

Aliens Act (2005:716)

29 September 2005

With amendments up to and including Swedish Code of Statutes 2006:220

(Enters into force: 31 March 2006)

(...)

Chapter 5. Residence permits

Persons who are entitled to a residence permit as being in need of protection

Section 1

Refugees and persons otherwise in need of protection who are in Sweden are entitled to a residence permit.

A residence permit may, however, be refused to

1. a refugee under Chapter 4, Section 1 if there are exceptional grounds for not granting a residence permit in view of what is known about the alien's previous activities or with regard to national security,
2. a person otherwise in need of protection under Chapter 4, Section 2, first paragraph, points 2 and 3, if in view of his or her criminal activities there are special grounds for not granting the alien a residence permit or if there are exceptional grounds for not granting such a permit in view of what is known about the alien's previous activities or with regard to national security,
3. an asylum seeker who has entered Sweden from Denmark, Finland, Iceland or Norway and can be returned to any of these countries in accordance with an agreement between Sweden and that country, unless it is obvious that the alien will not be granted a residence permit there,
4. an asylum seeker who has otherwise, before coming to Sweden, stayed in a country other than the country of origin and is protected there against persecution and against being sent to the country of origin or to another country where he or she does not have corresponding protection,
5. an asylum seeker who has special ties to another country and is protected there as specified in point 4 or
6. an asylum seeker who can be sent to Denmark under the Convention of 15 June 1990 determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (the Dublin Convention) and is protected as specified in point 4.

The Dublin Regulation contains provisions that are applicable in relation to the Member States of the European Union and in relation to Iceland and Norway.

Section 2

A residence permit shall be given to an alien who has been received in Sweden within the framework of a decision that the Government has issued on the transfer to Sweden of persons in need of protection (resettlement).

Section 2a

A permanent residence permit shall be given to a person who has been granted long-term resident status in Sweden.

Residence permits on the grounds of ties to Sweden

Section 3

Unless otherwise provided in Sections 17–17b, a residence permit shall be given to

1. an alien who is a spouse or cohabiting partner of someone who is resident in or has been granted a residence permit to settle in Sweden,
2. a child who is an alien, is unmarried and
 - a) has a parent who is resident in or has been granted a residence permit to settle in Sweden or
 - b) has a parent who is married to or cohabiting partner of someone who is resident in or has been granted a residence permit to settle in Sweden,
3. a child who is an alien, is unmarried and has been adopted or is intended for adoption by someone who at the time of the adoption decision was and who still is resident in or has been granted a residence permit to settle in Sweden, if the child is not covered by point 2 and if the adoption decision
 - has been issued or is intended to be issued by a Swedish court,
 - is valid in Sweden under the Act on International Legal Relations concerning Adoption (1971:796) or
 - is valid in Sweden under the Act consequent on Sweden's Accession to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (1997:191) and
4. an alien who is a parent of an unmarried alien child who is a refugee or a person otherwise in need of protection, if the child arrived in Sweden separately from both parents or from another adult person who may be regarded as having taken the place of the parents, or if the child has been left alone after arrival.

When an application for a residence permit is based on a decision on adoption issued by a Swedish court, the ties that have arisen as a result of this decision shall be accepted in the residence permit case.

A residence permit under this Section shall be valid for at least one year. A residence permit granted to an unmarried child under the first paragraph, point 2b shall be valid for the same time as the parent's residence permit.

Section 3a

Unless otherwise provided in Section 17, second paragraph, a residence permit may be given to

1. an alien who intends to marry or enter into a cohabitee relationship with a person who is resident in or who has been granted a residence permit to settle in Sweden, if the relationship appears to be serious and there are no special grounds not to give a permit,
2. an alien who in some way other than those referred to in Section 3 or in this Section is a close relative of someone who is resident in or who has been granted a residence permit to settle in Sweden, if he or she has been a member of the same household as that person and there exists a special relationship of dependence between the relatives that already existed in the country of origin,
3. an alien who is to exercise access rights that are not of limited scope to a child that is resident in Sweden and
4. an alien who is of Swedish origin or has lived in Sweden on a residence permit for a long time.

If an alien has been given a residence permit under the first paragraph, point 1, a residence permit for the same period shall be given to unmarried children of the alien.

