not been paid, see section 89 of the Act and section 10-6, first paragraph, second sentence, of the Regulations.

The Directorate of Immigration may determine that applications that are not correctly submitted may instead be rejected in specific cases, and that the Police may make decisions regarding this.

#### *Section 10-3 Applications submitted by employers or principals*

Employers, see section 6-9, and principals, see section 6-16, may submit applications for a residence permit from the realm on behalf of employees or seconded employees, provided that they have written authorisation to do so.

Employers who are covered by the early work-start scheme, see section 6-8, may submit applications without the authorisation of employees as mentioned in section 6-1, first paragraph, and section 6-2. An application may be submitted when an employer wishes to have the employee start work before the application has been processed. In the case of seamen, see section 6-6, the master of the ship or another representative of the shipping company may submit an application, provided that written authorisation to do so is presented.

Employers or principals may submit the application from the realm, see section 10-2, fourth paragraph, to the police in the district in which the employer or principal has their place of business or through a Service Centre for Foreign Workers. The same applies to applications for a group permit, see sections 6-7 and 6-15. For applications for permits for seamen, see section 6-6, the application may, if relevant, be submitted as indicated in section 10-2, fourth paragraph.

#### *Section 10-4 Confirmation of a fully completed application for a residence permit that confers the right to start work before the application has been processed*

An employee who has submitted a fully completed application for a residence permit as a skilled worker, see section 6-1, first paragraph, or a specialist, see section 6-2, may be given confirmation that the employee has the right to start work before the application has been processed. The same applies to foreign nationals who are employed in an international company, see sections 6-13 and 6-21, and seamen, see section 6-6.

An application is deemed to be fully completed under the first paragraph when the necessary appendices are attached to the application and the applicant's identity has been checked by requiring him or her to produce a passport or other recognised identity document. An offer of employment or offer of assignment form, see sections 6-9 and 6-16, must be attached. The Directorate of Immigration may establish further guidelines regarding when the application is deemed to be fully completed, including requirements as to documentation that the relevant specialist authority has given its approval or authorisation in the case of occupations/professions that are subject to statutory or regulatory qualification requirements.

Where the employer submits the application, the police may issue a provisional confirmation to the employer stating that the employee has the right to have the employee start work before the application has been processed. Before issuing such confirmation, the police shall check that the employer satisfies the criteria for making use of the early work-start scheme, see section 6-8. Employers and principals who are an international company, see section 1-3(d), or employers of seamen, see sections 6-6 and 6-9, and who submit an application on behalf of an employee as mentioned in the first paragraph may also be given such provisional confirmation. The employer, if relevant the principal, shall inform the employee of the right to enter the realm and that the employee should contact the foreign service mission to request the issue of an entry visa where this is necessary. The employee

shall at the latest one week after entering the realm report to the police to confirm the application for a permit and to document his or her identity by producing a passport or other recognised identity document.

The police issue a confirmation to employees as mentioned in the first paragraph, see third paragraph, fifth sentence, which states that the foreign national may work for the specific employer until the application has been processed.

The police register such provisional confirmation as mentioned in the third paragraph and such confirmation as mentioned in the fourth paragraph in the Norwegian Computer System for Immigrant and Refugee Cases (DUF).

Chapters IV to VI of the Public Administration Act do not apply to decisions by the police not to issue provisional confirmation under the third paragraph or confirmation under the fourth paragraph.

#### *Section 10-5 Exemption from the requirement of an interview with the sponsor in Norway*

The condition that the sponsor must return to Norway and be interviewed by the immigration authorities before an application for a residence permit as mentioned in section 56, fourth paragraph, of the Act may be granted, does not apply when

- (a) the sponsor had reached the age of 25 when the marriage was contracted,
- (b) the sponsor had been granted a residence permit as a skilled worker or a specialist, see section 6-1, first paragraph, and section 6-2 of the Regulations, or
- (c) the parties have lived together in an established relationship of cohabitation while both of them have held a residence permit in Norway.

A condition for a prior interview, see section 56, fourth paragraph (a), of the Act, is that the sponsor no later than at the time of the prior interview submits an application on behalf of the applicant, see section 10-2, seventh paragraph, of the Regulations.

Exemptions may be made from the condition of an interview with the sponsor in Norway when special grounds so warrant.

#### *Section 10-6 Processing of applications for a residence permit and affixing of the permit*

The authority which receives the application, see section 10-2 of the Regulations, shall procure all such information regarding the applicant as is deemed necessary to shed as much light as possible on the case before a decision is made. Documentary evidence that the fee has been paid shall be provided before the case is processed and a decision is made, see section 89 of the Act.

The applicant or other persons applying on behalf of the applicant, see section 10-2, may be required to appear in person during the processing of the case when this is deemed necessary to elucidate the case.

When the application is granted, the foreign national shall be made aware of the obligation to report to the police within one week after entering the realm.

The police shall affix the residence permit in the foreign national's travel document. An individual permit to work in a group, see section 4-22, second paragraph, shall also be affixed in the travel document. If this is not possible, the permit shall be affixed on a separate document that only constitutes valid documentation when presented together with the travel document. In both cases, the affixed permit shall not have a period of validity beyond that of the travel document. Any limitations and conditions shall be stated in the affixed permit.

If the foreign national does not have a valid travel document, the permit shall be affixed on a separate document which shall state that the foreign national does not have a valid travel document. Any limitations and conditions shall be stated in the affixed permit.

If the foreign national did not go to the police in person when the application was submitted or when the confirmation was issued under section 10-4, nor while the application

was being processed, the foreign national may be required to appear in person in connection with the granting of the application and the affixing of the permit.

**Section 58 of the Act                      Requirement as to means of subsistence and accommodation**

*Section 10-7 Requirement as to means of subsistence upon first-time application in cases other than family immigration*

Means of subsistence are considered to be assured where the foreign national

- (a) will have employment income of sufficient size. Income from full-time employment is as a general rule considered sufficient,
- (b) receives pension or other fixed periodic benefits where such pension or benefits are of sufficient size,
- (c) has personal funds that are considered sufficient. The Directorate of Immigration may require that a specified sum of money be transferred to a Norwegian bank and may tie up all or part of that sum for a specified period, or
- (d) will receive a study loan or grant of sufficient size.

Benefits under the Social Services Act are not regarded as means of subsistence. Means of subsistence are also considered to be assured through a combination of the first paragraph (a) to (d), where this is sufficient. If the applicant meets the conditions for obtaining part-time employment under section 6-33, second and third paragraphs, or full-time employment under the fourth paragraph, and a specific offer of employment exists, the expected income shall be included in the assessment of compliance with the means of subsistence requirement.

In case of a permit granted to a self-employed person under section 6-18, a precondition is that means of subsistence will be assured essentially through the business activity.

Means of subsistence may as an exception be considered to be assured by a financial guarantee furnished by a third party.

There is no requirement as to assured means of subsistence for a foreign national who has submitted an application for protection and who satisfies the conditions for a residence permit under section 38 of the Act without having submitted an application for protection.

*Section 10-8 Requirement as to future income in a family immigration case under chapter 6 of the Act*

A condition for a residence permit under chapter 6 of the Act (family immigration) is that the sponsor can render it probable that he or she is assured funds equivalent to grade 8 in the state salary scale for the period for which the application applies, through

- (a) employment income,
- (b) sick pay, pregnancy benefit, parental benefit, disability benefit or old-age pension under the National Insurance Act,
- (c) pension or other fixed periodic benefits except benefits under the Social Services Act,
- (d) benefit under the Introduction Act,
- (e) an education loan or education grant, or
- (f) a combination of such funds as mentioned in (a) to (e).

The requirement as to future income is also considered to be assured where the sponsor receives old-age pension or disability pension which altogether is at least equivalent to the minimum pension.

The requirement as to future income may also be assured by persons other than the sponsor in the following cases:

- (a) Where the applicant is lawfully employed in the realm, the applicant's income shall also be taken into account.
- (b) Where the sponsor is undergoing higher education (university college or university) and has accumulated at least 60 credits or is undergoing vocational tertiary education and has completed at least one year's nominal length of study, the applicant's funds in accordance with the first paragraph shall also be taken into account. A condition is that both parties have reached the age of 23. The Directorate of Immigration may establish further guidelines.
- (c) As an exception the requirement may be considered to be assured by the furnishing of a financial guarantee by a third party. This does not apply where the applicant is the sponsor's spouse or cohabitant, see sections 40 and 41 of the Act, or the applicant intends to contract marriage with the sponsor after entry, see section 48 of the Act.

Exemption from the requirement in the first paragraph as to future income is made in the following cases:

- (a) The applicant is married to, cohabitant of or a child of, see sections 40, 41 and 42 first or second paragraph, a sponsor who holds a residence permit under section 28 (refugee) or section 34 (collective protection) of the Act. If the applicant is the sponsor's spouse, a condition is that the marriage was contracted before the sponsor entered Norway.
- (b) The applicant is a child and the sponsor has a residence permit under section 8-3 of the Regulations (victim of human trafficking), section 8-4 (witness in a case concerning human trafficking) or has been granted a residence permit under section 38, second paragraph (d), of the Immigration Act.
- (c) The sponsor has been granted a permanent residence permit after having had a prior basis for residence as mentioned in (a) or (b). If the applicant is the sponsor's spouse, a condition is that the marriage was contracted before the sponsor entered Norway.
- (d) The sponsor is a child below the age of 18.
- (e) The applicant is a child below the age of 15 without care persons in the country of origin. Section 50 of the Act and section 9-8 of the Regulations apply correspondingly.

In order to be exempted from the requirement as to future income under the fourth paragraph (a) to (c), a condition is that the application is submitted within one year after the sponsor was granted a residence permit, unless the applicant has been prevented from submitting an application at an earlier time because of factors beyond the applicant's control.

#### Section 10-9 *Requirement as to previous income in a family immigration case under chapter 6 of the Act*

A sponsor who is required to meet the requirement as to future income under section 10-8, first paragraph, must provide documentation from the latest tax assessment showing that he or she had a registered income equivalent to grade 8 in the state salary scale. A condition is that the sponsor has retained a satisfactory level of income in the period after the tax assessment.

Exemption is made from the requirement as to documentation in regard to tax assessment if the sponsor is a Norwegian national, a Nordic national or a foreign national with a permanent residence permit, who has been in employment abroad and can provide documentation showing that he or she has had an income equivalent to grade 8 in the state salary scale.

Exemption is made from the requirement as to previous income under the first paragraph in the following cases:

- (a) The sponsor is a Norwegian national, a Nordic national or a foreign national with a permanent residence permit who has undergone higher education (university college or university) in Norway or abroad and has accumulated at least 60 credits or the equivalent, or has undergone vocational tertiary education in Norway equivalent to one year's nominal length of study. The Directorate of Immigration may establish further guidelines.
- (b) The sponsor has completed compulsory military service or compulsory civil service.
- (c) The sponsor has had a registered net wealth of more than NOK 1 million at the two latest tax assessments and is aged 23 or over.
- (d) The sponsor was in a situation as mentioned in section 10-8, second paragraph, in the period concerned.
- (e) The sponsor holds a permit under section 6-1, first paragraph (a skilled worker on the basis of qualifications), section 6-2 (specialist on the basis of a salary offer).
- (f) The sponsor has a permit as mentioned in section 9-6 (residence permit that cannot constitute a basis for a permanent residence permit).

Section 10-10 *Requirement that the sponsor must not have received financial support or qualification benefit under the Social Services Act in a family immigration case under chapter 6 of the Act*

For a sponsor who must meet the requirement as to future income under section 10-8, a condition is that he or she has not received financial support or qualification benefit under the Social Services Act in the last 12 months before a permit is granted. Exemption from this condition will be granted if

- (a) the benefit was paid pending social security benefits as mentioned in section 10-8 or housing benefit, or
- (b) the benefit was paid to a foreign national who has received benefit under the Introduction Act.

Section 10-11 *Exemption from the requirement as to means of subsistence because of particularly strong humanitarian considerations in a family immigration case under chapter 6 of the Act*

Exemption may be made from the provisions of sections 10-8 to 10-10 if warranted by particularly strong humanitarian considerations.

Section 10-12 *Requirement as to accommodation upon first-time application*

Accommodation is considered to be assured where the foreign national has at his/her disposal a house, flat, bedsit or the like that meets public requirements.

If a tenancy relationship is involved, a rental contract in writing must be presented that is approved by the house owner, housing cooperative or other party having the accommodation at their disposal.

No requirement as to assured accommodation applies to foreign nationals who have submitted an application for asylum and who meet the conditions for a residence permit under section 38 of the Act. After an overall assessment pursuant to section 38 of the Act, exemption may also in other cases be made from the requirement as to assured accommodation where there is considered to be a basis for residence under this provision.

In family immigration cases under chapter 6 of the Act, the requirement as to assured accommodation only applies in cases under sections 46 to 49 of the Act. Exemption may be made if warranted by particularly strong humanitarian considerations.

The Directorate of Immigration may make regulations concerning the accommodation requirement.

## **Section 60 of the Act            Duration and content of residence permits**

### *Section 10-13 Duration of permits for foreign nationals who have been granted a residence permit on the basis of an application for asylum*

A residence permit granted to a foreign national on the basis of an application for asylum shall be given validity for three years. If warranted in the interest of continued identity checks or other particular reasons, a permit may be granted for a period of one year or less.

### *Section 10-14 Duration of permits for spouses and cohabitants with common children*

A residence permit for a spouse or cohabitant who has children from his/her relationship with the sponsor may be granted for a period of three years under further guidelines established by the Directorate of Immigration.

### *Section 10-15 Duration of permits for children who are granted a residence permit under chapter 6 of the Act (family immigration)*

A residence permit for a child who is granted family reunification under chapter 6 of the Act may be granted for a period of three years unless there are particular reasons for not doing so.

### *Section 10-16 Duration of permits for foreign nationals with a residence permit under chapter 3 of the Act (employment and studies, etc.)*

Residence permits for skilled workers under section 6-1, first paragraph, may be granted for a period of three years.

Residence permits to skilled workers under section 6-1, second paragraph, and to specialists under section 6-2 may be granted for a period of one year.

Residence permits for students under section 6-19, first paragraph, may, under further guidelines made by the Directorate of Immigration, be granted for a period of up to three years provided this is in accordance with a duly presented plan of study and it is clear that means of subsistence are assured for the entire period.

Other permits under chapter 6 of the Regulations may, under further guidelines made by the Directorate of Immigration, be granted for a period of up to two years.

A permit will not be granted for a period beyond that applied for or beyond the duration of the employment relationship or assignment. If the purpose of the stay or other particular reasons so warrant, a permit may be granted for a period of less than one year.

*Section 10-17 Other provisions concerning the duration of the permit*

The date of the last day of entry is set in the residence permit. The date of the last day of entry shall not be set later than six months after the date of the decision, unless exemption is warranted for special reasons.

The duration of a first-time permit is calculated with reference to the date of reporting to the police, see section 4-22. For a foreign national applying from the realm, see section 10-1, the duration of the permit is calculated with reference to the date of the decision.

If the foreign national has been granted a residence permit during the processing of an application under section 57 of the Act, this shall be included when calculating the duration of permits which do not constitute a basis for a permanent residence permit.

*Section 10-18 Right of a family member of a sponsor with a permit under sections 24 and 25 of the Act to take employment*

The spouse or cohabitant of a sponsor with a residence permit as a seconded employee, see section 6-13, or as an independent contractor, see section 6-14, who holds a residence permit under section 9-6, may take employment without the limitations set in the sponsor's residence permit having effect.

A family member of a sponsor with a permit as a self-employed person under section 6-18, who holds a residence permit under sections 40 et seq. of the Act, may take employment without the limitations set in the sponsor's residence permit having effect.

This means that the family members' residence permits give them the right to work and to carry on business anywhere in the realm, see section 60, third paragraph (b), of the Act.

*Section 10-19 Right of a family member of a sponsor with a permit under section 26 of the Act to take employment*

A foreign national who has a residence permit as the spouse or cohabitant under section 9-6 of a sponsor with a residence permit under section 6-19, first, third or fourth paragraph, section 6-20 and section 6-22, third paragraph, may be granted the right to full-time employment even if the sponsor under section 6-33 has a limited right to take employment.

A spouse or cohabitant who has a residence permit under section 9-6, see section 10-23, second paragraph, when the sponsor is granted a residence permit under section 6-29 to seek employment as a skilled worker, may be granted the right to full-time employment even if the sponsor under section 6-33 has a limited right to take employment.

**Section 61 of the Act                      Renewal of residence permits**

*Section 10-20 Requirement as to means of subsistence upon renewal etc.*

Subject to the exceptions mentioned in this section, the same requirements as to assured means of subsistence are imposed upon renewal as in the case of a first-time residence permit.

Upon renewal, benefits under the National Insurance Act shall be taken into account as income.

Where a first-time residence permit is granted under the provisions on family immigration in sections 40 to 46 of the Act or section 9-7 of the Regulations, no requirement as to assured means of subsistence is imposed upon renewal, unless this is done in respect of the sponsor.

No requirement as to assured accommodation applies upon renewal.

*Section 10-21 Renewal of a residence permit under chapter 3 of the Act (employment and studies etc)*

The duration of a residence permit renewed under section 61 of the Act for a foreign national as mentioned in sections 6-1 to 6-31 of the Regulations shall be fixed within the time frame set in the relevant provision.

