

Act 2008-05-15-35,
Act Relating to the Admission of Foreign Nationals into the Realm
and Their Stay Here (Immigration Act)

Kapitteloversikt:

Chapter 1 General provisions

Chapter 2 Visa, entry and exit control and rejection, etc.

Chapter 3 Stay in connection with employment and studies, etc.

Chapter 4 Protection

Chapter 5 Right of residence on the grounds of strong humanitarian considerations or a particular connection with the realm

Chapter 6 Family immigration

Chapter 7 General provisions on residence permits, etc.

Chapter 8 Expulsion

Chapter 9 Absolute protection against removal (non-refoulement)

Chapter 10 Organisation of the immigration authorities

Chapter 11 Procedural rules

Chapter 11A Representatives of unaccompanied asylum-seeking minors

Chapter 12 Processing of fingerprints etc., coercive measures and penalties

Chapter 13 Special provisions for foreign nationals who fall under the Agreement on the European Economic Area (the EEA Agreement) and the Convention ...

Chapter 14 Special rules for cases involving fundamental national interests or foreign policy considerations

Chapter 15 Concluding provisions

Amendment acts incorporated in this text: Last amended by L15.12.2017 No. 108 in force from 15.12.2017 and 01.01.2018.

Amendment acts not yet incorporated in this text:

L20.04.2018 No. 10 (sections 48, 108, 128 and 130. In force 20 April 2018.)

L20.04.2018 No. 11 (section 84b. In force 20 April 2018.)

L20.04.2018 No. 9 (sections 66, 90, 92, 99, 99a, 103, 104, 105, 106, 106a, 106b, 106c, 107 and 130. In force 15 May 2018.)

L15.06.2018 No. 36 (section 80, new section 83a, section 84a repealed. In force 20 July 2018.)

L22.06.2018 No. 78 (sections 53, 66, 67, 68, 73, 90. In force 1 November 2018.)

L20.12.2018 No. 117 (section 18, new section 21 a, sections 84, 92, 104, 105, 106, 106 a, 106 b and 129. In force 1 January 2019.)

L17.06.2016 No. 58 (section 60. In force 1 April 2019.)

L29.03.2019 No. 9 (new section 125 a. In force 29 March 2019.)

L20.04.2018 No. 8 (sections 6, 14, 15, 16, 20, 22, 66, 100b and 108. Not yet in force.)

L21.06.2019 No. 47 (sections 17, 32, 42 and 94. In force 1 Oct 2019.)

This is an unofficial translation of the Norwegian version of the Act and is provided for information purposes only. Legal authenticity remains with the Norwegian version as published in Norsk Lovtidend. In the event of any inconsistency, the Norwegian version shall prevail.

The translation is provided by the Ministry of Justice and Public Security.

Chapter 1 General provisions

Section 1. *Purpose of the Act*

The Act shall provide the basis for regulating and controlling the entry and exit of foreign nationals and their stay in the realm, in accordance with Norwegian immigration policy and international obligations.

The Act shall facilitate lawful movement across national borders, and ensure legal protection for foreign nationals who are entering or exiting the realm, who are staying in the realm, or who are applying for a permit under the Act.

The Act shall provide the basis for protecting foreign nationals who are entitled to protection under general international law or international agreements by which Norway is bound.

Section 2. *Scope of the Act*

The Act concerns the admission of foreign nationals to the realm and their stay here. Obligations under the Act may also be imposed on Norwegian nationals and legal persons.

Section 3. *Relationship of the Act to international provisions*

The Act shall be applied in accordance with international provisions by which Norway is bound when these are intended to strengthen the position of the individual.

Section 4. *Legal status of foreign nationals*

Unless otherwise provided by applicable legal rules, foreign nationals shall have the same rights and obligations as Norwegian nationals during their lawful stay in the realm.

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

In this Act, «foreign national» means any person who is not a Norwegian national.

Nordic nationals are exempt from the requirement of a residence permit in order to take up residence or employment in the realm, see section 55, first paragraph. The King may also issue regulations making further exceptions for other foreign nationals.

In the case of foreign nationals attached to diplomatic or paid consular missions in the realm, their spouses or cohabitants and dependent children, the King decides which of the provisions of the Act shall apply. The King may issue special regulations for this group. The same applies to employees of intergovernmental organisations, persons working under contract for intergovernmental organisations or treaty bodies and personal staff of foreign representatives.

In the case of foreign nationals who will be staying in the realm in connection with the implementation of an agreement on intergovernmental cooperation by which Norway is bound, the provisions regarding entry controls, travel documents, visas and residence permits shall apply subject to the exceptions set out in the agreement.

Section 6. *Geographical scope of the Act*

The Act shall apply to the realm, including installations and facilities used on or connected to the Norwegian part of the continental shelf.

The King may issue regulations deviating from the provisions of the Act regarding installations and facilities mentioned in the first paragraph, and may issue regulations regarding passport and border control in connection with travel between them and Norwegian land territory.

The Act shall also apply to Jan Mayen. The King may issue regulations regarding the admission of foreign nationals to Jan Mayen that deviate from the provisions of the Act.

The Act shall not apply to Svalbard. The King may issue regulations containing further provisions on control of travellers arriving from or travelling to Svalbard.

The Act shall not apply to Norwegian ships engaged in foreign trade. The King may issue regulations containing further provisions on when the Act or provisions issued in accordance with the Act shall apply to Norwegian ships engaged in foreign trade that call at Norwegian ports.

Section 7. (Repealed by Act of 21 June 2013 No. 92)

Chapter 2 Visa, entry and exit control and rejection, etc.

Section 8. *Travel document*

Unless otherwise provided, a foreign national who comes to the realm must have a passport or other identity document approved as a travel document.

The Ministry shall set the requirements for acceptance of passports and other identity documents as valid for entry into and stay in the realm.

The Directorate of Immigration may in special cases exempt a foreign national from the passport requirement or accept a different document than specified in the general provisions.

Section 9. *Visa requirement and visa-free entry*

Foreign nationals must hold a Norwegian visa in order to enter the realm, unless the King has issued regulations establishing exceptions to this requirement. A foreign national who is at the Norwegian border and who is seeking protection (asylum) under the provisions of chapter 4, or who otherwise provides information indicating that protection against removal under section 73 will be applicable, shall nevertheless be entitled to enter the realm without a visa, unless

- (a) a crisis situation with an extraordinarily high number of arrivals exists and the King in Council has therefore decided that administrative decisions to refuse an asylum application to be examined on its merits may be made at the border location following individual assessments, or
- (b) the foreign national arrives at a border with a neighbouring Nordic state and the King in Council has made decisions as mentioned in section 32, fifth paragraph, to refuse an asylum application submitted at the border with the neighbouring Nordic state in question, to be examined on its merits.

Foreign nationals who hold a residence permit issued by a country that participates in cooperation under the Schengen Agreement (a Schengen country), as defined by regulations, and who are in possession of a valid travel document, shall be exempt from the visa requirement.

A visa issued by a Schengen country entitles the holder to enter and stay in the realm for the validity period of the visa, provided that such right is stated in the visa.

The total stay in the Schengen territory for a foreign national who is exempt from the visa requirement under the first or second paragraphs, or who is entitled to enter and stay under the third paragraph, may not exceed three months in the course of a six-month period.

The King may issue regulations containing further provisions, including on who is exempt from the visa requirement under the second paragraph and on the calculation of time in the fourth paragraph.

Decisions made by the King in Council in accordance with the first paragraph, (a), shall generally apply for two weeks, and for no longer than six weeks. No duty of advance notification under section 37 of the Public Administration Act applies. Such decisions may only be renewed once, although one further extension shall be permitted if the need arises while the Storting is not in session.

Decisions regarding entry permission under the first paragraph, (a) and (b), may be made by the police, and are not deemed to be individual decisions.

Section 10. *Schengen visa*

An applicant shall be entitled to a visa for a visit not exceeding three months in a six-month period when the following conditions are satisfied:

- (a) the foreign national is in possession of a valid travel document or documents that permit border crossing,
- (b) the foreign national can substantiate the intended purpose of the stay and has sufficient means of subsistence, both for the stay and for return to the country of origin or for transit to a third country into which the foreign national is certain to be admitted, or can acquire such means in a lawful manner,
- (c) the foreign national has not been registered in the Schengen Information System (SIS) for the purpose of refusing entry,
- (d) the foreign national is not deemed a threat to public order, national security, public health or the international relations of Norway or any other Schengen country, particularly if no notification has been entered in the member states' national data registers for the purpose of refusing entry on these grounds.

Further, the issue of a visa must be consistent with the visa issuance criteria that follow from the Schengen cooperation. The King may issue regulations containing supplementary provisions, including with regard to travel and health insurance requirements that follow from the Schengen cooperation.

Exceptions may be made to the right to a visa under the first paragraph if immigration regulation considerations indicate that no visa should be granted, or if there are circumstances that would have given grounds for refusing the foreign national admission to the realm or the right to stay under other provisions of the Act.

When weighing considerations under the second paragraph, particular emphasis shall be placed on children's need for contact with their parents.

A visa may be refused if it is likely that the applicant or the applicant's child from a previous relationship will be mistreated or grossly exploited.

A visa may be granted for one or several entries. The provision of section 9, fourth paragraph, applies correspondingly.

The King may issue regulations containing supplementary provisions on the conditions for granting a visa under the first paragraph and on the duration and content of such a visa. The King may also issue regulations containing provisions on transit visas and airport transit visas, and on visas for family members of foreign nationals who are subject to the EEA Agreement or the EFTA Convention.

Section 11. *Visa on humanitarian grounds, etc.*

When necessary for humanitarian reasons or based on national considerations or international obligations, a visa may be issued for a period not exceeding three months even if the conditions in section 10 are not satisfied. The provision of section 9, fourth paragraph, applies correspondingly.

A visa issued under this section shall only be valid for entry into and stay in Norway during the specified period of time.

The King may issue regulations containing further provisions.

Section 12. *Entry visa*

A foreign national who is granted a residence permit or who intends to stay in the realm until a residence permit is granted may be granted an entry visa in accordance with further provisions laid down by the King in regulations.

Section 13. *Power of decision and issue of visas*

Applications for visas shall be decided by the Directorate of Immigration. The power to make decisions on visa applications under sections 10 and 12 may also be delegated to the foreign service and the Governor of Svalbard. The power to make decisions on visa applications under section 10 may also be delegated to the foreign service of another Schengen country. The King may issue regulations containing further provisions.

The King will issue regulations containing further provisions on re-entry and extension of the visa's period of validity, and on the power of decision in such cases.

The King may issue regulations containing further provisions on the issue of visas, including on the issue of a visa at the border (emergency visa), application procedures and the processing of applications.

Section 14. *Border crossing and border control*

Unless otherwise provided, entry and exit shall take place at border crossings determined by the Ministry. An internal Schengen border may be crossed anywhere provided that no temporary border control has been introduced. Such border control may only be introduced if there is a serious threat to public order or national security. Customs legislation applies when an internal Schengen border is crossed. The King may issue regulations containing further provisions.

Any person coming to the realm shall immediately report to the border control authorities or the nearest police authority. Any person leaving the realm is subject to exit control and shall report to the border control authorities or the nearest police authority upon exit. The duty to report under this paragraph shall not apply in connection with the crossing of an internal Schengen border, provided that no temporary border control as specified in the first paragraph has been introduced. The Ministry may make exceptions to the duty to report under this paragraph.

Section 15. *Implementation of border control*

Entry and exit control shall be carried out at the external Schengen border, provided that no temporary border control has been introduced at an internal Schengen border as mentioned in section 14, first paragraph.

In connection with entry and exit control, a check shall be made to ensure that every person has a passport or other identity document that has been approved as a travel document, and that persons subject to a visa requirement hold a valid visa. If a checked person refuses to state his or her identity, or if there is reason to suspect that the stated identity is false or that the person is concealing an identity document, a body search may be carried out for the purpose of procuring the identity document. It shall also be ensured that there are no other grounds for rejection; cf. sections 17 and 121.

In connection with entry and exit control, other types of identity check, including iris scans, fingerprint checks and facial recognition checks, may be carried out.

In connection with entry and exit control, the police may inspect vehicles, vessels and aircraft to ascertain whether they contain any persons who are attempting to evade a personal check.

The King may issue regulations

- (a) containing further provisions on entry and exit control,
- (b) containing further provisions on police authority to demand the passport and other travel or identity documents of a foreign national before entry, and to make copies of such documents, and
- (c) ordering the master of a ship or commander of an aircraft, or a carrier engaged in commercial land transport of persons, to check that travellers hold a valid travel or identity document and visa, and imposing an obligation to make copies of such documents.

Section 16. *Permission to leave a post aboard a ship. Shore leave. Stowaways*

A foreign national who leaves his post aboard a ship or an aircraft may not go ashore in the realm without the permission of the police. The King may issue regulations containing further provisions on seamen who leave a post aboard a ship and their right to go ashore in the realm, as well as provisions on administrative procedures and the right of appeal in such cases.

The King may issue regulations containing provisions on shore leave for seamen staying aboard ships in Norwegian ports and on the power to refuse shore leave. The King may also issue provisions on administrative procedures and the right of appeal in such cases.

A foreign national who is a stowaway aboard a ship or an aircraft may not go ashore in the realm without the permission of the police. The King may issue regulations containing further provisions on the conditions for granting stowaways admission to the realm, as well as provisions on administrative procedures and the right of appeal in such cases.

Section 17. *Rejection*

A foreign national may be rejected

- (a) when the foreign national fails to produce a valid passport or other approved travel document when required,
- (b) when the foreign national fails to produce a visa when required,
- (c) when the foreign national has been registered in the Schengen Information System (SIS) for the purpose of refusing entry,
- (d) when the foreign national lacks a necessary permit under the Act,
- (e) when the foreign national cannot substantiate the stated purpose of the stay,
- (f) when the foreign national cannot substantiate having or being assured of sufficient means for the stay in the realm or in another Schengen country, and for the return journey,
- (g) when the foreign national has been sentenced to a penalty or special sanction as mentioned in section 66, first paragraph, (b), has less than two years previously served or been sentenced to a penalty or special sanction for an offence as mentioned in section 66, first paragraph, (c), or where other circumstances give reason to fear that the foreign national, here in the realm or in another Schengen country, has committed or will commit a criminal act punishable by imprisonment. The same applies when there is reason to fear that the foreign national, here in the realm or in another Schengen country, has committed or will commit criminal acts as mentioned in section 323 (minor theft), section 326 (minor embezzlement), section 334 (minor handling of proceeds of a crime), section 339 (minor money laundering), section 362 (minor forgery), or section 373 (minor fraud) of the Penal Code,

- (h) when the foreign national has been sentenced to a penalty or special sanction outside Norway for an offence that under Norwegian law is punishable by imprisonment for a term of five years or more,
- (i) when an authority in a Schengen country has made a final decision to reject or expel the foreign national because there is particular reason to assume that the person concerned has committed serious criminal acts, or because there are real indications that the person concerned is planning to commit such acts on the territory of a Schengen country,
- (j) when competent health personnel find that the foreign national is manifestly suffering from a serious mental disorder,
- (k) when the foreign national has not paid expenses incurred by the public authorities in connection with previous removal of the foreign national from the realm, or has failed to pay an imposed fine, or
- (l) when it is necessary out of consideration for national security, public health or public order in Norway or another Schengen country.

A foreign national who was born in the realm and who has subsequently continuously had a fixed address there may not be rejected. The same applies to foreign nationals who hold a temporary or permanent residence permit, and Nordic nationals who reside in the realm.

The King may issue regulations containing provisions on exceptions to the provisions of the first paragraph for holders of a visa or residence permit issued by a Schengen country.

Section 18. *Power of decision in cases regarding rejection*

Administrative decisions regarding rejection at the time of entry or within seven days of entry shall be made by the chief of police or a person authorised by the chief of police, unless otherwise provided in the second paragraph. The seven-day time limit shall be deemed to have been complied with if rejection proceedings are instituted within seven days. Administrative decisions regarding rejection in connection with border control under section 17, first paragraph, (a) to (c), may be made by a police officer.

Administrative decisions regarding rejection shall be made by the Directorate of Immigration if

- (a) the foreign national claims to be a refugee, see section 28, or otherwise provides information indicating that the foreign national is protected against removal under section 73,
- (b) the administrative decision is made more than seven days after entry,
- (c) the administrative decision concerns rejection under section 17, first paragraph, (h) and (l).

The King may issue regulations authorising the chief of police or a person authorised by the chief of police to make administrative decisions regarding rejection later than seven days after entry.

Section 19. *Foreign nationals' obligation to report to the authorities*

Foreign nationals who have been granted a residence permit prior to entry shall, no later than one week after entry, report to the police at their place of residence.

Foreign nationals who change their address while a case regarding a residence permit is being processed shall notify the police accordingly. When a foreign national's application for a residence permit has been rejected, the same applies until the foreign national has left the realm.

The King may issue regulations containing provisions to the effect that a foreign national who does not require a residence permit or who holds a permanent residence permit shall notify the police of his address in the realm and notify the relevant authorities of his work or occupation.

Section 20. *Obligation to notify the authorities in other circumstances*

The King may issue regulations containing provisions to the effect that:

- (a) the commander of an aircraft arriving from, or departing for, another country shall give the police a list of passengers and crew members,
- (b) the master of a ship that crosses the border on its way to or from a Norwegian port shall give the police a list of passengers and crew members,
- (c) any person who runs a hotel, boarding house, lodging house, campsite, etc. shall keep a list of all persons who spend the night there and notify the police of them, and to the effect that other persons may also be ordered to notify the police when a foreign national spends the night on their premises if necessary for security or emergency preparedness reasons,
- (d) any person who takes a foreign national into his or her service or gives a foreign national paid work shall notify the police of this before the work commences,
- (e) any person who runs an employment agency shall notify the police of foreign nationals who seek or are given work,
- (f) the National Registry shall notify the police of foreign nationals which it registers and deregisters,
- (g) educational institutions shall upon request give the police a list of foreign pupils or students.

The King may issue regulations containing further provisions on the information to be included in the lists and how the information shall be communicated.

The person who is the subject of notification has an obligation to provide such information as is necessary to enable compliance with the duty to report.

Section 21. *General immigration control*

In connection with enforcement of the provisions regarding foreign nationals' entry into and stay in the realm, the police may stop a person and request proof of identity when there is reason to assume that the person in question is a foreign national and the time, place and situation give grounds for such a check. In connection with such a check, the foreign national must show proof of identity and, if necessary, provide information to clarify his or her identity and the lawfulness of his or her stay in the realm. The King may issue regulations containing further provisions on implementation of the check, including the power to make copies of documents.

In the event of planned actions, the decision to conduct a check under the first paragraph shall be made by the chief of police or a person authorised by the chief of police. In other instances, the decision shall be made by a police officer.

Section 22. *Control authority*

The police are responsible for border control.

Norwegian Customs shall assist the police in exercising control over entry and exit by foreign nationals under this Act. When carrying out such control, Norwegian Customs shall have the same rights and duties as the police have under section 15.

The King may issue regulations containing further provisions on immigration control by Norwegian Customs and on the powers of other authorities to carry out immigration control.

Chapter 3 Stay in connection with employment and studies, etc.

Section 23. Residence permit for employees intending to work for an employer in the realm

Under further provisions laid down by the King in regulations, a residence permit may be granted to perform work for an employer in the realm when the following conditions are satisfied:

- (a) The applicant is aged 18 or older.
- (b) Pay and working conditions are not inferior to those prescribed by the current collective agreement or pay scale for the industry concerned. If no such collective agreement or pay scale exists, pay and working conditions shall not be inferior to what is normal for the place and occupation concerned.
- (c) The applicant is subject to a quota fixed by the Ministry, or the position cannot be filled by domestic labour or labour from the EEA or EFTA area. Exceptions apply if, under international agreements by which Norway is bound, the foreign national is entitled to a residence permit to perform work. Exceptions also apply to foreign seamen who work aboard foreign-registered ships.
- (d) A specific offer of employment has been made. The employment offer shall as a general rule apply to full-time employment for a single employer, although exceptions may be made based on individual assessment of the nature of the position.

The King may issue regulations providing that advance assurance may be given that residence permits will be granted for the performance of work in specific branches of industry that require extra manpower for limited periods of time.

