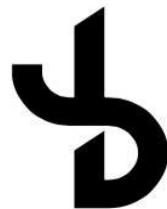


FAMILY IMMIGRATION WITH CHILDREN AND INDEPENDENT RESIDENCE PERMITS

Brochure on immigration law



Jussbuss

Family immigration with children and independent residence permits – a brochure on immigration law

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Introduction

This brochure has been published by the legal aid organization Jussbuss. It was last updated in the autumn of 2020.

The brochure provides an overview of what you can do if you are leaving your partner or spouse with whom you have had family immigration.

The brochure primarily applies to third-country nationals who have received family immigration in accordance with third-country rules. If you are in Norway on family immigration with an EU/EEA citizen, or you yourself are an EU/EEA citizen, other rules apply to you.

If you are a foreigner who received a residence permit through family immigration to live in Norway with your cohabitant or spouse, you must live in the same house as your cohabitant or spouse. If you no longer want to be in a relationship with your partner and want to move, you will need to apply for a different type of residence permit.

If you move from your partner without applying for a new residence permit, you no longer have a residence permit. It is illegal to stay in Norway without a residence permit and this can sometimes lead to expulsion. Expulsion means that you have to leave the country and cannot return until several years have passed.

This brochure has information about which options you have if you and your partner separate, and you still want to live in Norway. There are several different residence permits which you may be entitled to if you apply and meet the requirements.

In this brochure, we will first look at the rules that apply to you **if you have children in Norway**. In some cases, you can apply for a new residence permit to live with, or spend time with, your child. You can find further information about this option in **part 1** of the brochure.

If you do not have children in Norway, there are other types of residence permits you can apply for. If you have been admitted to a school or a university in Norway, or if you have a job in Norway, you may be eligible for a residence permit on that basis. If you have lived in Norway for at least three years, you may also be able to obtain a permanent residence permit or Norwegian citizenship. You can find further information about these options in **part 2** of the brochure. If you have children in Norway you can also apply for such permits if you wish.

The rules for residence permits may change. You can check www.udi.no (The Norwegian Immigration Authorities' website) for updated information. On the same website you will find additional information about the rules.

We recommend that you contact Jussbuss as soon as possible if your application for a residence permit has been rejected, your residence permit has been revoked or if you have been expelled. We can assess your case and help you figure out what you should write in a possible appeal.

Contact information for public bodies and other organizations that can help you, can be found at the back of the brochure.

Understanding key phrases

Before we look at the rules, we will explain some of the words we use a lot in this brochure. You can also contact Jussbuss if there is something you do not understand.

Residence permit: A permit that gives you the right to live in Norway. The permit can be temporary (i.e. a limited period, for example three years) or permanent (unlimited period).

Applicant: The person who wishes to obtain a residence permit.

Reference person: The family member who has a residence permit or citizenship in Norway, i.e. the person with whom the applicant wishes to live with or have contact with. In part 1 of the brochure, your reference person will be your child.

Children: Adopted or biological child under 18 years of age.

Partner: A cohabitant or spouse.

Requirements: Conditions that must be met for something else to happen. An example of a requirement is that the child you want family immigration with must be under 18 years of age.

Parental responsibility: Having parental responsibility means that you have both the responsibility to provide care, and to make decisions for the child. It is possible that you have joint parental responsibility with the other parent, i.e. that you share parental responsibility. If you are unsure of whether you have parental responsibility for your child either alone or with the other parent, you can contact Skatteetaten (The Norwegian Tax Administration). Skatteetaten can also give you written confirmation that you have parental responsibility, which you must send together with your application.

Access right: The right to spend time with your child a certain number of hours a year without living permanently with the child.

Contact visit agreement: An agreement you have with your child's other parent, that gives you the right to be with your child a certain number of times during a year. In most cases, the UDI require that you spend time with the child about as frequent as one afternoon per week, every other weekend, fourteen days during the summer holidays, and during Christmas or Easter. This will on average be about 100 hours a month. A family counselling office can help parents make contact visit arrangements.

Decision: Response to the application. The application will either be granted (positive answer) or rejected.

Appeal: If your application is rejected, which means that the UDI or the UNE does not grant you a residence permit, you have the right to appeal. If you appeal, the UDI and/or the UNE will look at your case again. You only have the right to appeal once. You usually have three weeks to appeal.