For employees who are granted a permit for

- (a) a specific type of work, renewal may be granted for the same type of work even if there is a change of employer,
- (b) work for a specific employer, renewal may be granted with the same employer even if there is a change of work, or
- (c) specific work with a specific employer, renewal may be granted for the same work with the same employer.

For seconded employees under section 6-13 and independent contractors under section 6-14, a condition for permit renewal is that the assignment involved is the same as set out in the contract on which the permit was based.

A group permit for employers and principals, see sections 6-7 and 6-15, may be renewed even if the group includes fewer than six persons, provided evidence is shown that the group is being dismantled. Foreign nationals covered by a group permit shall be granted a renewed individual permit.

For self-employed persons under section 6-18 a condition for permit renewal is that the same business is involved.

For students under section 6-19, first paragraph, a condition for permit renewal is that the student shows satisfactory progress in the course of study. The education institution concerned shall make a statement on this matter and on whether a continued permit for part-time work etc., see section 6-33, second paragraph, is deemed to be a drawback to completion of the course of study, and whether limits should be set on the number of hours worked per week. In the event of a change in the plan of study, the permit will as a general rule only be renewed where the change entails continuation of the commenced course of study.

Permits for jobseekers who require a visa, see section 6-30, may not be renewed within the six-month period.

*Section 10-22 Renewal of a work permit under section 38 (strong humanitarian considerations or particular connection with Norway)*

Permits granted under section 38 of the Act shall be renewed in accordance with the basis on which the permit was granted, provided this basis still exists and except as otherwise stated in the permit.

*Section 10-23 Renewal of a residence permit under chapter 6 of the Act (family immigration)*

Upon renewal of residence permits granted under section 45, first paragraph, of the Act (mother or father with right of access to a Norwegian child) and section 52 of the Act (continued permit on the basis of right of access to a child in the realm), a condition is that right of access has actually been exercised in accordance with the conditions for the permit whose renewal is being sought.

A foreign national who has had a residence permit as a family member under section 9-6 of the Regulations may be granted a renewed permit provided the sponsor has been granted a residence permit to seek employment as a skilled worker for a period of up to six months, see section 6-29.

Four years employment or education is not a prerequisite for renewal, see the Act section 40a.

*Section 10-24 Duration and content of a renewed residence permit*

A permit may be renewed for a period of up to two years. Section 60, first paragraph, third and fourth sentences, of the Act and sections 10-16 and 10-17 of the Regulations apply correspondingly.

The duration of a renewed permit shall as a general rule be calculated from the date of expiry of the previous permit. If renewal of a permit is applied for after the expiry of the previous permit, the calculation shall be based on the date of the decision provided the permit forms the basis for a permanent residence permit.

In all other respects the provisions of section 60, third paragraph, of the Act, concerning the content of the permit, apply correspondingly.

*Section 10-25 Right of stay on the same conditions until an application for renewal is decided*

If a foreign national with a renewable residence permit applies for renewal later than one month before the permit expires, see section 61, sixth paragraph, of the Act, the decision-making authority shall, when assessing whether the foreign national should be granted continued residence on the same conditions, give weight to whether the application can be expected to be granted and to whether the previous permit is of such nature as to form the basis for a permanent residence permit.

*Section 10-26 Basis for calculating the duration of a permit on a new basis, see section 61, seventh paragraph, of the Act*

For a permit granted before the expiry of the previous permit, calculation of the duration of the permit shall be based on the date of the decision. The same applies where a permit on a new basis is applied for after the expiry of the previous permit or if the conditions for the new permit were only met after the expiry of the previous permit. In all other cases calculation shall be based on the date of expiry of the previous permit.

Section 61, seventh paragraph, of the Act does not apply to foreign nationals with a residence permit under section 47 of the Act.

*Section 10-27 Submission and processing of an application for renewal*

An application for renewal of a permit shall be made using the prescribed form. The application shall be submitted to the police in the district where the applicant has had habitual residence. The Directorate of Immigration shall establish further guidelines, and may permit applications to be submitted electronically or by other means.

Appearance in person may be required in connection with the submission and processing of an application for renewal.

## **Chapter 11            Permanent residence permit**

### **Section 62 of the Act            Permanent residence permit**

*Section 11-1 Right to a permanent residence permit*

A foreign national who has stayed in the realm on a permit under section 34 of the Act (collective protection in a mass flight situation) during the last four years, and who in the past year has had a residence permit which may form the basis for a permanent residence permit, has the right, upon application, to a permanent residence permit provided the conditions of section 62, first paragraph (a) to (d), are met. A condition is that the power to grant collective protection has not lapsed.

Children born in the realm to parents who are residing in the realm shall be granted a permanent residence permit without prior residence where an application for such permit is submitted within one year after childbirth and the parents by this point and no later have applied for and meet the conditions for receiving a permanent residence permit or Norwegian nationality. Adopted children, see section 42, third paragraph, of the Act, of parents who are Norwegian or Nordic nationals residing in the realm, or of parents residing in the realm on a permanent residence permit, shall be granted a permanent residence permit without prior stay and without having completed compulsory Norwegian language training in accordance with the Introduction Act, where consent for adoption has been granted by the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) prior to entry into the realm, and the application is submitted within one year after entry.

The right to a permanent residence permit under section 62, first paragraph, of the Act shall apply correspondingly even if the foreign national in the first two years of the three-year period had right of residence under the provisions of chapter 13 of the Act, provided that the foreign national would also in this two-year period have met the requirement for a permit providing the basis for a permanent residence permit.

The spouse or cohabitant, see sections 40 and 41 of the Act, of a Norwegian national employed at a Norwegian foreign service mission has the right to a permanent residence permit when the foreign national's residence in the realm on a permit which may form the basis for a permanent residence permit, and stay(s) abroad in connection with a Norwegian foreign service mission, amount in aggregate to four years. At least one year must be residence in the realm as mentioned. There is no requirement as to completion of compulsory Norwegian-language training under the Introduction Act.

A foreign national who is a household member of seconded personnel at a Norwegian foreign service mission and who meets the conditions for Norwegian nationality under section 7 of the Norwegian Nationality Act and section 8-2 of the Regulations on the Acquisition and Loss of Norwegian Citizenship of 30 June 2006 (no. 756) has upon application the right to a permanent resident permit.

A permanent residence permit is granted as from the date of the decision.

If an application for a permanent residence permit is rejected, the application shall be considered under section 61 of the Act and sections 10-20 to 10-27 of the Regulations.

*Section 11-2 Requirements as to three years' continuous residence in the realm*

The basis for the calculation of the period of residence under section 62, first paragraph, is the date on which the foreign national was granted a residence permit that can form the basis for a permanent residence permit. When a foreign national is granted such a permit prior to entry, the basis for the calculation of the period of stay shall be the date of notification to the police, see section 19, first paragraph, of the Act. For a foreign national who has been granted a residence permit under section 28, second paragraph, of the Act, the basis shall be the date of application. For a foreign national who has been transferred to the realm under section 35 of the Act, the basis shall be the date of arrival.

A foreign national with a residence permit as a skilled worker under section 6-1, first paragraph, or as a specialist under section 6-2, may be absent from the realm for up to 15 months altogether without losing the right to a permanent residence permit under section 62, first paragraph, of the Act, provided at least eight months of the absence are due to an assignment for an employer.

*Section 11-3 Permanent residence permit after revocation of Norwegian nationality*

Any person whose Norwegian nationality is revoked under the Nationality Act, section 26, first paragraph, due to not being released from another nationality has the right to a permanent residence permit under this provision, unless that person is a Nordic national and is exempt from the requirement as to a residence permit under section 5, second paragraph, of the Immigration Act.

*Section 11-4 Granting of a permanent residence permit even if the conditions of section 62, first paragraph, of the Act are not met*

A permanent residence permit may be granted to a foreign national who does not meet the requirement as to three years' residence under section 62, first paragraph, of the Act, where the foreign national has for at least the past year had a permit that can form the basis for a permanent residence permit, and

- (a) the foreign national has previously had a long period of residence in the realm on a permit,
- (b) the foreign national has previously had a long period of residence in Svalbard, or
- (c) particularly strong grounds of reasonableness are present.

*Section 11-5 Additional time on account of a penalty imposed for an offence as mentioned in section 66, first paragraph (c), of the Act*

Where the applicant has been given an unconditional prison sentence or preventive detention, additional time is calculated before a permanent residence permit is granted in accordance with the following table:

Up to 90 days:	2 years
Up to 6 months:	3 years
Up to 1 year:	4 years
Up to 2 years:	5 years
Up to 3 years:	6 years
Up to 4 years:	7 years
etc.	etc.

No residence period is calculated while the applicant is serving an unconditional prison sentence or preventive detention.

Where the applicant has been given a community sentence, one year is added to the required residence period. A permanent residence permit may as a general rule not be granted while the sentence is being served.

Where the applicant has been fined, the additional time is calculated in accordance with the following scale:

Up to NOK 3000:	6 months
Up to NOK 5000:	1 year
Above NOK 5000:	1-2 years
Repeated fines:	Maximum of 2 years

No additional time is calculated in respect of a fine in lieu of prosecution.

Where the applicant is given a suspended prison sentence of up to one year, one year is added to the required residence period. Where the applicant is given a suspended prison sentence of more than one year, two years are added to the required residence period. A permanent residence permit may as a general rule not be granted in the probation period.

Where a criminal case is referred to mediation by a National Mediation Service Office, additional time shall not be calculated, and the application for a permanent residence permit may be processed.

Where the applicant has been granted a waiver of prosecution, no additional time shall be calculated. The application for a permanent residence permit may not be processed until the decision not to prosecute is final and inappellable.

Where the applicant has been sentenced to compulsory psychiatric care, a new residence period must be accumulated which will form the basis for a permanent residence permit after the period of compulsory psychiatric care is completed.

Where the applicant has two or more fines or sentences, the additional period shall be fixed on a discretionary basis, but such that it is somewhat longer than if only one fine or sentence had been imposed.

The additional time shall be calculated as from the date when a permanent residence permit could have been granted. If the date when the application was submitted or the date of the latest criminal act is later in time, the additional time shall be calculated from the latest of these dates.

Section 11-6 *The situation where the application is placed in abeyance because of suspicion of or indictment for a criminal offence*

Where processing of an application for a permanent residence permit is placed in abeyance because the applicant is suspected of or charged with a criminal offence, a decision to renew the residence permit shall be taken provided that the conditions for renewal are met.

Section 11-7 *Rights while an application for a permanent residence permit is being processed*

A foreign national who applies for a permanent residence permit may be granted continued residence on the same conditions until a final decision on the application has been reached. The foreign national has the right of such residence provided he/she applies no later than one month before the residence permit expires. This does not apply where the Act or the Regulations make it clear that the residence permit may not form the basis for a permanent residence permit. If the application is submitted later than one month before the residence permit expires, the decision-making authority shall, when assessing whether the foreign national should be granted continued residence on the same conditions, give weight to whether the application can be expected to be granted.

Section 11-8 *Lapse of a permanent residence permit*

The period of possession of an address or the actual period spent outside the realm is considered to be continuous and may lead to the lapse of a permanent residence permit under section 62, fifth paragraph, of the Act even if the foreign national has spent one or more periods of short duration in the realm. The period of possession of an address or the actual period spent outside the realm is also considered to be continuous if the foreign national in the course of a four-year period has spent several periods abroad of a total duration of more than two years. Periods abroad altogether totalling less than two months per calendar year are however not regarded as residence abroad. If a foreign national remains for 15 months in Norway between two periods abroad, a new two-year period starts to run.

Even if the foreign national has remained abroad for more than two years, exemption may be made from the rule concerning lapse of a permanent residence permit in section 62, fifth paragraph, of the Act if the foreign national has left the realm and against his/her will is unable to return here, and would have had the right to a residence permit under section 53, first paragraph (b), if he/she had remained in Norway.

A foreign national may upon application be given the right to reside outside the realm for more than two years in succession without a permit lapsing, if it is clear that the foreign national intends to settle in the realm once again, and he/she

- (a) is to undergo military service or other equivalent service in his/her country of origin,
- (b) is to remain abroad in connection with work or education beyond ordinary upper secondary education, or
- (c) is to remain abroad together with his/her spouse, cohabitant, mother or father who is residing abroad in connection with work or education.

In the decision of how long the foreign national shall be permitted to remain outside the realm without the permit lapsing, importance shall be given to the length of the applicant's prior period of residence in the realm and the purpose of the stay outside the realm.

If an application under the third paragraph is submitted earlier than six months prior to the expiry of the two-year time limit, a permanent residence permit does not lapse provided the foreign national returns to Norway within two weeks after the Directorate of Immigration's rejection of the application is communicated to the foreign national.

## **Chapter 12            Refugee travel document and immigrant's passport**

### **Section 64 of the Act            Refugee travel document and immigrant's passport**

Section 12-1 *Exceptions from the right to be issued with a travel document etc.*

The issue of a travel document under section 64, first paragraph, of the Act may be refused if

- (a) circumstances exist in which a passport would not be issued to a Norwegian national, see section 5 of the Passport Act,
- (b) the foreign national's identity is in doubt,
- (c) the foreign national has been handed down an inappellable judgment for a particularly grave crime and for this reason is a danger to society,
- (d) circumstances exist as described in section 40, second paragraph, of the Children Act, or
- (e) if warranted by foreign policy considerations or fundamental national interests.

If the refugee has a travel document issued by a foreign state, the right to a refugee travel document only applies if the refugee has been granted a residence permit as a refugee or comes under the European Agreement on Transfer of Responsibility for Refugees (16 October 1980) by having

- (a) been resident in Norway for more than two years,
- (b) been granted a permanent residence permit, or
- (c) been granted a permit to reside in Norway beyond the travel document's period of validity.

A refugee travel document may also be issued to a foreign national who meets the conditions for the issue of such document under the Agreement relating to Refugee Seamen (23 November 1957) and to a refugee seaman who can provide documentary evidence of continuous service on a Norwegian ship registered in the Norwegian Ordinary Ship Register (NOR) for at least two of the last three years.

Section 12-2 *A travel document's area of validity*

A refugee travel document shall be in the name of one person.

A travel document shall as a general rule have the same period of validity as the residence permit, but not longer than three years. Where circumstances exist as mentioned in section 12-1, first paragraph, or if warranted by other special reasons, a period of validity may be set which is shorter than the foreign national's residence permit.

If the refugee has been granted a permanent residence permit, the period of validity may be set to 5 years.

The travel document is valid for return journeys to Norway during the period of validity.

The travel document shall be valid for travel to all countries other than the refugee's country of origin. The travel document's validity may be limited to single journeys or exceptions may be made for countries other than the country of origin, if called for by special reasons.

A refugee with a Norwegian travel document shall be exempt from the visa requirement in countries which have acceded to the European Agreement on the Abolition of Visas for Refugees (20 April 1959), see section 3-1(g).

#### Section 12-3 *Renewal of travel documents*

A travel document may upon application be renewed on the conditions set out in section 64 of the Act, unless the provisions of section 12-4 are applicable. Renewal may also be refused if the holder has lost his/her travel document and no credible explanation of how this happened has been given, see section 12-13, second paragraph.

The provisions of section 12-2 apply correspondingly to renewed travel documents.

#### Section 12-4 *Surrender and confiscation of travel documents*

A refugee has an obligation to hand in his or her Norwegian travel document upon obtaining a travel document issued by his/her country of origin.

A travel document shall be confiscated where

- (a) the holder is rejected under section 17, first paragraph (c) or (l), of the Act,
- (b) the holder is expelled under section 66(f), section 67, first paragraph (e), or section 68, first paragraph (d) of the Act,
- (c) the holder obtains a travel document issued by his/her country of origin,
- (d) the holder loses his/her refugee status upon acquiring Norwegian or foreign nationality or for another reason, see sections 31 and 37 of the Act,
- (e) responsibility for the holder passes to another state in accordance with the European Agreement on Transfer of Responsibility for Refugees (16 October 1980),
- (f) the holder, under law, is refused exit from the realm, or
- (g) exit will be incompatible with a judgment, ruling or other decision made by public authority.

A travel document may be confiscated where

- (a) circumstances arise as mentioned in section 12-1, first paragraph (a), (b) or (e),
- (b) its appearance or contents are changed unlawfully,
- (c) it is damaged or in other ways unfit for continued use,
- (d) the photograph or description no longer matches the holder's appearance,
- (e) it is in the possession of an unauthorised person,
- (f) the holder has made a journey in contravention of the limitations set for the travel document's area of validity,
- (g) the holder no longer has a permit to reside in the realm, or

- (h) the holder's permanent residence permit has been revoked and he/she has been granted a new permit of shorter duration than the travel document's period of validity.

Preliminary confiscation is carried out by the police, a foreign service mission or other public control authority, which forwards the matter to the Directorate of Immigration for decision.

Where a travel document is confiscated under the second paragraph (f) or (g), or the third paragraph (a) to (f), the Directorate of Immigration shall inform the police district concerned, which shall enter the holder's residence permit in a separate document which shall show that the holder does not have a valid travel document. Any limitations and conditions shall be clear from the entry made.

#### Section 12-5 *Conditions for issue of an immigrant's passport*

A foreign national shall be granted an immigrant's passport when the conditions of section 64, second paragraph, of the Act are met.

An immigrant's passport may also be granted to a foreign national's closest family members who have or are granted a residence permit in the realm, and who apply for an immigrant's passport and hand in their passport or other travel document in their possession.

In all other cases an immigrant's passport may upon application be granted to a foreign national who holds or is granted a residence permit in the realm, but who is unable to obtain a passport or other travel document from his/her country of origin or another country, and who provides documentary evidence that he/she has applied to no avail for such passport or other travel document.