The King may issue regulations providing that an employer in the realm may apply for permission to employ a specified number of foreign employees for a limited period (group permit). Foreign nationals covered by such a permit will be granted individual residence permits after entering the realm.

The King may issue regulations providing that an employer may be permitted to allow an employee to work while the application for a residence permit is being processed (early employment start scheme); this may include setting conditions for an employer's inclusion in the scheme, imposing obligations on the employer related to use of the scheme, and issuing further provisions on implementation of the early employment start scheme.

The King may issue regulations containing supplementary provisions, including on the content of the residence permit, entitlement to a permanent residence permit, the situation in the event of unemployment and revocation of the residence permit.

Section 24. Residence permit in order to provide services as a seconded employee or independent contractor

Under further provisions laid down by the King in regulations, a residence permit may be granted for the performance of services when the following conditions are satisfied:

- (a) The applicant is aged 18 or older.

- (b) Pay and working conditions are not inferior to those prescribed by the current collective agreement or pay scale for the industry concerned. If no such collective agreement or pay scale exists, pay and working conditions shall not be inferior to what is normal for the place and occupation concerned.
- (c) No domestic labour or labour from the EEA or EFTA area can be obtained to perform the task. An exception may be granted if, under international agreements by which Norway is bound, the foreign national is entitled to a residence permit in order to perform the work. The King may issue regulations providing that foreign nationals who have specialist training or special qualifications shall be permitted to receive a residence permit without individual assessment of whether domestic labour or labour from the EEA or EFTA area can be obtained.
- (d) A specific offer of an assignment has been made. The offer shall as a main rule relate to a single principal, unless particular grounds indicate otherwise.

The King may issue regulations providing that a principal may apply for permission to hire a specified number of foreign service providers to work for a limited period of time (group permit). Foreign nationals covered by such a permit will be granted individual residence permits after entering the realm.

The King may issue regulations containing supplementary provisions, including on the content of the residence permit and revocation of the residence permit.

The permit does not provide a basis for a permanent residence permit.

Section 25. *Residence permit in order to engage in independent business activity*

A foreign national who is aged 18 or older and who intends to carry on long-term independent business activity in Norway may be granted a residence permit if it is substantiated that such activity is financially viable.

The King may issue regulations containing supplementary provisions, including on the conditions for a residence permit under the first paragraph, the content of the residence permit, entitlement to a permanent residence permit and revocation of the residence permit.

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

The King may issue regulations containing provisions on when a residence permit may be granted for reasons other than those which follow from the various provisions of the Act, provided that the main principles of immigration regulation are not affected. The King may thus issue provisions on

- (a) residence permits for the promotion of scientific, religious or cultural cooperation and development in cases which by their nature fall outside the scope of the provisions in sections 23, 24 and 25, and
- (b) residence permits for the purpose of obtaining an education, etc.

The King may issue regulations containing supplementary provisions, including on the content of the residence permit, the right to a permanent residence permit and revocation of the residence permit.

Section 27. *Supervision of compliance with conditions for permits and measures in the event of breach of such conditions*

The Norwegian Labour Inspection Authority shall supervise that businesses comply with residence permit conditions with regard to pay and working conditions and the scope of a given position. The Norwegian Labour Inspection Authority shall

also supervise that the conditions for a residence permit for employees as mentioned in chapter 13 are complied with. Anyone who is subject to supervision under this provision shall, when so required by the Norwegian Labour Inspection Authority and notwithstanding any duty of secrecy, submit information considered to be necessary for the exercise of supervision. Such information may also be required from other public supervisory authorities notwithstanding the duty of secrecy that otherwise applies.

The Norwegian Labour Inspection Authority issues such orders and makes such decisions as are necessary for the exercise of supervision under the first paragraph. Section 18-6, first, second, sixth, seventh and eighth paragraphs, and sections 18-7, 18-8 and 18-10 of the Working Environment Act apply correspondingly in relation to supervision under this Act. A potential principal shall also be informed of orders and other individual decisions.

If it is suspected that the conditions have been breached or that a foreign national does not hold a necessary residence permit, the Norwegian Labour Inspection Authority shall notify the immigration authorities.

In its area of authority, the Petroleum Safety Authority Norway has corresponding supervisory responsibility and authority as mentioned in the first, second and third paragraphs.

If an employer – in respect of his or her foreign employees – grossly or repeatedly breaches provisions issued in or in accordance with this Act which are intended to protect the employees' pay or working conditions, the Directorate of Immigration may decide that no residence permit shall be granted for the performance of work for the employer concerned. Decisions under this provision shall apply for two years. The King may issue regulations containing further provisions, including provisions establishing that decisions under this provision shall apply for less than two years.

Decisions under the fifth paragraph do not affect entitlement to a residence permit under chapter 13.

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

The King may issue regulations on sanctions against employers who misuse the early work- start scheme.

Section 27 b. *Measures in the event of breach of conditions for residence permits for au pairs or imposition of a penalty or special sanction*

If a host family grossly or repeatedly violates conditions laid down in or in accordance with this Act in relation to residence permits for au pairs, the Directorate of Immigration may decide that no residence permit shall be granted to any au pair engaged by the host family concerned. The administrative decision shall apply for one, two or five years, depending on the nature, extent and duration of the violation.

The same applies if a penalty or special sanction has been imposed on a person in the host family for an offence which is punishable by imprisonment and the offence has been committed against a person who was working for the person concerned as an au pair at the time the offence was committed. In such cases the administrative decision may apply for a period not exceeding 10 years.

An administrative decision under the first or second paragraph does not affect entitlement to residence under chapter 13.

Chapter 4 Protection

Section 28. *Residence permit for foreign nationals in need of protection (asylum)*

A foreign national who is in the realm or at the Norwegian border shall, upon application, be recognised as a refugee if the foreign national

- (a) has a well-founded fear of being persecuted for reasons of ethnicity, origin, skin colour, religion, nationality, membership of a particular social group or for reasons of political opinion, and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of his or her country of origin; see Article 1 A of the Convention relating to the Status of Refugees of 28 July 1951 and the Protocol of 31 January 1967, or
- (b) without falling within the scope of (a) nevertheless faces a real risk of being subjected to the death penalty, torture or other inhuman or degrading treatment or punishment upon return to the country of origin.

A foreign national who is recognised as a refugee under the first paragraph is entitled to a residence permit (asylum).

In an assessment under the first paragraph, account shall be taken of whether the applicant is a child.

An applicant shall as a general rule also be recognised as a refugee in accordance with the first paragraph when the need for protection has arisen after the applicant left the country of origin and is a result of the applicant's own acts. When assessing whether an exception should be made to the general rule, particular weight shall be given to whether the need for protection is due to acts that are punishable under Norwegian law or whether it seems most likely that the main purpose of the acts was to obtain a residence permit.

The right to be recognised as a refugee under the first paragraph does not apply if the foreign national can obtain effective protection in other parts of his or her country of origin than the area from which the applicant has fled.

Subject to the exceptions established in regulations issued by the King, the spouse or cohabitant of a foreign national who is granted a residence permit as a refugee under the second paragraph, and the refugee's children under the age of 18 who have no spouse or cohabitant, are also entitled to a residence permit as refugees.

When a foreign national's application for a residence permit under this provision has been rejected, the decision-making authority shall on its own initiative consider whether the provisions of section 38 shall be applied.

The King may issue regulations containing further provisions on the application of this section and sections 29 and 30.

Section 29. *Further details concerning persecution under section 28, first paragraph, (a)*

For acts to be deemed to constitute persecution within the meaning of section 28, first paragraph, (a), they must either

- (a) individually or on account of repetition constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, or
- (b) comprise of several different measures, including violations of human rights, which are cumulatively so severe that they affect an individual in a manner comparable to the situation described in (a).

Persecution may include the following:

- (a) physical or mental violence, including sexual violence,
- (b) legislation and administrative, police and judicial measures, whether discriminatory in themselves or implemented in a discriminatory manner,
- (c) prosecution or punishment which is disproportionate or discriminatory,
- (d) absence of access to judicial review that results in disproportionate or discriminatory punishment,
- (e) prosecution for refusal to perform military service in a conflict where such service would include crimes or acts as mentioned in section 31, first paragraph, or
- (f) acts of a gender-specific or child-specific nature.

Actors of persecution may include:

- (a) the State,
- (b) organisations or groups controlling the apparatus of the State or such a substantial part of the territory of the State that the foreign national cannot be directed to seek protection in other parts of the country; see section 28, fifth paragraph, or
- (c) non-state actors, if the actors mentioned in (a) and (b), including international organisations, are unable or unwilling to implement reasonable measures to prevent persecution, including by means of an effective system for the detection, prosecution and punishment of acts that constitute persecution.

Section 30. Further details concerning reasons for persecution under section 28, first paragraph, (a)

When applying section 28, first paragraph, (a), the following shall be taken into account when assessing the reasons for persecution:

- (a) Religion shall in particular be deemed to include
 - religious beliefs and other life stances,
 - participation in, or intended abstention from, formal worship in private or in public, whether alone or in community with others,
 - other acts or expressions of opinion related to the religion or life stance of the person concerned,
 - forms of individual or collective conduct dictated by religious or life stance-based convictions,
 - freedom to convert to another religion or a different life stance.
- (b) Nationality shall not be restricted to citizenship or lack thereof, but shall also include membership of a group defined by its cultural, ethnic or linguistic identity, its geographical or political origin or its relationship with the population of another state.
- (c) A particular social group shall in particular be deemed to include a group of persons who share a characteristic other than the risk of being persecuted, and who are perceived as a group by society. The common characteristic may be innate or for other reasons immutable, or otherwise consist of a manner or conviction that is so fundamental to identity, conscience or the exercise of human rights that a person cannot be expected to renounce it. Former victims of human trafficking shall be regarded as members of a particular social group.
- (d) Political opinion shall in particular be deemed to include opinions about the persecutors or their policies or methods, regardless of whether the applicant has acted on such opinion.

In the assessment of whether a well-founded fear of persecution exists, it is immaterial whether the applicant possesses the characteristics or holds the opinion that leads to persecution, see section 28, first paragraph, (a), provided that the perpetrator of the persecution attributes such a characteristic or opinion to the applicant.

Section 31. *Exclusion from the right to recognition as a refugee under section 28*

A foreign national is not entitled to recognition as a refugee under section 28, first paragraph, if the foreign national falls within the scope of Article 1D or E of the Convention relating to the Status of Refugees of 28 July 1951, or if there are serious reasons for considering that the foreign national

- (a) has committed a crime against peace, a war crime or a crime against humanity as defined in the international instruments drawn up to make provisions in respect of such crimes,
- (b) has committed a serious non-political crime outside Norway's borders, prior to his admission to Norway as a refugee, or
- (c) has been guilty of acts contrary to the purposes and principles of the United Nations.

Nor does the right to be recognised as a refugee under section 28, first paragraph, (b), apply if the foreign national has been convicted by final judgment of a particularly serious crime and for this reason constitutes a threat to Norwegian society. If there are grounds for expelling a foreign national based on fundamental national interests under section 126, second paragraph, section 126, fifth paragraph, applies.

Nor does the right to recognition as a refugee under section 28, first paragraph, (b) apply if the foreign national left his or her country of origin solely in order to avoid penal sanctions for one or more criminal acts that might have been punishable by imprisonment if the acts had been committed in Norway.

If a foreign national who falls within the scope of the first paragraph, (a) or (c), or the second paragraph has already been granted a residence permit as a refugee under section 28, the residence permit may be revoked.

Section 74 applies to foreign nationals who fall within the scope of the first to fourth paragraphs but who are nevertheless protected against removal under to section 73, second paragraph.

Section 32. *International cooperation, etc. on processing of applications for residence on protection grounds*

An application for a residence permit under section 28 may be refused examination on its merits if

- (a) the applicant has been granted asylum or another form of protection in another country,
- (b) it may be demanded that the applicant be accepted by another country participating in the Dublin cooperation, see the fourth paragraph,
- (c) it may be demanded that the applicant be accepted by another Nordic state under the provisions of the Nordic Passport Control Agreement,
- (d) the applicant has travelled to the realm after having stayed in a state or an area where the foreign national was not persecuted.

In cases as are mentioned in the first paragraph, (b), (c) and (d), the application for a residence permit under section 28 shall nonetheless be examined on its merits if the foreign national has a connection with the realm that makes it most logical for Norway to examine the application. The King may issue regulations containing further provisions on when an application that falls within the scope of the first paragraph shall be examined on its merits.

However, the power to refuse to examine an application on its merits under the first paragraph does not apply if precluded by section 73.

Regulation (EU) No. 604/2013 of the European Parliament and of the Council (the Dublin III Regulation) applies as Norwegian law. The Regulation establishes criteria and mechanisms for determining the member state responsible for examining an application for international protection lodged in one of the member states by a third-country national or a stateless person.

In a crisis situation with an extraordinarily high number of arriving asylum seekers, the King in Council may decide that an application for protection, under section 28, may be refused examined on its merits if the applicant arrives directly from a Nordic state. The King in Council may decide that authority to refuse examination on the merits, and authority to reject under section 17, first paragraph, in such cases is delegated to police officers. The King in Council may decide that refusal to grant examination on the merits, and rejection under section 17, first paragraph, is not deemed an individual decision in such cases. The provisions of the first to third sentences apply irrespective of what would otherwise have followed from the fourth paragraph. No duty of advance notification under section 37 of the Public Administration Act applies before the King in Council makes decisions as mentioned in the first to third sentences.

Decisions made by the King in Council under the fifth paragraph should preferably apply for two weeks, and for no longer than six weeks. Such decisions may be renewed once. The decision may be renewed once more if the need arises while the Storting is not in session.

Section 33. Power to suspend processing if there are prospects of the situation in an area improving

Where specific circumstances may justify an expectation of a rapid improvement in the situation in the area from which applicants for a residence permit under section 28 come, the Ministry may decide that processing of the applications of persons from that area shall be suspended for a period not exceeding six months. The period during which processing is suspended may be extended for an additional six months subject to the same conditions.

Section 34. Collective protection in a mass flight situation

If there is a mass flight situation, the King in Council may decide that collective protection may be granted under this section. The King in Council also decides when the power to grant collective protection shall cease.

A foreign national who is caught up in a mass flight situation as mentioned in the first paragraph, and who arrives in the realm or is in the realm when this section becomes applicable, may upon application be granted a temporary residence permit on the basis of a group assessment (collective protection). The permit does not provide a basis for a permanent residence permit. The permit applies for one year, and may be renewed or extended for a period not exceeding three years from the date on which the foreign national first received a residence permit. Thereafter, a temporary permit may be granted that may provide a basis for a permanent residence permit. After three years with such a permit, a permanent residence permit shall be granted provided that the conditions for holding the permit are still present and all other conditions are satisfied; see section 62.

An application for protection under section 28 from a foreign national as mentioned in the second paragraph may be suspended for a period not exceeding three years from the date on which the foreign national received a permit for the first time. When the power to grant collective protection has ceased, or a period of three years has elapsed since the foreign national received a permit for the first time,

the foreign national shall be informed that the application will only be processed if the foreign national expressly states, before a prescribed time limit, that he or she wishes this.

Administrative decisions under the second and third paragraphs shall be made by the Directorate of Immigration. The Directorate may give the police authority to grant residence permits and to suspend applications as mentioned.

The King may issue regulations containing further provisions.

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

At the request of the UN High Commissioner for Refugees, other international organisations or other bodies as determined by the King in regulations, the Directorate of Immigration may, subject to the limits and in accordance with any guidelines laid down by higher authority, make administrative decisions providing that a foreign national shall be granted an entry permit. The King may issue regulations giving the power to make administrative decisions to another body.

Independently of the limitation in section 76, second paragraph, the Ministry may issue instructions in cases relating to entry permits under this provision.

A foreign national who has received an entry permit under the first paragraph is granted a residence permit granted under this section until the Directorate of Immigration has decided whether the foreign national should be granted a residence permit as a refugee under section 28 or a residence permit under section 38. In the assessment of a case under sections 28 and 38 after entry, due weight shall be given to whether the foreign national had reason to anticipate being deemed a refugee under section 28.

Chapters IV and V of the Public Administration Act concerning preparation of cases and administrative decisions apply only to decisions made after entry. Chapter VI of the Public Administration Act concerning appeal and reversal apply in cases where an administrative decision regarding a residence permit has been made under sections 28 or 38.

The King may issue regulations containing further provisions on the application of this section.

Section 36. *Effect of determination of refugee status in a foreign state*

A foreign national who has been granted asylum or a refugee travel document by a foreign state shall be regarded as a refugee with fixed address in that state. If such a refugee applies for asylum or a travel document in Norway, the previous determination of refugee status shall not be overruled unless it is obviously wrong or there are other particular reasons for doing so.

Section 37. *Cessation and revocation of a residence permit under sections 28 or 34*

Besides revocation under section 63, refugee status and a residence permit under section 28 and 34 may also be revoked if the foreign national:

- (a) has voluntarily re-availed himself or herself of the protection of the country of nationality,
- (b) having lost his or her nationality, has voluntarily re-acquired it,
- (c) has acquired a new nationality, and enjoys the protection of the country of his or her new nationality,

- (d) has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution,
- (e) can no longer refuse to avail himself or herself of the protection of the country of nationality, because the circumstances in connection with which he or she has been recognised as a refugee under section 28 or received protection under section 34 have ceased to exist, or
- (f) is not a national of any country, and because the circumstances in connection with which the foreign national has been recognised as a refugee under section 28 or received protection under section 34 have ceased to exist, is able to return to the country of former habitual residence.

A residence permit shall not be revoked under the first paragraph, (e) or (f), if the foreign national can invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality or for refusing to return to the country of former habitual residence.

Chapter 5 Right of residence on the grounds of strong humanitarian considerations or a particular connection with the realm

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

A residence permit may be granted even if the other conditions laid down in the Act are not satisfied, provided that strong humanitarian considerations apply or the foreign national has a particular connection with the realm.

To determine whether strong humanitarian considerations apply, an overall assessment of the case shall be undertaken. Weight may be given to, among other things, whether

- (a) the foreign national is an unaccompanied minor who would be left without proper care in the event of return,
- (b) the foreign national needs to stay in the realm due to compelling health circumstances,
- (c) there are social or humanitarian circumstances relating to the return situation that give grounds for granting a residence permit, or
- (d) the foreign national has been a victim of human trafficking.

In cases concerning children, the best interests of the child shall be a fundamental consideration. Children may be granted a residence permit under the first paragraph even if the situation is not so serious that a residence permit would have been granted to an adult.

In the assessment of whether to grant a permit, weight may be given to considerations relating to immigration control, including

- (a) possible consequences for the number of applications based on similar grounds,
- (b) social consequences,
- (c) the need for control, and
- (d) the consideration of respect for the other provisions of the Act.

When there is doubt regarding the identity of the foreign national, when the need is temporary, or when other particular grounds so indicate, it may be decided that

- (a) the permit shall not provide a basis for a permanent residence permit,
- (b) the permit shall not provide a basis for residence permits under chapter 6 of the Act for the foreign national's family members,
- (c) the permit may not be renewed, or
- (d) the validity period of the permit shall be shorter than one year.

The King may issue regulations containing further provisions.

Chapter 6 Family immigration

Section 39. *Sponsor*

In this Act «sponsor» means the person with whom the applicant wishes to be reunited or to establish family life.

Section 40. *Residence permit for spouses*

An applicant who is the spouse of a sponsor, see section 39, is entitled to a residence permit when the sponsor is:

- (a) a Norwegian or Nordic national who resides or intends to establish residence in the realm,
- (b) a foreign national with a permanent residence permit for the realm,
- (c) a foreign national who has or is granted lawful residence in the realm under a residence permit that can provide a basis for a permanent residence permit, or
- (d) a foreign national who holds a residence permit under the provision in section 34 without the collective protection arrangement having ended.

It is a condition for the grant of a residence permit under the first paragraph that both parties are aged 18 or over, unless the parties are subject to the requirement that both applicants must be aged 24 or over; see section 41 a.

Unless particular circumstances indicate otherwise, it is a condition that the spouses shall live together.

A residence permit may be refused if it appears most likely that the main purpose of entering into the marriage has been to establish a basis for residence in the realm for the applicant.