When there are exceptional grounds a residence permit may also be granted to an alien in cases other than those referred to in the first and second paragraphs if the alien

1. has been adopted in Sweden as an adult,
2. is a relative of an alien who is a refugee or a person otherwise in need of protection or
3. has some other special tie with Sweden.

Residence permits on the basis of Sweden's international commitments

Section 4

If an international body that is competent to examine complaints from individuals has found that a refusal-of-entry or expulsion order in a particular case is contrary to a Swedish commitment under a convention, a residence permit shall be granted to the person covered by the order, unless there are exceptional grounds against granting a residence permit.

Residence permits on grounds of work or other means of support

Section 5

A permanent residence permit may be granted to an alien who has been offered permanent employment in the country, if the alien has special qualifications and the need for labour cannot be satisfied by jobseekers in the country or by recruitment from another country in the European Economic Area (EEA) or Switzerland.

A residence permit may be granted to an alien with means of support other than employment.

Residence permits on grounds of exceptionally distressing circumstances

Section 6

If a residence permit cannot be awarded on other grounds, a permit may be granted to an alien if on an overall assessment of the alien's situation there are found to be such exceptionally distressing circumstances that he or she should be allowed to stay in Sweden. In making this assessment, particular attention shall be paid to the alien's state of health, his or her adaptation to Sweden and his or her situation in the country of origin.

Children may be granted residence permits under this Section even if the circumstances that come to light do not have the same seriousness and weight that is required for a permit to be granted to adults.

Temporary residence permits

Section 7

A residence permit shall be for a limited time if, in view of the alien's expected way of life, there is doubt as to whether a residence permit should be granted.

Section 8

A residence permit that is given to a spouse under Section 3, first paragraph, point 1 shall be for a limited time on the occasion of the first decision, if the spouses have not lived together on a permanent basis abroad. This also applies when a residence permit in such a case is granted to the alien's child or children.

A residence permit that is granted under Section 3a, first paragraph, point 1 or second paragraph shall be for a limited time on the occasion of the first decision.

Section 9

A residence permit that is granted pursuant to Section 6 on grounds of sickness shall be for a limited time if the alien's sickness or need of care in Sweden is of a temporary nature.

Section 10

A temporary residence permit may be granted to an alien who wishes to stay in this country for work, studies or a visit.

Section 11

A temporary residence permit may be granted if there is an impediment, which is not of a lasting nature, to enforcement of a refusal-of-entry or expulsion order.

Section 12

A temporary residence permit may be granted to an alien who needs care under the Care of Young Persons (Special Provisions) Act (1990:52).

Section 13

A temporary residence permit may be granted to a child or a man, if the presence of the child or man in Sweden is necessary in order to carry out a paternity investigation.

Section 14

If a temporary residence permit has been granted to a child under Section 12 or 13, a temporary residence permit may also be granted to the child's custodian.

Section 15

A temporary residence permit may be granted to an alien who is staying here upon application from the person in charge of a preliminary investigation, if this is necessary in order to be able to carry out a preliminary investigation or a main hearing in a criminal case.

Prolonged residence permit

Section 16

An alien who, pursuant to Section 8, has been granted a temporary residence permit on grounds of family ties may only be granted a new temporary or permanent residence permit on these grounds if the relationship continues.

An alien who has family ties under Section 3, first paragraph, point 1 or 2b or Section 3a, first paragraph, point 1 or second paragraph and who has held a temporary residence permit for two years may be given a permanent residence permit. If there are special grounds, a permanent residence permit may be given before the end of the two-year period.

If a relationship has ended, a residence permit may still be granted if

1. the alien has special ties to Sweden,
2. the relationship has ended primarily because in the relationship the alien or the alien's child has been subjected to violence or some other serious violation of their liberty or peace or
3. there are other strong grounds for prolonging the alien's residence permit.

Right of a third-country national to obtain a new residence permit

Section 16a

A third-country national who has long-term resident status in Sweden and has lost his or her residence permit because of a stay outside Sweden shall be given a new residence permit if he or she returns to Sweden to take up residence here.

Special grounds against granting a residence permit

Section 17

When examining an application for a residence permit under this Chapter, particular attention shall be paid, except in cases referred to in Section 1, 2, 3 or 4, to whether the applicant has been guilty of any criminal activity or criminal activity combined with other misconduct. When considering a residence permit under Section 3a, first paragraph, point 1 and second paragraph, particular attention shall be paid to whether it can be assumed that the alien or the alien's child or children will be subjected to violence or some other serious violation of their liberty or peace, if a residence permit were to be granted.

