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G-12/2020 – Revised circular relating to Entry into force of the Regulations relating to rejection etc. of foreign nationals out of concern for public health

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1. Introduction

The Ministry of Justice and Public Security refers to the Regulations of 15 March 2020 No. 293 relating to rejection etc. of foreign nationals out of concern for public health (last amended 12 June 2020 with effect from 15 June 2020). Foreign nationals arriving in the realm after 16 March at 8 a.m. are subject to implementation of the Regulations.

It is pointed out for clarity's sake that the Regulations do not prevent the entry into Norway of Norwegian nationals, foreign nationals who have a residence permit and no special entry restriction, and other designated groups.

This circular replaces Circular G-11/2020 of 31 May 2020. The impact of infection control measures that have been introduced must be assessed continuously and weighed against important societal and business interests affected by the measures. This circular could be subject to rapid amendments and adaptations.

2. Main rules regarding rejection

The Regulations stipulate that foreign nationals without a residence permit may be rejected for reasons of public health, due to the outbreak of the hazardous and widely infectious disease COVID-19. This means that all foreign nationals without a residence permit, who are not covered by any of the exemptions cited below, will be rejected without further consideration of the risk of infection posed by each individual.

It is pointed out that even if the foreign national is covered by one of the exemptions contained in the Regulations relating to rejection etc., the conditions for entry established in the Immigration Act must be fulfilled. For example, there is a visa requirement for foreign nationals requiring such visa, and this condition will still apply even though there are currently practical challenges associated with submitting a visa application. Likewise, the Immigration Act provisions governing when a residence permit is required are applicable in the normal way.

The Regulations establish exemptions for:

1. EEA nationals who reside in Norway; see section 1, third paragraph a) of the Regulations
2. family members of EEA nationals (see section 110, third and fifth paragraphs, of the Immigration Act) when such a family member resides or is to reside in Norway; see section 1, third paragraph b) of the Regulations

3. EEA nationals who are employed and who have entered into or are to enter into a work relationship in Norway; see section 112, first paragraph (a), of the Immigration Act; see also section 1, third paragraph c), of the Regulations
4. EEA nationals who are self-employed who have established or are to establish business activity in Norway; see section 112, first paragraph (a), of the Immigration Act; see also section 1, third paragraph d) of the Regulations
5. Service providers from an EEA country that are covered by section 110, fourth paragraph, or section 112, first paragraph (b), of the Immigration Act (independent contractors and posted workers) who have begun or are to begin a work assignment in Norway; see section 1, third paragraph e) of the Regulations
6. EEA nationals with family ties as specified in section 1, third paragraph b), who are family members of a Norwegian national; see also section 1, third paragraph f) of the Regulations
7. EEA nationals with family ties as specified in section 1, third paragraph b), who are to visit family members resident in Norway; see also section 1, third paragraph g) of the Regulations
8. EEA nationals who own real property in Norway, including a holiday residence, and who are to visit it; see section 1, third paragraph h), of the Regulations
9. Foreign nationals who will only be staying in airport transit before departing Norway; see section 2 a) of the Regulations
10. Foreign nationals covered by exemption from the duty of quarantine pursuant to section 6 of the Regulations of 27 March 2020 No. 470 relating to infection control measures etc. in connection with the coronavirus outbreak (COVID-19 Regulations); see section 2 b) of the Regulations
11. Foreign nationals seeking protection (asylum) in the realm; see section 2 c) of the Regulations
12. When special reasons so indicate, such as specific care responsibilities for persons in Norway or other compelling welfare considerations; see section 2 letter d) of the Regulations

13. Foreign nationals who have a residence permit as a seasonal worker (see section 6-3 of the Immigration Regulations) and are to work in agriculture or the fruit and vegetable sector; see section 2 e) of the Regulations
14. Foreign nationals who have been granted a residency permit in Norway under the Immigration Act's provisions on family immigration, and whose sponsor is a Norwegian national or foreign national resident in Norway or is otherwise entitled to entry under the Regulations relating to rejection etc.; see section 2 f) of the Regulations

Regarding the points above, on EEA nationals and their family members who reside or work in Norway

EEA nationals who work in Norway also include commuters. However, it is emphasised that only certain defined groups are exempted from the duty of quarantine; see section 6 of the Regulations of 27 March 2020 No. 470 relating to infection control measures etc. in connection with the coronavirus outbreak (COVID-19 Regulations). See also subheading 3 in this circular.

The term "cohabitant" in section 1, third paragraph g), refers to a permanent, established cohabitation relationship of at least two years or a relationship in which the parties jointly have or are expecting a child and intend to live together. This corresponds to the Immigration Act's definition of "cohabitant".

For EEA nationals who are to visit family in Norway, exemption is to be made from the stipulation in section 110, third paragraph, that a relative in direct line of descent must be under the age of 21.