An applicant who does not have children from his or her relationship with the sponsor and has not lived with the sponsor in an established relationship in another country or in Norway may be refused a residence permit if it is most likely that the applicant or his or her children from a previous relationship will be mistreated or grossly exploited. The same applies to children from a previous relationship who apply for family reunification with a parent who has been granted a residence permit without having had children with the sponsor or having lived in an established relationship with the sponsor in another country or in Norway. The King may issue regulations containing further provisions on the application of the provision.

A residence permit for children from a previous relationship as mentioned in the fifth paragraph shall as a general rule be refused if the sponsor (the parent's spouse) has in the course of the previous 10 years been convicted of a breach of the provisions of the Penal Code on sexual crimes and the criminal act was committed against a child under the age of 18, unless particular grounds indicate that a residence permit should nevertheless be granted. A residence permit may also be refused if there is reason to fear that a child from a previous relationship will be exposed to sexual abuse. If the parent's spouse is suspected of or charged with a criminal offence that may have a bearing on the application, the application shall be suspended. The King may issue regulations containing further provisions on the application of the provision.

If the sponsor is granted residence in the realm after entering into marriage with multiple persons, only one of the spouses may be granted a residence permit. If the sponsor is already married to a person who resides in the realm, no residence permit

may be granted under this section. If the sponsor has previously been married to another person and it appears most likely that the former spouses intend to continue living together, a residence permit may be refused.

Section 40 a. Requirement for the sponsor to have worked or studied in Norway for four years

It is a condition for a residence permit under section 40 that the sponsor has worked or studied in Norway for four years, when the sponsor has:

- (a) asylum; see section 28,
- (b) a residence permit following permission to enter as a resettlement refugee; see section 35, third paragraph,
- (c) collective protection in a mass flight situation; see section 34,
- (d) a residence permit on the grounds of strong humanitarian considerations or a particular connection with the realm; see section 38,
- (e) a residence permit as a family member; see sections 40 to 53, or
- (f) a permanent residence permit based on the permits mentioned in (a) to (e); see section 62.

The condition in the first paragraph does not apply when

- (a) the marriage had been entered into or the parties had conceived a child before the time of the sponsor's entry into the realm, or
- (b) the parties have entered into marriage or conceived a child in Norway while both parties held a Norwegian residence permit.

Exceptions may be made to the condition if special grounds, including the interests of family unity, indicate that this should be done.

The King may issue regulations containing further provisions.

Section 41. Residence permit for cohabitants

An applicant who has lived in a permanent and established relationship of cohabitation for at least two years with a sponsor as mentioned in section 40, first paragraph, is entitled to a residence permit when the parties intend to continue their cohabitation.

An applicant who has not lived in a fixed and established relationship of cohabitation with a sponsor as mentioned in section 40, first paragraph, is entitled to a residence permit if the parties have joint children and intend to continue cohabiting. The provisions of section 40 a, first, third and fourth paragraphs, apply correspondingly, unless:

- (a) the child was conceived before the time of the sponsor's entry into the realm, or
- (b) the child was conceived while both parties held a Norwegian residence permit.

A residence permit may be granted to an applicant who has not lived in a permanent and established relationship of cohabitation with the sponsor for at least two years if the parties are expecting a child together and intend to continue cohabiting. The provision in the second paragraph, second sentence, applies correspondingly.

It is a condition for the grant of a residence permit under this section that both parties are aged 18 or over, unless the parties are subject to the requirement that both applicants must be aged 24 or over; see section 41 a. A further requirement is that neither of the parties is married. Even if one of the parties is married, a residence permit may be granted if there have been prolonged impediments to the fulfilment of this condition.

The King may issue regulations containing further provisions.

Section 41 a. 24-year age requirement for family establishment

A condition for a residence permit under sections 40 (spouses) and 41 (cohabitants) is that both parties are aged 24 or over, unless

- (a) the marriage was entered into or the cohabitation was established before the time of the sponsor's entry into Norway, or
- (b) the parties have entered into marriage or lived in an established cohabitation in Norway while both have held a residence permit or Norwegian or Nordic citizenship.

Exceptions to this requirement may be made if it is obvious that the marriage or cohabitation is voluntary.

Section 42. Residence permit for children

An applicant who is a child under the age of 18, see section 50, and has no spouse or cohabitant is entitled to a residence permit when both parents hold or are granted a residence permit as mentioned in section 40, first paragraph.

An applicant who is a child under the age of 18 and has no spouse or cohabitant is entitled to a residence permit when one of his or her parents holds a residence permit as mentioned in section 40, first paragraph, unless the best interests of the child indicate otherwise. It is a condition that the sponsor has parental responsibility, alone or shared with the other parent. If parental responsibility is shared, the other parent must have consented, unless consent is impossible to obtain or particular grounds indicate that a residence permit should be granted in any case. If the sponsor has more than one spouse, a residence permit may only be granted to more than one child if they are full siblings.

The first and second paragraphs apply correspondingly to children under the age of 18 who are adopted under foreign law, or who will be adopted under the Act of 28 February 1986 No. 8 relating to Adoption. Consent must have been given by the National Office for Children, Youth and Family Affairs before the child arrives in the realm.

An applicant who is a child under the age of 21 and has no spouse or cohabitant, and who is the dependant of a foreign national who is a citizen of a state that has acceded to the European Social Charter of 18 October 1961, is entitled to stay in the realm when both parents hold a residence permit as mentioned in section 40, first paragraph.

Section 43. Family reunification between a child with a residence permit under sections 28 or 34 and the child's parents and siblings

Applicants who are a parent of a child under the age of 18 who holds a residence permit for the realm under sections 28 or 34 is entitled to a residence permit. It is a condition that the applicants shall live with the child. If the applicant is a single mother or father, the parent who had parental responsibility and with whom the child lived permanently in the country of origin shall have a preferential right to a Norwegian residence permit.

The same applies to siblings under the age of 18 who have no spouse or cohabitant and who live with their parents or with the parent who is granted a residence permit.

Section 44. *Family reunification between a Norwegian child and the child's mother or father*

An applicant who is the mother or father of a Norwegian child under the age of 18 for whom the applicant has parental responsibility and with whom the applicant lives permanently is entitled to a residence permit in order to live with the child in Norway. It is a condition that the applicant is not married to and will not live with the child's other parent.

A residence permit may nevertheless be refused if this would lead to the applicant being reunited with a spouse living in Norway who is already married to or cohabiting with another person here. The same applies if the applicant and the parent living in Norway are not married at the time of application but a bigamous relationship has previously existed between the applicant, the parent living in Norway and the latter's present spouse or cohabitant.

The King may issue regulations containing supplementary provisions on the power to refuse a residence permit under the second paragraph.

Section 45. *Residence permit for a mother or a father who is to have visitation with a Norwegian child*

An applicant who is the mother or father of a Norwegian child under the age of 18 who lives permanently with the other parent in the realm is entitled to a residence permit. It is a condition that the applicant:

- (a) has lived with the child or has to some extent exercised visitation outside Norway in the course of the last year,
- (b) has visitation rights of a certain extent in the realm, and
- (c) substantiates that visitation will be exercised.

A residence permit may nevertheless be refused if this would lead to the applicant being reunited with a spouse living in Norway who is already married to or cohabiting with another person in Norway. The same applies if the applicant and the parent living in Norway are not married at the time of application but a bigamous relationship has previously existed between the applicant, the parent living in Norway and the latter's present spouse or cohabitant.

The King may issue regulations containing further provisions on the calculation of time under the first paragraph, (a), and on the requirement regarding the extent of the visitation rights under (a) and (b). The King may also issue regulations containing supplementary provisions on the power to refuse a residence permit under the second paragraph.

Section 46. *Residence permit for a single mother or father with a child aged 18 or over in Norway*

The mother or father of a sponsor as mentioned in section 40, first paragraph, may be granted a residence permit if the sponsor is the applicant's child over 18 years of age. It is a condition that the applicant is over the age of 60 and has no spouse, cohabitant or relatives in direct line of ascent or descent in the country of origin.

The King may issue regulations containing further provisions.

Section 47. *Short-term stay to visit children in the realm*

A residence permit for a period not exceeding nine months may be granted to parents intending to visit a sponsor as mentioned in section 40, first paragraph, (a) to (c), when the sponsor is the applicant's child and resides in the realm.

It is a condition that the applicant must return to his or her country of origin after the visit.

Considerations relating to immigration regulation shall be taken into account when assessing whether a permit should be granted.

A residence permit under this section does not confer a right to take up work, and does not provide a basis for permanent residence.

The permit may not be renewed or extended.

A new permit under this provision may at the earliest be granted after one year of residence outside the realm.

The King may issue regulations containing further provisions.

Section 48. *Residence permit in order to enter into a marriage*

A residence permit with a duration not exceeding six months may be granted to an applicant who after entering Norway intends to enter into a marriage with a sponsor as mentioned in section 40, first paragraph. It is a condition that both parties are aged 18 or over. The provisions of section 40, third, fifth and seventh paragraphs, and section 40 a, apply correspondingly. The King may issue regulations containing further provisions.

A residence permit under this section does not provide a basis for permanent residence. The permit may not be extended or renewed.

Section 49. *Family immigration in other cases*

If strong humanitarian considerations so indicate, a residence permit may also be granted to family members other than those mentioned in sections 40 to 53, and exceptions may be made to conditions related to the status of the sponsor.

In the assessment of whether a residence permit should be granted, weight may be given to considerations relating to immigration control.

In cases affecting children, the best interests of the child shall be a fundamental consideration.

Where particular reasons so indicate, it may be stipulated that the permit may not provide a basis for a permanent residence permit, or that the residence permit does not confer a right to take employment.

The King may issue regulations containing further provisions.

Section 50. *Child under the age of 18*

Where the fact that the applicant is or has a child under the age of 18 is decisive with regard to whether a permit shall be granted under this chapter, the child shall be deemed to be under the age of 18 if the application and all information and enclosures necessary in order to make a decision on it have reached the immigration authorities before the child's eighteenth birthday. The King may issue regulations containing further provisions.

Section 51. *Exception to the right to family immigration*

If it would be contrary to the conditions for the sponsor's residence permit to grant a residence permit to the applicant under this chapter, a permit may be refused.

A residence permit under the provisions of this chapter may be refused if the sponsor, when asked, does not consent to the applicant being granted a permit, or if it is likely that the marriage has been entered into against the will of either party.

A residence permit under the provisions of this chapter may be refused if family life may be practiced in a safe country where the family as a whole has stronger connection, and the sponsor has been granted

- (a) a residence permit as a refugee; cf. section 28,
- (b) a residence permit following the grant of permission to enter as a resettlement refugee; cf. section 35, third paragraph, or
- (c) collective protection in a mass flight situation; cf. section 34.

The King may issue regulations containing further provisions, including exceptions to the third paragraph.

Section 52. *Continuation of a residence permit based on a visitation arrangement for a child*

An applicant who has parental responsibility for a child under the age of 18 that does not live permanently with the applicant is entitled to a new residence permit when this is necessary in order to maintain visitation with the child in the realm. It is a condition that:

- (a) the applicant has resided in the realm with a permit for the past year,
- (b) the child satisfies the conditions under section 40, first paragraph, and resides in the realm together with the other parent with whom the child lives permanently, and
- (c) the applicant has visitation rights of a certain extent and exercises them.

An applicant who has parental responsibility for a child under the age of 18 that lives permanently with the applicant is entitled to a new residence permit when this is necessary in order to maintain visitation between the child and the other parent in the realm. It is a condition that:

- (a) the applicant has resided in the realm with a permit for the last year,
- (b) the other parent satisfies the conditions under section 40, first paragraph, and
- (c) the other parent has visitation rights of a certain extent and exercises them.

The second paragraph applies correspondingly to the child if the child has lost his or her residence permit because the parent with whom the child lives permanently has lost his or her previous residence permit. It is a condition that the parent with whom the child lives permanently is also granted a residence permit under the second paragraph.

If the condition concerning visitation in the first and second paragraphs is not satisfied, the applicant may nevertheless be granted a new residence permit if it is substantiated that the condition will be satisfied in the course of a specified period of time, which may not exceed one year.

The King may issue regulations containing further provisions on the requirement regarding the extent and exercise of visitation rights.

Section 53. *Continuation of a residence permit on an independent basis*

A foreign national who holds a residence permit under sections 40 or 41 shall upon application be granted a new residence permit on an independent basis if:

- (a) the marriage or cohabitation has ceased on account of the sponsor's death, unless particular reasons indicate otherwise, or
- (b) the marriage or cohabitation has ceased, and there is reason to assume that the foreign national or any children have been abused during the cohabitation relationship.

A new residence permit on an independent basis may, upon application, also be granted to a foreign national who holds a residence permit under sections 40 or 41, if as a result of the breakdown of the marriage or cohabitation the foreign national will experience unreasonable difficulties in his or her country of origin on account of the social or cultural conditions there.

Where legal proceedings are instituted under section 16, third paragraph, or section 23, third paragraph, of the Act of 4 July 1991 No. 47 on Marriage, a foreign national who thereby loses his or her basis for residence as a spouse shall upon application be granted a new residence permit on an independent basis unless particular reasons indicate otherwise. The permit shall be granted for six months at a time until a legally binding decision has been made. If the marriage is nullified or dissolved by divorce, the foreign national shall upon application be granted a new permit on an independent basis, provided that the applicant has not used force or been complicit in the use of force in connection with entry into the marriage.

Chapter 7 General provisions on residence permits, etc.

Section 54. Scope of application of the provisions of this chapter

Unless otherwise provided in this Act or regulations issued in accordance with the Act, the provisions of this chapter apply to all residence permits under this Act, except residence permits under section 74 and chapter 13.

Section 55. Requirement for residence permit in order to take up employment and residence

A foreign national who intends to take up employment with or without remuneration or who wishes to engage in business activity in the realm must hold a residence permit giving him or her the right to take up employment or engage in business activity, unless otherwise provided in or in accordance with this Act.

A foreign national who intends to take up residence in the realm for more than three months without taking employment must hold a residence permit. Residence in another country participating in cooperation under the Schengen Agreement is equivalent to residence in Norway. The King may issue regulations containing further provisions on calculation of the period of residence.

Section 56. Application for residence permit

A first-time residence permit must have been issued prior to entry into the realm.

The provision in the first paragraph entails no limitation of the right to seek asylum, see section 28, or to invoke protection against removal, see section 73.

The immigration authorities may in individual cases make exceptions to the condition in the first paragraph when strong grounds of reasonableness so indicate.

Where a residence permit is applied for under sections 40 or 41 and the marriage has been entered into or the cohabitation has been established abroad after the sponsor, see section 39, has previously been resident in Norway, a residence permit may not be granted until the sponsor has returned to Norway and has been interviewed by the immigration authorities, unless

- (a) the case concerns an application under section 40 and the sponsor was interviewed in connection with the case before the marriage was entered into, or
- (b) the applicant is entitled to visa-free entry.

The King may issue regulations containing exceptions to the first and fourth paragraphs. The King may also issue regulations containing further provisions on the procedure for filing an application for a residence permit and for conducting interviews as mentioned in the fourth paragraph.

If the applicant does not satisfy the conditions for applying from the realm, the application shall be refused on this basis. The same applies if the applicant does not satisfy the conditions for entering the realm before a permit is granted.

Section 57. *Residence permit during application processing*

When it is likely that the application will be granted, the applicant may upon request be granted a residence permit that runs until the administrative decision is made.

The provision in the first paragraph does not apply to foreign nationals who apply for a residence permit under chapter 4.

The provision in section 60, third paragraph, (a) to (c), applies correspondingly. A residence permit under this paragraph does not provide a basis for a permanent residence permit.

Chapters IV to VI of the Public Administration Act do not apply to administrative decisions concerning residence permits under this section.

The King may issue regulations containing further provisions.

Section 58. *Requirement as to means of subsistence and accommodation*

Means of subsistence and accommodation are required in order for a residence permit to be granted under this Act or regulations issued in accordance with it.

The requirement for means of subsistence and accommodation does not apply to any person who is entitled to a residence permit under section 28, second paragraph, or who satisfies the conditions for protection against removal under section 73.

The King may issue regulations containing further provisions and exceptions.

Section 59. *Requirement as to foreign nationals' conduct, etc.*

A foreign national who otherwise satisfies the conditions for a residence permit may be refused a permit if there are circumstances that will give reason to refuse the foreign national admission to or residence in the realm under other provisions of this Act.

However, a residence permit under section 28 may not be refused based on this section.

Section 60. *Duration and content of residence permits*

A first-time residence permit shall be granted as a temporary residence permit for a period not exceeding three years. Unless otherwise provided in or in accordance with this Act, a permit shall be granted for at least one year. The duration of a permit granted under the provisions of chapter 6 shall not exceed the expiry of the sponsor's permit; see section 39. The duration of a permit under the provisions of chapter 3 shall not exceed the length of the employment relationship.

The King may issue regulations containing further provisions on the duration of residence permits issued under the first paragraph.

Unless otherwise specifically provided in or in accordance with this Act, the following shall apply:

- (a) a residence permit shall give the right to reside anywhere in the realm,
- (b) a residence permit shall give the right to take employment and to engage in business activity anywhere in the realm,
- (c) a residence permit shall give the right to repeated entry into the realm for as long as it is valid, and
- (d) a residence permit provides a basis for a permanent residence permit; see section 62.

A permit granted to a family member under the provisions of chapter 6 applies subject to the same limitations as set for the sponsor's permit; see section 39. However, limitations on the sponsor's permit under section 23 that provide that the right to take up work is linked to a specific employer, a specific type of work or a specific work assignment, shall not apply. The King may issue regulations containing exceptions to the first sentence.

The conditions and limitations that are set shall be evident from the permit.

Section 61. *Renewal of residence permits*

A foreign national is entitled, upon application, to renew a temporary residence permit provided the basis for the first-time permit is still present. However, this does not apply if it is clear from this Act or regulations issued in accordance with the Act that the residence permit may not be renewed, or if circumstances apply that will give reason to refuse the foreign national admission to or residence in the realm under other provisions of the Act.

Unless grounds for cessation or revocation under sections 37 or 63 apply, a residence permit granted under sections 28 or 34 shall be renewed. However, a residence permit granted under section 34 may not be renewed if it has been decided that the power to grant collective protection has ceased, see section 34, first paragraph.

In the case of permits under chapter 6, there is no requirement that a child shall be below the age of 18 or 21 upon renewal.

In the case of permits under chapter 3, there is no requirement that the applicant is included in a quota scheme or that the position cannot be filled by domestic labour or labour from the EEA or EFTA area upon renewal.

A renewed permit is granted as a temporary residence permit, and generally for one or two years.

A foreign national who applies for renewal of a temporary residence permit may be granted continued residence on the same conditions until a final decision has been made on the application. The foreign national is entitled to such residence

provided that he or she applies for renewal no later than one month before the permit expires. This does not apply if it is clear from this Act or regulations issued in accordance with the Act that the residence permit cannot be renewed.

A foreign national who applies for a residence permit based on new factual or legal grounds may be granted continued residence on the same conditions as the previous permit until a final decision has been made on the application. The foreign national is so entitled provided that he or she applies for a new permit no later than one month before the expiry of the current permit and he or she has been lawfully resident in accordance with the previous permit for at least the last nine months. The same applies to a foreign national with a permit under section 48 who applies for a residence permit under section 40.

The King may issue regulations containing further provisions.

Section 62. *Permanent residence permit*

A foreign national who for the last three years has resided in the realm under a temporary residence permit that provides a basis for a permanent residence permit is entitled, upon application, to a permanent residence permit provided

- (a) the foreign national has not stayed outside the realm for more than seven months in total over the course of the last three years,
- (b) the foreign national continues to satisfy the conditions for a temporary residence permit that provides a basis for a permanent residence permit,
- (c) no circumstances as mentioned in section 66 apply,
- (d) the foreign national has completed compulsory Norwegian language training in accordance with the Introduction Act and has achieved a minimum level of spoken Norwegian in the final Norwegian language examination,
- (e) the foreign national has completed compulsory training in social knowledge in accordance with the Introduction Act and has passed the final examination in social knowledge in a language he or she understands, and
- (f) the foreign national has been self-supporting for the past 12 months.