The immigration authorities: Norwegian Foreign Service missions (embassies and consulates), the police, the Norwegian Directorate of Immigration (UDI) and the Immigration Appeals Board (UNE).

Part 1 - Residence permit with children

If you have a child in Norway, you can apply for a residence permit to continue living permanently with your child or to continue the contact, if the cohabitation or marriage with your partner ends. This is a type of family immigration permit, but where your child is the reference person, not your partner.

1.1 Residence permit to live with a child with Norwegian citizenship

You can obtain a new permit to continue living with your child if the child is a Norwegian citizen. If you meet the requirements, you are entitled to this type of permit. You can obtain this type of permit even if you have never had a permit in Norway before.

The requirements are that you:

- have a child with Norwegian citizenship who is going to live in Norway
- have a child under 18 years of age
- live permanently with your child
- have parental responsibility for the child
- are not living with, or married to the other parent of the child

This permit is only possible with a child who has Norwegian citizenship, with whom you live permanently. If the child has shared residence, i.e. the child lives with you half the time, and half the time with the other parent, you are considered to live permanently with your child.

The reason why it is a requirement that you are not married to, or do not live with the other parent of the child is because the UDI then require you to apply for family immigration with your cohabitant or spouse instead of with the child. The cohabitant or spouse will then be the reference person.

The UDI may reject your application for a residence permit with your child, if they believe that you will be reunited with the other parent of the child and that parent already has a cohabitant or spouse.

1.2 Residence permit to continue living with your child in Norway

If you lose your other residence permit and live permanently with your child in Norway, you may be entitled to a residence permit to continue living with the child.

In the event of a separation or divorce, the child may want to move with the person who loses the residence permit because of the breakup. If the person is not granted a residence permit and is forced to leave Norway, this will result in the other parent and the child being separated. To make sure that the child is not separated from either of its parents, the parent without a residence permit can be granted a family immigration permit with the child. It is not possible to obtain this type of permit if you have never had a residence permit in Norway before.

The requirements are that you:

- have a child in Norway who is under 18 years of age
- live permanently with the child and have parental responsibility for the child
- have resided in Norway with a permit the last year before you apply
- are not living with, or married to the other parent of the child

There are also some requirements for the other parent of the child. The other parent must:

- have or obtain a temporary residence permit that also gives the right to a permanent residence permit or have Norwegian, Swedish, Danish, Finnish or Icelandic citizenship
- have the right of access to the child and have frequent contact with the child

If your child also loses his or her residence permit because you who have parental responsibility have lost your residence permit, you must both apply for this type of permit.

1.3 Residence permit to continue contact with the child in Norway

It is possible to obtain a new permit to continue to have contact with your child, without living with it. The difference between this permit and the permit in section 1.1, is that there is no requirement that the child must be a Norwegian citizen. Unlike the permit in section 1.2, you must not live permanently with the child either.

Such permits are granted to ensure that you as a parent are not separated from your child. If you obtain this type of permit, it is to be able to *continue* to have contact with your child. This means that you cannot obtain this type of permit if you have never had a residence permit in Norway before.

The requirements are that you:

- have a child in Norway who is under 18 years of age
- have a child that has or will obtain a temporary residence permit which also gives the right to a permanent residence permit, or has Norwegian, Swedish, Danish, Finnish or Icelandic citizenship
- have resided in Norway with a permit in the last year before you apply
- do not live permanently with the child. The child must live permanently with the other parent
- have parental responsibility for the child
- do not live with or are married to the other parent of the child
- have access rights with the child and have frequent contact with the child

You must document in writing that you have access rights with the child with a contract visit agreement, court decision or another type of written document that shows that you have the right to visitation. It is also important that you have actual contact with your child.

The contact must be at least as frequent as one afternoon per week, every other weekend, fourteen days during the summer holidays, and Christmas or Easter. This will on average be about 100 hours a month.

The UDI can in some cases grant you a residence permit even if you have not had contact as frequently with your child as mentioned above, or have not had any contact at all. In that case you must present a plan that shows that you will spend more time with your child one year ahead. The contact should increase to the amount of 100 hours a month by the end of the one-year plan.

You should also point out how old your child is and how much time you have actually spent with the child. You should also explain why you have not been together, for example due to long distances.