A residence permit under Section 3, first paragraph, point 2 or 3 and Section 3a, second paragraph may be granted only after the parent to whom ties are not cited has also given his or her assent, if that parent shares custody of the child.

A residence permit shall not be granted to a person with long-term resident status in another EU state, or his or her relatives, if that person constitutes a threat to public order and security.

Section 17a

A residence permit may be refused in such cases as are referred to in Section 3, if

1. incorrect information has knowingly been supplied or circumstances have knowingly been suppressed that are of importance for obtaining the residence permit,
2. an alien has been adopted or a marriage entered into or a cohabitee relationship begun exclusively in order to give the alien a right to a residence permit or
3. if the alien constitutes a threat to public order and security.

A residence permit may also be refused in such cases as are referred to in Section 3, first paragraph, point 1 or point 2b, if

1. the spouses or cohabiting partners do not live together or do not intend to live together,
2. the person to whom ties are cited or the alien who has applied for a residence permit is married to or cohabiting with someone else or
3. either of the spouses or cohabiting partners is under 18 years of age.

When assessing whether a residence permit should be refused, account must be taken of the alien's other personal circumstances and family situation.

Section 17b

A residence permit shall be refused in the cases referred to in Section 3, first paragraph, point 1 or point 2b if the person to whom ties are cited is married to another person and is living with that person in Sweden.

The time at which a residence permit application must be made

Section 18

An alien who wants a residence permit in Sweden must have applied for and been granted such a permit before entering the country. An application for a residence permit may not be approved after entry.

However, this does not apply if

1. the alien is entitled to a residence permit here as a refugee or a person otherwise in need of protection under Section 1 or can be granted a residence permit here pursuant to Chapter 21, Section 2, 3 or 4,
2. the alien should be granted a residence permit here pursuant to Section 6,
3. an application for a residence permit concerns extension of a temporary residence permit that has been granted to an alien with family ties pursuant to Section 3, first paragraph, point 1 or 2b or Section 3a, first paragraph, point 1 or second paragraph,
4. the alien can be granted or has a temporary residence permit pursuant to Section 15,
5. the alien has strong ties, as described in Section 3, first paragraph, points 1–4, Section 3a, first paragraph, points 1–3 or second paragraph, to a person who is resident in Sweden and it cannot reasonably be required that the alien travel to another country to submit an application there or
6. there are some other exceptional grounds.

With regard to a residence permit for an alien who is to be refused entry or expelled in accordance with a judgment or order that has become final and non-appealable, the regulations in Chapter 8, Section 14 and Chapter 12, Sections 18–20 apply.

Section 19

A residence permit application that concerns extension of an ongoing visit or some other temporary stay in this country may be approved despite the alien being in Sweden, if there are substantial grounds for extending the period of stay.

Decision-making authorities

Section 20

Decisions on residence permits are issued by the Swedish Migration Board.

Decisions on residence permits may also be issued by the Government Offices.

Section 21

It follows from Chapter 8, Sections 14 and 21 and Chapter 12, Section 20 that the Government and the body that examines appeals against refusal-of-entry and expulsion orders may in certain cases also decide on residence permits.

Authorisations

Section 22

The Government or, by authority of the Government, the Swedish Migration Board may issue regulations empowering other authorities to decide on residence permits.

Section 23

The Government may issue regulations on residence permits for studies or visits.

The Government may issue regulations stating that a residence permit application may be approved if this follows from an agreement with a foreign state.

The Government may issue regulations on when a residence permit may be granted to a thirdcountry national who has long-term resident status in another EU state and to family members of such an alien.

Section 24

The Government may issue regulations on permanent residence permits with regard to a certain category of aliens because they are otherwise in need of protection under Chapter 4, Section 2, first paragraph, point 2 or 3.

Section 25

The Government may issue regulations stating that residence permits may not be granted to persons otherwise in need of protection under Chapter 4, Section 2, first paragraph, point 2 or 3, if this is necessary because limitations have arisen in Sweden's capacity to receive aliens.

The Government must notify the Riksdag of such regulations within three months, by a special written communication.

Section 26

The Government may issue regulations on exceptions to Section 1, second paragraph, point 4, if an alien's ties to Sweden are such that the alien should not be denied examination in this country of his or her application for asylum.

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