



## **Guidelines related to the contraction of marriage and registered partnership concerning Danish residence permits issued on the basis of a marriage or registered partnership with a person living in Denmark (spousal reunification)**

### **Where do you apply for spousal reunification under the Aliens Act?**

If a person wants to be reunited with his or her spouse under the Aliens Act, the foreign spouse must normally obtain a residence permit before entering Denmark. Therefore the application for spousal reunification must be lodged with a Danish mission in the applicant's country of origin. In certain circumstances the applicant may, however, lodge the application from another country than his or her country of origin. If the applicant resides lawfully in Denmark at the time when the application is lodged because he or she is exempt from the visa requirement or holds a visa or a residence permit, the applicant may normally lodge his or her application for spousal reunification during his or her stay in Denmark.

### **Who can be reunited with a spouse under the Aliens Act?**

Under the Aliens Act, it is possible for an alien to obtain a residence permit for Denmark if his or her spouse or registered partner has his or her permanent home in Denmark. In these guidelines only the terms "marriage" and "spouses" will be used; but the same provisions apply to registered partners. The conditions for family reunification of persons who have cohabited regularly for a prolonged period are not described in these guidelines.

A number of conditions must be fulfilled before permission for spousal reunification is granted. These conditions are described in brief below.

Nordic nationals may enter and stay in Denmark without a permit (unless they are subject to an entry prohibition). To Nordic nationals, the spousal reunification provisions of the Aliens Act – and consequently these guidelines – therefore have no practical relevance.

Special rules may also apply if the spouse not living in Denmark is an EU/EEA or a Swiss national. If any such person applies the EU rules on freedom of movement, he or she may obtain a residence permit under the Executive Order on EU/EEA Nationals (Executive Order No. 292 of 28 April 2004 on Residence in Denmark for Aliens comprised by the rules of the European Union or of the Agreement on the European Economic Area), cf. section 6 of the Aliens Act. To these persons, the spousal reunification provisions of the Aliens Act – and consequently these guidelines – therefore have no practical relevance. However, if an EU/EEA or a Swiss national does not apply the EU rules on freedom of movement, the provisions of the Aliens Act on spousal reunification will be of relevance to him or her.

Moreover, special rules apply in cases where the spouse living in Denmark is an EU/EEA or a Swiss national with a residence permit under the Executive Order on EU/EEA Nationals, cf. section 6 of the Aliens Act. The decision on spousal reunification with persons living in Denmark is normally made on the basis of EU law as implemented by the Executive Order on EU/EEA Nationals. The same applies if the spouse living in Denmark is a national of Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic or Hungary and holds a residence permit under section 9 a of the Aliens Act. To such persons, the spousal reunification provisions of the Aliens Act – and consequently these guidelines – therefore have no practical relevance.

## **Conditions of spousal reunification under the Aliens Act**

To be granted spousal reunification in Denmark, a number of conditions must be fulfilled. Most conditions may be deviated from in special circumstances. One of the considerations that are taken into account by the immigration authorities is the regard for family unity.

### *Requirements of the marriage:*

- The marriage must be recognisable under Danish law.
- The spouses must have married voluntarily, that is, there may not be any doubt that both parties have wanted this marriage (*for further details see below*).
- It may not be a marriage of convenience, that is, a marriage whose main purpose is to form the legal basis of a residence permit for one of the spouses (*for further details see below*).

### *Requirements of spouses:*

- The general rule is that both spouses must be at least 24 years old.
- The spouses must cohabit at the same address in Denmark when the residence permit has been issued.
- Unless the spouse living in Denmark is a Danish national and has been so for 28 years, or was born and raised in Denmark, or came to Denmark as a young child and was raised in this country, and has moreover stayed lawfully in Denmark for – in all essentials a consecutive period of – at least 28 years, the general rule is that the spouses' aggregate ties with Denmark must be stronger than their aggregate ties with any other country (*the so-called condition of ties – for further details see below*).
- Both spouses must sign a declaration stating that, to the best of their ability, they will involve themselves actively in the Danish course and the integration into the Danish society of the applicant and any accompanying children.