Where warranted by special reasons, an immigrant's passport may also be issued in other cases.

The issue of an immigrant's passport may be refused where

- (a) circumstances exist as mentioned in section 12-1, first paragraph,
- (b) a provisional residence permit has been granted under section 74 of the Act,
- (c) a residence permit has been granted that cannot be renewed, or
- (d) a residence permit has been granted that does not form the basis for a permanent residence permit.

#### Section 12-6 *Immigrant's passport's area of validity*

An immigrant's passport shall be in the name of one person.

An immigrant's passport shall be valid for a particular period determined by the Directorate of Immigration in each case. The period of validity shall as a general rule be set equal to the validity of the foreign national's residence permit, but not longer than three years. Where circumstances exist as mentioned in section 12-1, first paragraph, or if warranted by other special reasons, a period of validity may be set that is shorter than in the foreign national's residence permit.

If the foreign national has been granted a permanent residence permit, the period of validity may be set to five years.

An immigrant's passport is valid for return journeys to Norway during the period of validity.

An immigrant's passport shall be valid for travel to all countries other than the refugee's country of origin, unless special reasons call for exceptions also being made for countries other than the country of origin. Where warranted by strong grounds of reasonableness, an immigrant's passport may be made valid for journeys to the country of origin.

An immigrant's passport may be limited to one-way journeys or to journeys to particular countries.

Foreign nationals holding a Norwegian immigrant's passport and a valid residence permit in Norway are not subject to a visa requirement when travelling to another Schengen country.

#### *Section 12-7 Renewal of an immigrant's passport*

An immigrant's passport may upon application be renewed on the conditions set out in section 12-5, unless the provisions of section 12-4, see section 12-8, are applicable.

Renewal may also be refused if the holder has lost his/her immigrant's passport without giving a credible explanation of how this happened, see section 12-13, second paragraph.

The provisions of section 12-6 apply correspondingly to renewed immigrant's passports.

#### *Section 12-8 Confiscation of an immigrant's passport*

An immigrant's passport shall be confiscated under section 12-4 insofar as the provisions are appropriate.

#### *Section 12-9 Laissez-passer for entry into the realm*

Where a foreign national who is given an entry permit to the realm is unable to obtain a passport or other identification document that is recognised as a travel document, the Directorate of Immigration may authorise a foreign service mission with power to issue such documents or the Governor of Svalbard, see section 3-15 first and second paragraphs, to issue a laissez-passer for travel to the realm.

A Norwegian foreign service mission which is authorised to issue passports to Norwegian nationals may issue a laissez-passer for entry into the realm if there are special reasons for doing so, provided that the holder has a permit to stay in the realm.

A document as mentioned in the first and second paragraphs is valid for a single journey and for a particular period set by the Directorate of Immigration in each case. Unless called for by special reasons, the period of validity shall not be set longer than three months. The document shall be handed in to the Norwegian authorities upon entry.

#### *Section 12-10 Laissez-passer for exiting the realm*

Where a foreign national who is to leave the realm is unwilling or unable to obtain a passport or other identification document that is recognised as a travel document, the police may issue a laissez-passer for the purpose of exit.

The laissez-passer is valid for a single journey and for a particular period set by the Directorate of Immigration in each case. The document's period of validity shall under no circumstance be set longer than three months.

Section 12-11 *Procedure for submitting an application for a travel document or immigrant's passport*

An application for protection also includes an application for a travel document or immigrant's passport, see section 17-21, first paragraph, second sentence.

An application for a travel document or immigrant's passport shall otherwise be submitted through the police in the district where the applicant has had habitual residence.

The application shall be submitted using the prescribed form or in accordance with guidelines made by the Directorate of Immigration. A photograph shall be taken of the applicant. The applicant's fingerprints and signature may be required at the same time. Fingerprints shall not be taken of children under the age of 12, and children under the age of 10 shall not provide a signature. A passport or other travel document in the applicant's possession must be handed in together with the application, see section 64, third paragraph, of the Act.

The police shall if necessary demand presentation of such identification papers as the applicant has or can obtain, and any documentation of the applicant's status as a refugee.

An application for a travel document for a refugee seaman, see section 12-1, third paragraph, shall be sent direct to the Directorate of Immigration or through a Norwegian foreign service mission.

Section 12-12 *Issue of a travel document or immigrant's passport*

A travel document or immigrant's passport shall not be issued to a child under the age of 18 without the consent of the person(s) with parental responsibility. If the parents have joint parental responsibility, both must consent. A travel document or immigrant's passport may nonetheless be issued to a child with consent from only one of the parents in cases where the parent concerned is entitled under the Children Act to take the child out of the country without the other parent's consent. If the child welfare service has taken the child into care under section 4-8 or section 4-12 of the Child Welfare Act, consent shall only be obtained from the child welfare service.

A foreign national who has been declared incompetent shall only be issued with a travel document or immigrant's passport provided the guardian has given his/her consent.

Persons declared incompetent may in special cases be issued with a travel document or immigrant's passport without consent if this is obviously unobjectionable.

A residence permit shall be entered in the travel document or immigrant's passport, see section 10-6, fourth paragraph.

Upon being issued with a travel document or immigrant's passport, a foreign national shall be made aware that the travel document or immigrant's passport will be confiscated upon his/her procurement of a home-country travel document, see sections 12-4 and 12-8.

When a new travel document or immigrant's passport is issued, the old one shall be confiscated.

*Section 12-13 Obligation to report the loss of a travel document or immigrant's passport*  
The holder of a travel document or immigrant's passport is obliged to take due care of the document so that it does not come into the hands of an unauthorised person.

Where a travel document or immigrant's passport has been lost or otherwise gone astray, the holder is obliged to report the fact to the police or the nearest Norwegian foreign service mission without delay. The holder shall at the same time be required to give a detailed explanation of when, where and how this happened. An attempt to check the explanation shall be made as far as this is possible and to such extent as is necessary.

## **Chapter 13 Power of decision in cases relating to residence permits and cases relating to travel documents and immigrant's passports**

### **Section 65 of the Act            Power of decision**

*Section 13-1 Power of the police to decide applications for a first-time residence permit*  
In cases where an application is submitted from the realm and there is no doubt that the conditions are met, the Directorate of Immigration may authorize the police to grant a residence permit to

- (a) foreign nationals born to parents at least one of whom was a Norwegian national on the applicant's date of birth, see section 8-10,
- (b) foreign nationals who have been permanently employed in a Norwegian shipping company and who have held a position on board a ship in the Norwegian Ordinary Ship Register (NOR) for at least four of the last six years before the application was submitted, see section 8-11,
- (c) seasonal workers, see section 6-3,
- (d) children who were born in the realm and both of whose parents reside her, see section 42, first paragraph, of the Act,
- (e) the spouse or cohabitant of a Norwegian national residing in the realm, see sections 40 and 41 of the Act,
- (f) the spouse or cohabitant of a foreign national residing in the realm when the means of subsistence requirement is met, see sections 40 and 41 of the Act and sections 10-8 to 10-10 of the Regulations,
- (g) foreign nationals who are given a residence permit for education purposes or for scientific, religious or cultural purposes etc., under sections 6-19 to 6-29 and section 6-31, and who are given the right to submit an application from the realm in accordance with guidelines made by the Directorate of Immigration under section 10-1, second paragraph,
- (h) foreign nationals during application processing, see section 57 of the Act, when the police have the documents of the case, and
- (i) Seamen, see section 6-6.

When the police have the authority to grant permits according to the first paragraph (g), they can also grant permits to full time work for a limited period, part time work and work during holidays according to section 6-33. The Directorate of Immigration may similarly authorise

the police to grant a permit for full time work according to section 6-33, second paragraphs second sentence.

A decision to give the police power of decision under this section must be approved by the Ministry of Justice.

*Section 13-2 Power of the police to decide cases relating to renewal of residence permits, see section 61 of the Act*

The Directorate of Immigration may authorise the police to grant applications for the renewal of residence permits in cases where there is no doubt that the conditions are met, except in cases relating to

- (a) residence permits for self-employed persons under section 6-18,
- (b) residence permits for students under section 6-19, unless the applicant is encompassed by guidelines made by the Directorate of Immigration for particular groups of applicants,
- (c) residence permits under section 74 of the Act for foreign nationals who are protected against refoulement.

A decision to give the police power of decision under this section must be approved by the Ministry of Justice.

*Section 13-3 Power of the police to decide applications for permanent residence permits*

The Directorate of Immigration may authorise the police to grant applications for permanent residence permits under section 62, first paragraph, of the Act and section 11-1, first paragraph, and second paragraph, first sentence, of the Regulations in cases where there is no doubt that the conditions are met. The Directorate of Immigration may also authorise the police to grant applications in other cases where there is no doubt that the conditions are met. A decision to give the police power of decision under this section must be approved by the Ministry of Justice.

*Section 13-4 A Norwegian foreign service mission's power to decide applications for first-time residence permits*

The Directorate of Immigration may authorise a Norwegian foreign service mission to decide applications for residence permits. A decision to grant such power to a Norwegian foreign service mission must be approved by the Ministry of Foreign Affairs. A list of Norwegian missions with decision-making power is attached to these Regulations as Appendix 18.

*Section 13-5 Power of the police to decide applications for travel documents or immigrant's passports*

The Directorate of Immigration may authorise the police to grant applications for travel documents for refugees or immigrant's passports for children under the age of 16 where there is no doubt that the conditions are met, and

- (a) both parents have or will be issued with travel documents or immigrant's passports, or
- (b) the child has been reunited with or came together with one of the parents, and this person has or will be issued with a travel document or immigrant's passport.

The Directorate of Immigration may determine that the police shall be able to refuse an application for an immigrant's passport if the application is not submitted in connection with an application for protection, and the decision does not give rise to doubt.

A decision to give the police power of decision under this section must be approved by the Ministry of Justice.

*Section 13-6 Power of the police to decide applications for renewal of travel documents or immigrant's passports*

The Directorate of Immigration may authorise the police to make decisions to grant applications for renewal of travel documents and immigrant's passports, and to refuse applications for renewal of immigrant's passports provided such decision does not give rise to doubt.

When a new travel document or immigrant's passport is issued, the old one shall be confiscated.

Where a travel document or immigrant's passport has gone astray, the question of issuing a new travel document or immigrant's passport shall be referred to the Directorate of Immigration for decision.

A decision to give the police power of decision under this section must be approved by the Ministry of Justice.

## **Chapter 14 Expulsion**

### **Section 70 of the Act Requirement of proportionality**

*Section 14-1 Expulsion due to illegal stay or work where the foreign national has a child/children in the realm*

A foreign national who has stayed or worked illegally in the realm for less than two years shall as a general rule not be expelled on that basis, provided

- (a) the foreign national has a child/children with whom he/she has lived permanently or to whom he/she has exercised right of access of a certain extent, see section 9-3, second and third paragraphs,
- (b) the foreign national intends to live permanently with the child, and
- (c) the conditions for family reunification with a Norwegian child in section 44 of the Act are met, or the other of the child's parents is a sponsor as mentioned in section 40, first paragraph, of the Act and the foreign national meets the conditions for the right to a residence permit as a spouse or cohabitant with that person in sections 40 and 41 of the Act.

If the foreign national has not lived permanently with or exercised right of access to the child for a period, see the first paragraph (a), this may be given weight when considering whether expulsion would be a disproportionate measure.

The provision of the first paragraph does not apply

- (a) in the event of breach of the obligation to leave the realm after rejection of an application under section 56, sixth paragraph, of the Act when the rejection was made after the applicant became the parent of a child here, or
- (b) if it is not disproportionate to assume that family life can be continued in a country other than Norway.

**Section 71 of the Act      Effect and duration of expulsion, see section 126**

Section 14-2 *Duration of prohibition of entry*

After an overall assessment of the individual case, see section 70 of the Act, the prohibition of entry may be set to

- (a) two years,
- (b) five years, or
- (c) be permanent.

As a general rule prohibition of entry shall be temporary for two or five years if the foreign national has a child in Norway with whom he/she has lived permanently or to whom he/she has exercised right of access of a certain extent, and the foreign national intends to continue to live together with or to exercise right of access to the child. Weight may be given to whether right of access to the child has been exercised during the serving of a sentence or special sanction.

After an overall assessment of the individual case, there may nonetheless be a basis for an expulsion decision with permanent prohibition of entry when the foreign national has a child in Norway. Factors which may particularly warrant permanent prohibition of entry are inter alia that

- (a) the foreign national has been sentenced for an offence punishable by imprisonment for a period of six years or more,
- (b) the foreign national has been sentenced for violence or abuse against close family members,
- (c) the foreign national has been convicted repeatedly of offences punishable by imprisonment for a period exceeding six months, or
- (d) it is not disproportionate to assume that that family life can be continued in a country other than Norway.

If the foreign national was not living permanently with or not exercising the right of access to the child at the time the offence that provides the basis for considering expulsion was committed, this may be given weight when considering the duration of the prohibition of entry. The same applies in the event of a subsequent interruption in family life.

**Section 72 of the Act      Power to decide a case of expulsion, see section 126**

Section 14-3 *Timing of an expulsion decision*

Any decision on expulsion should be made as soon as possible after an inappellable final judgment has been delivered or execution of a judgment has started, see section 453 of the Criminal Procedure Act, and preferably not later than permits the decision to be implemented simultaneously with release or with transfer to another country for execution of sentence.

If a decision on expulsion has not been implemented one year after the Directorate of Immigration or the Immigration Appeals Board last considered the case, the police shall notify the Directorate of Immigration before expulsion takes place. The directorate shall in such case on its own initiative consider whether the basis for the expulsion decision is still present.

The five-year time limit in section 66(b), section 67, first paragraph (a), and section 68, first paragraph (a), and the one-year time limit in section 67, first paragraph (b), and section 68, first paragraph (b), are interrupted when the Directorate of Immigration makes an expulsion decision. If the foreign national can be blamed for the inability to make a decision within the time limit, the time limit shall be interrupted when advance notice of expulsion is given.

In the calculation of time limits under sections 66, 67 and 68 in cases where the foreign national has served or is to serve a prison sentence or preventive detention, calculation shall start from the date of release, regardless of whether any probation period has expired or not. In the case of special sanctions the time limit runs from the date the sanction ceased. In the case of a community sentence the time limit runs from the date the community sentence is completed. In cases other than those mentioned, the date of the inappellable final judgment or of acceptance of the fine is decisive.

Where an expulsion decision is not taken because the protection under section 73 of the Act applies, the foreign national shall be informed of this and that the matter will be considered at a later time. Any decision on expulsion must be taken by the Directorate of Immigration at the latest one year after release. The provisions governing calculation of time limits in the third and fourth paragraphs apply correspondingly.

### **Section 126 of the Act**

Section 14-4 *Power of decision in cases concerning entry into the realm by foreign nationals who are prohibited from entering*

An application to enter the realm from a foreign national who has been expelled and whose entry is prohibited must be sent via a Norwegian foreign service mission to the Directorate of Immigration for decision.

Section 14-5 *Procedure in expulsion cases*

The provision of section 5-4 concerning procedure in rejection cases applies correspondingly.

The prison authorities shall be informed when administrative proceedings for expulsion are instituted and when an expulsion decision has been made.

## **Chapter 15 Protection against refoulement and residence permit under sections 73 and 74 of the Act**

### **Section 73 of the Act Absolute protection against refoulement, see section 126**

Section 15-1 *Provisions of procedure to establish lapse of protection under section 73 of the Act*

Decisions concerning lapse of the protection against refoulement under section 73 of the Act may be made by the Directorate of Immigration. Advance notification shall be given to the foreign national before such decision is made, and provisions in the Act and the Regulations

that govern the consideration of asylum cases apply correspondingly in so far as they are appropriate.

### **Section 74 of the Act Residence permit for a foreign national whose protection against refoulement under section 73 is his/her sole basis for stay**

*Section 15-2 Provisions on the duration of a residence permit under section 74 of the Act*  
A residence permit under section 74 of the Act is normally granted for a period of up to six months at a time, but may in special cases be granted for a period of up to one year. Such permit applies as from the date of the decision.

If the protection against refoulement under section 73 of the Act lapses before the expiry of the permit granted, the permit becomes invalid as from the date a decision is made at first instance concerning lapse of the protection, see section 15-1 of the Regulations. The permit also lapses if the foreign national leaves the realm.

If an appeal is submitted against a decision concerning lapse of the protection under section 73, and the appeal is given suspensory effect, the Directorate of Immigration may decide that a granted permit shall remain valid, and a new permit may be granted until the appeal is decided under section 15-3 of the Regulations.

*Section 15-3 Provisions on renewal of a residence permit under section 74 of the Act*  
Where the conditions under sections 73 and 74 of the Act are still met, a residence permit under section 74 of the Act may be renewed. If an application is submitted at the latest a month before the permit expires, the existing permit is valid until the application is finally decided. The provision of section 15-2 of the Regulations concerning the duration of such permit applies correspondingly.

*Section 15-4 More about the content of decisions under section 74 of the Act*  
A residence permit under section 74 of the Act does not confer the right to a residence permit for family members under chapter 6 of the Act (family immigration). Nor does the permit form the basis for a permanent residence permit, and does not give the right to re-entry if the foreign national has left the realm.

Based on an assessment of the individual case, it may be stipulated in the decision that the permit does not confer the right to take employment.