1.4 Residence permit to spend time with children in Norway

It is possible to obtain a residence permit with a child who moves to Norway with the other parent. This residence permit is an option if you live abroad and have never had a residence permit in Norway, but want to spend time with the child in Norway.

The requirements are that you:

- must have a child with Norwegian citizenship who lives in Norway. The child is under 18 years of age and lives permanently with the other parent in Norway
- have lived with or spent time with the child abroad in the past year
- have access right to visit and spend time with the child in Norway
- can prove that you will have contact with the child in Norway
- are not living with or married to the other parent of the child
- apply for a residence permit within three months after the child has moved to Norway

What distinguishes this permit from those mentioned above is that you must have lived with the child or spent time with the child abroad in the last year. The contact must have been at least as frequent as one afternoon per week, every other weekend, fourteen days during the summer holidays, and Christmas or Easter. This will on average be about 100 hours per month.

If you have not spent this much time with the child, the UDI may still grant you a permit. The amount and length of previous contact with your child, your child's age, and the reasons why you have not had as much contact with your child are things that may be important for the assessment. If it has been difficult to spend time with your child for short periods, due to for instance large geographical distances, it is important to explain and document this in the application. You should also attach a written plan proving that you will spend more time with the child in the near future.

It is also a requirement that you can document that you have access rights to the child in Norway. You must show that you will have contact with the child. This is the purpose of the residence permit, and the UDI therefore require you to document it. A contact visit agreement with the other parent is an example of documentation that should be submitted with the application. The agreement should give you the right to spend time with your child for about 100 hours per month.

1.5 Additional requirements

There are also some additional requirements that must be fulfilled in order to obtain a residence permit with your child.

To obtain a permit with another family member as your reference person, there is usually a requirement that the reference person earns money or has other income. To get family immigration with your child as a reference person, there is no income requirement.

You must have a passport or other documentation proving your identity.

You must not be subject to prohibition against entry to Norway or Schengen. If you have been expelled from Norway or another country in the Schengen area previously, you may be prohibited from entering Norway for a certain period of time. If this applies to you, you cannot obtain a new residence permit before the prohibition against entry is expired. It is possible to apply to have the prohibition against entry lifted. If you have more questions about the consequences of expulsion, you can look at the brochure on expulsion at our website, or contact us.

You must submit the application at the correct location. If you are staying in Norway with a valid resident permit, you can register your application on the immigration authorities' website (www.udi.no) and book an appointment with the police to deliver all the necessary documents. If you are abroad, you must submit the application to an embassy or foreign service mission. Your citizenship, or where you have legally resided the last six months, determines where you can submit your application. Check the UDI's website to find the correct location. Your application may be rejected if it is not submitted in the right place.

Part 2 – Residence permit if you do not have children

Part 1 of the brochure explains the rules on how to obtain a residence permit to live with or spend time with a child living in Norway. If you do not have children and are leaving your partner, there may be other options for you.

We call the alternatives we mention in this part of the brochure an **independent residence permit**. They may also be relevant if you have children in Norway, but wish to apply for a residence permit that is not dependent on your child or other family members.

The rules for the various other residence permits are not reviewed as carefully as in part 1, because there are separate, more detailed brochures on our website about these types of permits. For more details about study permits, work permits, permanent residence permits, and citizenship go to <https://foreninger.uio.no/jussbuss/english/legal-areas/immigration-law/>.

2.1 Death or abuse

You can obtain a new residence permit if you have been in Norway on family immigration with a partner, spouse or cohabitant and:

- your partner dies, or
 - you and/or your children have been abused by your partner, spouse or cohabitant.
- If your partner has abused you or your children, you may be able to obtain a new independent permit.

Abuse from your in-laws or other member of your household can also lead to you being able to obtain this type of residence permit.

Being abused means that you, or your children, have experienced threats, coercion or violence. It can be physical, emotional and/or sexual.

It is not required that you have reported the person who abuses you to the police, nor that you have proof that the abuse has taken place.

You may be granted a new permit if you are afraid of returning to your home country because you are separated or divorced. This permit can be obtained if the UDI believe it is dangerous for you to return to the home country due to separation or divorce. You must pass a high threshold in order to be granted this permit.

Contact Jussbuss or JURK (Legal Advice for Women) if you are abused in the relationship or are wondering if this permit may be an option for you. If you or your children are at risk of injury, you should contact the police or a crisis center.