### *Requirements of the spouse living in Denmark:*

The spouse living in Denmark:

- must be a Danish national or a national of one of the other Nordic countries, be recognised as a refugee in Denmark or have held a permanent residence permit for Denmark for more than the last 3 years;
- must live permanently in the country;
- must, as a general rule, prove that he or she earns so much that he or she is able to maintain his or her foreign spouse (*the so-called condition of maintenance – for further details see below*);
- must, as a general rule, must provide a financial security of DKK 50,000 to cover any future public expenses for assistance granted to the foreign spouse under the Act on an Active Social Policy or the Integration Act. The security is subject to rate adjustment and amounts to DKK 54,158 as of 1 January 2005;
- may not have received any public assistance under the Aliens Act or the Act on an Active Social Policy for a period of 1 year before the application for a residence permit for the foreign spouse is lodged and ending when the application is granted;
- must, as a general rule, have his or her own dwelling of a reasonable size (*the so-called housing condition – for further details see below*).
- may not have been sentenced by final judgment to imprisonment or other criminal sanction involving or allowing deprivation of liberty for violent assault on a spouse or cohabitant within a period of 10 years prior to the date of the decision.

#### *Other conditions:*

- No application for family reunification with the applicant spouse's accompanying child may have been refused with reference to the circumstance that within the last 10 years the person living in Denmark, or his or her spouse or cohabitant, has been sentenced to imprisonment or other criminal sanction involving or allowing deprivation of liberty for violent assault on under-age children.

### **Marriages not desired by the spouses, in detail**

Unless particular reasons make it appropriate, no residence permit will be issued to a foreign spouse if it may be considered doubtful whether the spouses themselves wanted to marry each other.

Previous reunifications with spouses in Denmark in a spouse's close family are an indication that the marriage was not contracted at the parties' own desire. Close family in this context means parents and siblings. However, previous reunifications of spouses in the parties' close families do not as such imply that a marriage will be considered contracted against a person's own desire. Together with all other information in the case, the information on previous reunifications of spouses will be taken into account when the immigration authorities assess whether they consider it doubtful that the marriage was contracted at both parties' own desire.

If two close relatives or otherwise closely related parties – such as cousins – marry each other, it is generally deemed to be doubtful whether both parties wanted to marry each other

(rule of presumption). The group of persons considered close relatives or otherwise closely related parties in this respect are relatives in the direct line of ascent or descent of the spouses' or cohabitants' grandparents or grandparents' siblings. This group includes the children of grandparents (uncles and aunts), the grandchildren of grandparents (first cousins) and the great-grandchildren of grandparents (children of first cousins (first cousins once removed)). The group also includes the children of grandparents' siblings (parents' first cousins (first cousins once removed)) and the grandchildren of grandparents' siblings (children of parents' first cousins (second cousins)).

If the spouses can prove that the marriage was contracted at both parties' own desire, spousal reunification cannot be refused with reference to the rule of presumption.

### **Marriages of convenience, in detail**

A residence permit will not be issued to a foreign spouse if there are definite reasons for assuming that the decisive purpose of the marriage is to obtain a residence permit (marriage of convenience).

When assessing whether a marriage is a marriage of convenience, the immigration authorities consider all circumstances of the case, including:

- whether the couple lives together at a shared residence;
- whether the parties speak the same language;
- whether there is a great difference in age between the parties;
- to what extent the parties had a personal knowledge of each other before their marriage, and
- the parties' former marriages.

### **The condition of ties, in detail**

The condition of ties means that normally a residence permit will only be issued to a foreign spouse if the parties' aggregate ties with Denmark are stronger than their aggregate ties with another country. If the parties' aggregate ties with another country are just as strong as or stronger than their aggregate ties with Denmark, a residence permit will usually be refused.

When assessing whether the parties' aggregate ties with Denmark are stronger than their aggregate ties with another country, the immigration authorities must include all information in the case that may illustrate the parties' overall personal and family situation. The immigration authorities may include elements such as:

- the length and nature of the parties' stays in the respective countries;
- the parties' family ties with Denmark seen in relation to the parties' family ties with the intended spouse's country of origin;
- whether the person living in Denmark has custody or access to under-age children in Denmark;

- the parties' language skills; and
- the parties' educational or employment ties with Denmark.

Danish citizens who have been Danish nationals for at least 28 years are exempt from the condition of ties in case of spousal reunification, no matter whether they obtained Danish nationality by birth or by subsequent naturalisation, and no matter whether they have another nationality in addition to their Danish nationality. If the person has been a Danish national for several periods interrupted by the nationality of another country, the aggregate period of the person's Danish nationality will be used as a basis for calculating whether the person has been a Danish national for 28 years.