## **Chapter 16 Organisation**

### **Section 75 of the Act      Exercise of authority under the Act**

*Section 16-1 Exercise of authority under the Act*  
Where the chief of police is assigned authority under the Immigration Act or these Regulations, the Ministry of Justice may provide that other police service executives shall also have such authority.

Any reference in the Act or the Regulations to the Ministry shall mean the Ministry having the main responsibility for the immigration administration, unless explicitly stated otherwise.

### **Section 77 of the Act      The Immigration Appeals Board, see section 126**

Section 16-2 *The Immigration Appeals Board's director and Board chairs. Director's competence*

The director's field of work includes the function of Board chair. The director and the Board chairs must meet the criteria for judges set out in section 53, first paragraph, and section 54, second paragraph, of the Courts of Justice Act.

The director may establish general guidelines concerning the processing of individual cases, exercise of discretion etc., but may not give instructions in the individual case.

Section 16-3 *Appointment of Board members*

Only persons who are Norwegian nationals between 18 and 70 years of age, are resident in Norway and have declared their willingness to take on the office may be proposed. They must also be trustworthy and meet the requirements as to conduct under section 72 of the Courts of Justice Act. The Board members act exclusively on their personal behalf.

The Ministry of Justice stipulates the number of Board members to be appointed. The members are appointed for a four-year term. The number is distributed equally between those appointed at the proposal of the Ministry of Justice, the Ministry of Foreign Affairs, the Norwegian Association of Lawyers and the humanitarian organisations. The members may be reappointed for a single period. Each gender shall be represented by at least 40 per cent of the members, see section 21, first paragraph, of the Gender Equality Act.

The Ministry also stipulates which humanitarian organisations shall have the right of proposal. Such right may only be given to organisations working in the refugee, asylum or immigration field and have declared their willingness to act as proposers. The Ministry may establish guidelines with respect to the number of Board members that may be proposed by the individual organisation.

**Section 78 of the Act Decision modes etc., at the Immigration Appeals Board**

Section 16-4 *Cases to be decided by a Grand Board*

Cases coming under section 76, fourth paragraph, of the Act shall be decided by a Grand Board.

Cases of fundamental significance, cases with substantial social or economic consequences and cases in areas where practice tends to vary, may be decided by a Grand Board. A request for reversal of the Immigration Appeals Board's decision in cases as mentioned in the first sentence may also be decided by a Grand Board. If practice conflicts with formal country-specific recommendations from the UN Refugee Agency (UNHCR) regarding protection, or the question arises of establishing a new practice in conflict with such recommendations, then as a general rule at least one representative case shall be decided by a Grand Board, unless the practice is in accordance with instructions issued by the Ministry to the Directorate of Immigration.

The Ministry and the Directorate of Immigration may demand that a case as mentioned in the second paragraph shall be decided by a Grand Board. A Board chair who has been assigned a case as mentioned in the second paragraph may request to have the case decided by a Grand Board. Where a Board chair makes such a request, the director of the Immigration Appeals

Board shall check that the conditions for decision by a Grand Board are met. Reasons shall be given for any demand or request to have a case decided by a Grand Board.

In cases where a decision reached by a meeting of the Board is in the foreign national's disfavour, and the Board chair considers the decision to be unlawful, the Board chair may demand that the case be decided by a Grand board.

Where cases are decided by a Grand Board, three Board chairs and four Board members shall participate. Two of the members shall be drawn from among those appointed on the recommendation of the Ministry of Justice, the Ministry of Foreign Affairs and the Norwegian Association of Lawyers. The two other members shall be drawn from among those appointed on the recommendation of humanitarian organisations. Section 16-8, second to fourth paragraphs, applies correspondingly. The decision or statement shall be signed by the Board chair who heads the Grand Board.

*Section 16-5 Procedure in cases coming under section 76, fourth paragraph, of the Act*  
The Public Administration Act applies to the Immigration Appeals Board's consideration of cases coming under section 76, fourth paragraph, of the Act, unless otherwise provided in these Regulations. The decision of the Immigration Appeals Board in such cases may not be appealed.

If the Ministry decides that the decision of the Directorate of Immigration shall be reviewed, the case shall be submitted to the Directorate which shall make such inquiries as are warranted by the case. If the Directorate of Immigration concludes that the decision is invalid, it may rescind the decision and consider the case anew. If the time limit of four months for reviewing the decision is not complied with, see section 76, fourth paragraph, of the Act, the Directorate of Immigration shall summarily dismiss the case.

The Directorate of Immigration shall as soon as possible notify the foreign national in whose favour the decision was made, see however section 16, third paragraph, of the Public Administration Act. At the same time a time limit shall be set for making a statement. If the foreign national is notified by letter, a copy of the reasoned decision regarding review shall be enclosed, unless the foreign national is refused access to it by virtue of section 90 of the Public Administration Act.

*Section 16-6 The Immigration Appeals Board's competence in cases coming under section 76, fourth paragraph, of the Act*

If the conditions for considering the case are not met, see section 76, fourth paragraph, of the Act, the Board chair who has the case shall dismiss the case. The Immigration Appeals Board shall not be bound by the Directorate of Immigration's view that the necessary conditions are present. The Immigration Appeals Board's decision to dismiss the case may not be appealed.

If the case is taken up for consideration, the Immigration Appeals Board may test all aspects of the case and may take new circumstances into account.

If the Immigration Appeals Board concludes that the Directorate of Immigration's decision is invalid, the Immigration Appeals Board shall rescind the decision and return the case to the Directorate for renewed consideration in its entirety or in part. A foreign national who is staying in the realm on the basis of the Directorate of Immigration's decision has, unless special reasons militate against it, the right to continued stay on previous conditions until the

Directorate makes a new decision in the case. Valid decisions may not be rescinded or altered, but the Immigration Appeals Board may give an opinion on fundamental aspects of the case.

A decision by the Immigration Appeals Board under the third paragraph, first sentence, may not be appealed.

*Section 16-7 Choice of decision mode by the Immigration Appeals Board*

Except as otherwise provided in the Act, the Regulations or general guidelines, the mode of decision shall be decided by the Board chair.

*Section 16-8 Decision in cases coming under section 78, first paragraph, of the Act*

As a general rule one member of each sex shall participate in cases considered under section 78, first paragraph, of the Act.

In asylum cases the question of whether the appellant is to be recognised as a refugee shall be put to the vote first. If a majority is not in favour of this, the question of whether the appellant is to be granted a residence permit shall be put to the vote. If there is a majority in favour of this, the basis for residence, including whether the permit is to be granted with limitations, shall be put to the vote.

In expulsion cases the question of whether the appellant shall be expelled shall be put to the vote first. If there is a majority in favour of this, the duration of the prohibition of entry shall be put to the vote. If there is no majority in favour of a specific duration of the prohibition of entry, the duration which is the second most favourable for appellant shall apply.

The identity of those who have participated in deciding the case shall be stated in the decision. The identity of anyone who has dissented shall be so stated, and reasons for such dissent shall be given.

The decision shall be signed by the Board chair concerned.

*Section 16-9 When a case is to be deemed to involve material questions of doubt*

A case shall be deemed to involve material questions of doubt and be decided at a meeting of the Board if there is doubt about matters which may be of crucial importance for the outcome of the case. A case shall be deemed to involve significant questions of doubt inter alia if

- (a) there is doubt about the appellant's credibility with regard to allegations concerning facts which may be of crucial importance for the outcome of the case,
- (b) there is doubt about the assessment of the return situation, and this may be of crucial importance for the outcome of the case,
- (c) there is doubt about questions of law interpretation which may be of crucial importance for the outcome of the case, or
- (d) there is doubt about how discretion shall be exercised, and this may be of crucial importance for the outcome of the case.

*Section 16-10 The Board chair's competence to decide a request for reversal of a decision made by the Immigration Appeals Board*

A request for reversal of a decision made by the Immigration Appeals Board shall be considered under the provisions of sections 16-8 and 16-9.

If the Board chair holds that there is no reason to presume that the Board will alter its decision, the Board chair may consider the request for reversal, see section 78, third paragraph, of the Act.

*Section 16-11 Power of the Board chair to decide that only parts of the case shall be decided by a meeting of the Board or Grand Board*

Where a case is to be considered by a meeting of the Board, the Board chair may decide that the meeting shall only decide whether an appeal against rejection of an application for a residence permit shall be allowed with under those provisions to which material doubt is attached.

Where it is decided that a request for reversal of a previous decision by the Immigration Appeals Board shall be considered by a meeting of the Board, the Board chair may decide that the meeting shall only decide whether the new contentions or the new information that have provided the basis for consideration by a meeting of the Board, provide a basis for reversing the Immigration Appeals Board's previous decision.

The power to delimit a case in the first and second paragraphs applies correspondingly to a case to be considered by a meeting of the Grand Board. Any decision to delimit a case shall be taken by the Board chair who heads the Grand Board.

Chapters IV to VI of the Public Administration Act concerning case preparation, administrative decisions and appeal do not apply to a decision to delimit a case under the first to third paragraphs.

*Section 16-12 Appearance in person at a meeting of the Board*

Where it is decided that a foreign national may be given the right to appear in person and make a statement in a case considered under section 78, first or second paragraph, see section 78, fifth paragraph, of the Act, the Immigration Appeals Board shall notify the foreign national thereof and set a time limit for the foreign national to give a response in writing as to whether he or she wishes to utilise this right. The decision regarding appearance in person shall be taken by the Board chair.

The right to appear in person shall as a general rule be granted in cases where the Directorate of Immigration has decided

- (a) to reject an application for protection where a permit has not been granted under section 38 of the Act,
- (b) to reject an application for family immigration submitted from the realm by an asylum seeker's family member who him/herself has not applied for protection,
- (c) to reject an application for derived refugee status, see section 28, sixth paragraph, of the Act,
- (d) that a resettlement refugee shall not be granted refugee status, see section 35 third paragraph, of the Act,
- (e) to revoke a granted residence permit as a refugee, and in this connection to revoke, and reject an application for renewal of, the foreign national's residence permit, and to revoke his/her permanent residence permit and cause it to lapse,
- (f) to revoke and reject an application for renewal of a residence permit where a first-time permit has been granted under section 38 of the Act on the basis of an application for protection,

- (g) to revoke a permanent residence permit and cause it to lapse where a first-time permit has been granted under section 38 of the Act on the basis of an application for protection, or
- (h) to expel a foreign national who has invoked protection against persecution under section 73 of the Act.

Exception may be made from the general rule in the second paragraph where a basis is taken in the foreign national's presentation of the facts, where the facts are not in doubt or where the Board chair considers it obvious that appearance in person will not be of significance for the decision in the case.

The right to appear in person may also be granted in other cases after an assessment of the individual case. This question may *inter alia* arise in cases of expulsion of a foreign national who has children with a fixed abode in Norway and who him/herself has a fixed abode here, and in cases concerning whether or not a foreign national meets the conditions for a new permit under section 53, first paragraph (b), or section 53, second paragraph, of the Act.

#### Section 16-13 *Conducting meetings of the Board involving appearance in person*

The foreign national shall make a statement, answer any questions from the Board and may be required to provide information which may be of significance for the decision, see section 83, first paragraph, of the Act.

The Board chair may grant other persons the right to attend in order to have the case elucidated as well as possible.

The Board chair may cut off questions and verbal contributions from the foreign national, his or her lawyer or others who have been granted the right to appear, where such questions and contributions are not considered to be of significance to the case.

The foreign national and any others attending are not entitled to be present during the Board's further consideration of the case

The case shall as a general rule be postponed if the foreign national has a legitimate reason for not appearing. 'Legitimate reason' is deemed to include failure of notice of the date and time for appearance to reach the foreign national, and circumstances in which the foreign national could not have appeared without risk to health or welfare or without neglecting important and urgent tasks or obligations.

## **Chapter 17 Procedures**

### **Section 80 of the Act                      Relationship to the Public Administration Act, see section 126**

#### Section 17-1 *Parties and representatives in immigration cases*

The applicant is deemed to be a party in cases under the Act and the Regulations, see section 2, first paragraph (e), of the Public Administration Act. In cases not based on an application, only the person to whom the case is addressed is to be deemed to be a party.

A party is entitled to be assisted by a representative in the case, see section 12 of the Public Administration Act. A representative who is not a lawyer shall produce a proxy in writing. If,

for example, due to war, absence of infrastructure or for health-related factors it is impossible or disproportionately difficult to produce a proxy in writing, it may in special cases be permissible for another person to appear as the representative without a proxy in writing.

**Section 81 of the act**                      **The foreign national's right to make a statement, see section 126**

*Section 17-2 Asylum interview*

Unless the applicant is rejected and sent to a first asylum country participating in cooperation under the Dublin Agreement, see section 7-3, an asylum interview shall be conducted as soon as possible. Asylum seekers aged 18 and over shall be interviewed singly. The applicant's spouse or cohabitant should as a general rule be interviewed, even if the person concerned is not applying for protection.

The interview shall be arranged in such a way as to ensure that the case is elucidated as well as possible. The Directorate of Immigration shall clarify whether the applicant, on the basis of the circumstances underlying the asylum application or of his/her life situation, has particular needs in the interview situation. Women shall be asked if they wish the interviewer and interpreter to be women. Such wishes, and other special needs, shall be complied with as far as is practically possible.

Unless the applicant and the person who is to conduct the interview can communicate properly in a common language, an interpreter shall be summoned. The applicant shall be informed of the interpreter's role during the asylum interview and that the interpreter is bound to confidentiality under section 13 et seq. of the Public Administration Act. It shall also be made clear that violation of the obligation of confidentiality may entail criminal liability under section 121 of the General Civil Penal Code.

Before the interview starts, the applicant shall be urged to explain him/herself honestly and fully and be made aware that incorrect information or non-disclosure of matters of material significance will be given weight in the decision. Further, it shall be made clear that providing substantially incorrect or obviously misleading information entails criminal liability, see section 108, first paragraph (c), of the Act. The applicant shall be made aware that the information given during the interview will form the basis for the decision on the application, together with other relevant information in the case.

The applicant shall be given the opportunity to make a statement in his/her own words. The interviewer shall as far as possible clarify contradictory information.

A sound recording may be made of interviews with the asylum seeker. The asylum seeker shall be informed of the making of any such recording.

*Section 17-3 Interviewing children*

Children who have reached the age of seven, and younger children who are able to form their own point of view, shall be informed and given the opportunity to be heard before a decision is made in cases concerning them under the Immigration Act.

A child may be interviewed orally or in writing or through his/her parents, guardian or others who are able to make a statement on behalf of the child. How the child is to be interviewed must be assessed in light of the nature of the case and the application situation. The

Directorate of Immigration will make supplementary guidelines on how the child's right to be heard shall be implemented, duly adapted to the various types of case and application situation.

The child's views shall be given weight in accordance with the child's age and maturity.

#### Section 17-4 *Interviewing children in asylum cases*

The overall life situation of accompanying children shall be clarified during the interview with the parents.

In asylum cases an interview shall be conducted with accompanying children over the age of seven, unless the child him/herself is against it, or it is considered to be obviously unnecessary. A separate interview may be conducted with children under the age of seven who are able to form their own points of view, and who shall be given the opportunity to be heard under section 17-3. The object of the interview shall be to elucidate the child's situation and clarify whether the child may have an independent basis for asylum.

An asylum seeker under the age of 18 who has come to the realm without parents or others who exercise parental responsibility shall always have a provisional guardian (*'hjelpeverge'*), or other representative with power of attorney, present during the interview. The interview shall as far as possible be conducted within 14 days after the application was submitted, unless an age examination is needed in order to clarify the applicant's age.

Information given by the child during the interview under the second or third paragraph shall be taken down in writing.

The Directorate of Immigration will establish further guidelines to ensure that the child's interests and needs are attended to in the interview, and may also establish further guidelines for when it is to be considered obviously unnecessary to conduct an interview under the second paragraph.

#### Section 17-5 *Offer of interview with children in family immigration cases*

Unless it is considered to be obviously unnecessary, the offer of an interview shall as a general rule be made to children over the age of seven in family immigration cases relating to

- (a) children applying on their own,
- (b) children applying for reunification with one parent,
- (c) foster children,
- (d) unaccompanied minors with refugee status in Norway, and
- (e) children with a residence permit under section 38, first paragraph, of the Act, if the question has arisen of granting a residence permit to either or both parents under section 49, first paragraph, of the Act.

The information given by the child during the interview shall be taken down in writing.

The Directorate of Immigration will establish further guidelines to ensure that the child's interests and needs are attended to in the interview, and may also establish further guidelines for when it is to be considered obviously unnecessary to make the offer of an interview.

#### Section 17-6 *Obligation to notify the child welfare service*

If, in the consideration of cases involving children, information comes to light giving reason to believe that a child is being mistreated or exposed to other forms of serious neglect, or if the child has shown persistent serious behavioural problems, the immigration authorities and staff at the asylum reception centre are under obligation to pass the information to the municipal child welfare service notwithstanding the obligation of confidentiality, see the Child Welfare Act, section 6-4, second paragraph.