An application for permanent residence may be rejected if weighty considerations relating to immigration control apply, including that the foreign national has actively sought to prevent clarification of his or her own identity following arrival in the country.

If the applicant is suspected of or charged with an offence as mentioned in section 66, the application for a permanent residence permit shall be suspended. The application may be granted, at the earliest, once the case has been dropped or a final decision has been made on the question of guilt.

When circumstances as mentioned in section 66 apply and the foreign national is not expelled, a longer period of domicile than that mentioned in the first paragraph is required in order for a permanent residence permit to be granted. The King may issue regulations containing further provisions on calculation of the additional period when circumstances as mentioned in section 66 apply.

A permanent residence permit shall give the right to reside in the realm indefinitely, and provides extended protection against expulsion; see section 68. The provision in section 60, third paragraph, (a) to (c), applies correspondingly.

The permit lapses when the holder has stayed outside the realm for a continuous period exceeding two years. The stay outside the realm is deemed to be continuous even if the foreign national has had one or several stays of a certain duration in the realm; see the seventh paragraph. Administrative decisions regarding lapse shall be made by the Directorate of Immigration. A foreign national may upon application be granted the right to stay outside the realm for a period exceeding two years without the permit lapsing.

The King may issue regulations containing further provisions, including on the lapse of a permanent residence permit under the sixth paragraph. The King may also issue further provisions on how long an intervening stay in Norway must be in order for a stay abroad not to be deemed continuous under the sixth paragraph. The King may issue regulations providing that a permanent residence permit may be granted in cases other than those mentioned in the first paragraph. The King may issue regulations containing further provisions on the requirements regarding command of a minimum level of spoken Norwegian and the passing of an examination in social knowledge, and on the content of the self-supporting condition, pursuant to the first paragraph, (d), (e) and (f), including exceptions to the requirements. The King may also issue regulations containing further provisions on what are deemed weighty considerations relating to immigration control under the second paragraph.

Section 63. *Revocation of residence permit*

A temporary or permanent residence permit may be revoked if the foreign national has knowingly provided incorrect information or failed to disclose matters of material significance to the administrative decision, or if this otherwise follows from general rules of administrative law.

A temporary or permanent residence permit may also be revoked if a foreign national who is not a national of a Schengen country is to be expelled from such a country based on an assessment which could have led to expulsion based on fundamental national interests; see section 126, second paragraph.

Section 64. *Refugee travel document and immigrant passport*

A foreign national who is granted a residence permit under section 28 shall upon application also be granted a refugee travel document for travel outside Norway, provided that no special reasons indicate otherwise. If the refugee holds a travel document issued by a foreign state, this right applies only where Norway is obliged to issue a refugee travel document under an international agreement.

A foreign national who holds or is granted a residence permit in the realm based on an application for asylum, but who has not been granted a residence permit as a refugee, shall be granted an immigrant passport for travel outside Norway if his or her relationship with the authorities of the country of origin so requires and no special reasons indicate otherwise. An immigrant passport may also be issued in other cases in accordance with further provisions issued by the King.

A passport or other travel documents in the applicant's possession must be handed in together with the application for a refugee travel document or immigrant passport.

The King may issue regulations containing provisions on the issuance, area of validity, renewal and seizure of refugee travel documents and immigrant passports, and the further conditions for such measures, and provisions on emergency travel documents.

Section 64 a. *Schengen uniform residence card*

A foreign national who is granted a temporary or permanent residence permit shall have his or her permit documented by the issue of a Schengen uniform residence card (uniform residence card) containing electronically stored biometrics; see section 100 a. This does not apply to residence permits granted during application processing under section 57.

The King may issue regulations containing further provisions, including on the obligation to submit a uniform residence card, and on exceptions to the first paragraph.

Section 65. *Power to make administrative decisions*

Administrative decisions regarding temporary or permanent residence permits, renewal and revocation shall be made by the Directorate of Immigration. The Directorate of Immigration also decides questions of protection against removal under section 73 and applications for travel documents and immigrant passports under section 64.

The King may issue regulations providing that the police may decide applications for temporary and permanent residence permits and for renewal of temporary residence permits. The King may also provide that the police shall be permitted to decide first-time applications and applications for renewal of immigrant passports, and to grant initial applications and applications for renewal of travel documents. The King may also issue regulations providing that applications for temporary residence permits may be decided by Norwegian foreign service missions.

Chapter 8 Expulsion

Section 66. *Expulsion of foreign nationals without a residence permit*

A foreign national without a residence permit may be expelled

- (a) when the foreign national has grossly or repeatedly breached one or more provisions of this Act, has with intent or gross negligence provided materially incorrect or manifestly misleading information in a case falling under the Act, or evades implementation of an administrative decision requiring him or her to leave the realm,
- (b) when the foreign national, less than five years previously and abroad, has served or received a penalty for an offence which under Norwegian law is punishable by imprisonment. The same applies when a special sanction has been imposed as a result of a criminal offence as mentioned,
- (c) when the foreign national has in the realm received a penalty or special sanction for an offence which is punishable by imprisonment, or for violation of section 323 (minor theft), section 326 (minor misappropriation), section 334 (minor receiving of proceeds of a crime), section 339 (minor money laundering), section 362 (minor document forgery) or section 373 (minor fraud) of the Penal Code,
- (d) when an administrative authority in a Schengen country has made a final decision on rejection or expulsion of the foreign national due to failure to comply with the country's provisions on foreign nationals' entry or residence,
- (e) when the foreign national has contravened chapter 18 of the Penal Code or has provided a safe haven for a person the foreign national knows to have committed such an offence, or
- (f) when the foreign national's application for protection has been refused examined on its merits under section 32, first paragraph, (a) or (d), and the applicant's application has also previously been refused examined on its merits, and the application appears to represent misuse of the asylum system.

Unless it would constitute a disproportionate measure, see section 70, a foreign national without a residence permit shall be expelled

- (a) when the foreign national has not complied with the obligation to leave the realm by the time limit given under section 90, sixth paragraph, or
- (b) when the foreign national has not been given a time limit for return because

- there is a risk of absconding; see section 90, sixth paragraph, (a), and section 106 a,
- an application has been rejected as manifestly unfounded or as a result of materially incorrect or manifestly misleading information; see section 90, sixth paragraph, (b),
- the foreign national has been found to pose a threat to public order; see section 90, sixth paragraph, (c), or
- the foreign national has been found to pose a threat to fundamental national interests; see section 129, fifth paragraph.

Section 67. *Expulsion of foreign nationals holding a temporary residence permit*

A foreign national holding a temporary residence permit may be expelled

- (a) when the foreign national, less than five years previously and abroad, has served or received a penalty for an offence which under Norwegian law is punishable by imprisonment for a term exceeding one year. The same applies when a special sanction has been imposed as a result of a criminal offence as mentioned,
- (b) when the foreign national, less than one year previously and in Norway, has served or received a penalty or special sanction for an offence which is punishable by imprisonment for a term exceeding one year, or for violation of section 182, first paragraph (rioting), section 231, second paragraph (negligent narcotic drugs offence), section 237, fourth paragraph (grossly negligent transmission of a communicable disease), section 262, first paragraph (violation of the Marriage Act), section 263 (threats), section 305 (sexually offensive conduct, etc. directed at a child under 16 years of age), section 374, first alternative (grossly negligent fraud) or section 380 (grossly negligent tax fraud) of the Penal Code,
- (c) when the foreign national has served or received a penalty or special sanction for contravention of sections 168, 189, second paragraph, or 271, first paragraph, of the Penal Code, or
- (d) when the foreign national has contravened chapter 18 of the Penal Code or has provided a safe haven for a person the foreign national knows to have committed such an offence.

If a criminal act was committed before the foreign national was granted a temporary residence permit, section 66, first paragraph, (b) and (c), apply correspondingly.

Section 68. *Expulsion of foreign nationals holding a permanent residence permit*

A foreign national holding a permanent residence permit may be expelled:

- (a) when the foreign national, less than five years previously and abroad, has served or received a penalty for an offence which under Norwegian law is punishable by imprisonment for a term of or exceeding two years. The same applies when a special sanction has been imposed as a result of a criminal offence as mentioned,
- (b) when the foreign national, less than one year previously and in Norway, has served or received a penalty or special sanction for an offence which is punishable by imprisonment for a term of or exceeding two years, or for violation of section 182, first paragraph (rioting), section 231 (narcotic drugs offence), section 237, fourth paragraph (grossly negligent transmission of a communicable disease), section 262, first paragraph (violation of the Marriage Act), section 263 (threats), section 305 (sexually offensive conduct, etc. directed at a child under 16 years of age) or section 374, first alternative (grossly negligent fraud) of the Penal Code, or

(c) when the foreign national has contravened chapter 18 of the Penal Code or has provided a safe haven for a person the foreign national knows to have committed such an offence.

If a criminal act was committed before the foreign national was granted a permanent residence permit, section 67, first paragraph, (a) and (b), and second paragraph apply correspondingly.

Section 69. *Protection against expulsion for Norwegian nationals and foreign nationals born in Norway*

A Norwegian national may not be expelled.

A foreign national who was born in the realm and who has subsequently continuously had a fixed address in the realm may not be expelled.

Section 70. *Requirement of proportionality*

A foreign national may not be expelled if, in view of the seriousness of an offence and the foreign national's connection with the realm, expulsion would be a disproportionate measure against the foreign national personally or against the closest family members. In cases concerning children, the best interests of the child shall be a fundamental consideration.

The King may issue regulations containing further provisions on the assessment under the first paragraph.

Section 71. *Effect and duration of expulsion*

Any valid permit to reside in the realm ceases to apply when an administrative decision concerning expulsion becomes final. The King may issue regulations containing further provisions on the effect of an administrative decision concerning expulsion on residence permit applications which have yet to be decided as at the time of expulsion.

Expulsion precludes subsequent entry into the realm. The entry prohibition may be made permanent or temporary, but may not apply for a period of less than one year. Upon application, the entry prohibition may be lifted if new circumstances so indicate. If special circumstances so indicate, the expelled person may upon application be admitted to the realm for brief visits even if the entry prohibition is not lifted, but normally not until two years have passed since the foreign national's exit.

Section 72. *Power to make administrative decisions in expulsion cases, etc.*

Administrative decisions concerning expulsion shall be made by the Directorate of Immigration. Cases concerning expulsion shall be prepared by the police.

Before an administrative decision is made concerning expulsion of a foreign national who is serving a special criminal sanction, a statement shall be obtained from the professional authority responsible for the special sanction, see section 1-4 of the Mental Health Care Act, on the implementation of the special sanction and the risk of serious new offences. The statement shall be submitted to the prosecuting authority, which shall be given opportunity to comment on the matter.

The King may issue regulations containing further provisions.

Chapter 9 Absolute protection against removal (non-refoulement)

Section 73. Absolute protection against removal

A foreign national may not be sent to an area where he or she would be in a situation as mentioned in section 28, first paragraph, (a), unless

- (a) the foreign national is excluded from protection under section 31, or
- (b) the foreign national is on reasonable grounds deemed to pose a threat to national security or has been finally convicted of a particularly serious crime and therefore pose a threat to Norwegian society.

A foreign national may not be sent to an area where he or she would be in a situation as mentioned in section 28, first paragraph, (b). The protection under this provision also applies in situations as mentioned in the first paragraph, (a) and (b).

The protection under the first and second paragraphs also applies to removal to an area where the person concerned would not be safe from subsequent removal to an area as mentioned in section 28, first paragraph.

The protection under the first to third paragraphs applies in respect of all forms of administrative decision under the Act.

Section 74. Residence permit for a foreign national whose protection against removal under section 73 is the sole basis for residence

A foreign national whose protection against removal under section 73 is his or her sole basis for residence in the realm may be granted a temporary residence permit until the impediment to removal no longer applies. It may also be stipulated that the permit shall not confer the right to take employment. Residence permits under this section do not confer the right to visit other Schengen countries. The King may issue regulations containing further provisions, including on the duration and renewal of permits under this section.

Chapter 10 Organisation of the immigration authorities

Section 75. Exercise of authority under the Act

The Storting approves the main principles for the regulation of immigration.

This Act shall be implemented by the King, the Ministry, the Immigration Appeals Board, the Directorate of Immigration, the police and other public authorities. Unless explicitly provided in the Act, the King shall by regulation decide which tasks and what powers the various public bodies are to have under the Act.

Where the chief of police is assigned authority under this Act, the King may issue regulations providing that other police service executives shall also have such authority.

Where authority under this Act is assigned to the chief of police or the person authorised by the chief of police, the person authorised by the chief of police must be a lawyer.

Section 76. Power of instruction and review of decisions

Administrative decisions under the Act made by the police, foreign service missions or other public administrative agencies may be appealed to the Directorate of Immigration. Administrative decisions under the Act made by the Directorate of Immigration at first instance may be appealed to the Immigration Appeals Board.

The Ministry's general right of instruction does not confer authority to instruct in relation to decisions in individual cases. Nor may the Ministry instruct the Immigration Appeals Board on law interpretation or exercise of discretion. The Ministry may instruct in relation to prioritisation of cases.

The Ministry may decide that an administrative decision made by the Directorate of Immigration in favour of a foreign national shall be reviewed by the Immigration Appeals Board. The Ministry's decision shall be made no later than four months after the administrative decision was made, shall be in writing, and shall be reasoned. Chapters IV to VI of the Public Administration Act on case preparation, administrative decisions and appeal shall not apply to such decisions.

If, in a case under the third paragraph, the Immigration Appeals Board concludes that the Directorate of Immigration's administrative decision is invalid, it shall set aside the administrative decision and return the case to the Directorate of Immigration for full or partial reconsideration. Valid administrative decisions may not be set aside or amended, but the board may issue a statement on issues of principle in the case.

The King may issue regulations containing further provisions on case preparation and the Immigration Appeals Board's authority in cases under the third paragraph.

Section 77. *The Immigration Appeals Board*

The Immigration Appeals Board shall decide, as an independent body, the cases assigned to it in section 76, first and third paragraphs.

The Immigration Appeals Board shall be led by a director, who must satisfy the requirements applicable to judges. The director shall be appointed by the King in Council for a term of six years. The director may be re-appointed for one period.

The Immigration Appeals Board shall also have board chairs, who must satisfy the requirements applicable to judges. They shall be appointed by the King in Council.

The Immigration Appeals Board shall have board members appointed by the King in Council based on the recommendations of the Ministry with primary responsibility for the immigration administration, the Ministry of Foreign Affairs, the Norwegian Association of Lawyers and humanitarian organisations. The members shall be appointed for a four-year term. The members may be reappointed once. The office is voluntary. Replacements during the course of a period shall be made by the Ministry based on the recommendations of the same bodies. The Ministry may release a board member from his or her office if the member has failed to comply with the duty of confidentiality, has grossly contravened other obligations that follow from the office or has himself or herself so requested. The King may issue regulations containing further provisions.

The board shall conduct its meetings in camera. All persons participating in the consideration of a case before the board have a duty of confidentiality under sections 13 to 13 e of the Public Administration Act. Violations shall be punished under section 209 of the Penal Code.

Section 78. *Forms of decision, etc. by the Immigration Appeals Board*

A board chair and two board members shall participate in each case; see however the second and third paragraphs. One board member shall be drawn from among the persons appointed based on the recommendations of the Ministry with primary responsibility for the immigration administration, the Ministry of Foreign Affairs and the Norwegian Association of Lawyers. The other board member shall be drawn from among the persons appointed based on the recommendations of humanitarian organisations. Each appeal board hearing may deal with several cases.

When cases are considered by an expanded board, three board chairs and four board members participate. Two of the board members shall be drawn from among the persons appointed based on the recommendations of the Ministry with primary responsibility for the immigration administration, the Ministry of Foreign Affairs and the Norwegian Association of Lawyers. The other two shall be drawn from among the persons appointed based on the recommendations of humanitarian organisations. The board chairs participate in, and one of them chairs, the expanded board in accordance with a set arrangement. The members and deputy members are appointed by the Ministry for four years. The King may issue provisions on what cases shall be heard by the expanded board, and on authority to decide whether a case referred to the expanded board for consideration shall be admitted for consideration.

Cases that do not raise material questions of doubt may be decided by a single board chair. In such cases, the Immigration Appeals Board may also delegate power to make an administrative decision to the secretariat. Cases which may be decided by a single board chair include appeals where the conditions for reversing the administrative decision of the Directorate of Immigration are manifestly satisfied, and appeals which must be deemed to be unfounded. The same applies to a request for reversal of an administrative decision made by the Immigration Appeals Board when there is no reason to presume that the board will amend the administrative decision.

If the Immigration Appeals Board considers that a request for reversal of an individual administrative decision will manifestly not succeed, the board shall not give an individualised statement of reasons in its reply. This does not apply if there are particular grounds for giving an individualised statement of reasons.

The Immigration Appeals Board shall itself determine the form of decision, except in cases considered under the second paragraph. Cases considered under the first or second paragraph shall be decided by majority administrative decision.

A foreign national may be given the right to attend in person and make a statement in a case considered under the first or second paragraph. This right shall as a general rule be granted in asylum cases. The foreign national's lawyer or other representative of the foreign national may attend together with the foreign national. Other persons may also be given the right to attend and to make a statement.

Chapters IV to VI of the Public Administration Act on case preparation, administrative decisions and appeal do not apply to decisions concerning the form of decision and personal attendance.

The King may issue provisions on the board's procedures and on the detailed consideration of cases and choice of decision form, including what are to be deemed material questions of doubt under the third paragraph. The King may issue regulations containing further provisions on requirements regarding the form of requests for reversal, and on rejection of reversal requests that do not comply with such form requirements. The King may also issue further provisions on rejection of reversal requests from foreign nationals with no known place of residence.

Section 79. *Legal proceedings*

In the event of legal proceedings against the State concerning the lawfulness of administrative decisions of the Immigration Appeals Board under this Act or concerning compensation resulting from such administrative decisions, the State shall be represented by the Immigration Appeals Board. In the event of legal proceedings against the State concerning the lawfulness of administrative decisions of the Directorate of Immigration under this Act or concerning compensation resulting from such administrative decisions, the State shall be represented by the Directorate of Immigration.

If the Immigration Appeals Board has made an administrative decision under this Act in favour of a foreign national, the Ministry may have the validity of the administrative decision reviewed by instituting legal proceedings. Legal proceedings must have been brought within four months of the administrative decision being made. Legal proceedings shall be brought against the foreign national. There shall be no mediation before the Conciliation Board.

Proceedings against the State concerning the validity of administrative decisions made by the Immigration Appeals Board under this Act, or concerning compensation resulting from such administrative decisions, shall be brought before Oslo District Court. The same applies to proceedings concerning administrative decisions made by the Directorate of Immigration, the Ministry and the King in Council. Section 32-4(2) of the Dispute Act does not apply.

Chapter 11 Procedural rules

I. General procedural rules, etc.

Section 80. *Effect of the Public Administration Act*

The Public Administration Act shall apply unless otherwise provided by this Act.

Section 81. *Right of a foreign national to make a statement*

In cases under sections 28 and 73, and in cases concerning rejection, expulsion, revocation of a granted permit or revocation of a residence document, see section 120, second paragraph, the immigration authorities shall ensure that the foreign national is given an opportunity to present his or her views in a language in which he or she can communicate adequately. This shall be done at the earliest possible opportunity, and in all circumstances before an administrative decision is made in the case. Provision shall be made for foreign nationals with special needs. The King may issue regulations containing further provisions.

The King shall issue regulations containing provisions on a child's right to be heard in cases under the Immigration Act that concern the child; see section 17, first paragraph, of the Public Administration Act and Article 12 of the UN Convention on the Rights of the Child.

If the child so desires and it is necessary in order to fulfil the child's right to be heard, the body that prepares or makes a decision in the case may decide that a conversation shall be conducted with the child even if the parents do not consent. Correspondingly, it may be decided that a conversation shall be conducted with the child during which the parents are not permitted to be present.

In cases where a conversation is conducted with the child in Norway during which the parents are not permitted to be present, see the third paragraph, a substitute guardian shall be appointed for the child unless the child has another representative who is present.

Decisions under the third paragraph may not be appealed.