If the spouse living in Denmark was adopted from abroad before his or her sixth birthday and acquired Danish nationality not later than at his or her adoption, such person will be considered to have been a Danish national from birth and be exempt from the condition of ties.

Persons who were born and raised in Denmark or came to the country as young children and were raised in Denmark are also exempt from the condition of ties, provided that they have stayed lawfully in Denmark for – in all essentials a consecutive period of – at least 28 years. The length of the resident person's residence in Denmark is reckoned from the day when the person was first granted lawful residence in Denmark. Lawful residence in this context means residence pursuant to section 1, 2 or 5(2) of the Aliens Act or pursuant to a residence permit issued under sections 6 to 9 f of the Aliens Act, or corresponding residence pursuant to former immigration legislation.

## **The condition of maintenance, in detail**

The condition of maintenance implies that normally the spouse living in Denmark must prove that he or she earns enough to maintain the foreign spouse.

The immigration authorities may request the local council of the person living in Denmark to assess whether the spouse in Denmark is actually able to maintain the foreign spouse. If the local council believes that he or she cannot, the immigration authorities will normally not issue a residence permit.

To fulfil the condition of maintenance, the income of the resident spouse must correspond at least to the amount that would otherwise have been payable as starting assistance to the resident spouse himself/herself, the relatives whom he or she has a duty to maintain and the foreign spouse under the Act on an Active Social Policy.

Some of the figures of the calculation of maintenance ability are:

- income from employment;
- positive income from self-employment;
- public and private pension benefits; and
- sickness and maternity benefits in certain cases.

Starting assistance and cash assistance pursuant to the Act on an Active Social Policy and benefits pursuant to the Act on Unemployment Insurance are not considered income from employment.

As of 1 January 2005, the starting assistance rates are:

- (1) DKK 4,583 for married and cohabiting persons who are at least 25 years old;
- (2) DKK 5,527 for singles who are at least 25 years old;
- (3) DKK 4,583 for persons under the age of 25 who do not live with one or both of their parents; and
- (4) DKK 2,278 for persons under the age of 25 who live with one or both of their parents.

A person who receives starting assistance is eligible for a maintenance supplement if he or she is subject to a duty to maintain a child under the age of 18. As of 1 January 2005, the monthly maintenance supplement amounts to DKK 1,382 for single parents and DKK 1,146 for married and cohabiting parents. Not more than one maintenance supplement will be paid out for each child when the child lives together with both parents. Not more than two maintenance supplements will be paid out to each family.

### **The housing condition, in detail**

The housing condition means that the resident spouse must prove that he or she has his or her own dwelling of a reasonable size.

This means that the resident spouse must have his or her own dwelling of a reasonable size – as the home owner, owner of a share of a co-operative housing society, tenant or otherwise. In other words, the person must have a right to use a dwelling or part of a dwelling. The housing condition is not fulfilled if the person only sublets or borrows a dwelling.

The dwelling also has to be of a reasonable size. This means that, when the spouses have been reunited, the dwelling may accommodate not more than two occupants per bedroom or living room, or the dwelling must have an area of at least 20 square metres per occupant.

If the immigration authorities impose a housing condition, they may request the local council of the resident spouse to issue an opinion on that person's housing situation.

### **Useful addresses**

***Danish Immigration Service***  
Ryesgade 53

DK-2100 Copenhagen Ø  
Tel.: +45 35 36 66 00  
Fax: +45 35 36 19 16  
E-mail: [udlst@udlst.dk](mailto:udlst@udlst.dk)  
Website: [www.udlst.dk](http://www.udlst.dk)

Telephone inquiries: Daily between 9.00 and 12.00

***Public Inquiries***

Open for personal inquiries daily between 8.30 and 12.00 and Thursdays between 15.30 and 17.30.

***Danish Ministry of Refugee, Integration and Immigration Affairs***

Holbergsgade 6  
DK-1057 Copenhagen K  
Tel.: +45 33 92 33 80  
Fax: +45 33 11 12 39  
E-mail: [inm@inm.dk](mailto:inm@inm.dk)  
Website: [www.inm.dk](http://www.inm.dk)

Telephone inquiries: Daily between 9.00 and 12.00

The website of the Danish Ministry of Foreign Affairs [www.um.dk](http://www.um.dk) has a list of Danish embassies abroad.