2.1 Derived refugee status

If you have been granted derived refugee status, you can in some cases move away from your spouse without losing your residence permit. Derived refugee status is something you may have if you came to Norway on family immigration, and your reference person had protection/asylum in Norway. You can contact the UDI if you are unsure whether you have derived refugee status or not, or if you want to know whether your residence permit allows you to move away from your partner without consequences or not.

2.2 Study permit

If you have been admitted to an educational institution in Norway, you may be entitled to a study permit. This means that you can stay in Norway to study. There are also requirements for certain language skills, that you have attended high school in your home country, that you have enough money to support yourself while you are here, and several other rules that you can read more about in the brochure on our website.

2.3 Work permit

A work permit may be an option for you if you are a skilled worker and have been offered a job relevant to your education in Norway. To obtain a work permit, there are also requirements about how much you must work, how much you must earn and several other rules that you can read more about in the brochure about work permits on our website.

2.4 Permanent residence permit

If you have lived in Norway for at least three years with a residence permit, completed Norwegian language training in accordance with the Introduction Act, earned enough money and have not been punished for committing a crime, you can apply for a permanent residence permit.

If you receive a permanent residence permit, you do not need to renew your permit and you are no longer dependent on continuing to live with your partner in order to stay in Norway. There are also a number of other conditions which must be met in order to obtain a permanent residence permit. You can contact Jussbuss for more information, or read about in the separate brochure on our website.

2.5 Citizenship

If you meet the requirements for obtaining Norwegian citizenship, you can apply for this instead of the other residence permits as mentioned above. In order to obtain citizenship, the requirements for a permanent residence permit must be met and you

must have lived in Norway for several years with a permit, in addition to other requirements.

Like a permanent residence permit, you do not need to renew your permit if you obtain Norwegian citizenship and you do not need to continue living with your partner to be able to stay in Norway. See the brochure on our website or contact us for more information on how to obtain Norwegian citizenship.

3 What happens if you do not apply for a new permit?

If you choose to move from your partner without applying for a new permit, the UDI can revoke your residence permit. This means that you will no longer have a residence permit from the time you and your partner moved apart. After revoking your residence permit, they can also choose to expel you. This means that you must leave Norway and not return for several years.

4 Contact information

The Norwegian Immigration Authorities/UDI: You can find a lot of information on their website www.udi.no or by calling their telephone number: 23 35 16 00. The UDI has a duty to provide guidance, which means that they are obliged to answer you or give you information about what you are wondering about. You do not have to have a case with the UDI for them to help you. You can call anonymously, i.e. without saying who you are. If you do not understand the answers you get from the UDI, or are a little worried about calling the UDI, you can call Jussbuss first.

Jussbuss: You can contact Jussbuss on the telephone number 22 84 29 00, or visit us at Skippergata 23 in Oslo, on the 3rd floor. We accept new cases on Mondays from 17.00 to 20.00 and Tuesdays from 10.00 to 15.00. You can also register your case on our website. You will find more information and many brochures on our website, www.jussbuss.no. The help you get from Jussbuss is free.

JURK: JURK provides free legal advice to women and they can be contacted on the telephone number 22 84 29 50, or visit them at Skippergata 23 in Oslo. They have premises on the fourth floor, above Jussbuss. Check out www.jurk.no for more information.

SEIF: SEIF provides free help to immigrants and refugees, and can in many cases help you with an application. SEIF has several offices around Norway. You can find contact information for SEIF on their website.
<https://seifnorge.wordpress.com/kontakt-oss/>

The Tax Administration/Skatteetaten: The Tax Administration can, among other things, send you written documentation proving you have parental responsibility for your child. Call 800 80 000, or +47 22 07 70 00 if you are calling from abroad. You can also chat with the Tax Administration online at www.skatteetaten.no. The tax authorities are obliged to provide guidance.



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Skippergata 23, 0154 Oslo

Case submission:

If you have a new case, you may contact us by phone or personal attendance at our office, on the following time every week:

Monday 5 p.m. to 8 p.m. and Tuesday 10 a.m. to 3 p.m.

Phone: (+47) 22 84 29 00

You can also submit a new case electronically by filling out the form on our website:

<https://foreninger.uio.no/jussbuss/english/electronic-case-acceptance-portal/index.html>