**Section 83 of the Act                      The foreign national's obligation to appear and to provide information**

Section 17-7 *The foreign national's obligation to provide information under section 83, second paragraph, of the Act*

The immigration authorities may, when clarifying a foreign national's identity, order the foreign national to

- (a) provide information on matters related to the foreign national's identity, including name, nationality, date of birth, place of birth, place of abode/whereabouts in the country of origin, civil status, family members, identity documents and travel route to Norway,
- (b) present a travel document or similar document issued by a public authority in Norway or abroad as confirmation of the foreign national's identity. A foreign national who does not have such a document in his/her possession may be required to procure it. The foreign national may also be required to assist in the procurement or issue of such document, including by allowing him/herself to be presented at a foreign service mission of the country concerned and providing such information as is necessary to have a travel document issued,
- (c) present documents produced by the foreign national him/herself, public authorities or others in Norway or abroad that contain complete or partial information on the foreign national's identity. A foreign national who does not have such documents in his/her possession may be required to procure them or to assist in their procurement,
- (d) present letters, notes, electronically stored information etc., produced by the foreign national him/herself or others that contain complete or partial information on the foreign national's identity,
- (e) procure or assist in procuring information from public authorities in Norway or abroad about registrations which can contribute to clarifying the foreign national's identity,
- (f) procure or assist in procuring information about school attendance, employment, accommodation, banking and insurance details etc., in Norway or abroad which can contribute to clarifying the foreign national's identity,
- (g) present tickets, luggage receipts and the like,
- (h) participate in a language analysis, and
- (i) provide a handwriting sample to permit a comparative handwriting examination to be made.

A foreign national who applies for or has been granted protection may not be required to contact the authorities in his/her country of origin if this may conflict with a need for protection. Nor may the foreign national be required to clarify his/her identity in any other way that may conflict with a need for protection.

If there is reason to presume that the registered identity of a foreign national is not the correct one, the foreign national shall be made aware of the basis for this presumption and be given

the opportunity to make a statement about this before an order is made under the first paragraph. The first and second paragraphs apply correspondingly to such foreign national.

A foreign national who is ordered to assist in clarifying his/her identity under the first or third paragraph shall be made aware of the relevant provisions and that failure to comply with such an order may constitute a criminal offence, see section 108, first paragraph (c), of the Act and section 18-13 of the Regulations. The foreign national shall also be made aware that providing substantially incorrect or obviously misleading information, see section 108, first paragraph (c), of the Act, and making a false statement, see section 166 of the General Civil Penal Code, may constitute a criminal offence.

**Section 85 of the Act                      Checking conduct in family immigration cases, see section 19, third paragraph, of the Public Administration Act**

*Section 17-8 Handing over of information by the police in family immigration cases*

At the request of the Directorate of Immigration or the Immigration Appeals Board under section 85 of the Act, the police shall provide information if the sponsor has been charged or indicted or has received a sentence under chapters 19 to 22 of the General Civil Penal Code, is subject to a contact ban under section 33 of the General Civil Penal Code or to a visiting ban under section 222a of the Criminal Procedure Act, unless doing so may jeopardise the effort to combat crime. The police may otherwise inter alia provide information to the effect that the sponsor has been reported to the police for offences as mentioned in the first sentence or has been charged or indicted or has received a sentence for other criminal offences, if this information must be assumed to be of material significance for the assessment under section 40, fifth paragraph, or section 48, of the Immigration Act.

Information under the first paragraph shall be provided in writing with a copy to the sponsor. If information about the sponsor is subsequently passed on to the applicant, the sponsor shall be informed thereof in the same way.

If the applicant is granted a residence permit, information on the sponsor's conduct shall not be handed over to the applicant, unless it has been relevant to the assessment of the permit, and it is deemed to be of significance to the applicant to be made aware of the information.

This provision applies correspondingly to any statement linked to the person with whom the sponsor has been authorised to establish a family where the applicant is the sponsor's child from a previous relationship.

The Directorate of Immigration will establish further guidelines for implementation of the provisions of this section; this may include stipulating that information under the first paragraph shall be provided in all family establishment cases where it is not decided to make an exception.

**Section 86 of the Act                      Checking conduct in visa cases, see section 19, third paragraph, of the Public Administration Act**

*Section 17-9 Handing over of information by the police in visa cases*

At the request of the Directorate of Immigration or the Immigration Appeals Board under section 86 of the Act, the police shall provide information if the sponsor has been charged or indicted or has received a sentence under chapters 19 to 22 of the General Civil Penal Code, is

subject to a contact ban under section 33 of the General Civil Penal Code or to a visiting ban under section 222a of the Criminal Procedure Act, unless doing so may jeopardise the effort to combat crime. The police may otherwise inter alia provide information to the effect that the sponsor has been reported to the police for offences as mentioned in the first sentence or has been charged or indicted or has received a sentence for other criminal offences, if this information must be assumed to be of material significance for assessing whether a visa shall be refused.

Information under the first paragraph shall be provided in writing with a copy to the sponsor. If information about the sponsor is subsequently passed on to the applicant, the sponsor shall be informed thereof in the same way.

In cases where a visa is granted, information on the sponsor's conduct shall not be handed over to the applicant.

The Directorate of Immigration will establish further guidelines for implementation of the provisions of this section.

## **Section 89 of the Act            Fees**

### *Section 17-10 Fee for processing an application for a temporary or permanent residence permit or for renewal of a residence permit*

The fee for processing an application for a residence permit or for renewal of such permit is NOK 1100, which shall be paid at the latest when the application is submitted. The fee for processing an application for a group permit is NOK 1100 per employee, see sections 6-7 and 6-15. The fee for processing a first-time application for a residence permit for a family member under the provisions of chapter 6 of the Act, or an application for renewal of such a permit that is submitted after the permit expired, is NOK 3000. The fee for processing an application for a permanent residence permit is NOK 1600.

The first paragraph does not apply to

- (a) applications relating to children under the age of 18,
- (b) applications for protection or for renewal of a permit for a foreign national who has been granted protection,
- (c) applications relating to the spouse or cohabitant and dependent children of a foreign national attached to a diplomatic or paid consular mission in the realm, where such exception follows from Norway's international legal obligations. The exception also applies to the spouse or cohabitant and dependent children of a foreign national who is a member of the service staff at such a mission,
- (d) applications submitted in accordance with sections 8-3 and 8-4 concerning residence permits for foreign nationals who are presumed to be victims of human trafficking,
- (e) applications relating to residence permits on an independent basis under section 53 of the Act,
- (f) applications for a permit to take employment during the processing of an application for protection, see section 94 of the Act and section 17-26 of the Regulations, or
- (g) applications for a permit for a foreign national who is intending to perform work in connection with a crisis situation, see section 6-31.

The Directorate of Immigration may prescribe that a fee shall be charged for an application for a permit to take employment pending exit from the country when the application is submitted after final rejection of an application for protection.

*Section 17-11 Fee for processing an application for a travel document or immigrant's passport*

In the case of an application for an immigrant's passport from a foreign national who has been granted a residence permit on a basis other than an application for protection, or in the case of an application that is submitted by a foreign national who has previously had an application for an immigrant's passport rejected, a fee of NOK 1100 shall be paid at the latest upon submission of the application. The same applies where an application for a travel document or immigrant's passport is submitted after a previously issued travel document or immigrant's passport has gone astray.

In the case of renewal of a travel document or immigrant's passport, a fee corresponding to the amount prescribed in section 3, fourth paragraph, of the Passport Act shall be paid.

In special cases the decision-making authority may waive the fee requirement under the second paragraph.

*Section 17-12 Fee for the processing of a visa application*

A processing fee, established under the Schengen cooperation, see Schengen Visa Code Article 16, shall be paid at the latest upon submission of a visa application.

Where the application relates to an entry visa under section 3-13, fourth paragraph, of the Regulations, a fee corresponding to the fee for an application for a Schengen visa, see the first paragraph, shall be paid.

Where the application relates to re-entry and extension of a visa under section 3-19, fourth paragraph, a fee corresponding to the fee for an application for a Schengen visa, see section 10 of the Act and the first paragraph of this section, shall be paid.

Where warranted by special reasons, the Directorate of Immigration may waive the fee for a visa application at the border, see section 3-18.

Foreign nationals who are subject to a visa requirement and are covered by the EEA Agreement or the EFTA Convention, see section 3-8, are exempt from the obligation to pay a fee under this section.

*Section 17-13 Exemption from the fee requirement in extraordinary situations and for applications submitted to the Governor of Svalbard*

The Directorate of Immigration may in extraordinary situations decide that exemption shall be granted from the fee requirement for specific groups of applicants.

A fee is not required for applications submitted to the Governor of Svalbard.

**Section 90 Implementation of decisions, see section 126**

*Section 17-14 Setting the time limit for exit etc.*

Where a decision has been made entailing that a foreign national must leave the realm, a time limit shall be set for exit, see section 90, sixth paragraph, of the Act, by the Directorate of Immigration or the Immigration Appeals Board. Under further guidelines to be made by the Ministry, the time limit for exit may also be set by the police.

Foreign nationals who are undergoing assessment or treatment for tuberculosis shall not be required to leave the realm until suspicion of tuberculosis has been dispelled or the treatment has been completed. Exception may be made in individual cases if, based on the possibility for further treatment, it is justified on medical grounds or is warranted by special reasons.

#### *Section 17-15 Removal*

The police shall conduct the necessary exit control and decide whether an escort is required. In the assessment of the need for an escort, particular account should be taken of security on board the means of transport, any possibility that the foreign national will not fully comply with the implementation decision, any request for an escort from the carrier or the person in charge of the vessel, and any need for assistance for the foreign national. The police shall in each case consider for which leg of the journey an escort is required.

The number of escort staff shall in each case be determined on the basis of the number of persons to be removed, their sex and other personal factors, the length of the journey, the mode of transport and the circumstances in general.

Before the transport starts, the police shall inform the person in charge of the means of transport concerned.

The police authorities at relevant transit points abroad should be alerted beforehand in the event that the foreign national will be present in the country's territory outside the means of transport, or where such information is required for security or other reasons.

General regulations for the police service (police regulations) apply to such transports in so far as appropriate. After completion of the escort assignment the police shall send a report on the removal to the Directorate of Immigration.

#### **Section 91 of the Act            Liability for expenses etc., see section 126**

##### *Section 17-16 Liability for expenses in respect of removal*

A carrier who becomes liable for expenses on an escort assignment under section 91, third paragraph, of the Act, shall meet all expenses related to the escort assignment, including expenses on travel, board, lodging, pay and any overtime worked.

The carrier's liability for expenses under section 91, third paragraph, of the Act, only applies where a decision to reject an asylum seeker can be implemented within the time limits set forth in section 5-3. Liability otherwise only applies where a rejection decision can be implemented within the time limit prescribed in section 5-3, second paragraph.

The Directorate of Immigration may make further provision concerning payment of expenses under section 91 of the Act.

#### **Section 92 of the Act            Legal aid, see section 126**

#### Section 17-17 *Guidance on legal aid*

In cases concerning rejection, expulsion or revocation of a granted permit, and when a foreign national applies for protection under section 28 of the Act, the police shall provide guidance in accordance with section 82 of the Act. The police shall also provide information on the public authorities' power to demand reimbursement where free legal advice has been given without means testing, see section 17-19.

The guidance shall be given at the same time as notification of the decision or, where required, at the same time as advance notification, see section 16 of the Public Administration Act. A foreign national who applies for protection, and who does not have the right to free legal advice, shall be offered individual guidance from an independent organisation when submitting the application, unless a collective protection arrangement has been put in place, see section 34 of the Act.

Guidance under this provision shall be given in a language understood by the foreign national.

#### Section 17-18 *Right to free legal advice*

Unaccompanied asylum-seeking minors have a right to free legal advice without means testing during a reasonable period before the Directorate of Immigration makes a decision on the case. The same applies to any foreign national who applies for protection when the case may bear on foreign policy considerations, fundamental national interests or where exclusion under section 31 may be the outcome, see section 92, second paragraph, of the Act.

Chapters IV to VI of the Public Administration Act on case preparation, decisions and appeals are not applicable to any decision by the Directorate of Immigration on whether a case comes under the first paragraph.

#### Section 17-19 *Reimbursement of public authorities' outlay*

In cases where free legal advice is provided without means testing, see section 92 first, second and third paragraphs of the Act, full or partial recovery of the public authorities' outlay in connection with the legal aid may be demanded provided the foreign national has the necessary financial capacity, see section 92, sixth paragraph, of the Act.

Where the Immigration Appeals Board finds cause to raise the question of such reimbursement, the matter shall be referred to the county governor concerned who then decides whether reimbursement is to be demanded.

Where the Directorate of Immigration presumes that the first paragraph may be applicable, the case shall be referred to the Immigration Appeals Board.

In instances where free conduct of the case is provided without means testing under section 92, fifth paragraph, of the Act, the provisions of this section apply correspondingly.

#### Section 17-20 *Offer of legal and other assistance. Free lawyer's services*

The police shall assist the foreign national in making contact with an independent organisation or a lawyer if the foreign national so wishes.

The Ministry may establish free lawyer's services arrangements to assist foreign nationals in rejection cases and when applying for a residence permit under section 28 of the Act.

In cases where the Directorate of Immigration offers asylum seekers the services of a lawyer through a free lawyer's services arrangement, or in accordance with established 'lawyers lists', the foreign national may only utilise a lawyer other than the one that is offered when compelled to by special reasons and provided the case will not be delayed. If the foreign national is already represented by a lawyer, that lawyer shall be utilised provided it does not delay the case.

**Section 93 of the Act                      Time of application for protection. Elucidation of the case**

*Section 17-21 Registering an asylum application*

An application for protection shall be registered by the police using the prescribed form. An application for protection also includes an application for a travel document or immigrant's passport, see section 12-11.

A passport or other travel document in the foreign national's possession must be handed in together with the application, see section 93, first paragraph, of the Act. The same applies to the applicant's spouse or cohabitant and children who apply for a permit after entry under sections 40 to 42 of the Act.

Where an application for protection is placed in abeyance, the passport or other travel document which the applicant has handed in together with the application shall be returned.

Whoever registers the application shall give the applicant guidance on the rights following from section 82 of the Act and, if necessary, ensure that an interpreter is summoned, see section 81, first paragraph, of the Act. The applicant shall be informed about the interpreter's role and that the interpreter is bound to confidentiality under section 13 et seq., of the Public Administration Act. It shall also be made clear that violation of the obligation of confidentiality may entail criminal liability under section 121 of the General Civil Penal Code.

A foreign national who applies for protection shall be individually registered. Accompanying children who apply simultaneously with either or both parents may be registered to the case of either parent. The question of whether any accompanying spouse or cohabitant and children are applying for protection shall be clarified.

The question shall be clarified as to whether the applicant consents to information about him/herself being obtained from other authorities, including from authorities in countries other than the country of origin, if it is of significance for the decision in the case.

A foreign national who comes to the realm and applies for protection is obliged to undergo tuberculin testing under section 3-1, first paragraph, no. 1, of Regulations of 21 June 2002 no. 567 relating to tuberculosis control. The Directorate of Immigration may establish further guidelines.

*Section 17-22 Registration certificate*

A foreign national who applies for protection and family members as mentioned in section 17-21, second paragraph, shall as soon as possible after arrival in the realm be provided with a registration certificate for asylum seekers unless rejection under section 17 of the Act is being considered or other special reasons militate against doing so.

The applicant's spouse or cohabitant and children who apply for a permit after entry under sections 40 to 42 of the Act, but not derived status, see section 28, sixth paragraph, of the Act, shall be provided with a registration certificate if they are not in possession of a travel document.

The registration certificate shall be given validity for a specified period of up to six months' duration. The registration certificate shall be confiscated when the foreign national is issued with a travel document for refugees or an immigrant's passport, is to leave the realm or otherwise has his/her country of origin passport returned. The police shall make sure that this is done.

The registration certificate is not to be regarded as documentation of the correctness of the personal details therein. It is not a valid travel document.

The registration certificate is issued by the police. The police shall provide information on the limitations laid down in the fourth paragraph.

*Section 17-23 Orders under section 93, fourth paragraph, of the Act*

An order made under section 93, fourth paragraph, of the Act to the effect that the applicant shall be available at a specified location shall be decided by the Directorate of Immigration, the chief of police or the person authorised by the chief of police.

An order made under section 93, fourth paragraph, of the Act shall apply to a specified period which shall not be longer than warranted by the purpose for which the case is to be elucidated. No order may be made that deprives a person of his/her liberty.

**Section 94 of the Act                      Applicant's legal status during processing of the application**

*Section 17-24 Requirement as to documentation of a permit to take employment as an asylum seeker*

An asylum seeker has to present an approved travel document or national identity card to be granted a permit to take employment under section 94 of the Act.

Exemptions are made to the requirement of documentation in the first paragraph for applicants from countries that do not issue travel documents or national identity cards.

*Section 17-25 Duration of a permit for an asylum seeker to take employment under section 94 the Act*

A permit to take employment under section 94 the Act shall be valid for a period of up to six months, and may be renewed if the conditions for doing so are met. If the permit is granted while the application is under consideration by the Directorate of Immigration, the permit will not lapse until the expiry of the six-month period even if the application is rejected by the Directorate of Immigration, provided there exists a right to a continued permit under section 94, second paragraph, first sentence, of the Act.

If an asylum seeker holding a permit to take employment under section 94 of the Act has an application for protection rejected by the Immigration Appeals Board, the permit shall not lapse until the expiry of the time limit for exit unless the six-month period expires before that point in time.

*Section 17-26 Condition under which an asylum seeker may take employment after the application for protection has been rejected by the Immigration Appeals Board*

A foreign national may be granted a continued permit to take employment after an application for protection has been rejected by the Directorate of Immigration provided the person concerned held a valid permit under section 94 of the Act at the time of the rejection, and the decision is not to be implemented for the time being.