These guidelines have been issued by the Danish Ministry of Refugee, Integration and Immigration Affairs and are effective as from 1 July 2005.

**Excerpts from the Aliens Act**

9.(1) Upon application, a residence permit may be issued to: -

- (i) an alien over the age of 24 who cohabits at a shared residence, either in marriage or in regular cohabitation of prolonged duration, with a person permanently resident in Denmark over the age of 24 who: -
  - (a) is a Danish national;
  - (b) is a national of one of the other Nordic countries;
  - (c) holds a residence permit under section 7 or 8; or
  - (d) has held a permanent residence permit for Denmark for more than the last 3 years.
- (ii)-(iii) ---

(2) It must be made a condition for a residence permit under subsection (1)(i) that the applicant and the person living in Denmark sign a declaration stating that, to the best of their ability, they will involve themselves actively in the Danish course and integration into the Danish society of the applicant and any accompanying foreign children.

(3) It must be made a condition for a residence permit to a cohabitant under subsection (1)(i) that the person living in Denmark undertakes to maintain the applicant. Unless exceptional reasons make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under subsection (1)(i) that the person living in Denmark who shall maintain the applicant, or who has undertaken to maintain the applicant, proves his ability to do so, cf. subsection (22).

(4) Unless exceptional reasons conclusively make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under subsection (1)(i) that the person living in Denmark who shall maintain the applicant provides a financial security of DKK 50,000 to cover any future public expenses for assistance granted to the applicant under the Act on an Active Social Policy or the Integration Act, cf. subsection (20). The financial security under the first sentence may be reduced by half of the amount provided as security under the first sentence when aliens who have been issued with a residence permit under subsection (1)(i) have passed a final examination in the Danish language, cf. section 9 of the Act on Danish Courses for Adult Aliens, etc., or they have been issued with a certificate proving their active participation in the course after completion of the course, cf. section 5(5) of the Act on Danish Courses for Adult Aliens, etc. The Minister for Refugee, Immigration and Integration Affairs lays down detailed rules on how financial security under the first sentence must be provided. The amount stipulated in the first sentence has been fixed at the 2002 level and will be adjusted as from 2003 once a year on 1 January according to the rate adjustment percentage, cf. the Act on a Rate Adjustment Percentage.

(5) Unless exceptional reasons conclusively make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under subsection (1)(i) that the person living in Denmark who shall maintain the applicant has not received assistance under the Act on an Active Social Policy or the Integration Act for a period of 1 year prior to the date when the application is submitted and until the residence permit is issued, cf. subsection (23).

(6) Unless particular reasons make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under subsection (1)(i) that the person living in Denmark proves that he disposes of his own dwelling of a reasonable size, cf. subsection (24).

(7) Unless exceptional reasons make it inappropriate, including regard for family unity, a residence permit under subsection (1)(i)(a), when the person living in Denmark has not been a Danish national for 28 years, and under subsection (1)(i)(b) to (d) can only be issued if the spouses' or the cohabitants' aggregate ties with Denmark are stronger than the spouses' or the cohabitants' aggregate ties with another country. Danish nationals living in Denmark who were adopted from abroad before their sixth birthday and who acquired Danish nationality not later than at their adoption are considered to have been Danish nationals from birth.

(8) Unless exceptional reasons conclusively make it appropriate, including regard for family unity, a residence permit under subsection (1)(i) cannot be issued if it must be considered doubtful that the marriage was contracted or the cohabitation was established at both parties' own desire. If the marriage has been contracted or the cohabitation established between close relatives or otherwise closely related parties, it must be considered doubtful,

unless particular reasons make it inappropriate, including regard for family unity, that the marriage was contracted or the cohabitation was established at both parties' own desire.

(9) A residence permit under subsection (1)(i) cannot be issued if there are definite reasons for assuming that the decisive purpose of contracting the marriage or establishing the relationship of cohabitation is to obtain a residence permit.

(10) Unless exceptional reasons make it appropriate, including regard for family unity, a residence permit under subsection (1)(i) cannot be issued if, within a period of 10 years prior to the date of the decision, a sentence of imprisonment or suspended imprisonment, or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of such nature, for violation of section 213, 216 or 217, section 224 or 225, cf. section 216 or 217, or section 228, 229(1), 237, 244 to 246, 250, 260, 261, 262 a or 266 of the Criminal Code has been imposed by final judgment on the person living in Denmark for one or more offences committed against a spouse or a cohabitant.