Section 82. *Obligation to provide guidance*

In cases concerning rejection, expulsion, revocation of granted permits or revocation of residence documents, see section 120, and when a foreign national claims refugee status, the police shall provide guidance stating that the foreign national is entitled to a representative, see section 12 of the Public Administration Act, and to legal aid, see section 92, and to make contact with his or her country's representation, a representative of the UN High Commissioner for Refugees and a Norwegian refugee organisation.

Section 83. *Obligation of foreign nationals to appear and to provide information*

In connection with a case under the Act, the police and the Directorate of Immigration may order the foreign national involved in the case to appear in person to provide information that may be of significance to the administrative decision; see section 93, fourth paragraph.

Upon entry, and until correct identity is registered, foreign nationals are obliged to assist in clarifying their identity to the extent that the immigration authorities require. The immigration authorities may also subsequently impose such an obligation on a foreign national if there is reason to presume that the registered identity is not the correct identity. A foreign national may not be ordered to assist in clarifying his or her identity in a manner which comes into conflict with a need for protection.

The King may issue regulations containing further provisions on what foreign nationals may be ordered to do to fulfil the obligation under the first and second paragraphs.

Section 84. *Obligation to provide information and exceptions to the duty of secrecy for public authorities*

If the body dealing with a case under this Act deems it necessary in order to shed light on the case, the body may, notwithstanding the duty of secrecy, order the following bodies to disclose information concerning foreign nationals or other persons to whom this Act applies:

- (a) the child welfare authorities,
- (b) municipalities in connection with the introduction programme,
- (c) the Norwegian State Educational Loan Fund,
- (d) the Norwegian Labour and Welfare Service,
- (e) the tax assessment authorities,
- (f) the police and
- (g) the national population register authority.

The King may issue regulations containing further provisions on which bodies may request information under the first paragraph, the types of cases in which information may be collected, the persons about whom information may be collected and which information may be collected.

Section 84 a. *Data processing in cases concerning return*

In cases concerning return, the immigration authorities may register, group and store personal data, including sensitive personal data; see section 2(8) of the Personal Data Act. This also applies to data obtained by the authorities in earlier administrative processing.

Section 84 b. *Exception to duty of secrecy for employees at reception and care centres, etc.*

Employees who perform work or service at a reception centre shall upon request provide the immigration authorities with information about a resident for use in a case under this Act, including implementation of an administrative decision requiring the departure of the resident from the country. Employees are permitted to provide information about the resident on their own initiative. Information under the first and second sentences may be provided notwithstanding the rules on the duty of secrecy in section 13 onwards of the Public Administration Act.

In the case of residents who are unaccompanied asylum-seeking minors, the immigration authorities may not ask employees as mentioned in the first paragraph, and employees at care centres for minors and child welfare institutions, see chapters 5 and 5 A of the Child Welfare Act, for information under the first paragraph.

The King may issue regulations on what information shall be provided under the first paragraph, on the procedure for collecting information under the first paragraph, and on further processing of the collected information.

Section 85. *Conduct information in family immigration cases, see section 40, fifth and sixth paragraphs, and section 48*

As part of the preparation of a case as mentioned in section 40, fifth or sixth paragraph, or section 48, the police may utilise information on the conduct of the sponsor or the person with whom the sponsor has been granted family establishment when the applicant is the sponsor's child from a previous relationship.

If the police possess conduct information that is of significance for whether a residence permit shall be refused under section 40, fifth or sixth paragraph, a statement in this regard may be made to the body responsible for deciding the case.

The King may issue regulations containing further provisions on what conduct information shall be given to the body responsible for deciding the case, and on the formulation of the police statement in general.

Section 86. *Conduct information in visa cases under section 10, fourth paragraph*

If the Directorate of Immigration or the Immigration Appeals Board finds particular reason to investigate the sponsor's conduct in order to decide whether a visa shall be refused under section 10, fourth paragraph, a statement may be obtained from the police on circumstances of significance in the assessment of the matter.

The King may issue regulations containing further provisions on what conduct information shall be given to the Directorate of Immigration or the Immigration Appeals Board under the first paragraph, and on the formulation of the police statement in general.

Section 86 a. *Police certificate for interpreters*

A person who will perform assignments as an interpreter for the Immigration Directorate or the Immigration Appeals Board, shall present a comprehensive and exhaustive police certificate, cf. the Police Register Act section 41, unless the person concerned has presented such certificate in connection with previous

assignments. If the situation that justifies the interpretation assignment does not allow it or other special circumstances exists, the requirement to present a police certificate may be waived.

If an interpreter has an entry in the police certificate, an assessment shall be made as to whether the criminal offence affects the person's suitability for assignments as an interpreter.

Section 87. *DNA testing*

If, in cases under this Act, it is necessary to establish whether a family relationship exists, the applicant and the sponsor may be requested to undergo DNA testing. This applies only if the other information in the case does not provide a basis for establishing the family relationship with reasonable certainty. If the applicant or the sponsor refuses the request for DNA testing without reasonable grounds, the individual concerned shall be made aware that this may be of significance for the assessment of the case.

Information and material related to the test shall be deleted or destroyed as soon as possible after the family relationship has been confirmed or disproved.

The King may issue regulations containing further provisions on the implementation of DNA testing.

Section 88. *Age examination*

If, in a case concerning asylum or in a case concerning a residence permit for a family member, it is not possible to establish with reasonable certainty whether the foreign national is over or under the age of 18, the foreign national may be requested to allow himself or herself to be examined in order to clarify his or her age. The result of the examination shall be assessed in relation to the other information in the case.

If the foreign national refuses to allow himself or herself to be examined, he or she shall be made aware that this may be of significance for the assessment of the case.

The King may issue regulations containing further provisions on the implementation of age examinations.

Section 89. *Fees*

The King may issue regulations containing provisions stating that a fee shall be charged for processing applications under this Act, except applications for protection under chapter 4. The King may also issue provisions on fees for the issuance of a new uniform residence card or a card that documents other types of permits or rights than a residence permit, even if this is not issued on the basis of an application for renewal of a permit or right.

Section 90. *Implementation of administrative decisions*

An administrative decision to reject or expel a foreign national who does not hold a residence permit or a right of residence under chapter 13, or a Nordic national who has not resided in the realm for more than three months, may be implemented immediately. An administrative decision to reject or expel a foreign national who holds a residence permit under section 111 of the Act may be implemented immediately.

An administrative decision to reject an application for a first-time residence permit, or an application to renew a residence permit submitted after the expiry of the time limit in section 61, sixth paragraph, may be implemented before the administrative decision is final, provided that the foreign national has been given an opportunity to lodge an appeal. Such an administrative decision may be implemented no earlier than 48 hours after notification of the administrative decision reaches the foreign national. If the Directorate of Immigration regards the application as manifestly unfounded, the administrative decision may nevertheless be implemented as soon as the time limit for requesting suspensive effect has expired and the Directorate has made a decision on the request.

An administrative decision to refuse an application examined on its merits under section 32, first paragraph, (a), (c) and (d), and fifth paragraph, may be implemented immediately. If it is not clear that the application should be refused examined on its merits under the mentioned provisions, the foreign national shall be given a time limit for requesting suspensive effect, and the administrative decision may not be implemented until the time limit has expired or the Directorate of Immigration has made a decision on the request. If the application has been refused examined on its merits under section 32, first paragraph, (b), see also the fourth paragraph, and the foreign national has requested suspensive effect, the administrative decision may not be implemented until the Immigration Appeals Board has decided on the request or considered the appeal against the administrative decision.

An administrative decision to reject an application for renewal of a residence permit or for a permanent residence permit submitted before the expiry of the time limit in section 61, sixth paragraph, may not be implemented until it is final. The same applies to an administrative decision to revoke a permit under section 63 and an administrative decision to expel a foreign national who holds a residence permit or a Nordic national who has resided in the realm for more than three months. If it is most probable that the foreign national will commit a criminal act against or harass another person, or otherwise seriously violate another person's peace, the administrative decision may be implemented at an earlier point in time than specified in the first and second sentences.

If a foreign national claims a right to protection, see section 28, or otherwise provides information indicating that protection against removal under section 73 will apply, an administrative decision may only be implemented before it is final provided

- (a) the application for residence has been refused examined on its merits under section 32,
- (b) the applicant has previously had an application for asylum rejected in another country, or
- (c) the conditions for residence under sections 28 or 73 are manifestly not met.

An administrative decision entailing that a foreign national must leave the realm shall be implemented by ordering the foreign national to leave within a set time limit. The time limit shall be set at between seven and thirty days. If deemed necessary, a longer time limit may be set. A shorter time limit than seven days may be set, or a time limit may be dispensed with, if

- (a) there is a risk of absconding; see section 106 a,
- (b) an application has been rejected as manifestly unfounded or as a result of materially incorrect or manifestly misleading information,
- (c) the foreign national is found to pose a threat to public order,
- (d) the foreign national falls within the scope of section 32,
- (e) the foreign national is rejected or expelled at the outer borders of the Schengen area, or
- (f) the foreign national is expelled under section 66, first paragraph, (b), (c), (e) or second paragraph, or sections 67 or 68.

If such an order as mentioned in the fifth paragraph is not complied with, no exit time limit has been set, or there are specific reasons for suspecting that the foreign national will not leave the realm by the expiry of the time limit, the police may escort the foreign national out. When indicated by particular grounds, the foreign national may be escorted to a country other than the one from which he or she came. Foreign nationals without a valid travel document have an obligation to obtain such a document. Decisions regarding implementation shall not be regarded as individual administrative decisions; see section 2, first paragraph, (b), of the Public Administration Act.

Forced removal of an unaccompanied minor may only occur to a family member, an appointed guardian or another appropriate care arrangement. The King may issue regulations containing further provisions.

The King may issue regulations containing further provisions on the setting of a time limit for return and the introduction of a system for monitoring forced returns.

Where the Immigration Appeals Board has made an administrative decision which requires a foreign national to leave the realm, it may instruct the police to defer implementation. The Directorate of Immigration may instruct the police to defer implementation if such an administrative decision has been made by the Directorate. The Immigration Appeals Board may instruct the police to defer implementation of an administrative decision made by the Directorate in the Board's field of expertise if the administrative decision provides that the foreign national must leave the realm. The Ministry may instruct the Directorate of Immigration and the Immigration Appeals Board to defer implementation of a specific type of administrative decision providing that a foreign national must leave the realm, pending amendments to law or regulations.

Where a foreign national invokes circumstances as mentioned in section 28 at the time of implementation of an administrative decision providing that the foreign national must leave the realm, and it is not apparent that the circumstances invoked have already been taken into consideration, the police shall refer the question of suspensive effect to the authority that has made the administrative decision.

Section 91. *Liability for expenses, etc.*

A foreign national who is escorted out of the realm under the Act is obliged to cover the cost of his or her own exit. The foreign national shall also pay expenses relating to guards where such are necessary because there is reason to fear that the foreign national will resist return or will behave in a threatening or dangerous manner in connection with exit. The claim is enforceable by execution.

If a guarantee has been provided for expenses under the first paragraph, payment of the expenses may be claimed from the guarantor. The claim is enforceable by execution.

When a foreign national who has come by ship or aircraft, or who has been brought to the realm by a carrier engaged in the commercial land transport of persons, is rejected, the owner or hirer of the means of transport is obliged to take the foreign national on board again, to take the foreign national out of the realm by other means, or to cover any expenses incurred by the public authorities in escorting the foreign national out. A corresponding obligation applies to take aboard and cover expenses relating to personnel used to escort the foreign national out of the realm when the police deem this necessary. The responsibilities applicable to the owner or hirer of the means of transport under this paragraph apply equally to the driver of the means of transport and its agent in the realm.

The third paragraph applies correspondingly in the case of expulsion as a penal sanction imposed for violation of the provisions of the Act on entry and removal of a foreign national who is refused entry to the realm based on an administrative decision on expulsion which is still in effect.

Where a foreign national who needs a permit from the police under section 16, first paragraph, in order to go ashore in the realm has done so without such a permit, the provisions of the third paragraph apply correspondingly. In such cases, liability also includes any expenses incurred by the public authorities for up to three months in connection with the foreign national's stay in the realm.

The provisions of the third and fifth paragraphs apply correspondingly to foreign nationals as mentioned in section 16, third paragraph, irrespective of whether the foreign national has received permission to go ashore in the realm.

If the expenses of escorting the foreign national out of the realm are not met under the first to fifth paragraphs, they shall be met by the State.

The liability under the third, fourth, fifth and sixth paragraphs does not apply to entry across an internal Schengen border.

The provision does not apply to foreign nationals who are transferred from Norway to another country under the Dublin III Regulation; see section 32, fourth paragraph.

Section 92. *Legal aid*

In cases concerning rejection, expulsion, revocation of a permit or revocation of a residence document, see section 120, foreign nationals are entitled to free legal advice without means testing. However, this does not apply in expulsion cases under sections 66, first paragraph, (b) and (c), 67, first paragraph, (a), (b) and (c), 68, first paragraph, (a) and (b), and 122.

A foreign national who applies for a residence permit under section 28 or invokes protection against removal under section 73 is entitled to free legal advice without means testing in the case of a negative administrative decision made by the Directorate of Immigration. However, this does not apply where the foreign national appeals against only having been granted a residence permit under section 38. In the case of applications by unaccompanied asylum-seeking minors, or where exclusion under section 31 may be the outcome, free legal advice is also given without means testing in connection with the administrative proceedings of the Directorate of Immigration.

In cases as mentioned in section 76, third paragraph, the foreign national is entitled to free legal advice without means testing. In cases as mentioned in section 79, second paragraph, the foreign national is entitled to free conduct of the case.

The court shall appoint legal counsel when reviewing the question of imprisonment under section 106. Wherever possible, legal counsel shall be appointed as soon as it becomes clear that an arrested foreign national will not be released, removed or presented for imprisonment under section 106 by the end of the second day after arrest. The court shall also appoint legal counsel when it reviews the question of seizure or an order under section 104, second paragraph, and section 105, second paragraph, unless doing so would entail particular inconvenience or waste of time or the court has no concerns about not appointing legal counsel. If the foreign national already has a lawyer at public expense, that lawyer shall normally be appointed. The appointment ends when decided by the court.

The court shall on its own initiative and without means testing grant free conduct of the case when legal counsel is appointed under the fourth paragraph.

In cases where free conduct of the case or free legal advice are provided without means testing, full or partial recovery of the public authorities' expenses in connection with the legal aid may be claimed provided that the foreign national has the necessary financial capacity.

The King may issue regulations containing further provisions on exceptions to entitlement to free legal advice under the first paragraph, first sentence, and the second paragraph, first sentence. Supplementary provisions may also be issued, including provisions on the right to free legal advice without means testing at first instance and provisions on damages claims under the sixth paragraph.

II. Special rules for applications for protection (asylum cases)

Section 93. Time of submission of application for protection. Elucidation of the case

An application for protection under section 28 shall be lodged with the police without undue delay. A passport or other travel document in the possession of the foreign national shall be handed in by him or her together with the application.

If circumstances as mentioned in section 28 arise only after the foreign national's entry into the realm, an application shall be lodged without undue delay after the foreign national became aware of the circumstances.

The person who registers the application shall take the foreign national's photograph and fingerprints; see section 100, first paragraph, (b). When deemed necessary, copies may be made of documents in the foreign national's possession.

The applicant has an obligation to do his or her best to present necessary documentation and to assist in obtaining necessary information. For this purpose the applicant may be ordered to be available at a specified location. The immigration authorities have an independent responsibility to obtain necessary and available information before the administrative decision is made, see section 17, first paragraph, of the Public Administration Act.

The King may issue regulations containing further provisions on the implementation of the administrative proceedings.

Section 94. Applicant's legal status during processing of the application

The applicant may be given the right to take employment until the application is decided. Grant of the permit is conditional upon fulfilment of the following conditions:

- (a) the applicant has undergone an asylum interview,
- (b) there is no doubt about the applicant's identity, and
- (c) there is no question of rejecting the applicant or of requesting that another country take back the applicant.

If there is a high probability that the applicant will be granted a residence permit under section 28, exceptions may be made to the condition of having undergone an asylum interview.

When an application for protection has been rejected at first instance, a permit granted under the first paragraph remains valid if the administrative decision has been appealed and granted suspensive effect. An appellant who does not already hold a permit under the first paragraph may, upon request, be granted such a permit provided that the conditions in the first paragraph are fulfilled and the administrative decision has been granted suspensive effect.

The King may issue regulations containing further provisions on the duration of permits to take employment under the first paragraph and on permits after rejection of an application at first instance.

Permits under the first and second paragraphs are granted by the Directorate of Immigration, which may also authorise the police to grant such permits. Chapters IV to VI of the Public Administration Act on case preparation, administrative decisions and appeals do not apply to administrative decisions concerning such permits.

Section 94 a. Time limit for appeals in connection with manifestly unfounded asylum applications

If the Directorate of Immigration, when processing an application for protection, deems it clear that the conditions in sections 28 and 73 are not met, the time limit for appealing is one week from the time at which notification of the administrative decision has reached the relevant party. The rules in section 29, second to fourth paragraphs, of the Public Administration Act otherwise apply.

Section 95. Accommodation in connection with an application for protection

A foreign national who applies for protection shall be offered accommodation. A foreign national whose application for protection has been rejected may be offered accommodation pending exit.

The King may issue regulations containing further provisions on accommodation arrangements, including provisions on the allocation and withdrawal of offered accommodation.

Sections 24 and 25 of the Public Administration Act on the giving of grounds, and sections 28 to 34 on appeals, do not apply to the immigration authorities' administrative decisions on the allocation of offered accommodation or transfer to a new accommodation location. Sections 28 to 34 of the Public Administration Act on appeals do not apply to the immigration authorities' administrative decisions on settlement in a municipality or withdrawal of offered accommodation.

Section 96. Enforcement in accommodation cases

Administrative decisions of the immigration authorities regarding transfer to a new accommodation location, settlement in a municipality or withdrawal of offered accommodation constitute a separate basis for enforcement under chapter 13 of the Enforcement Act.

Section 97. Police certificate for employees at reception centres (child care certificate)

Any person who is to be employed at a reception centre shall present a police certificate as mentioned in section 39, first paragraph, of the Police Register Act. A police certificate as mentioned in the first sentence may also be demanded of others

who are to perform tasks for the immigration authorities and who are in direct contact with minors staying at a reception centre. The certificate shall not be more than three months old.

Any person who has accepted a fine or been convicted of sexual abuse against a minor is excluded from performing work at a reception centre or tasks described in the first paragraph, second sentence. In other cases, the consequences of entries in the police certificate must be assessed individually.

The King may issue regulations containing supplementary provisions.

Section 98. *Cooperation with the UN High Commissioner for Refugees. Transmission and exchange of information*

The Norwegian authorities shall cooperate with the UN High Commissioner for Refugees in accordance with Article 35 of the Convention relating to the Status of Refugees, and in so doing shall facilitate the UN High Commissioner for Refugees' discharge of his or her duty to supervise compliance with the provisions of the Convention relating to the Status of Refugees. Notwithstanding the rules on confidentiality, the UN High Commissioner for Refugees may be given access to case documents. To the extent necessary for the purpose of obtaining information, access may also be given to a refugee or human rights organisation.

To the extent Norway is obliged to do so as a participant in cooperation under the Schengen Agreement, see section 9, second paragraph, and the Dublin cooperation, see section 32, fourth paragraph, the immigration authorities may, notwithstanding the duty of secrecy, forward information about individuals to the authorities of countries participating in such cooperation as part of or for use in the processing of cases concerning border control, visas, rejection, expulsion, protection under the rules in chapter 4, protection against removal under chapter 9, or residence permits. In this section, «residence permit» means a permit of whatever type that has been issued by a country participating in cooperation under the Schengen Agreement and that confers the right to reside in its territory. However, a temporary residence permit pending the processing of an application for a residence permit is not included.

The King may issue regulations containing further provisions on what information may be provided and on conditions that must be met before transmission may take place. The King may also issue regulations containing further provisions on exchange of information about individuals with authorities in other countries in cases concerning protection under the provisions of chapter 4 or protection against removal under the provisions of chapter 9, in addition to what follows from the second paragraph.

Chapter 11A Representatives of unaccompanied asylum-seeking minors

Section 98 a. *Scope of the provisions in this chapter*

The provisions of this chapter apply to persons under 18 years of age (minors) who apply for protection and who are in the country without parents or other persons with parental responsibility. The same applies when the persons who have parental responsibility are no longer able to exercise that responsibility for the minor.