*Section 17-27 Procedure for application for, and decision-making authority in a case concerning a permit to take employment during processing of an asylum case etc.*

A request for a permit to take employment under section 94 of the Act shall be submitted to the police.

A permit to take employment under section 94, first paragraph, of the Act shall be entered in the asylum seeker's registration certificate, see section 17-22. It shall be specified that a permission to take employment for up to six months under section 17-25 first paragraph only applies until the application for protection has been decided at first instance, unless the administrative decision has been appealed and implementation has been deferred, see section 94 of the Act, second paragraph first sentence. If this is not possible, the permit shall be entered in a separate document.

The Directorate of Immigration may establish guidelines on procedure.

**Section 95 of the Act                      Accommodation while an application for protection is being considered**

*Section 17-28 Placing of asylum seekers etc.*

A foreign national who applies for protection and family members as mentioned in section 17-21 who are placed in an asylum reception centre in a municipality may be transferred from one reception centre to another reception centre in the same municipality or to another municipality.

Settlement in a municipality may in special cases be implemented before a final decision is made on the application for protection.

The Ministry may establish further guidelines.

*Section 17-29 Decision-making authority and appeal*

The Directorate of Immigration or the duly authorised regional office shall make decisions under section 17-28.

The provisions of the Public Administration Act to the effect that the reasons for individual decisions shall be given and that such decisions may be appealed do not apply to decisions under section 17-28, see section 24, fourth paragraph, and section 28, third paragraph, of the Public Administration Act. The reasons for decisions under section 17-28, second paragraph, shall nonetheless be given.

The provisions of the Public Administration Act to the effect that individual decisions may be appealed do not apply to decisions on a foreign national's settlement in a municipality, see section 28, third paragraph, of the Public Administration Act.

**Section 98 of the Act                      Cooperation with the UN High Commissioner for Refugees.  
Transmission and exchange of information**

Section 17-30 *Transmission of information (exception from the obligation of confidentiality)*  
Information transmitted under section 98 of the Act may contain a person's full name, date of birth and nationality.

Section 17-31 *Transmission of information in a visa case (exception from the obligation of confidentiality)*

When the issue of a visa on humanitarian grounds is notified to other Schengen countries, see section 11 of the Act, information mentioned in section 17-30 of the Regulations may, under section 98, second paragraph, of the Act, be accompanied by information on

- (a) the time and place of the visa issue, and
- (b) the reasons for the visa issue.

When the annulment or confiscation of a visa is notified to other Schengen countries and when a visa's period of validity is reduced, information mentioned in section 17-30 of the Regulations may, under section 98, second paragraph, of the Act, be accompanied by information on

- (a) the travel document's nature and number,
- (b) the number of the visa sticker,
- (c) the visa category,
- (d) the place and date of the visa issue, and
- (e) the date of and reasons for annulment, confiscation or reduction of period of validity.

Where a Schengen country has asked for consultation before issuing a visa, information mentioned in section 17-30 of the Regulations may, under section 98, second paragraph, of the Act, be accompanied by information on

- (a) the foreign service mission to which the application was submitted,
- (b) previous nationality,
- (c) the type and number of the travel documents produced, their date of issue and period of validity,
- (d) the duration and purpose of the stay,
- (e) travel dates,
- (f) applicant's place of residence, occupation and employer,
- (g) information from other Schengen countries, in particular concerning previous applications for or stays in the territory of a Schengen country,
- (h) which border the applicant intends to cross when entering the Schengen territory, and
- (i) other information of significance for the foreign service mission, for example concerning spouse and under-age children travelling together with the applicant, any previous visa issued to the applicant or visa applications related to the same destination,

Section 17-32 *Transmission of information in a case concerning a residence permit for a foreign national who has been registered in the Schengen Information System (SIS) (exception from the obligation of confidentiality)*

Where consideration is given to issuing a residence permit to a foreign national who has been registered in the Schengen Information System (SIS) with a view to refusing him or her entry, or where a foreign national holding a valid residence permit issued by a Schengen country has been registered in the SIS with a view to refusing him or her entry, and there is to be consultation between affected countries in this connection, information mentioned in section 17-30 of the Regulations may, under section 98, second paragraph, of the Act, be accompanied by information on

- (a) the type of decision,
- (b) which authority has made the decision,
- (c) the date of the decision,
- (d) the date of service
- (e) the date of implementation,
- (f) the duration of the decision, and
- (g) the reason why the person is unwanted in the registering country's territory.

Section 17-33 *Transmission of information in asylum cases (exception from the obligation of confidentiality)*

In the processing of an application for protection, information mentioned in section 17-30 of the Regulations may, under section 98, second paragraph, of the Act, be accompanied by information on

- (a) any previous name of the applicant, alias name, place of birth, and previous nationality,
- (b) identification and travel documents,
- (c) other information needed to establish the identity of someone applying for protection,
- (d) places of stay and travel routes,
- (e) residence permits or visas issued by Schengen countries,
- (f) the place where the asylum application was submitted,
- (g) the date of any previous asylum application, date of submission of the present asylum application, information on the stage reached in the processing of the application and the content of the decision made,
- (h) the reasons for the asylum application that are given in the application, and
- (i) the justification for the decision in the case.

Transmission of information as mentioned in the first paragraph may only take place when this is necessary in order to decide which country is to be responsible for processing the application, in order to process the application or in order to meet other obligations. A further condition for transmitting information as mentioned in the first paragraph (h) and (i), is that the asylum seeker has consented to such transmission.

## **Chapter 18            Treatment of fingerprints etc., coercive measures and penalties**

### **Section 100 of the Act            Photographs and fingerprints**

### Section 18-1 *Photographs and fingerprints of foreign nationals*

An application for a permanent residence permit and visa shall contain a photograph. The Directorate of Immigration may make further provisions as to when an application shall contain fingerprints.

A photograph and fingerprints shall be taken of

- (a) a foreign national who cannot provide proof of identity, or there is reason to suspect that the foreign national has given a false identity,
- (b) a foreign national who is applying for protection under the Act,
- (c) a foreign national aged 18 or over who is applying for a residence permit under chapter 6 of the Act (family immigration) as a family member of a foreign national who has applied for protection,
- (d) a foreign national as mentioned under (b) or (c) who has had his/her application for a residence permit rejected, and whose fingerprints have not been taken earlier,
- (e) a foreign national who is to be expelled,
- (f) a foreign national who is to be rejected after receiving a sentence or waiver of prosecution, and
- (g) a foreign national who has stayed in the realm illegally.

The Directorate of Immigration may make further provisions regarding when fingerprints shall otherwise be taken in the cases mentioned in section 100, first paragraph, of the Act.

The provisions of sections 18-5 to 18-11 apply to the treatment of fingerprints under the Dublin Agreement, see section 7-3.

### Section 18-2 *Retention and registration of photographs and fingerprints*

Photographs and fingerprints taken under section 18-1 shall be retained in the individual immigration case.

Fingerprints as mentioned in the first paragraph shall be registered in an EDP-based fingerprint register. The prints shall be stored in a separate file (register of foreign nationals) in the ordinary fingerprint register of the National Criminal Investigation Service (Kripes).

The basis in law for taking the prints shall be stated. The prints shall be marked with a unique reference number.

### Section 18-3 *Searches in the register of foreign nationals and other registers*

When a fingerprint is registered, a search shall at the same time be made in

- (a) the register of foreign nationals to ascertain whether the foreign national is already registered under the same or another identity, and
- (b) the ordinary fingerprint register to ascertain whether the foreign national is wanted by the police in Norway or elsewhere.

Where there is reason to assume that the foreign national has stayed in a country other than the country of origin prior to arriving in Norway, the fingerprint may be sent to the authorities of that country for a search to be made there. Section 19-27 applies to EEA nationals.

Fingerprints received from the immigration authorities of another country may be used for search purposes in the register of foreign nationals, and data from the register may be transmitted under exchange agreements with other countries or in other cases after an assessment of the individual case. The same applies to fingerprints of foreign nationals who are wanted for serious criminal offences that are received from Interpol or directly from a police authority in another country.

#### Section 18-4 *Erasure of fingerprints*

A fingerprint shall be erased from the register of foreign nationals when the foreign national is granted a residence permit which may form the basis for a permanent residence permit. The same applies to foreign nationals whose right of stay has been documented, see sections 19-22, 19-23 and 19-24. However, this does not apply if doubt remains about the foreign national's identity. In such cases the fingerprint shall be erased when there is no longer any doubt about the identity or when the foreign national has been granted a permanent residence permit or permanent right of stay, see sections 19-25 and 19-26.

The fingerprint of a foreign national who has had an application for asylum or other permit finally rejected, or who is rejected or expelled from the realm, shall be erased when five years have elapsed from the date of the decision. However, this does not apply where a decision as mentioned in the first paragraph is grounded in fundamental national interests. Nor does the time limit in the third paragraph apply in such case.

The Directorate of Immigration shall inform the National Criminal Investigation Service (Kripos) when a print is to be erased under the first paragraph and of the basis for calculation of the time limit in the second paragraph. The Directorate of Immigration may make further provisions as to when a fingerprint taken under section 18-1, first and third paragraph, shall be erased. Prints that have not previously been erased shall be erased ten years after they were last registered.

### **Section 101 of the Act      Treatment of fingerprints. Eurodac**

*Eurodac, see section 101 of the Act, Council Regulation (EC) No 2725/2000 of 11 December 2000*

#### Section 18-5 *Transmission of data*

Fingerprints shall be taken of any foreign national who has reached the age of 14, who is not a national of an EU country or a country participating in the Eurodac system, and who

- (a) is applying for a residence permit under section 28 of the Act,
- (b) is arrested, without being rejected, for illegally crossing the border between Norway and a country that is not an EU country or a country participating in the Eurodac system.

The fingerprints shall be transmitted to a national fingerprint information unit and retained in the central database (Eurodac) together with the following data:

- (a) the country that is transferring the data,
- (b) sex,
- (c) reference number used by that country,
- (d) date on which the fingerprints were taken,

(e) date on which the data were transmitted.

For a foreign national as mentioned in the first paragraph (a), data on the place and date of submission of the application under section 28 of the Act shall also be transmitted and retained. For a foreign national as mentioned in the first paragraph (b), data on the place and date of arrest shall be transmitted and stored in addition to data mentioned in the second paragraph.

Fingerprints may be taken of a foreign national who has reached the age of 14, who is not a national of an EU country or a country participating in the Eurodac system and who is staying in the realm illegally. The fingerprints may be transmitted to the national fingerprint information unit together with a reference number.

Data registered in Eurodac shall not be employed in contravention of Eurodac's purpose as this is stated in Article 1 of the Eurodac Council Regulation. The Directorate of Immigration is the controller in relation to Eurodac in Norway, and the National Criminal Investigation Service (Kripos) is the processor. Processing of personal data related to Eurodac shall be regulated in writing in a data processor agreement, see section 15 of the Act of 14 April 2000 No. 31 relating to the processing of personal data. The Data Inspectorate is the national supervisory authority.

#### Section 18-6 *Storage in Eurodac*

Data on a foreign national as mentioned in section 18-5, first paragraph (a), shall be erased in Eurodac after ten years and earlier if the foreign national obtains nationality in a country participating in the Eurodac system.

Data on a foreign national as mentioned in section 18-5, first paragraph (b), shall be erased in Eurodac after two years and earlier if the foreign national

- (a) has been granted a residence permit,
- (b) has left the territory of the countries participating in the Eurodac system, or
- (c) has obtained nationality in such a country.

Data on a foreign national as mentioned in section 18-5, fourth paragraph, shall be erased as soon as the results of the comparison of the fingerprints have been transmitted.

The Directorate of Immigration shall immediately inform the National Criminal Investigation Service (Kripos) if the Directorate is aware that the conditions for erasure before the expiry of the periods in the first and second paragraphs have been met.

#### Section 18-7 *Blocking*

Data on a foreign national who applies for a residence permit under section 28 of the Act, see section 18-5, second paragraph, and third paragraph, first sentence, shall be blocked in Eurodac if the foreign national is recognised and granted an entry permit as a refugee in a country participating in the Eurodac system.

The Directorate of Immigration shall immediately inform the National Criminal Investigation Service (Kripos) if the Directorate is aware that the conditions for blocking have been met.

#### Section 18-8 *Information*

When fingerprints are taken of a foreign national as mentioned in section 18-5, first paragraph, the following information shall be given:

- (a) that the Directorate of Immigration is the controller in relation to Eurodac in Norway, and the National Criminal Investigation Service (Kripos) is the data processor,
- (b) the purpose of processing the data,
- (c) who is to receive the data,
- (d) the obligation to provide fingerprints and
- (e) the right to access, correct and erase data and the body to which any such request is to be addressed.

Such information shall also be given to a foreign national as mentioned in section 18-5, fourth paragraph, unless it is not practically possible or entails a disproportionate amount of work. The information shall be given at the latest at the time the data are transmitted to the national fingerprint information unit.

#### Section 18-9 *Access, correction and erasure*

The registered person has the right to access data about him/her that are recorded in Eurodac, and to learn which state has transmitted the information.

If data have been transmitted that are incorrect or which it is not permitted to record, the data shall be corrected or erased without delay. If the data have been transmitted by another state, the Directorate of Immigration shall inform that state to enable it to check that the data are correct and that they have been transmitted and recorded in a lawful manner.

If a request for correction or erasure is refused, the registered person shall be given reasons in writing without unnecessary delay. Information on the right of appeal etc., shall also be given.

Requests for access, correction or erasure shall be submitted to the National Criminal Investigation Service (Kripos) which will forward the request to the Directorate of Immigration for decision.

#### Section 18-10 *Compensation*

Any person who has suffered damage as a result of an unlawful processing operation or any act incompatible with the provisions laid down in Council Regulation (EC) No. 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' shall be entitled to receive compensation.

Claims for compensation shall be submitted to the National Criminal Investigation Service (Kripos) which will forward the claim to the Directorate of Immigration for decision.

#### Section 18-11 *Right of appeal*

The registered person may appeal a decision regarding access, correction, erasure or compensation. The appeal shall be submitted to the Directorate of Immigration which will forward the appeal to the Ministry for decision.

### **Section 105 of the Act      **Obligation to report and stay in a specific place****

Section 18-12 *Obligation to report and/or to stay in a specific place imposed on a foreign national as mentioned in section 105, first paragraph*

A foreign national as mentioned in section 105, first paragraph (a) to (c), may be subjected to an obligation to report or to stay in a specific place. An obligation to report or to stay in a specific place under section 105, first paragraph (c), may be imposed where the foreign national constitutes a threat to fundamental national interests.

An obligation to report or to stay in a specific place may be imposed, or both. Where an obligation to report or to stay in a specific place is imposed, consideration shall be given to seizing travel documents, see section 104, third paragraph, of the Act.

An order to stay in a specific place may inter alia require the foreign national to stay at a particular address, including at a reception centre or the like, or in a particular municipality, police district, or other naturally delimited location. The order may also require the foreign national to stay in a particular municipality, police district, or other naturally delimited area. The specified place of stay shall not restrict freedom of movement more than is necessitated by the considerations justifying the order.

### **Section 108, first paragraph (b), of the Act, see section 126**

#### *Section 18-13 Penalties*

A fine shall be imposed on anyone who wilfully or through negligence fails to comply with the obligation to report under section 19-11, first or second paragraph.

A fine or imprisonment for a term not exceeding 6 months or both shall be imposed on anyone who wilfully or through negligence contravenes

- section 1-1, eighth paragraph,
- section 1-2,
- section 1-10, third paragraph,
- section 1-17, first, second or third paragraph
- section 4-5,
- section 4-8,
- section 4-9,
- section 4-15
- section 4-24, first to fourth paragraphs, and sixth paragraph,
- section 4-25 first, third and fourth paragraphs,
- section 4-26,
- section 4-27,
- section 4-28,
- section 12-4, first, second and third paragraphs
- section 12-8,
- section 12-13, second paragraph,
- section 17-7, first paragraph,
- section 17-21, second paragraph,
- section 18-12 first, second and third paragraphs.

Where an asylum seeker has been granted a six-month permit under section 94 to take employment, and the permit lapses because the foreign national's asylum application is rejected, the person who makes use of the foreign national's labour may only be punished for

this under section 108, first paragraph, second paragraph (a), and fifth paragraph, of the Act, if wilful intent has been displayed.

## **Chapter 19 Special provisions for foreign nationals covered by the EEA Agreement and the EFTA Convention**

### **Section 110 of the Act Further details concerning to whom the chapter applies**

#### *Section 19-1 Who is covered*

The provisions of this chapter also apply to foreign nationals covered by the Convention establishing the European Free Trade Association (EFTA Convention). In this chapter the term 'EEA nationals' includes EFTA nationals.

Employees who are EEA nationals from Bulgaria and Romania and who come under section 58a of the Act of 15 May 2008 No. 64 on the Entry of Foreign Nationals into The Kingdom of Norway and their Stay in the Realm (Immigration Act) are exempt from section 112, first paragraph (a), of the Act and section 117, first and second paragraph (a), of the Act, see section 19-22 of the Regulations. This applies until the conditions of section 20-17, first paragraph, are met.

### **Section 109 of the Act Scope**

#### *Section 19-2 Which of the Act's other provisions apply alongside the provisions of chapter 13*

For foreign nationals coming under chapter 13 of the Act, chapter 1 of the Act applies with the following exceptions and clarifications:

- (a) those who have right of residence and are able to obtain a registration certificate or residence card under chapter 13 of the Act do not need a residence permit, see section 5, second paragraph, of the Act and section 55 of the Act,
- (b) for those mentioned in section 5, third and fourth paragraphs, of the Act, the provisions of chapter 13 of the Act do not apply,
- (c) for those who have right of residence under chapter 13 of the Act, section 7 of the Act applies only within the framework of what is necessary in the interests of public order or security, see section 122 of the Act.