An exemption is made for EEA nationals who own real property in Norway, including a holiday residence, and who intend to visit it. This exemption applies to the owner and the owner's household members.

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

The stipulations of these Regulations concerning EEA nationals apply correspondingly to Swiss nationals; see section 1, fourth paragraph, of the Regulations.

Section 2a of the Regulations establishes exemptions for other specific groups of persons:

The following foreign nationals covered by section 1, first paragraph, may not be rejected:

- a. Foreign nationals who have a need to travel through the Norwegian mainland on their way to or from work or residence in Svalbard.
- b. EEA nationals and nationals of Andorra, Monaco, San Marino and Vatican City State and their family members who need to travel through Norway to get home.
- c. Nordic nationals from the Faroe Islands, Greenland or Åland, and their family members, who reside or work in Norway.
- d. Members of the Sami community in the exercise of reindeer herding.
- e. Foreign nationals who perform commercial transport of goods and passengers for payment, or are en route to or from such an assignment.
- f. Journalists and other personnel on assignment for a foreign media institution.
- g. Foreign nationals as specified in sections 1-4 and 1-5 of the Immigration Regulations, and who can present a diplomatic or service passport, or possibly a national passport in combination with a Norwegian ID card issued by the Ministry of Foreign Affairs, or in combination with a Schengen residence card for embassy personnel. The same applies to dual-accredited diplomats and diplomatic couriers.
- h. Military personnel as specified in section 1-7, second and third paragraphs, of the Immigration Regulations and their spouses, cohabitants or children who are registered with and accepted by the Ministry of Defence, as well as members of a civilian component and civilian personnel working for military staffs or

headquarters in Norway (including NATO departments in Norway), as well as their spouses, cohabitants or children.

- i. Foreign nationals who work on mobile or fixed installations; see sections 1-10 and 1-11 of the Immigration Regulations.
- j. Holders of a valid aviation personnel licence (see section 2-9 of the Immigration Regulations) en route to or from active service.
- k. Seamen, en route to or from active service, with an identity card as specified in section 2-8 of the Immigration Regulations or a Philippine Seafarer's Identification and Record Book or a Philippine national passport as specified in section 3-1 (j) of the Immigration Regulations
- l. Foreign nationals who have been granted a visa by the Norwegian decision-making authority after 15 March 2020; see Ministry of Justice and Public Security instruction GI-08/2020.
- m. A spouse, cohabitant or child of a posted foreign service officer at a Norwegian foreign service mission.
- n. Employees of international organisations or employees in organisations that perform international humanitarian efforts, who are on assignment or en route to or from such assignment.
- o. Foreign nationals who are resident in Svalbard.

Regarding points a and o above on Svalbard

An exemption has been made for foreign nationals who have a need to travel through the Norwegian mainland on the way to or from work or residence in Svalbard; see section 2a a) of the Regulations. This is to ensure that foreign nationals who live or work in Svalbard will be able to pass through the Norwegian mainland when they are travelling between a foreign country and Svalbard. However, the exemption for foreign nationals on the way to work or residence in Svalbard must also be viewed in connection with section 10 of the Covid-19 Regulations, under which everyone arriving from abroad must undergo quarantine on the Norwegian mainland before onward travel to Svalbard can take place. It is pointed out for emphasis that this requirement continues to apply.

Departure from Svalbard to a foreign country via the Norwegian mainland for persons other than those who have work or residence in Svalbard is covered by the exemption for airport transit contained in section 2 a) of the Regulations. Reference is also made to the section below, where it is stated that EEA nationals and their family members who need to travel through Norway to get home may not be rejected; see section 2a b) of the Regulations. This exemption covers all transport.

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

"Residents" in this context refers to persons validly registered into the population register for Svalbard. Such status may be documented by printout from the register. For persons residing in Barentsburg, the documentation requirement is satisfied by confirmation of one's employment relationship.

Regarding point b above, on EEA nationals etc. who need to travel through Norway

An exemption has been established for EEA nationals and their family members who need to travel through Norway to get home. This exemption applies correspondingly to nationals of Andorra, Monaco, San Marino and Vatican City State. It is pointed out that this exemption covers all transport, but it must be seen in connection with the duty of quarantine under section 7 of the COVID-19 Regulations.

The exemption also applies in cases where a foreign national arrives in Norway and there is a reasonable explanation for why the person does not have a ticket to travel onwards the same day – for example, that he or she has not yet managed to obtain a ticket. The foreign national must show clearly that he or she will do what is necessary to travel onwards as soon as possible, and to comply with the duty of quarantine during the temporary stay in Norway.