The provisions of this chapter apply correspondingly to unaccompanied minors who apply for a limited residence permit under special arrangements for persons who are assumed to be victims of human trafficking under section 38.

The Guardianship Act with related regulations, and provisions on guardians in other legislation, apply insofar as they are relevant.

Section 98 b. *Appointment, training, etc.*

The county governor shall appoint a representative for the minor as soon as the county governor becomes aware that the minor is in a situation as mentioned in section 98 a. The representative shall be appointed by the county governor in the guardianship district in which the minor is permanently resident.

The county governor shall provide the representatives in his or her district with necessary training, guidance and assistance, and supervise the representatives in his or her district.

The county governor shall notify the Directorate of Immigration of who has been appointed as representative.

Section 98 c. *Who may be appointed as representative*

Any person who is appointed as representative must be suitable for the task and must consent to the appointment. The minor's spouse or cohabitant may not be his or her representative.

The person who is appointed as representative shall present a police certificate. The certificate shall state whether the person has been charged with or indicted for, has accepted a fine for or has been convicted of violation of the penal provisions set out in the child care certificate; see section 39, first paragraph, of the Police Register Act. The certificate shall be exhaustive in accordance with section 41(1) of the Police Register Act. The information in the police certificate shall be included in the suitability assessment under the first paragraph, first sentence. If the appointment is urgent, the appointment may be made before a police certificate has been obtained.

Section 98 d. *The duties of the representative*

The representative shall safeguard the interests of the minor in the asylum case and otherwise perform such duties as are imposed on a guardian under other legislation.

In the asylum case the representative shall, among other things,

- (a) be present during conversations between the authorities and the minor,
- (b) assist the minor in connection with investigations of identity, age, etc.,
- (c) assist the minor in connection with tracing his or her parents or other carers,
- and
- (d) maintain contact with the minor's lawyer and stay updated on progress in the case.

The representative shall ensure that the minor's care needs are met satisfactorily, but the representative has no responsibility for the minor's maintenance and daily care.

In performing his or her duties, the representative shall take due account of the minor's national, linguistic, religious and cultural background, including by ensuring appropriate communication with the minor. The King may issue regulations containing further provisions on coverage of interpretation expenses.

Section 98 e. *The obligation to hear the minor's opinion*

Children who have reached the age of seven, and younger children who are able to form their own opinions, shall be informed and be given an opportunity to express their opinion before the representative makes a decision in matters concerning the child. Weight shall be given to the child's opinion in accordance with the age and maturity of the child.

Section 98 f. *Remuneration for the assignment as representative and coverage of expenses*

The representative is entitled to remuneration for his or her work as representative, and is entitled to coverage of necessary expenses incurred in connection with the assignment as representative. Remuneration and expenses are covered by the county governor in the guardianship district in which the minor is permanently resident.

The King may issue regulations containing further provisions on remuneration and coverage of expenses under the first paragraph, including a maximum limit on the number of hours covered.

Section 98 g. *Termination of the assignment as representative*

The representative's assignment terminates when

- (a) the minor reaches the age of 18 or is deemed to be over 18 years of age in an administrative decision by the Directorate of Immigration,
- (b) the minor is granted a residence permit which provides a basis for a permanent residence permit, and a guardian has been appointed under the provisions of the Guardianship Act,
- (c) the minor leaves the country permanently,
- (d) the minor's parents or other persons with parental responsibility come to Norway or otherwise become capable of exercising their parental responsibility, or
- (e) the conditions for the appointment are otherwise no longer fulfilled.

An appointed representative may, on giving reasonable notice to the county governor, request to be released from the assignment as representative. The county governor may relieve an appointed representative of the assignment if this is in the child's best interests. The representative's assignment does not terminate until a new representative is appointed.

Chapter 12 Processing of fingerprints etc., coercive measures and penalties

Section 99. *General provisions on the use of coercive measures*

A coercive measure may only be used when there is sufficient reason to do so. A coercive measure may not be used when doing so would constitute a disproportionate intervention in light of the nature of the case and other circumstances.

Coercive measures to ensure the implementation of an administrative decision may be applied when an administrative decision has been made that requires a foreign national to leave the realm, and during the processing of a case which may lead to such an administrative decision.

Section 100. *Biometric personal data in the form of a facial photograph and fingerprints*

Biometric personal data in the form of a facial photograph and fingerprints may be collected and processed in order to identify or verify the identity of a foreign national who

- (a) cannot provide proof of identity, or where there is reason to suspect that the foreign national has given a false identity,
- (b) is applying for a residence permit under the Act,
- (c) is applying for a Schengen visa, see section 10, a visa on humanitarian grounds, see section 11, or a national visa, see section 12,
- (d) is applying for a local border traffic permit under an agreement between Norway and Russia,
- (e) has been granted a residence permit or has had an application for a residence permit under this Act rejected, or
- (f) has been rejected or expelled, or is believed to be staying in the realm illegally.

«Processing» means any use of the data, including registration in an electronic register, storage, search, recovery, deletion or a combination of different types of use. The police may use the register in connection with the investigation of one or more acts which in aggregate may be punishable by imprisonment for a term exceeding six months.

In the case of processing of fingerprints in the context of the Dublin cooperation, see section 32, fourth paragraph, the provisions of section 101 apply.

The chief of police or a person authorised by the chief of police may decide that fingerprints and a facial photograph shall be taken forcibly. The foreign national may demand that the question of the lawfulness of such a coercive measure be brought before the court. The police shall ensure that the foreign national is informed of this right.

The King may issue further provisions on whom biometric personal data shall be taken from and on the processing of such data.

Section 100 a. *Collection and storage of biometric personal data in uniform residence cards*

In order to issue a uniform residence card, see section 64 a, biometric personal data in the form of a facial photograph and fingerprints shall be collected and stored in the residence card of all foreign nationals over six years of age, unless such biometric personal data has already been recorded and stored; see section 100. The foreign national has an obligation to cooperate in the recording of such biometric personal data. The data shall be stored in the residence card electronically or by other means in a way that ensures the authenticity, integrity and confidentiality of the data.

The King may issue regulations containing further provisions to the effect that biometric personal data in the form of a facial photograph and fingerprints may also be collected and stored in cards that document other types of permits or rights than a residence permit, such as local border traffic permits issued to residents in areas close to the Norwegian-Russian border.

Decisions ordering the collection and storage of biometric personal data as mentioned in the first and second paragraphs shall be made by the Directorate of Immigration, the Immigration Appeals Board, the Ministry of Foreign Affairs, the police or a foreign service mission.

A person to whom a residence card has been issued is entitled to access to personal data recorded in the residence card, including the biometric data, and may demand the correction or deletion of incorrect data. The same applies to any person who has been issued a card in which biometric personal data have been recorded under the second paragraph.

The King may issue regulations containing further provisions, including on when fingerprints and a facial photograph shall be taken, and provisions on the deletion of biometric personal data.

Section 100 b. *Collection of biometric personal data in order to check a uniform residence card; see sections 64 a and 100 a*

In connection with checks under sections 15 or 21, or in connection with the processing of a case under the Immigration Act, the police, the Directorate of Immigration, the Immigration Appeals Board, the Ministry of Foreign Affairs, foreign service missions or others with control authority under section 22 of the Act may collect biometric personal data in the form of a facial photograph and fingerprints in order to check a presented residence card or to check another card in which biometric personal data has been recorded under section 100 a, second paragraph. The foreign national has an obligation to cooperate in the recording of such biometric personal data.

The provision in section 100, fifth paragraph, on the forcible recording of fingerprints and a photograph applies correspondingly.

Biometric personal data collected in accordance with the first paragraph shall be erased as soon as possible after the foreign national's identity has been verified against the residence card or a card in which biometric personal data has been recorded under section 100 a, second paragraph.

The provisions regarding destruction and correction in section 9, (c) and (d), of the Act of 4 December 1992 No. 126 relating to Archives do not preclude erasure under the third paragraph.

The King may issue regulations containing further provisions.

Section 101. *Processing of fingerprints. Eurodac*

Regulation (EU) No 603/2013 of the European Parliament and of the Council (the Eurodac Regulation 2013), see also Article 4 of Norway's accession agreement relating to the Dublin cooperation, apply as Norwegian law, with the exception of Article 1(2), Article 2(1)(a), (c), (f), (j), (k) and (4), Article 3(5), Article 5, Article 6, Article 7(2), Article 8(1)(h) and (i), Article 18(2) and (3), Articles 19 to 22, Article 32(2), Article 33, Article 36, Article 38, Article 39(3), final part, Article 40(7) and Article 43.

The Personal Data Act applies to the processing of information unless otherwise provided in law or regulations. The King may issue regulations containing further provisions on the processing of information.

Section 102. *Details of the Visa Information System (VIS)*

As part of the Schengen cooperation of which Norway is a part, a system for the exchange of visa data, the Visa Information System (VIS), shall be established; see Regulation no. 767/2008. VIS consists of a central unit for visa information (Central VIS), national units for each country that participates in the Schengen cooperation (NORVIS in the case of Norway), and a structure for communication between them.

The Personal Data Act applies to the processing of information in VIS unless otherwise provided in an act or regulations.

Section 102 a. *The purpose of VIS*

The purpose of VIS is to improve the implementation of the Schengen countries' common visa policy, consular cooperation and consultations between central consular authorities by simplifying the exchange between the member states of information on visa applications and related decisions. The objective is to:

- (a) simplify the visa application procedures,
- (b) avoid circumvention of the criteria that form the basis for the decision regarding which member state is responsible for processing the application,
- (c) simplify the fight against forgery,
- (d) simplify checks at the member states' external borders and in the territory of the member states,
- (e) simplify the identification of persons who do not fulfil the conditions for entry to or residence in the territory of the member states,
- (f) simplify the application of the Dublin III Regulation; see section 32, fourth paragraph, and
- (g) help to avert threats to the internal security of individual member states.

Section 102 b. *Information to be recorded in VIS*

The following information shall be recorded in VIS:

- (a) alphanumeric data on the applicant and on visas that have been applied for, granted, refused, annulled, revoked or extended,
- (b) photographs,
- (c) fingerprints,
- (d) references to earlier applications and to other persons with whom the applicant is travelling in a group.

Notifications sent via the VIS infrastructure to provide information in connection with consultations, or about an applicant's acquisition of citizenship in a Schengen country or proposals for the amendment of recorded information, shall not be recorded in VIS.

Section 102 c. *Registration in NORVIS, access to and processing of information in VIS*

Information that is required to process a visa application, including biometric personal data in the form of a facial photograph and fingerprints, as well as information about any decision, annulment, revocation or extension, shall be recorded in NORVIS and be transmitted to the central unit; see section 98.

Authorities with responsibility for the processing of visa applications may enter, amend and delete data in VIS. Authorities with responsibility for border control, immigration control and the processing of asylum applications have read access to information in VIS.

Information recorded under the first paragraph shall not be stored for more than five years. If a visa applicant who is registered in VIS becomes a citizen of a member country before the five-year period has expired, information about that person shall be deleted from VIS. Only the responsible member state may amend entered information.

Section 102 d. *Processing responsibility for NORVIS*

The Directorate of Immigration has processing responsibility for NORVIS. The Norwegian Data Protection Authority is the national supervisory authority.

Section 102 e. *Access to VIS for police authorities responsible for the prevention, detection or investigation of terrorist acts and other serious crime*

Police authorities responsible for the prevention, detection or investigation of terrorist acts and other serious criminal acts may be granted access to information about a person registered in VIS when such information is required in a specific case because there are reasonable grounds for assuming that the information will contribute substantially to the prevention, detection or investigation of terrorist acts or other serious criminal acts.

Searches in VIS shall in such cases be limited to searches for one or more of the following information items:

- (a) name, sex, place of birth and date of birth,
- (b) nationality,
- (c) travel document with dates of issue and expiry and issuing authority,
- (d) main destination, duration and purpose of the trip,
- (e) dates of arrival and departure,
- (f) planned place of arrival or transit route,
- (g) place of residence,
- (h) fingerprints,
- (i) visa type and number on the visa form, and
- (j) identity of the person who has issued an invitation and/or is the guarantor in respect of the visa applicant's stay.

If the search confirms that the person is registered in VIS, access may be granted to all of the information specified in the second paragraph, and to:

- (a) the photograph and other information in the visa application, and
- (b) comments recorded in connection with visas that have been granted, refused, annulled or revoked.

Section 102 f. *Regulations relating to VIS*

The King may issue regulations containing further provisions on:

- (a) the processing of data in VIS, including registration, transmission of information to the central unit, storage, search, use, security, access, amendment, correction and deletion,
- (b) exceptions to the requirement to record biometric personal data, and
- (c) access to specific information for specific purposes.

Section 103. *Search of a foreign national's person, dwelling, etc.*

A foreign national's person, dwelling, room or other storage location may be searched if there are specific grounds for suspecting that the foreign national

- (a) is not cooperating on clarifying his or her identity in accordance with section 21 or section 83 of the Act, giving a false identity or concealing or withholding information of material significance in a case concerning a residence permit,
- (b) has money or other assets that can be used to cover expenses in connection with exit which the foreign national is obliged to cover, and there are specific grounds for suspecting that the foreign national will not cover the expenses voluntarily, or
- (c) has travel documents, tickets or other items which may ensure implementation of the administrative decision, and there are specific grounds for suspecting that the foreign national will evade implementation; see section 106 a.

No search may be made of the foreign national's dwelling under the first paragraph, (b) and (c), unless the foreign national is unlawfully residing in the realm as prohibited by the penal provision in section 108 or the matter involves a search under (c) and the foreign national has failed to comply with an order to present travel documents under section 21 or section 83.

Without the written consent of the foreign national concerned, searches as mentioned in the first paragraph may only be conducted under a court decision. If delay is associated with any risk, the decision may be made by the chief of police or a person authorised by the chief of police. Wherever possible, the decisions shall be in writing and shall specify the subject matter of the case, the purpose of the search and the scope of the search. A verbal decision shall be recorded in writing as soon as possible. Before the search is conducted, the decision shall if possible be read out or presented to the foreign national. If no written decision exists, the subject matter of the case and the purpose of the search shall if possible be stated verbally.

The provisions of sections 198 to 202 of the Criminal Procedure Act shall apply insofar as they are relevant.

Section 104. *Seizure*

When there is doubt about a foreign national's identity or there are specific grounds for suspecting that the foreign national is concealing or withholding information about his or her identity, travel documents, tickets or other material which may help to clarify or prove identity may be seized. The same applies when there is doubt about a previous place of residence, if this is of significance for entitlement to residence in the realm.

When there are specific grounds for suspecting that the foreign national will evade the implementation of an administrative decision, travel documents and other material that may document the foreign national's identity may be seized. Correspondingly, tickets and money or other assets may be seized to cover expenses which the foreign national has an obligation to cover in connection with exit. The King may issue regulations containing further provisions on the size of the amount that may be seized.

The travel documents of foreign nationals whose sole basis for residence in the realm is protection against removal under section 73 may be seized.

Decisions concerning seizure shall be made by the chief of police or a person authorised by the chief of police. The decision shall wherever possible be recorded in writing and specify the subject matter of the case, the purpose of the seizure and its scope. A verbal decision shall be recorded in writing as soon as possible. Before seizure is implemented, the decision shall if possible be read out or presented to the foreign national. If no written decision exists, the subject matter of the case and the purpose of the seizure shall if possible be stated verbally.

When a foreign national arrives in the realm, items may be seized by a police officer in connection with a search under section 103 and in situations where delay is associated with risk. The seizure shall be reported immediately to the person who otherwise makes decisions concerning seizure; see the fourth paragraph. If no written decision exists, the subject matter of the case and the purpose of the seizure shall if possible be stated verbally. If the seizure is upheld, a decision shall be recorded in writing under the fourth paragraph.

Any person who is affected by the seizure may demand that the question of whether it shall be upheld be brought before the court. The police shall ensure that persons affected by the seizure are made aware of this right. The provisions of chapter 16 of the Criminal Procedure Act, with the exception of sections 208 a and 210-212, shall apply insofar as they are relevant.

Section 105. *Duty to report and stay in a specific place*

An duty to report or stay in a specific place may be imposed on a foreign national if

- (a) the foreign national is not cooperating on clarifying his or her identity in accordance with section 21 or section 83 of the Act, or there are specific grounds for suspecting that the foreign national has given a false identity,
- (b) there are specific grounds for suspecting that the foreign national will evade implementation of an administrative decision requiring the foreign national to leave the realm,
- (c) the foreign national is an asylum seeker or is unlawfully residing in the realm and has been sentenced to a penalty for, or is apprehended in the act of committing, a criminal offence that may result in a sentence exceeding six months' imprisonment, or
- (d) the sole ground for residence in the realm is protection against removal under section 73,
- (e) the foreign national's application for protection has been or is most likely to be refused examined on its merits under section 32, first paragraph, (a) or (d), or fifth paragraph, or
- (f) the foreign national's application for protection is deemed to be manifestly unfounded and will be processed within 48 hours.

An order imposing an duty to report and stay in a specific place shall be made by the chief of police or a person authorised by the chief of police. The foreign national may demand to have brought before the court the question of whether the conditions for imposing a duty to report and a specific place of residence are fulfilled, and whether there are grounds for upholding the order. The police shall ensure that the person affected by the order imposing a duty to report and a specific place of residence is made aware of this right. Sections 175, first paragraph, second sentence, 184 and 187 a of the Criminal Procedure Act shall apply insofar as they are relevant.

The King may issue regulations containing further provisions on orders imposing a duty to report or a specific place of residence under the first paragraph.

Section 106. *Arrest and detention*

A foreign national may be arrested and detained if

- (a) the foreign national is not cooperating on clarifying his or her identity in accordance with section 21 or section 83 of the Act, or there are specific grounds for suspecting that the foreign national has given a false identity,
- (b) there are specific grounds for suspecting that the foreign national will evade implementation of an administrative decision requiring the foreign national to leave the realm. The foreign national may also be arrested and detained if there is a significant risk that the foreign national will evade implementation of an administrative decision providing for transfer of the foreign national to another European country in accordance with the Dublin cooperation; see section 32, fourth paragraph,
- (c) the foreign national fails to comply with a duty to report or an order to stay in a specific place under section 105, first paragraph, (c), and the foreign national is involved in a case that is being processed and has not been finally decided, or the time limit for exit has not yet occurred,
- (d) an administrative decision on expulsion has been made and the administrative decision is final or suspensive effect has not been granted in connection with appeal, see section 90, and measures are adopted in respect of the foreign national with a view to removal. It is a condition that the foreign national has been expelled on account of being sentenced to a penalty and that there is a risk, in view of the foreign national's personal circumstances, that the foreign national will commit new criminal acts,
- (e) the foreign national does not do what is necessary to fulfil his or her obligation to procure a valid travel document, and the purpose is to bring the foreign national to the foreign service mission of the country concerned so that he or she can be issued a travel document,

- (f) the foreign national is in transit at a Norwegian airport, with a view to removal,
- (g) the foreign national's application for protection is most likely to be refused examined on its merits under section 32, first paragraph, (a) or (d), or fifth paragraph. This does not apply if the foreign national is a minor or has minor children who have also applied for protection, or
- (h) the foreign national's application for protection is deemed to be manifestly unfounded and will be processed within 48 hours. This does not apply if the foreign national is a minor or has minor children who have also applied for protection.

No decision to arrest or imprisonment shall be made if a duty to report or an order to have a specific place of residence will be sufficient; see section 105.

Arrest shall be decided by the chief of police or a person authorised by the chief of police. If delay is associated with risk, a police officer may make the arrest. If the police wish to detain the arrested person, they must, at the earliest opportunity and no later than the third day after arrest, bring him or her before the district court along with an application for detention. Sections 174 to 191 of the Criminal Procedure Act apply insofar as they are relevant. Detention under the first paragraph, (b) to (f), may be decided for a maximum of four weeks at a time.

If the arrested person is under the age of 18, he or she must be brought to court as soon as possible, and no later than the day after arrest. If the time limit falls on a public holiday or a day that is defined as a public holiday under legislation, the time limit is extended by one day.