For foreign nationals coming under chapter 13 of the Act, chapter 2 of the Act applies with the following exceptions and clarifications:

- (a) the entry provisions in sections 8, 9 and 10 of the Act and chapters 2 and 3 of the Regulations apply,
- (b) sections 16, 17 and 18 of the Act do not apply, unless so prescribed by section 19-5 of the Regulations,
- (c) section 19 of the Act does not apply.

For foreign nationals coming under chapter 13 of the Act, chapter 5 of the Act applies with the following clarification:

- a residence permit under section 38 of the Act shall be considered in rejection or expulsion cases when a registration certificate is not issued or an application for a

residence card is refused because they do not have right of residence under chapter 13 of the Act, see sections 121 and 122 of the Act.

For foreign nationals coming under chapter 13 of the Act, chapter 9 of the Act applies with the following clarification:

- in expulsion cases under section 122 of the Act, see section 19-29 of the Regulations, consideration shall be given to whether those protected against refoulement under section 73 of the Act may be granted a residence permit under section 74 of the Act.

For foreign nationals coming under chapter 13 of the Act, chapter 10 of the Act applies.

For foreign nationals coming under chapter 13 of the Act, chapter 11 of the Act applies with the following exceptions and clarifications:

- (a) section 85 of the Act regarding checking of conduct in connection with family immigration does apply, see section 120 seventh paragraph of the Act,
- (b) section 89 of the Act regarding fees applies only to cases under chapter 2 of the Act,
- (c) section 90, fourth paragraph, of the Act regarding implementation of decisions applies where the question arises of protection against refoulement under section 73 of the Act,
- (d) section 90, fifth paragraph, of the Act regarding implementation of decisions applies where application of that provision is commensurate with the interests of public order or security, see section 122 of the Act and section 19-29 of the Regulations,
- (e) section 92, second paragraph, on legal aid applies where the question arises of protection against refoulement under section 73 of the Act, and
- (f) chapter 11 part II of the Act on special provisions for protection in asylum cases applies only where the provisions of chapter 9 of the Act are applicable, see the fourth paragraph of this section.

For foreign nationals coming under chapter 13 of the Act, chapter 12 of the Act applies with the following clarification:

- section 108 of the Act and section 18-13 of the Regulations apply only to the extent that the pertinent provisions of the Act and the Regulations apply to such foreign nationals.

For foreign nationals coming under chapter 13 of the Act, chapter 14 of the Act applies.

*Section 19-3 Applications for a residence permit under chapters 3, 4, 6 and 7 of the Act from foreign nationals who have right of residence under chapter 13 of the Act, and the significance of such right of residence*

Foreign nationals who have right of residence under chapter 13 of the Act may apply for a residence permit under chapter 3 of the Act, see chapter 6 of the Regulations.

Foreign nationals who have right of residence under chapter 13 of the Act may apply for protection under chapter 4 of the Act and, in the event, be granted such residence permit as prescribed by the provisions of chapter 4 of the Act, see chapters 5 and 9 of the Act.

The family members of a sponsor who is an EEA national with right of residence may not be granted a residence permit under chapter 6 of the Act unless the sponsor has a residence permit under chapter 3 or 4 of the Act.

Foreign nationals who have right of residence under chapter 13 of the Act and who hold a residence permit which forms the basis for a permanent residence permit shall have periods with right of residence included when applying for a permanent residence permit under the provisions of section 11-1, third paragraph, of the Regulations, see section 62 of the Act.

*Section 19-4 The significance of a residence permit for foreign nationals who have right of residence under chapter 13 of the Act, see section 19-3*

EEA nationals who have right of residence and are granted a residence permit, see section 19-3, may retain their registration certificate. The granting of a residence permit replaces the requirement as to registration under section 117 of the Act.

Family members who are not EEA nationals may retain their residence card if they are granted a residence permit, see section 19-3. The granting of a residence permit replaces the obligation to procure a residence card under section 118 of the Act.

Service providers and business starters who are not EEA nationals, see section 110, fourth paragraph, who have been issued with a residence card and are granted a residence permit, see section 19-3, must hand back the residence card.

For foreign nationals as mentioned in the first and second paragraphs, periods with a residence permit will be sufficient documentary evidence of right of residence when applying for a permanent residence permit under sections 115 and 116.

*Section 19-5 Rejection under chapter 2 of the Act and expulsion under chapter 8 of the Act for foreign nationals coming under chapter 13*

EEA nationals may only be rejected or expelled under the provisions of chapter 13 of the Act and the provisions of this chapter. The same applies to family members of an EEA national within the meaning of the term family member in section 100, third paragraph, of the Act or as mentioned in section 19-7 of the Regulations.

Service providers and business starters as mentioned in section 110, fourth paragraph, of the Act, who do not have right of residence under the provisions of section 111, second paragraph, of the Act or section 114, second paragraph, of the Act may be rejected under the provisions of sections 16, 17 and 18 of the Act and be expelled under the provisions of chapter 8 of the Act.

### **Section 110 of the Act Further details concerning to whom the chapter applies**

*Section 19-6 Permanent connection - cohabitants*

The condition regarding a permanent connection with a cohabitant under section 110, third paragraph (b), is deemed to be met where the cohabitants meet the conditions mentioned in section 41 of the Act and section 9-2 of the Regulations.

The Directorate of Immigration may establish further guidelines, including on documentation requirements etc.

*Section 19-7 Who are considered to be other family members*

The following groups of persons, in addition to those mentioned in section 110, third paragraph, of the Act, are considered to be family members:

- (a) foster children under the age of 18 whose identity is known. The child must be an established member of the household and the authorities in the country of origin must confirm that the child can settle in Norway,
- (b) full brothers and sisters under the age of 18 whose identity is known. It is also a condition that the person concerned is without parents or other care person. The sponsor shall as a general rule be approved as a care person by the Norwegian child welfare authorities,
- (c) persons who are to contract marriage after entry with an EEA national with right of residence, and
- (d) persons in need of care. Documentary evidence must be provided that the person concerned has serious, health-related problems and that the sponsor's presence is absolutely necessary in order to care for the person concerned. It is also a condition that the person concerned does not have other family members in the country of origin or the country of residence to care for the person concerned.

A condition for right of residence under the first paragraph (a) to (d), is that the family member is assured means of subsistence and that he/she is covered by a health insurance policy that covers all risks during the residence.

For right of residence under the first paragraph (c), a further condition is that it is shown to be probable that marriage will be contracted after entry. Such right of residence applies for a period of up to six months.

The Directorate of Immigration may establish further guidelines, including on documentation requirements etc.

#### *Section 19-8 Service providers and business starters who are not EEA nationals*

For foreign nationals who are service providers or business starters, see section 110, fourth paragraph, of the Act, a condition is that the foreign national is an employee of an enterprise established in an EEA or EFTA country, is lawfully staying there and that the enterprise was originally established in an EEA or EFTA country other than Norway.

A service provider must in addition

- (a) be a seconded employee from an enterprise as mentioned in the first paragraph and be a part of the enterprise's permanent workforce, and
- (b) be seconded as part of a service provision of a temporary nature.

A business starter must in addition

- (a) hold a management position in the enterprise, or
- (b) have special competence that is crucial to the enterprise's ability to become established in Norway.

### **Section 111 of the Act      Right of residence for up to three months**

#### *Section 19-9 Calculation of the period of residence*

A period of residence under section 111 of the Act is calculated from the date of entry. When the date of entry cannot be documented, the period of residence shall be calculated from the earliest documentable date after entry, for example the date of registration or of application for a residence card under sections 117 and 118 of the Act.

The period of residence is interrupted by exit to another country, unless otherwise provided in this chapter. After exit no quarantine period applies in order for re-entry to take place.

*Section 19-10 Exception from right of residence – unreasonable burden for public welfare systems*

However, EEA nationals and their family members do not have right of residence, see section 111, first paragraph, of the Act if they become an unreasonable burden for public welfare systems, for example if financial social assistance is utilised to an unusually large extent.

The provision of the first paragraph does not apply to

- (a) EEA nationals who are employees or self-employed persons and their family members,
- (b) EEA nationals who are jobseekers for a period of up to six months and their family members, if the EEA nationals provide documentary evidence that they are still seeking employment and have a genuine possibility of becoming employed, or
- (c) EEA nationals as mentioned in section 112, second paragraph, see third paragraph, of the Act, and their family members, or
- (d) EEA nationals and their family members who have been granted right of permanent residence.

*Section 19-11 Obligation of jobseekers and their family members to report*

Foreign nationals as mentioned in section 111, first paragraph, of the Act who are seeking employment shall report to the police or to a Service Centre for Foreign Workers at the latest within three months after entry. They shall provide proof of their identity and information to the effect that they are jobseekers. The report shall be registered in the Norwegian Computer System for Immigrant and Refugee Cases (DUF).

The obligation to report under the first paragraph also applies to family members, see section 111, second paragraph, of the Act.

Special cases which may form the basis for right of residence beyond six months under section 111, third paragraph, of the Act, may be when the jobseeker can provide documentary evidence that there is in the near future a prospect of employment or a possibility of starting a business.

The provisions of section 19-22, sixth paragraph, apply correspondingly.

The Directorate of Immigration may establish further guidelines with regard to the implementation of the obligation to report under the first and second paragraphs.

**Section 112 of the Act                      Right of residence for more than three months for EEA nationals**

Section 19-12 *Approved education institutions and declaration of assured means of subsistence*

Admission to an approved education institution is a condition for right of residence under section 112, first paragraph (d), of the Act. The Directorate of Immigration may in consultation with the Ministry of Education establish further guidelines regarding which education institutions may be considered to be approved under the education statute concerned.

Means of subsistence are considered to be assured where the EEA national makes a declaration to such effect. The Directorate of Immigration may establish further guidelines with regard to the criteria for such declarations.

Section 19-13 *Right of residence for more than three months – sufficient means of subsistence*  
EEA nationals have right of residence for more than three months, see section 112 of the Act, if they have sufficient means to ensure that they do not constitute an unreasonable burden on public welfare systems. Sufficient means may inter alia include fixed periodic benefits or own funds, including bank deposits.

In the assessment of what are deemed to be sufficient means, account shall be taken of the EEA nationals' personal situation, including whether they intend to support accompanying family members. The family members shall not prove that they have sufficient means. Nor may such fixed amount as is deemed to be sufficient be stipulated.

The Directorate of Immigration may establish further guidelines regarding what is implied by the term 'sufficient means' and what is deemed to fall within the term 'fixed periodic benefits'.

**Section 113 of the Act                      Right of residence for more than three months for family members who are EEA nationals**

Section 19-14 *Further right of residence for family members who are EEA nationals*  
In order to have right of residence under section 113, third paragraph, second sentence, of the Act, a requirement is that the education institution is approved under the provisions of section 19-12, first paragraph, and that the child actually attends the instruction.

**Section 114 of the Act                      Right of residence for more than three months for family members and other foreign nationals who are not EEA nationals**

Section 19-15 *Further right of residence for family members who are not EEA nationals*  
In order to have right of residence under section 114, third paragraph, second sentence, of the Act, a requirement is that the education institution is approved under the provisions of section 19-12, first paragraph, and that the child actually attends the instruction.

The right of residence of EEA nationals' children who are enrolled at an approved education institution applies until completion of the education. The Directorate of Immigration may establish further guidelines regarding what is deemed to be completion of education.

Foreign nationals who have parental responsibility for children as mentioned in the second paragraph may be granted right of residence until the child reaches the age of 21.

The conditions under section 114, fourth paragraph (a), (b), (c) and (d) of the Act apply correspondingly to cohabitation.

*Section 19-16 Right of residence for more than three months for service providers and business starters who are not EEA nationals*

Service providers and business starters, see section 19-8, have right of residence under section 114, second paragraph, of the Act, for as long as the service assignment is documented to last or for as long as it can be documented that the foreign national is necessary for start-up of the business. The Directorate of Immigration may establish further guidelines regarding the documentation requirement.

Right of residence as a service provider or business starter under the present provisions do not form the basis for family immigration or right of permanent residence.

**Sections 115 and 116 of the Act      Right of permanent residence for EEA nationals and for family members who are not EEA nationals**

*Section 19-17 Requirements regarding continuous stay – EEA nationals*

Continuous lawful stay exists where the conditions for right of residence under sections 112 and 113 are met and the EEA national has not had long stays abroad.

Temporary stays abroad are not considered to interrupt a continuous stay under section 115, first paragraph, of the Act where the absence

- (a) is less than six months in the course of a twelve-month period, or
- (b) is due to reasons other than pregnancy, childbirth, serious illness, research stays, studies or vocational training, or stationing in another EEA country or third country, and does not exceed twelve months, or
- (c) is due to compulsory military or civilian service.

The period of residence is calculated under the provisions of section 19-9, and starts anew after any absence not covered by the second paragraph.

The Directorate of Immigration may establish further guidelines regarding how the stay may be documented.

*Section 19-18 Requirements regarding continuous stay – family members who are not EEA nationals*

Continuous lawful stay exists where the conditions for right of residence under sections 114 are met and the EEA national has not had long stays abroad.

The provisions of section 19-17, second to fourth paragraphs, apply correspondingly.

*Section 19-19 Right of permanent residence – involuntary interruption of employment*

For foreign nationals as mentioned in section 115, second paragraph (a), (b) and (c) of the Act, periods of documented involuntary unemployment, involuntary interruption of employment and absence from, or cessation of, employment because of illness or accident, are regarded as accrued working time or period of employment.

Involuntary unemployment shall be documented by the Labour and Welfare Administration or by an employment office in another EEA or EFTA country. The Directorate of Immigration may establish further guidelines in cooperation with the Labour and Welfare Directorate.

*Section 19-20 Requirement regarding cohabitation*

In order for the requirement of cohabitation under sections 115 and 116 of the Act to be met, the cohabitation must have been of a certain extent, as a general rule that the parties live together in a shared dwelling and return to the dwelling every day or at least one day a week.

The Directorate of Immigration may establish further guidelines as to what is implied by the term cohabit and on the documentation requirement.

*Section 19-21 Lapse of right of permanent residence*

Right of permanent residence as mentioned in sections 115 and 116 of the Act lapses in the event of a continuous stay of two years abroad, where no reasons as mentioned in section 19-17 exist.

**Section 117 of the Act                      Registration certificate for foreign nationals with right of residence under sections 112 or 113 of the Act**

*Section 19-22 Registration certificate for EEA nationals*

Registration and issuance of registration certificates under section 117 of the Act require appearance in person at a police station in the district in which the person concerned is staying or at a Service Centre for Foreign Workers. Registration may be done electronically with subsequent appearance at the police station for issuance of a registration certificate.

The police will immediately issue a registration certificate showing the registered person's name, address and registration date. The registration certificate is issued free of charge and shall not be renewed.

A decision not to issue a registration certificate cannot be appealed.

EEA nationals working on board a foreign-registered ship as mentioned in section 6-6 are exempt from the registration requirement.

Jobseekers who obtain employment and who have stayed in the realm for at least three months have an obligation to register as soon as the employment relationship commences. The same applies to family members of jobseekers.

The police shall make the EEA national aware of the obligation to undergo tuberculin testing under the Act of 5 August 1994 No. 55 relating to Control of Communicable Diseases. The police shall inform the health authority concerned of the foreign national's name and address.

**Section 118 of the Act                      Residence cards for foreign nationals with right of residence under section 114 who are not EEA nationals**

*Section 19-23 Residence cards for family members who are not EEA nationals*

An application for a residence card under section 118 of the Act shall be submitted through a Norwegian foreign service mission, to the police in the district in which the applicant is habitually resident or to a Service Centre for Foreign Workers. The application shall be

submitted within three months after entry. The applicant shall immediately receive a receipt confirming that a complete application has been submitted. The Directorate of Immigration will establish further guidelines.

Where there is no doubt as to whether the conditions are met, the police may grant an application for a residence card. In other cases, the Directorate of Immigration decides whether a residence card shall be issued.

A decision not to issue a residence card cannot be appealed.

The Directorate of Immigration may establish guidelines as to how and when renewal of the card shall take place.

The residence card is issued free of charge and is valid for five years or less if the EEA national's period of residence is shorter. The residence card's validity will not be affected by brief stays outside the realm of up to six months a year, or by absence outside the realm that is due to factors as mentioned in section 19-17, second paragraph.

Family members shall apply for a residence card immediately when the sponsor's employment relationship commences, see section 19-22, fifth paragraph.

The provisions of section 19-22, sixth paragraph, apply correspondingly.

*Section 19-24 Residence card for service providers and business starters who are not EEA nationals*

An application for a residence card under section 118, third paragraph, of the Act shall be submitted through a Norwegian foreign service mission, to the police in the district in which the applicant is habitually resident or to a Service Centre for Foreign Workers. The application shall be submitted within three months after entry. The applicant shall immediately receive a receipt confirming that a complete application has been submitted. The Directorate of Immigration will establish further guidelines.

Where there is no doubt as to whether the conditions are met, the police may grant an application for a residence card. In other cases, the Directorate of Immigration decides whether a residence card shall be issued.

A decision to not issue a residence card cannot be appealed.

The residence card is issued free of charge and is given validity for the period for which the service provision or business start-up under section 19-16, first paragraph, is documented to last, up to one year at a time.