Regarding point h above, on personnel working for military staffs or headquarters in Norway

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

3. Deferred entry and rejection of foreign nationals with a residence permit

In making a residence-permit decision the immigration authorities shall determine whether permission to enter is to be deferred until further notice; see section 2b of the Regulations. If the decision expressly states that the foreign national is covered by exemptions specified in sections 2 or 2a, this is to be recognised during entry control procedures as well, and the foreign national shall not be rejected.

For a foreign national requiring a visa who has been granted a residence permit in Norway, the predisposition is that an entry visa (see section 3-13 of the Immigration Regulations) is not to be granted for the time being. As long as an entry visa has not yet been issued, it may be deferred in all cases where a residence permit has been granted, not limited to decisions made on or subsequent to 20 April 2020. However, an entry visa shall be issued without deferment if the immigration authorities find that a foreign national is covered by exemptions specified in sections 2 or 2a of the Regulations; see above.

Although entry may be denied at the time of the administrative decision, subsequent events may still lead to entry being permitted. In that case the immigration authorities must make a new assessment upon request submitted by the foreign national before the foreign national travels to Norway.

Foreign nationals who come to the Norwegian border contrary to entry restrictions established pursuant to section 2b, first paragraph, of the Regulations shall as a general rule be rejected. The same applies to foreign nationals who are denied an entry visa until further notice pursuant to section 2b, second paragraph, of the Regulations. An exemption from being rejected at the border may be granted if circumstances arising *after* the immigration authorities have assessed whether a foreign national is entitled to enter pursuant to section 2b, first and second paragraphs, of the Regulations indicate that an entitlement to enter should nevertheless be granted under the same provision.

It follows from section 2 e) and f) of the Regulations relating to rejection etc. that a foreign national may not be rejected if he or she has a residence permit as a seasonal worker in agriculture or the fruit and vegetable sector, or pursuant to the Immigration Act's provisions on family immigration. This means that permission to enter and the issuance of an entry visa for such a person shall not be deferred on grounds of section 2b. It is emphasised that the general conditions pertaining to a residence permit, including return conditions, shall be assessed in the normal way. It is pointed out that the exemptions specified in the Regulations relating to rejection etc. do not confer exemption from quarantine and isolation rules in force at any given time. In the case of seasonal workers, the employer must credibly establish, in a statement to the immigration authorities, that the seasonal worker in question will be able to comply with quarantine provisions. In the case of family immigrants, entitlement to enter is valid only insofar as the sponsor also is entitled to entry into Norway.

4. A closer look at exemptions for those who are exempt from duty of quarantine

Section 2 b) of the Regulations states that foreign nationals who are covered by an exemption from the duty of quarantine pursuant to sections 5a, 6 and 6a of the COVID-19 Regulations may not be rejected.

This means, first, that foreign nationals arriving in Norway who are residents of areas in Denmark, Finland, Iceland, the Faroe Islands, Greenland and Åland or Gotland in Sweden shall not be rejected; see section 5a, first paragraph, of the COVID-19 Regulations.

Foreign nationals who reside in these areas may nonetheless travel through areas in Sweden which would otherwise subject them to the duty of quarantine if they fulfil the following conditions set forth in section 5a, second paragraph:

- a. They are travelling in their own vehicle en route to or from Norway.
- b. They are en route to or from an area specified in the first paragraph.
- c. They do not stay overnight in the area.
- d. They fulfil distancing and other infection control requirements during the trip.

Foreign nationals who cross the Norwegian border from areas in Sweden where the duty of quarantine is applicable shall not be rejected if they are travelling between home and place of work; see section 6, first paragraph, of the COVID-19 Regulations. The provision's second paragraph specifies that the exemption does not apply to persons in transit from other countries. Section 6, first paragraph, of the COVID-19 Regulations is to be interpreted as extending to business travellers.

In accordance with section 6 below, individual foreign nationals must be able to substantiate as necessary that they fall under an exemption to the entry restrictions. A low threshold may be set for such substantiation so that, in cases where the foreign national lacks documentation, his or her explanation may be deemed adequate if it appears credible.

Other foreign nationals who may not be rejected are those who are 'essential to maintain the proper operation of critical public functions or attend to fundamental needs of the population, including persons who perform goods and passenger transport functions'; see section 6, third paragraph, of the COVID-19 Regulations. Those Regulations require that the foreign nationals in question are working or travelling to and from work.

Examples of other foreign nationals who may not be rejected because their presence in Norway is essential to maintain the proper operation of critical public functions and attend to fundamental needs of the population include foreign nationals invited by the Norwegian authorities for special purposes. Such foreign nationals could, for example, have special expertise in addressing virus outbreaks or other skills required by the health service or other critical public functions.

The critical public functions are:

- Administration and crisis management
- Defence
- Law and order
- Health and care services
- Rescue service
- Digital security in the civilian sector
- Nature and the environment
- Security of supply
- Water and wastewater
- Financial services
- Power supply
- Electronic communications
- Transport

- Satellite-based services

Also included are pharmacy and maintenance.