(11) A residence permit under subsection (1)(i) cannot be issued if the application for such permit was submitted simultaneously with an application from the applicant's child for a residence permit under subsection (1)(ii) which is refused under subsection (16). This does not apply if the applicant's child can be required to take up residence with close family in its country of origin and regard for the interests of the child does not make it inappropriate, or if exceptional reasons otherwise make it inappropriate, including regard for family unity.

(12)-(17) ---

(18) A residence permit under subsection (1) must be obtained before the entry into Denmark. After entry, no such application can be submitted or examined or be allowed to suspend enforcement in Denmark unless exceptional reasons make it appropriate, including regard for family unity. If, at the time of the application, the alien is lawfully residing in Denmark pursuant to sections 1 to 3 a, 4 b or 5(2) or pursuant to a residence permit under sections 6 to 9 f, an application for a residence permit pursuant to subsection (1)(i) or (ii) can be submitted and examined and be allowed to suspend enforcement, unless particular reasons make it inappropriate.

(19) Where it was made a condition for a residence permit that the person living in Denmark (the guarantor) undertook to maintain the applicant, cf. subsection (2) and subsection (17), first sentence, and had to prove his ability to do so, cf. subsection (3) and subsection (17), first sentence, and where the applicant is subsequently granted assistance under the Act on an Active Social Policy or the Integration Act, the local council shall order the guarantor to pay for the assistance. The local council shall collect such payment from the guarantor according to the rules on collection of income taxes. The first and second sentences do not apply to public expenses for assistance granted to the applicant under the Act on an Active Social Policy and the Integration Act after the applicant has been issued with a permanent residence permit or a new residence permit on another basis.

(20) Where it was made a condition for a residence permit that the person living in Denmark had to provide financial security, cf. subsection (4), and where the applicant is subsequently granted assistance under the Act on an Active Social Policy or the Integration Act, the local council shall recover the amount provided as security as payment for the assistance. Subsection (19), third sentence, applies correspondingly. The Minister for Refugee, Immigration and Integration Affairs lays down more detailed rules on how recovery under the first sentence hereof is to be effected.

(21) Without the consent of the person living in Denmark and the applicant, the local council may, for the purpose of the examination of a case under subsection (1), issue an opinion to

the Danish Immigration Service about circumstances known to the local council concerning the person living in Denmark and the applicant which the local council deems to be of importance to the decision in the case.

(22) At the request of the Danish Immigration Service, the local council issues an opinion as to whether the person living in Denmark who shall maintain the applicant is able to do so, cf. subsection (3), subsection (12), first sentence, and subsection (17), first sentence. The Minister for Refugee, Immigration and Integration Affairs lays down more detailed rules on when it can be considered proved that the person living in Denmark who shall maintain the applicant is able to do so, cf. subsection (3), subsection (12), first sentence, and subsection (17), first sentence, and on the local council's opinion pursuant to the first sentence hereof.

(23) At the request of the Danish Immigration Service, the local council issues an opinion as to whether the person living in Denmark has received assistance under the Act on an Active Social Policy or the Integration Act since one year prior to the date when the application was submitted, cf. subsection (5).

(24) At the request of the Danish Immigration Service, the local council issues an opinion as to the housing situation of the person living in Denmark, including the number of habitable rooms and occupants of his dwelling. Without the consent of the person living in Denmark, the local council may, for the purpose of its opinion under the first sentence hereof, link the Joint Municipal Personal Data System (Det Fælleskommunale Persondatasystem) with the Building and Housing Register (Bygnings- og Boligregistret, BBR) for the purpose of providing information on the number of habitable rooms in the dwelling and the number of occupants registered at the address in question. The Minister for Refugee, Immigration and Integration Affairs lays down more detailed rules on when it can be considered proved that the person living in Denmark disposes of his own dwelling of a reasonable size, cf. subsection (6), subsection (12), second sentence, and subsection (17), second sentence, and on the local council's opinion pursuant to the first sentence hereof.

(25) At the request of the Danish Immigration Service, the local council issues an opinion as to whether it would be manifestly contrary to the applicant's interests, cf. subsection (15), to issue a residence permit under subsection (1)(ii). The opinion of the local council is issued without the consent of the person or persons referred to in the opinion.