The Directorate of Immigration may establish further guidelines as to how and when renewal of the card shall take place.

The provisions of section 19-22, sixth paragraph, apply correspondingly.

**Section 119 of the Act**

**Residence certificate and residence card for foreign nationals with right to permanent residence under sections 115 and 116**

*Section 19-25 Permanent residence certificate for EEA nationals*

An application for a permanent residence certificate under section 119 of the Act shall be submitted to the police in the district in which the applicant is habitually resident or to a Service Centre for Foreign Workers. The application shall be submitted in accordance with guidelines made by the Directorate of Immigration.

A permanent residence certificate is issued free of charge as soon as possible after a complete application is submitted. A permanent residence certificate is valid for an indefinite period.

Where there is no doubt that the conditions are met, the police may grant and issue a permanent residence certificate. In other cases, the Directorate of Immigration decides the application.

Rejection of an application for a permanent residence permit may be appealed. The appeal shall be submitted to the police for preliminary processing.

The Directorate of Immigration may establish further guidelines, including on requirements as to documentation in respect of right of permanent residence.

*Section 19-26 Permanent residence card for family members who are not EEA nationals*

An application for a permanent residence card under section 119 of the Act shall be submitted to the police in the district in which the applicant is habitually resident or to a Service Centre for Foreign Workers. The application shall be submitted in accordance with guidelines made by the Directorate of Immigration.

An application for a permanent residence card shall be submitted within the date of expiry of the residence card. A permanent residence card is issued free of charge within six months after a complete application is submitted. A permanent residence card is valid for 10 years. Renewal of a permanent residence card requires no application.

The provisions of section 19-25, third to fifth paragraphs, apply correspondingly.

**Section 120 of the Act            Requirement as to conduct, etc. Revocation of residence documents**

*Section 19-27 Obtaining information about conduct*

If it is absolutely necessary, the police may ask the EEA national's country of origin for information on whether the national has previously been listed in the national register of convictions in order to determine whether the person represents a risk to public order or security. If required, other member countries may also be asked to provide such information.

**Sections 121 and 122 of the Act            Rejection and expulsion in the interests of public order or security**

*Section 19-28 Rejection – power of decision*

The chief of police or the person authorised by the chief of police makes decisions regarding rejection under section 121, first paragraph (a) and (b), of the Act. The same applies where there is no doubt that circumstances exist as mentioned in section 121, first paragraph (c) of the Act or section 19-29 of the Regulations.

Section 19-29 *Rejection or expulsion in the interests of public order or security*

Rejection or expulsion in the interests of public order or security, see section 121 and section 122, first paragraph, of the Act may only be grounded in the foreign national's personal circumstances and may only take place where there is provision for sanctions against Norwegian nationals for corresponding offences. Previous convictions cannot alone form the basis for rejection or expulsion.

Rejection or expulsion in the interest of public order presupposes the presence of a real and sufficiently serious threat to a fundamental societal interest, beyond the disturbance of social order entailed by any breach of the law.

Rejection or expulsion in the interest of public order or security may *inter alia* take place if the foreign national

- (a) is dependent on narcotic substances or other toxic substances, and the dependence arose before the foreign national was granted right of residence, or
- (b) according to competent health service personnel obviously suffers from a serious mental disorder, a manifest psychosis involving states of agitation, delusions or hallucinations with states of bewilderment, and the condition arose before the foreign national was granted right of residence.

The provision of section 19-27 applies correspondingly.

The Directorate of Immigration may establish further guidelines.

**Section 124 of the Act      Prohibition of entry and power of decision**

Section 19-30 *Prohibition of entry etc*

Prohibition of entry shall be limited to what is necessary in the interest of public order or security. The Directorate of Immigration may establish guidelines concerning the duration of the prohibition of entry, see section 124, first paragraph, of the Act.

Under section 124, second paragraph, second sentence, of the Act, entry may be granted for a short visit without the prohibition of entry being rescinded, *inter alia* in connection with a close relative's life-threatening illness, injury, in the event of a close relative's funeral or where an expelled person is called as a witness in a criminal case. The Directorate of Immigration may establish further guidelines, including on who are regarded as close relatives.

**Section 125 of the Act      Transitional arrangements for new contracting parties to the EEA Agreement**

Section 19-31 *Control of conditions for residence permits under section 125 of the Act*

Section 27 of the Act applies to residence permits under Regulations made under section 125 of the Act.

**Chapter 20 Concluding provisions**

**Section 126 of the Act**

## Section 20-1 *Titles of Acts and Regulations in this chapter*

The following applies in this chapter:

- (a) By Immigration Act 2008 is meant the Act of 15 May 2008 No. 35 on the Entry of Foreign Nationals into the Kingdom of Norway and their Stay in the Realm (Immigration Act)
- (b) By Immigration Act 1988 is meant the Act of 24 June 1988 No. 64 on the Entry of Foreign Nationals into the Kingdom of Norway and their Stay in the Realm (Immigration Act)
- (c) By Immigration Regulations 1990 is meant the Regulations of 21 December 1990 No. 1028 on the Entry of Foreign Nationals into the Kingdom of Norway and their Stay in the Realm (Immigration Regulations)

## Section 20-2 *Who draws up forms, stickers, stamps, travel documents etc.*

The Directorate of Immigration draws up necessary forms, electronic solutions, stickers, stamps, travel documents and registration certificates etc., that are necessary for the implementation of the Regulations. This includes the drawing up of registration certificates for EEA and EFTA nationals, residence cards, permanent resident certificates and permanent residence cards for use under chapter 19 of the Regulations.

## Section 20-3 *Guidelines*

The Directorate of Immigration may establish guidelines on administrative procedures for the police and other public authorities, including any foreign service mission, that perform tasks under the Act and the Regulations.

The Directorate of Immigration may establish guidelines on electronic communication in connection with administrative procedures.

The Directorate of Labour and Welfare may establish guidelines for the Labour and Welfare Administration on administrative procedures under the Act and the Regulations.

## **Section 127 Entry into force and transitional provisions**

### Section 20-4 *Entry into force etc.*

These Regulations enter into force on 1 January 2010, see however section 20-18, second paragraph. On the same date regulations and provisions made under the Immigration Act 1988 shall be rescinded, with the exception of section 172, first and last paragraphs, sections 173, 174, 175, 190, 191, 193, 194 and 197(a) of the Immigration Regulations 1990 for implementation of the provisions of and under section 58a of the Immigration Act 1988.

Section 20-5 *Current permits etc., and cases not decided by the date of entry into force*  
Permits granted before these Regulations enter into force apply until the expiry of their period of validity. The same applies to travel certificates and immigrant's passports.

Prohibitions of entry imposed under the Immigration Act 1988 shall remain in effect.

Cases being, or due to be, processed when these Regulations enter into force shall be processed and decided under the provisions of the Immigration Act 2008 and appurtenant Regulations, unless other specific provision is made in this chapter.

*Section 20-6 Special provisions regarding diplomats etc.*

The requirement of section 1-4, second paragraph, second sentence, and third paragraph, third sentence, to the effect that a foreign national who is to be exempted from the requirement of a residence permit under the provision of section 1-4 must be seconded to the position by the sending state's authority in accordance with a posting or time-limited service agreement, does not apply to foreign nationals who have already been notified to and accepted by the Ministry of Foreign Affairs at the time of commencement of the Immigration Act 2008.

The requirement of section 1-5, second paragraph, to the effect that diplomatic immunity under the Vienna Convention shall be relinquished in order that a residence permit conferring the right to employment may be granted, does not apply to foreign nationals who have already been granted a work permit under section 160, second paragraph, of the Immigration Regulations 1990.

*Section 20-7 Rejection and revocation*

Section 17, first paragraph (h), of the Immigration Act 2008 does not apply to foreign nationals who have entered the realm before the commencement of the Act.

Section 63, second paragraph, of the Immigration Act 2008 does not apply to foreign nationals who have been granted a residence permit in the realm before the commencement of the Act.

*Section 20-8 Specifically on renewal of a permit granted under sections 2 to 5 (a) of the Immigration Regulations 1990*

A foreign national who holds a current permit under sections 2 to 5 (a) of the Immigration Regulations 1990 when these Regulations enter into force may apply for permit renewal under the provisions of chapter 3 of the Act, see chapter 6 of the Regulations, and chapter 7 of the Act, see chapter 10 of the Regulations, when the permit expires. Permit renewal is granted on the basis of in the assumption that the new permit bases will be new legal bases, see section 61 of the Act. Due account shall nonetheless be taken of whether the new permit basis will be a continuation of the previous permit basis.

Permits for

- (a) seconded employees, see section 6-13, are renewed on the basis of the requirements under section 4(a), first paragraph (c), of the Immigration Regulations 1990 within the framework of the original contract upon which the previous permit was based,
- (b) self-employed persons, see section 6-18, are renewed on the basis of the requirements under section 3, second paragraph (c), of the Immigration Regulations 1990 where the same business is involved as the one upon which the previous permit was based, and
- (c) au pairs, see section 6-21, are renewed on the basis of the requirements under section 4(a), second paragraph (a), of the Immigration Regulations 1990 until the applicant has held a permit for a total of two years.

Account shall be taken of the previous permit in the calculation of aggregate time and qualifying period outside the realm before a new permit may, in the event, be granted.

However, where permit renewal is granted with a basis in section 6-1, previous time restrictions shall not be taken into account.

Renewal of a permit under sections 6-1, 6-2 or 6-3, see first paragraph, of the Regulations, shall not count in relation to the quota arrangements, see section 6-12.

*Section 20-9 Residence permit under section 6-29 for skilled jobseekers*

For jobseekers who are qualified skilled workers and are applying for a residence permit under section 6-29, a previous permit granted under section 4, first and second paragraphs, section 4, third paragraph (a) and section 4, third paragraph (b) and (c) of the Immigration Regulations 1990 shall be equated with a permit under sections 6-19, 6-20 and 6-22, third paragraph.

*Section 20-10 Foreign nationals with protection under section 21, first paragraph, of the Immigration Regulations 1990*

Renewal of a residence permit granted under section 21, first paragraph, of the Immigration Regulations 1990, see section 8, second paragraph, of the Immigration Act, takes place under section 38 of the Immigration Act 2008. In the case of an application for family reunification with a foreign national holding such a permit, the provisions on exemption from the requirement as to means of subsistence in respect of refugees in section 10-8 are given corresponding application.

*Section 20-10A Special provisions on the requirement as to sufficient means of subsistence where an application for family immigration is submitted before promulgation of the Regulations*

Where a foreign national has applied for family immigration before the date of promulgation of the Regulations, income other than that stated in section 10-8, first and second paragraphs, may also be included. Further, the applicant's income may also be included. The Directorate of Immigration will establish further guidelines.

Where a foreign national as mentioned in the first paragraph is the spouse or cohabitant of the sponsor, see sections 40, 41 and 49 of the Act, or is to contract marriage with the sponsor after entry, see section 48, the means of subsistence requirement shall be met by the sponsor if one of the parties is below the age of 23.

For foreign nationals as mentioned in the first paragraph, exemption is made from the requirement as to previous income in section 10-9 of the Regulations and the requirement in section 10-10 to the effect that the foreign national has not received benefit under the Social Services Act.

*Section 20-10B Special provisions on the requirement for the sponsor to have worked or studied in Norway for four years*

If the sponsor has a work or residence permit under the Immigration Act of 1988, the requirement to have worked or studied in Norway for four years according to the Immigration Act of 2008 section 40a, see section 40 second paragraph, section 41 second paragraph and section 48 first paragraph and this regulations section 9-1, applies accordingly when the sponsor has

- (a) asylim, see the Immigration Act of 1988 sections 17 and 18,

- (b) work or residence permit obtained after getting an entry permit as a resettlement refugee under the Immigration Act of 1988 section 8a,
- (d) work or residence permit on the grounds of strong humanitarian considerations or a particular connection with Norway, see the Immigration Act of 1988 section 8 second paragraph,
- (e) work or residence permit as a family member, see the Immigration Act of 1988 section 9, or
- (f) permanent residence permit on the grounds of a permission mentioned in the letters a to e, see the Immigration Act of 1988 section 12.

The four year requirement under the Immigration Act of 2008 section 40a, see section 40 second paragraph, section 41 second paragraph and section 48 first paragraph, and the regulation's section 9-1, do not apply for applications submitted before the Acts entry into force.

*Section 20-11 Permit renewal for the family members of a foreign national with a permit as mentioned in section 22, third paragraph, of the Immigration Regulations 1990*

A residence permit may be granted under section 9-6 to an applicant as mentioned in sections 40 to 42 of the Act where the sponsor has a residence permit as mentioned in section 22, third paragraph, of the Immigration Regulations 1990.

*Section 20-12 Consideration by a grand board of practices in conflict with UNHCR's recommendations concerning protection*

The provision in section 16-4, second paragraph, on when practices conflicting with recommendations from UNHCR are to be reviewed by a grand board shall not apply to practices conflicting with recommendations from UNHCR at the time the Regulations enter into force.

*Section 20-13 Proceedings*

Where proceedings are instituted against the State concerning the lawfulness of the Immigration Appeals Board's decisions under the Immigration Act 1988 or concerning compensation as a result of such decisions, the State is represented by the Immigration Appeals Board.

Where lawsuits are brought against the State concerning the lawfulness of the Directorate of Immigration's decisions under the Immigration Act 1988 or concerning compensation in connection with such decisions, the State is represented by the Directorate of Immigration.

Where lawsuits are brought against the State concerning the lawfulness of the Ministry of Justice's decisions under the Immigration Act 1988 prior to 1 January 2001, the State is represented by the Immigration Appeals Board.

*Section 20-14 Criminal acts committed before the Act's entry into force*

Acts committed before the Act's entry into force may only be punished under section 108, third paragraph (a), of the Act provided the perpetrator has acted with gainful intent.

*Section 20-15 Special provisions for EEA and EFTA nationals and their family members*  
EEA or EFTA nationals holding a residence permit under the Immigration Act 1988 and the Immigration Regulations 1990 when the Regulations enter into force shall be regarded as

registered under section 117 of the Act, see section 19-22 of the Regulations, and the residence permit shall be valid up to the expiry of the period of validity. Residence permits under chapter 8 of the Immigration Act 1988 and the Immigration Regulations 1990 shall nonetheless lapse when the Regulations enter into force.

Family members of EEA or EFTA nationals who are not themselves EEA or EFTA nationals retain their residence permits until the expiry of the period of validity even if it is a matter of residence permits as mentioned in the first paragraph, second sentence. Such foreign nationals may submit an application for a residence card before their residence permit expires. Where the residence card is issued under section 118 of the Act, see section 19-23 of the Regulations, any residence permit as mentioned in the first paragraph, second sentence, lapses.

Applications for a residence permit from EEA and EFTA nationals are processed as matters of registration and registration certificates, see section 117 of the Act. Applications for a residence permit from a family member, see first paragraph, are processed as applications for a residence card, see section 118 of the Act.

*Section 20-16 Inclusion of time with a residence permit for the purpose of a permanent residence permit for EEA and EFTA nationals and their family members under chapter 13 of the Act*

An EEA or EFTA national who has had continuous lawful residence for five years when the Regulations enter into force has right of permanent residence and will be granted a permanent residence certificate upon application. Family members who have resided lawfully and lived together with a sponsor as mentioned in the first sentence in the realm for five consecutive years will be granted a permanent residence card upon application.

A settlement permit, or permit which forms the basis for a settlement permit under the provisions of the Immigration Act 1988 and the Immigration Regulations 1990 when the Regulations enter into force, will be regarded as documentation of stay in the realm for the purpose of an application for a permanent residence certificate or a permanent residence card.

*Section 20-17 EEA nationals from Bulgaria or Romania covered by section 58a of the Immigration Act 1988*

Where an employee who is an EEA national from Bulgaria or Romania has had lawful residence with a residence permit under section 58a of the Immigration Act 1988 for at least the twelve preceding months, the provisions on right of residence under chapter 13 of the Immigration Act 2008, see chapter 19 of the Regulations, are applicable.

The provisions on right of residence, see section 112, first paragraph (a), of the Act, and on registration, see section 117, second paragraph (a), of the Act, are applicable.

Upon the transition from residence permits under section 58a of the Immigration Act 1988 to the provisions on right of residence under the Immigration Act 2008, the provisions of sections 20-15 and 20-16 are applicable.

*Section 20-18 Exemption for seamen*

Foreign seamen on foreign-registered ships carrying cargo or passengers between Norwegian ports are exempt from the residence permit requirement, see section 55 of the Act, until 1 May 2010.

The provisions on seamen in section 1-3, first paragraph (c); section 3-13, second paragraph, second sentence; section 6-6, section 10-1, first paragraph (k); section 10-2, fourth paragraph, third sentence; section 10-3, second paragraph, third sentence; section 10-3, third paragraph, third sentence; section 10-4, first paragraph, second sentence and section 10-4, third paragraph, third sentence, apply with effect from 1 May 2010.

*Section 20-19 Controlling of foreigners who arrive from Svalbard*

The Act does not apply to Svalbard, see section 6 of the Act, fourth paragraph. The provisions on entry and exit in the Acts second chapter and this regulation's second to fourth chapters is made applicable to foreigners who enter from Svalbard.

For foreign travelers by cruise ships or aircrafts, who after stay in another part of the realm travel to Svalbard and later return from there, the Directorate of Immigration can, application, make exemptions from the provision in the first paragraph second sentence.