The overall period of detention may not exceed 12 weeks unless particular reasons apply. Detention to facilitate preparation or implementation of removal may only exceed 12 weeks if the foreign national does not cooperate on the implementation of removal or there are delays in procuring the necessary documents from the authorities of another country. The period of detention may not exceed 18 months unless the foreign national has been expelled due to being sentenced to a penalty or special sanction. The period of arrest and detention under the first paragraph, (g), may not exceed seven days. The period of arrest and detention under the first paragraph, (h), may not exceed 72 hours.

When a foreign national has been imprisoned under the first paragraph, (b), second sentence, special time limits apply for implementation of Dublin procedures; see Article 28(3) of the Dublin III Regulation, see also section 32, fourth paragraph.

Section 106 a. *Risk of absconding*

The risk of absconding shall be assessed on an individual basis. To determine whether a risk of absconding exists, an overall assessment must be carried out in which weight may be given to, among other things, whether

- (a) the foreign national has evaded implementation of an administrative decision requiring the foreign national to leave the realm; this includes not complying with a time limit for exit,
- (b) the foreign national has explicitly refused to leave the realm,
- (c) the foreign national has been expelled from the realm,
- (d) the foreign national has been sentenced to a penalty or a special sanction in the realm,
- (e) the foreign national has demonstrated a lack of cooperation in connection with doubt about his or her identity,
- (f) the foreign national is avoiding or complicating preparations for removal,
- (g) the foreign national has given false information to the Norwegian authorities in connection with an application for a permit,
- (h) the foreign national has failed to notify a change of address; see section 19, second paragraph,

- (i) the foreign national is responsible for serious disturbances of the peace at a residential centre for asylum seekers, etc.; see section 95, first and second paragraphs,
- (j) the foreign national has been found to pose a threat to fundamental national interests,
- (k) the foreign national's application for protection has been refused examined on its merits under section 32, first paragraph, (a) or (d), or fifth paragraph, or
- (l) the foreign national's application for a residence permit has been rejected as manifestly unfounded; see section 90, sixth paragraph, (b).

In assessing the risk of absconding under the first paragraph, weight may also be given to general experience relating to absconding.

Section 107. *Holding centre for foreign nationals*

A foreign national who is arrested and detained under section 106, first paragraph, shall as a general rule be placed in a holding centre for foreign nationals or some other specially adapted residential centre. The provisions of the third to eighth paragraphs apply to specially adapted residential centres as mentioned in the first sentence insofar as they are relevant.

The holding centre for foreign nationals does not belong under the Norwegian Correctional Services, but is administered by the police.

Unless otherwise provided in this Act, the foreign national is among other things entitled to receive visitors, make telephone calls, receive and send mail, health services, associate with others, spend time outdoors, engage in physical activity, privacy, and practise his or her religion or life stance.

When necessary in order to maintain peace, order or security, or to ensure implementation under section 90, the police may

- (a) search the foreign national's person, room and belongings, and other objects, rooms and parts of the holding centre,
- (b) temporarily remove and keep the foreign national's money and other objects,
- (c) monitor and restrict the foreign national's visits, telephone conversations and mail,
- (d) monitor and restrict the foreign national's physical activity, time spent outdoors, exercise of religion and life stance, or
- (e) search visitors and others present at the holding centre.

Measures under (a), (b) and (c) may also be implemented in respect of a foreign national when there is reason to believe that he or she is concealing or withholding information about his or her or another foreign national's identity or place of residence. Telephone monitoring under (c) may not be undertaken unless both parties to the telephone call are notified beforehand. Measures under (e) may also be implemented in order to investigate whether the person concerned is concealing information about a foreign national's identity. Measures under this paragraph may not be implemented in respect of the foreign national's legal counsel or representatives of a public authority.

When strictly necessary in order to maintain peace, order or security, or to ensure implementation under section 90, and other less invasive measures have been employed unsuccessfully or will clearly be inadequate, the police may

- (a) use force and approved forcible means; see section 6, fourth paragraph, of the Police Act,
- (b) place the foreign national in a high security wing or security cell, or
- (c) partially or fully exclude the foreign national from association with others at the holding centre.

A statement shall if possible be obtained from a doctor and be taken into consideration when assessing whether measures under this paragraph, (b) and (c), should be implemented or upheld.

A measure under the fourth and fifth paragraphs may not be applied if doing so would constitute a disproportionate intervention. Such measures shall be applied with caution. The police shall continuously assess whether there are grounds for upholding the measure.

To safeguard the purpose of the stay at the holding centre and foreign nationals' rights, the police may keep a register of information about decisions taken, arrivals, implemented control measures, use of force and forcible means, incidents, internal transfers, departures, monitoring times and treatment by health personnel.

An independent supervisory board shall be established to oversee the operation of the holding centre for foreign nationals and the treatment of foreign nationals staying there.

The King may issue regulations containing supplementary provisions.

Section 108. Penalties

A penalty of a fine shall be applied to any person who with intent or negligence fails to comply with the obligation under section 117, first paragraph, or section 118, first paragraph.

A penalty of a fine or imprisonment for a term not exceeding six months, or both, shall be applied to any person who

- (a) with intent or negligence contravenes the provisions listed below, or a prohibition, order or condition issued under the said provisions:
 - section 8, first paragraph
 - section 9, first and fourth paragraphs
 - section 14, first and second paragraphs
 - section 16, first and third paragraphs
 - section 19, first and second paragraphs
 - section 20, third paragraph
 - section 21, first paragraph
 - section 27, first paragraph; see also fourth paragraph
 - section 55, first and second paragraphs
 - section 83, first and second paragraphs
 - section 90, sixth paragraph
 - section 93, first paragraph, second sentence
 - section 100 b, first paragraph, second sentence
 - section 105, first paragraph
 - section 126, first paragraph,
 - section 130, first paragraph; see also section 105,
- (b) with intent or negligence contravenes regulations issued in accordance with this Act, or a prohibition, order or condition issued under such regulations, when the King has prescribed in the regulations that the offence shall be punishable under this provision,
- (c) with intent or gross negligence provides materially incorrect or manifestly misleading information in a case falling under the Act.

A penalty of a fine or imprisonment for a term not exceeding two years shall be applied to any person who

- (a) with intent or gross negligence makes use of a foreign national's labour when the foreign national does not hold the permit required under the Act,
- (b) with intent or gross negligence procures employment or accommodation for a foreign national or issues or procures statements, undertakings or documents for use in a case falling under the Act, when such action involves improper exploitation of the foreign national's situation,
- (c) by means of false representations or similar improper conduct induces a foreign national to enter the realm with a view to taking up residence there,

- (d) hands over to another person a passport, refugee travel document, other travel document or similar document that may be used as a travel document, uniform residence card or similar card, when the person concerned knows or should understand that it may be used by a foreign national to enter the realm or another state,
- (e) with intent or negligence contravenes the entry prohibition in section 71, second paragraph, or section 124, first paragraph.

A penalty of a fine or imprisonment for a term not exceeding three years shall be applied to any person who

- (a) helps a foreign national to reside unlawfully in the realm or in another country participating in cooperation under the Schengen Agreement, or
- (b) helps a foreign national to enter the realm or any other state unlawfully. However, this shall not apply if the intention is to help a foreign national falling under section 28 of the Act to enter the first safe country.

A penalty of a fine or imprisonment for a term not exceeding six years shall be applied to any person who

- (a) for the purpose of gain engages in organised unlawful activity with a view to helping foreign nationals to enter the realm or another state, or
- (b) for the purpose of gain helps a foreign national to enter the realm or any other state unlawfully, if such action puts the life of the person affected by the action at risk.

A person who provides humanitarian assistance to a foreign national who is unlawfully residing in the realm shall not be liable to a penalty for aiding and abetting unlawful residence unless

- (a) the person in question has intended to help the foreign national to evade the obligation to leave the realm, and
- (b) the assistance has made it more difficult for the authorities to implement removal of the foreign national.

When required in the public interest, the Directorate of Immigration shall report the matter to the police when there is reason to believe that the first paragraph, (a), or the second paragraph, (a), has been violated though use of the labour of a foreign national who does not hold the permit required under the Act.

Chapter 13 Special provisions for foreign nationals who fall under the Agreement on the European Economic Area (the EEA Agreement) and the Convention establishing the European Free Trade Association (the EFTA Convention)

Section 109. *Scope*

This chapter regulates the right to enter and take up residence in the realm of foreign nationals covered by the EEA Agreement or the EFTA Convention.

A right of residence under this chapter confers the right to take up residence and to accept employment or engage in business activity anywhere in the realm, unless restrictions have been imposed in accordance with provisions laid down in or under this Act.

A right of residence under this chapter does not prevent the grant of residence permits to foreign nationals as mentioned in the first paragraph in accordance with the general provisions of the Act.

The King may issue regulations containing further provisions on implementation of the provisions of this chapter and on the effect of the general provisions of the Act, including in cases where a foreign national as mentioned in the first paragraph is granted a residence permit under the general provisions of the Act. The King may issue regulations providing that biometric personal data in the form of a facial photograph and fingerprints shall be collected and stored in a card that documents the right of residence under sections 118 and 119. In such cases, the provisions of sections 64 a, 100 a and 100 b will apply correspondingly insofar as they are relevant.

Section 110. *Further details of persons to whom the chapter applies*

Nationals of countries covered by the EEA Agreement, hereafter referred to as EEA nationals, are subject to the provisions of this chapter. The King may issue regulations providing that nationals of countries covered by the EFTA Convention, but not the EEA Agreement, shall be wholly or partly subject to the provisions of this chapter.

Family members of an EEA national are subject to the provisions of this chapter as long as they accompany or are reunited with an EEA national. Family members of a Norwegian national are subject to the provisions of this chapter if they accompany or are reunited with a Norwegian national who returns to the realm after having exercised the right to freedom of movement under the EEA Agreement or the EFTA Convention in another EEA country or EFTA country.

«Family member» means

- (a) a spouse,
- (b) a cohabitant, if there is a permanent connection with the EEA national and this connection can be documented,
- (c) a relative in direct line of descent of an EEA national or of a foreign national mentioned in
 - (a) or (b) who is under the age of 21 or who is dependent on the EEA national, and
 - (d) a relative in direct line of ascent of an EEA national or of a foreign national mentioned in (a) or (b) who is dependent on the EEA national.

A foreign national who falls outside the provisions of the first to third paragraphs but works for an enterprise established in an EEA country is nevertheless subject to the provisions of this chapter to the extent that they are applicable to the task that is to be performed in the realm, if the person in question

- (a) is to carry out work under the provisions of the EEA Agreement on free movement of services, or
- (b) is to establish himself or herself under the provisions of the EEA Agreement on freedom of establishment.

The King may issue regulations containing further provisions, including on who is subject to the second paragraph, stating that family members other than foreign nationals as mentioned in the third paragraph shall also be wholly or partly subject to the provisions of this chapter, and on the requirement for a permanent connection and documentation as mentioned in the third paragraph, (b). The King may issue further provisions on who is subject to the fourth paragraph.

Section 111. *Right of residence for up to three months*

An EEA national who holds a valid identity card or passport has a right of residence for up to three months, provided that the person in question does not become an unreasonable burden for public welfare systems.

The first paragraph applies correspondingly to a family member who is not an EEA national, provided that the family member accompanies or is reunited with the EEA national and holds a valid passport. The first paragraph applies correspondingly to foreign nationals as mentioned in section 110, fourth paragraph, who hold a valid passport.

A foreign national as mentioned in the first paragraph who is a jobseeker, and accompanying family members, have a right to stay for up to six months, and in special cases also for more than six months.

The King may issue regulations containing further provisions, including on the calculation of the period of residence and the definition of the term «unreasonable burden for public welfare systems». The King may issue regulations containing further provisions on when special cases as mentioned in the third paragraph exist, on the obligation for jobseekers to report, on which authority the foreign national shall report to, and on how the report shall be made.

Section 112. *Right of residence for more than three months for EEA nationals*

An EEA national has a right of residence for more than three months as long as the person in question

- (a) is employed or self-employed,
- (b) is to provide services,
- (c) possesses sufficient funds to provide for himself or herself and any accompanying family members, and is covered by a health insurance policy that covers all risks during the stay, or
- (d) is enrolled at an approved educational institution. The condition applies that the primary purpose of the stay is education, including vocational education, that the person in question is covered by a health insurance policy that covers all risks during the stay, and that a statement is issued that confirms that the person in question possesses sufficient funds to provide means of subsistence for himself or herself and any accompanying family members.

A foreign national who resides in the realm in accordance with the first paragraph, (a), but who ceases to be employed or self-employed nevertheless retains status as an employee or a self-employed person if the person

- (a) is temporarily incapable of work as a result of illness or accident,
- (b) provides documentary evidence of involuntary unemployment after having had paid work for more than one year, and has registered as a jobseeker with the Norwegian Labour and Welfare Service,
- (c) documents to be involuntarily unemployed following the expiry of a fixed-term employment contract of less than one year's duration or the person has involuntarily lost the job during the course of the first 12 months, and has registered as a jobseeker with the Norwegian Labour and Welfare Service, or
- (d) commences a course of vocational education. Unless the person in question is involuntarily unemployed, the status as an employee or a self-employed person under the first paragraph, (a), will only be retained as long as the course of vocational education is related to the person's previous work.

In cases as mentioned in the second paragraph, (c), status under the first paragraph, (a), lapses after six months.

The King may issue regulations containing further provisions, including on what are to be considered sufficient means under the first paragraph, (c), on approved educational institutions, and on requirements relating to the statement mentioned in the first paragraph, (d).

Section 113. *Right of residence for more than three months for family members who are EEA nationals*

An EEA national who is a family member and who accompanies or is reunited with an EEA national who has a right of residence under section 112, first paragraph, (a), (b) or (c), has a right to reside in the realm for as long as the EEA national's right of residence lasts.

An EEA national who is a spouse, cohabitant or dependent child under the age of 21, and who accompanies or is reunited with an EEA national with a right of residence under section 112, first paragraph, (d), has a right to stay in the realm for as long as the EEA national's right of residence lasts.

In the event of the EEA national's exit from the realm or death, family members who are EEA nationals retain the right of residence for as long as they themselves fulfil the conditions in section 112, first paragraph. Any child of the EEA national and the person who has parental responsibility retain the right of residence in any event, for as long as the child is enrolled at an approved educational institution.

In the event of divorce or cessation of cohabitation, a family member of an EEA national retains the right of residence for as long as the person in question fulfils the conditions in section 112, first paragraph.

The King may issue regulations containing further provisions on a continued right of residence for persons with parental responsibility as mentioned in the third paragraph.

Section 114. Right of residence for more than three months for family members and other foreign nationals who are not EEA nationals

The provisions of section 113, first and second paragraphs, apply correspondingly to foreign nationals who are not EEA nationals if they are family members of an EEA national with a right of residence under section 112, first paragraph, (a), (b) or (c), or if they are spouses, cohabitants or dependent children under the age of 21 who accompany or are reunited with an EEA national with a right of residence under section 112, first paragraph, (d).

A foreign national as mentioned in section 110, fourth paragraph, has a right of residence for more than three months provided that this occurs as part of the provision of a service or is necessary for the establishment of a business in the realm. The King may issue regulations containing further provisions.

In the event of the EEA national's death, a family member who is not an EEA national retains the right of residence if the person in question has resided in the realm as a family member for one year prior to the death and fulfils the conditions in section 112, first paragraph, (a), (b) or (c), or resides in the realm as a family member of a person who fulfils the conditions in section 112, first paragraph, (a), (b) or (c). In the event of the exit from the realm or death of an EEA national, any child of the EEA national and the person who has parental responsibility retain the right of residence in any event, for as long as the child is enrolled at an approved educational institution.

In the event of divorce or cessation of cohabitation, the EEA national's family members who are not EEA nationals retain the right of residence for as long as they themselves fulfil the conditions in section 112, first paragraph, (a), (b) or (c), or are a family member of a person who fulfils the conditions in section 112, first paragraph, (a), (b) or (c), provided that

- (a) at the time of separation, the marriage had lasted three years, including one year in the realm,
- (b) parental responsibility for children of the EEA national has been transferred to the spouse who is not an EEA national under an agreement or judgment,
- (c) the spouse who is not an EEA national, or any children, have been exposed to violence or other serious abuse in the marriage, or

- (d) the spouse who is not an EEA national exercises visitation with children in the realm under an agreement or judgment.

The King may issue regulations containing further provisions on a continued right of residence for persons with parental responsibility or visitation rights as mentioned in the third and fourth paragraphs, and in the event of cessation of cohabitation under the fourth paragraph.

Section 115. *Right of permanent residence for EEA nationals*

An EEA national who has had continuous lawful residence in the realm under sections 112 and 113 for five years is granted a permanent right of residence. Temporary residence outside the realm is permitted in certain circumstances without the requirement for continuous residence being affected. The right of permanent residence exists independently of whether or not the conditions for residence in sections 112 and 113 are fulfilled. The right of permanent residence lapses if the holder resides outside the realm for more than two consecutive years.

An EEA national who stays in the realm under section 112, first paragraph, (a), is granted a permanent right of residence even if the person in question has not had a continuous stay of five years, if he or she:

- (a) upon cessation of labour force participation takes up an early retirement pension or has reached the statutory age for entitlement to a retirement pension, and has had a continuous stay in the realm of more than three years and employment in the realm for at least the 12 preceding months,
- (b) has resided in the realm continuously for more than two years and becomes permanently incapable of work, or
- (c) after having worked and resided in the realm continuously for three years works in another EEA country but continues to reside in the realm and returns to the place of residence daily or at least once a week.

If the incapability under the second paragraph, (b), is due to an occupational accident or occupational illness that wholly or partly entitles the person in question to public benefits, no requirements are imposed as regards the duration of the stay.

An EEA national who is a family member and lives with a person as mentioned in the second paragraph is granted a permanent right of residence at the time that the permanent right of residence under the second paragraph arises.

An EEA national who is a family member and lives with an EEA national with a right of residence under section 112, first paragraph, (a), is granted a permanent right of residence in the event of the EEA national's death, even if the deceased did not have a permanent right of residence under the first or second paragraph, if:

- (a) the deceased has resided in the realm continuously for two years prior to the death, or
- (b) the death was caused by an occupational accident or an occupational illness.

The King may issue regulations containing further provisions, including on what is to be deemed continuous lawful residence, on the definition of temporary residence outside the realm, including valid reasons for absence, on the content of the requirement to live together, and on lapse of the permanent right of residence.

Section 116. *Right of permanent residence for family members who are not EEA nationals*

A family member who is not an EEA national, and who under section 114, first paragraph, has lived with an EEA national and has had continuous lawful residence in the realm for five years, is granted a permanent right of residence. The same applies to a family member who is not an EEA national and who under section 114,

third paragraph, first sentence, or fourth paragraph has had continuous lawful residence in the realm for five years. Temporary residence outside the realm is permitted in certain circumstances without the requirement for continuous residence being affected. The permanent right of residence exists independently of whether the conditions for residence in section 114 are fulfilled. The permanent right of residence lapses if the holder resides outside the realm for more than two consecutive years.

A permanent right of residence under section 115, fourth and fifth paragraphs, applies correspondingly to family members who are not EEA nationals.

The King may issue regulations containing further provisions, including on what is to be deemed continuous lawful residence, on the definition of temporary residence outside the realm, including valid reasons for absence, on the content of the requirement to live together, and on lapse of the permanent right of residence.

Section 117. Registration certificate for foreign nationals with a right of residence under Sections 112 or 113

An EEA national who resides in the realm under sections 112 or 113 for more than three months shall register. The deadline for registration is three months from the date of entry. When the EEA national submits documentation as mentioned in the second and third paragraphs, a registration certificate is issued immediately.

Registration of an EEA national with a right of residence under section 112 may be made conditional upon production of, in addition to a valid identity card or passport:

- (a) confirmation of employment from an employer or evidence that the foreign national is self-employed or confirmation of an agreement to provide services; see section 112, first paragraph, (a) and (b),
- (b) health insurance and documentation that the person in question possesses sufficient funds to provide means of subsistence for himself or herself and any accompanying family members; see section 112, first paragraph, (c),
- (c) confirmation that the person in question is enrolled at an approved educational institution, health insurance and a declaration that the person in question possesses sufficient funds to provide means of subsistence for himself or herself and any accompanying family members; see section 112, first paragraph, (d).