An exemption also prevents rejection of foreign nationals travelling into Norway in connection with carrying out agreed or formalised parent-child contact or divided residence for children; see section 6, sixth paragraph, of the COVID-19 Regulations.

Also exempt from rejection, finally, are foreign nationals invited by the Norwegian authorities to participate in international negotiations or similar activities and foreign nationals in delegations coming to Norway in conformity with Norway's international obligations; see section 6a of the COVID-19 Regulations.

5. A closer look at exemptions for special reasons

Section 2 d) of the Regulations states that foreign nationals may not be rejected if 'special reasons so indicate, such as specific care responsibilities for persons in Norway or other compelling welfare considerations'. This applies to cases involving, for example:

- Minor children and foster children of Norwegian or foreign nationals who live or work in Norway.
- Foreign nationals who have a special care responsibility for persons who live in Norway, including minor children or foster children or others with special care needs.
- Foreign nationals who, due to compelling welfare considerations, need to enter Norway, and the visit cannot wait; an example would be a foreign national who seeks to visit a dying or severely ill close family member in Norway (spouse/cohabitant, sibling or family member in ascending or descending line).
- Foreign national ship passengers who began sailing before 16 March at 8 a.m. and need entry to Norway in order to return to their home country. Clarification is required as to how onward transport out of Norway is to occur in a sound manner that does not violate the COVID-19 Regulations.

- Foreign nationals who are a party to a legal proceeding in Norway, or who are to give evidence in such a proceeding.
- Foreign nationals who have a valid fishing licence for boat fishing in the Tana watercourse; see section 2, first paragraph 1) and 3) and second paragraph a) and c) of the Regulations relating to fishing in the Tana watercourse's border river area. Foreign nationals who set out from the Finnish bank of the river may fish on the Norwegian side of the river but may not go ashore in Norway.

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

6. A closer look at documentation requirements

Individual foreign nationals must be able to substantiate when necessary that they are covered by one of the exemptions.

7. Relationship to quarantine regulations

It is emphasised that the exemptions to the rejection provisions do not constitute exemption from the rules relating to quarantine and isolation in force at any given time.

8. Relationship to the Immigration Act's rules on rejection

The Ministry points out that the Regulations relating to rejection etc. are a supplement to the Immigration Act's rules on rejection, not a replacement of them. Foreign nationals may still be rejected pursuant to the rules of the Act, including on public health grounds under section 17, first paragraph (l) and section 121 (see also section 123), provided that the conditions are in place and ordinary procedural rules are followed.

The aforementioned provisions of the Immigration Act do not provide specific exemptions for the groups of persons described in sections 1 to 2a of the Regulations or for persons who were in Norway before 16 March 2020. However, the Ministry would like to emphasise that persons who fall outside the Regulations may not – at this time – be rejected solely by reference to the general situation relating to the COVID-19 outbreak. In such cases, an individual assessment must be made with focus on specific circumstances of the foreign national who is being considered for rejection. The Ministry accepts that there may be grounds for rejecting foreign nationals who pose a special infection risk, for example due to behaviour contravening official advice and guidelines.

9. Use of coercive measures

The clarification that has been added in section 1, second paragraph, indicating that coercive measures may be employed on the legal basis of provisions in Chapter 12 of the Immigration Act, entails, among other things, that a decision leading to arrest and detention may be taken pursuant to the same legal bases and conditions of the Immigration Act that apply in other rejection cases.

In a case, for example, where someone is stopped by the police under section 21a of the Immigration Act and is most likely to be rejected under the Regulations relating to rejection etc., then section 106, first paragraph (i), of the Immigration Act may provide grounds for arrest. If the police believe it is necessary to hold the foreign national for more than 24 hours (see section 106b, third paragraph, last sentence of the Immigration Act), the most relevant legal basis for assessing this will probably be section 106, first paragraph b), of the Immigration Act, concerning risk that implementation of an administrative decision will be evaded.

With regards,

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New regulations

[Regulations relating to amendments to the Regulations of 15 March 2020 No. 293 relating to rejection etc. of foreign nationals out of concern for public health](http://www.regjeringen.no/en/dokumenter/regulations-relating-to-amendments-to-the-regulations-of-15-march-2020-no.-293-relating-to-rejection-etc2.-of-foreign-nationals-out-of-concern-for-public-health/id2706484/)

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THIS DOCUMENT REPLACES

- [G-11/2020 – Revised circular relating to Entry into force of the Regulations relating to rejection etc. of foreign nationals out of concern for public health](http://www.regjeringen.no/en/dokumenter/g-102020--revised-circular-relating-to-entry-into-force-of-the-regulations-relating-to-rejection-etc2.-of-foreign-nationals-out-of-concern-for-public-health/id2704604/)
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