Registration of an EEA national who stays in the realm as a family member with a right of residence under section 113 may be made conditional upon production of, in addition to a valid identity card or passport:

- (a) a document that certifies the family relationship that provides the basis for the right of residence,
- (b) the registration certificate of the EEA national whom the foreign national is accompanying or being reunited with, and
- (c) documentation evidencing dependence in cases where status as a family member is conditional on the foreign national being dependent; see section 110, third paragraph, (c) and (d).

The King may issue regulations containing further provisions, including on which authority conducts registration and issues registration certificates, and on the setting of issue fees. The King may issue further provisions on the duty of job-seeking EEA nationals to register when they find work after the expiry of the deadline in the first paragraph.

Section 118. Residence cards for foreign nationals with a right of residence under section 114 who are not EEA nationals

A foreign national who resides in the realm under section 114 for more than three months is obliged to obtain a residence card. The application deadline for residence cards is three months from the date of entry. When the foreign national submits documentation as mentioned in the second paragraph, a certificate showing that an application for a residence card has been submitted is issued immediately.

In connection with an application for a residence card for family members, the following shall be produced:

- (a) a valid passport,
- (b) a document that certifies the family relationship that provides the basis for the right of residence,
- (c) the registration certificate of the EEA national whom the foreign national is accompanying or being reunited with,
- (d) documentation of dependence in cases where status as a family member is conditional upon the foreign national being dependent; see section 110, third paragraph, (c) and (d).

In connection with an application for a residence card for foreign nationals as mentioned in section 110, fourth paragraph, the following shall be produced:

- (a) a valid passport, and
- (b) documentation evidencing that the foreign national is to carry out work under the provisions of the EEA Agreement on free movement of services, or is to establish himself or herself under the provisions of the EEA Agreement on freedom of establishment.

An application for a residence card shall be decided upon within six months of submission of the application. The residence card is valid for five years, or for the EEA national's period of residence if its duration is expected to be shorter than five years. Unless particular grounds apply, the residence card will cease to be valid in the event of residence outside the realm for more than six months per year.

The King may issue regulations containing further provisions, including on which authority receives applications for and issues residence cards, and on the setting of issue fees. The King may issue further provisions on documentation under the second and third paragraphs, on the validity period of the residence card and on validity in the event of residence outside the realm under the fourth paragraph.

Section 119. Residence certificates and residence cards for foreign nationals with a permanent right of residence under sections 115 and 116

An EEA national who resides in the realm under section 115 is issued a permanent residence certificate upon application.

A foreign national who stays in the realm under section 116 is issued a permanent residence card upon application. An application for a permanent residence card shall be submitted before the expiry of the validity period of the residence card issued under section 118.

The Directorate of Immigration decides on applications for permanent residence certificates and permanent residence cards under this provision.

The King may issue regulations containing further provisions, including on which authority receives applications for and issues permanent residence certificates and permanent residence cards, and on the setting of issue fees. The King may provide that the police be given authority to grant applications made under this provision.

Section 120. Revocation of residence documents, etc.

A foreign national who otherwise satisfies the conditions for a right of residence under this chapter does not have such a right if there are circumstances that provide grounds for refusing the foreign national admission to or residence in the realm under other provisions of the Act. The same applies if the foreign national has knowingly provided incorrect information or kept secret matters of material importance.

Registration certificates, residence cards, permanent residence certificates and permanent residence cards may be revoked on the grounds mentioned in the first paragraph.

Registration certificates and residence cards may be revoked when if the registration is deemed to be invalid for other reasons. Section 35 of the Public Administration Act applies to revocation decisions under this paragraph insofar as it is relevant.

Residence documents as mentioned in the second paragraph shall be revoked if the right of residence lapses as mentioned in sections 115, first paragraph, fourth sentence, and 116, first paragraph, fifth sentence.

Residence cards shall be revoked if a foreign national who is not an EEA national is granted a residence permit under chapters 3, 4, 6 or 7 of the Act. This does not apply when the foreign national is a family member of an EEA national.

The issue of a residence card may be refused under the provisions of sections 118 and 119 if, when asked, the sponsor, see section 39, does not consent to the applicant being granted residence, or if it is likely that the marriage was entered into against the will of one of the parties or with the primary purpose of procuring lawful residence in the realm for the applicant.

The provisions of section 85 apply correspondingly to cases under this chapter.

The Directorate of Immigration makes administrative decisions on revocation under the second paragraph.

The King may issue regulations containing further provisions.

Section 121. *Rejection*

EEA nationals and their family members may be rejected when:

- (a) they do not show a valid passport or other approved travel document or visa when this is necessary,
- (b) they enter or reside in the realm without a right of entry, right of residence or permanent right of residence under sections 111, 112, 113, 114, 115 or 116 and, moreover, they do not have a right of entry or to a residence permit under the general provisions of the Act, or
- (c) there are circumstances that provide grounds for expulsion.

A foreign national as mentioned in section 110, fourth paragraph, who has a right of residence under section 111, second paragraph, or section 114, second paragraph, may be rejected when there are circumstances that provide grounds for expulsion.

A case concerning rejection under the first paragraph, (a) and (c), must be opened at the time of entry or no later than within seven days. If no case concerning rejection is opened within seven days, a foreign national without right of residence under this chapter may be rejected by administrative decision of the Directorate of Immigration under the provisions of the first paragraph, (c).

The police prepare cases to be decided by the Directorate of Immigration.

The King may issue regulations containing further provisions, including that rejection under the first paragraph may be decided by the police.

Section 122. *Expulsion in the interests of public order or security*

EEA nationals and their family members, and foreign nationals as mentioned in section 110, fourth paragraph, of the Act who have a right of residence under section 111, second paragraph, or section 114, second paragraph, may be expelled when this is in the interests of public order or security. It is a condition for expulsion that the personal circumstances of the foreign national present, or must be assumed to present, a real, immediate and sufficiently serious threat to fundamental societal interests. The King may issue regulations containing further provisions on the definition of public order and security.

A foreign national who may be expelled under the first paragraph may nevertheless not be expelled if the foreign national

- (a) has a permanent right of residence under sections 115 or 116, unless weighty public order or security considerations indicate that it is necessary,
- (b) is an EEA national who has resided in the realm for 10 years, unless it is compellingly necessary in the interests of public security, or
- (c) is an EEA national who is a minor, unless it is compellingly necessary in the interests of public security. However, this does not apply to minors if expulsion of the minor is necessary in order to safeguard the child's best interests.

A foreign national who has contravened chapter 18 of the Penal Code or has provided a safe haven for a person the foreign national knows to have committed such an offence may be expelled regardless of the provisions in the second paragraph.

No expulsion decision is made under the provisions of this section if, in view of the seriousness of the offence and the foreign national's connection with the realm, it would constitute a disproportionate measure against the foreign national personally or against the family members. In the assessment of whether expulsion constitutes a disproportionate measure, weight shall be given to, among other things, the person's length of residence in the realm, age, state of health, family situation, financial situation, social and cultural integration in the realm, and connection with the country of origin. In cases concerning children, the child's best interests shall be a fundamental consideration.

The King may issue regulations containing further provisions.

Section 123. *Expulsion in the interests of public health*

A foreign national with a right of residence under section 111 may be expelled when this is necessary in the interests of public health and the authorities have implemented protective measures in relation to their own nationals.

The King may issue regulations containing further provisions.

Section 124. *Entry prohibition and power to make administrative decisions, etc.*

Expulsion precludes subsequent entry. The entry prohibition may be made permanent or time-limited, but not for periods shorter than two years. In the assessment, particular weight shall be given to the factors as mentioned in section 122, first paragraph.

The entry prohibition may be lifted upon application if indicated by new circumstances. If special circumstances apply, the expelled person may upon application be admitted to the realm for brief visits even if the entry prohibition is not lifted, but normally not until one year has passed since exit.

The Directorate of Immigration makes administrative decisions regarding expulsion under the provisions of sections 122 and 123, and also decides any application for admission to the realm by a foreign national who has been expelled. The police prepare cases to be decided by the Directorate of Immigration.

Before an administrative decision is made concerning expulsion of a foreign national who is serving a special criminal sanction, a statement shall be obtained from the professional authority responsible for the special sanction, see section 1-4 of the Mental Health Care Act, on the implementation of the special sanction and the risk of serious new offences. The statement shall be submitted to the prosecuting authority, which shall be given opportunity to comment on the matter.

The King may issue regulations containing further provisions.

Section 125. Transitional arrangements for new contracting parties to the EEA Agreement

In the event of expansion of the EEA Agreement to include new contracting parties, the King may issue regulations establishing transitional arrangements that deviate from the provisions of this chapter.

Chapter 14 Special rules for cases involving fundamental national interests or foreign policy considerations

I. Material rules and the processing of cases by the public administration

Section 126. Significance of fundamental national interests and foreign policy considerations in cases under the Immigration Act

Out of regard for fundamental national interests or foreign policy considerations, an administrative decision or other decision may be made to refuse a permit or right that could otherwise have been granted under the Act or regulations. Correspondingly, limitations or conditions may be imposed, or an administrative decision concerning rejection may be made.

Out of regard for fundamental national interests, an administrative decision may be made concerning expulsion or revocation of a granted permit or other rights.

No administrative decision concerning expulsion or revocation may be made under the second paragraph if, in view of the seriousness of the matter and the foreign national's connection with the realm, it would be a disproportionate measure against the foreign national personally or against the closest family members. In cases concerning children, the best interests of the child shall be a fundamental consideration.

Out of regard for fundamental national interests or foreign policy considerations, a foreign national may be granted a residence permit for Norway, or another administrative decision or other decision may be made in favour of the foreign national.

In cases concerning protection under chapter 4 and protection against removal under chapter 9, the provisions of the said chapters take precedence over the provisions in the first and second paragraphs of this section. Protection against removal under section 73 first to third paragraphs, does not preclude the making of an administrative decision concerning expulsion out of regard for fundamental national interests, but the administrative decision may not be implemented until the grounds for non-refoulement no longer apply. No right to recognition as a refugee under section 28, first paragraph, (b), applies if there are grounds for expelling the foreign national out of regard for fundamental national interests.

In addition to entitlement to free legal advice without means testing under section 92, first and second paragraphs, free legal advice shall be given without means testing in connection with administrative proceedings before the Directorate of Immigration if

- (a) the foreign national has applied for a residence permit under section 28 or has invoked protection against removal under section 73, and
- (b) the case may involve foreign policy considerations or fundamental national interests.

The King may issue regulations containing further provisions, including on the effect of the procedural rules in chapter 11 of the Act and on exceptions to the right to free legal advice.

Section 127. *Power to make administrative decisions*

Administrative and other decisions in cases that involve fundamental national interests or foreign policy considerations shall be made by the Directorate of Immigration unless

- (a) the Ministry decides that the case shall be decided by the Ministry,
- (b) the decision concerns the use of coercive measures or other decisions that are to be made by the police under the Act, or
- (c) otherwise prescribed by this section.

In cases where the Directorate of Immigration receives an assessment from the Police Security Service regarding fundamental national interests, or from the Ministry of Foreign Affairs regarding foreign policy considerations, the received assessment shall as a general rule be applied.

No residence permit may be granted and no other administrative decision or other decision in favour of the foreign national be made under section 126, fourth paragraph without the Ministry's consent.

Administrative decisions under section 126 to expel a foreign national who has a residence permit in Norway, to revoke a residence permit or to refuse renewal of a residence permit that the foreign national is otherwise entitled to have renewed shall be made by the Ministry. The Ministry also makes administrative decisions in corresponding cases that concern foreign nationals with a right of residence under chapter 13 of the Act. The same applies to administrative decisions regarding cessation of protection against removal for a foreign national who has previously been expelled; see section 73.

When the Ministry makes an administrative decision or other decision under the first or fourth paragraph, the Ministry may also decide all other related cases.

The King may issue regulations establishing exceptions to the first, third and fourth paragraphs, and issue further provisions on matters including of the following

- (a) when subordinate bodies must refer cases that may involve fundamental national interests or foreign policy considerations to the Ministry,

- (b) the obtaining of assessments from the Police Security Service and the Ministry of Foreign Affairs,
- (c) the significance of statements from bodies other than the Police Security Service and the Ministry of Foreign Affairs,
- (d) power to make administrative decisions in cases concerning rejection.

Section 128. *Authority to issue instructions, etc.*

The Ministry may, independently of the limitations specified in section 76, issue instructions on procedural matters and on all procedural decisions in cases that may involve fundamental national interests or foreign policy considerations. The Ministry may not issue instructions on the use of coercive measures decided under chapter 12 of the Act; see section 130.

The Ministry may in all cases instruct subordinate agencies to grant a residence permit for Norway or to make another administrative decision or other decision in favour of a foreign national if the case involves fundamental national interests or foreign policy considerations.

The Ministry may issue instructions in cases concerning residence status under section 35 (resettlement refugees) if the case involves fundamental national interests or foreign policy considerations.

The Ministry may instruct subordinate bodies to prepare decisions in cases where the Ministry is to make an administrative decision or other decision.

The King may issue regulations containing further provisions.

Section 128 a. *Exchange of information between public bodies*

The King may issue regulations containing further provisions on the exchange of information between public bodies in cases that may involve fundamental national interests or foreign policy considerations.

Section 129. *Right of appeal, etc.*

The Ministry is the appeals body in cases that have not been decided by the Ministry itself at first instance and where fundamental national interests or foreign policy considerations have been decisive, in whole or in part, for the outcome of the case.

In cases where the Ministry makes an administrative decision at first instance, the administrative decision may not be appealed, but if proceedings are instituted against the Ministry's administrative decision, the State bears all costs in the case.

If the Ministry has issued instructions on the residence status of a foreign national who has been granted an entry permit under section 35, any appeal against the decision shall be considered by the King in Council.

A decision by the Ministry to refuse consent under section 127, third paragraph, may not be appealed.

Administrative decisions may be implemented at an earlier date than follows from section 90. A time limit of less than seven days may be set, or a time limit under section 90, fifth paragraph, may be dispensed with if the foreign national has been found to pose a threat to fundamental national interests.

If a foreign national invokes refugee status or otherwise provides information indicating that the protection against removal under section 73 will apply, an administrative decision may only be implemented before it is final if

- (a) the application for residence has been rejected under section 32,
- (b) the applicant has previously had an application for asylum rejected in another country, or
- (c) the conditions for residence under section 28 or for protection against removal under section 73 are manifestly not met.

The King may issue regulations containing further provisions.

Section 130. *Coercive measures, etc.*

Travel documents may be seized under section 104, or a duty to report and to have a specific place of residence may be imposed under section 105, if

- (a) the foreign national has been found to pose a threat to fundamental national interests, and
- (b) has not complied with an administrative decision requiring him or her to leave the realm, or a forced return cannot be implemented otherwise.

A foreign national may be arrested and detained under section 106 if he or she poses a threat to fundamental national interests and this has been established in an administrative decision in the immigration case and measures are taken in respect of the foreign national with a view to removal. The provisions in section 106, fifth paragraph, relating to the maximum overall period of detention do not apply.

In wartime or when there is a threat of war, or otherwise when particular circumstances apply, the King may, out of regard for fundamental national interests, issue further provisions on the duty to report in addition to those contained in section 19 and regulations issued under section 20.

II. Considerations of cases by the court

Section 131. *Effect of the Dispute Act*

The Dispute Act applies unless otherwise provided by provisions issued in or in accordance with this Act.

Section 132. *Time limits for instituting proceedings and case preparation*

Proceedings concerning the validity of an administrative decision under this chapter, or claims for compensation as a result of the decision, may not be instituted unless the party has made use of his or her right to appeal the validity of the administrative decision and the appeal has been decided on by the highest available appeal body. Section 27 b, second sentence, of the Public Administration Act does not apply.

Administrative decisions made on the grounds of fundamental national interests or foreign policy considerations under the provisions of this chapter must be brought before the district court within one month of the date on which notification of the administrative decision reached the party.

The time limit may be extended in the event of failure to observe the time limit under the second paragraph if

- (a) information is submitted on significant factual circumstances that were unknown or had not arisen at the time the case was decided, and the foreign national brings the case before the court as soon as possible after the information becomes known, or

- (b) a binding decision by an international court or other similar circumstance indicate that the administrative decision may have been based on incorrect application of international law.

Section 133. *Appointment of a special advocate*

As a condition for the submission of evidence concerning circumstances that may otherwise be kept secret in the interests of national security or relations with a foreign state, see section 22-1 (1) and (2) of the Dispute Act, the King may decide that the information shall only be disclosed to a special advocate appointed for the foreign national. The same applies when the courts are considering cases relating to coercive measures imposed on the basis of fundamental national interests; see section 130.

The special advocate shall be appointed by the court as soon as possible after a decision mentioned in the first paragraph has been made, and shall be remunerated by the State in accordance with the rules in the Legal Aid Act. This applies even if the foreign national has not been granted free conduct of the case, and without a means test being carried out.

The same special advocate shall be appointed for all stages of the case, unless special grounds indicate otherwise.

The King may issue regulations containing further provisions on who may be appointed as a special advocate, including on security clearance requirements.

Section 134. *Role of the special advocate*

If a special advocate has been appointed for a foreign national, the special advocate shall be notified of the information and evidence that will be presented by consent under section 22-1 (2) of the Dispute Act, see also section 133, first paragraph, and shall safeguard the interests of the foreign national in connection with the court's consideration of these. The court decides the means by which the special advocate is to be granted access to the classified material.

The special advocate shall be notified of all court hearings held in the case, and has the right to be present throughout a court hearing.

The special advocate shall keep confidential the content of information mentioned in the first paragraph, what is revealed when the information is examined and the part of the court's judgment that refers to the information. The duty of secrecy also applies after the special advocate has completed the assignment.

The King may issue regulations containing further provisions.

Section 135. *Examination of information as mentioned in section 22-1(1) of the Dispute Act*

No witnesses other than those to whom the King has consented may be summoned on the basis of information as mentioned in section 22-1(1) of the Dispute Act; see section 133, first paragraph, of the Immigration Act.

The foreign national and his or her ordinary legal counsel shall not participate in the part of the case where information as mentioned in the first paragraph is examined. Such information shall only be disclosed to the court and the special advocate.

If the court finds that the conditions in section 22-1(1) of the Dispute Act are not satisfied, the court may, at the request of the special advocate or on its own initiative, decide to grant the foreign national access to the information. In such cases, the King may decide that the information shall not be used as evidence in the case. No person who has had access to the information concerned may continue to serve as a judge in the case.

Section 136. *Communication between the special advocate, the foreign national and his or her ordinary legal counsel*

After the special advocate has been given access to the information mentioned in section 133, first paragraph, he or she may not discuss the case orally or in writing with the foreign national or his or her ordinary legal counsel, or make statements at court hearings attended by the foreign national or his or her ordinary legal counsel. However, the special advocate may receive written enquiries.

The King may issue regulations containing further provisions on communication between the special advocate and the foreign national and his or her ordinary legal counsel. The King may also issue regulations containing provisions on the special advocate's right to be involved in the case in question at a later date.

Section 137. *Other provisions on the court's consideration of the case*

Consideration of the case shall be given priority and accelerated as much as possible.

The court may not include a deputy judge or lay judges. Section 9-12(1) and section 29-17 of the Dispute Act do not apply.

Section 138. *Decisions of the court*

The court pronounces a judgment after the party and the special advocate have had the opportunity to make statements.

The decision of the court under section 135, third paragraph, is issued in the form of a ruling. The special advocate or the State may appeal the ruling within two weeks.

The foreign national and his or her legal counsel are not entitled to have access to the part of the court's decision that contains information as mentioned in section 133, first paragraph.

Chapter 15 Concluding provisions

Section 139. *Regulations under the Act*

In addition to regulations as mentioned in the individual sections, the King may issue regulations containing further provisions on implementation of the Act.

Section 140. *Entry into force and transitional provisions*

This Act enters into force as of the date decided by the King. The King may give effect to the individual provisions at different times. The Act of 24 June 1988 No. 64 relating to the admission of foreign nationals into the realm and their stay there shall be repealed as of the date the Act enters into force. The King may issue regulations containing transitional provisions.

