

EFTA Surveillance Authority  
Avenue des Arts 19 H  
1000 Brussels  
BELGIUM

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## **Reply to request for information concerning the access to disability benefits in Norway**

Reference is made to the EFTA Surveillance Authority's (the Authority) letter of 28 August 2025, in which the Authority refers to complaints concerning the Norwegian rules and administrative practice to grant access to disability benefits from the Norwegian National Insurance Scheme to persons with past insurance records from other EEA States. It has been noted by the Norwegian Government that individual complaint cases are currently in the process of being closed and bundled in the present case.

The Authority has invited the Government to provide further information, to get the full picture of how applications to disability benefits from persons migrating to Norway from other EEA States are processed by the Norwegian authorities. The questions will be answered below.

### **Question 1**

*How, from a procedural point view, would the Norwegian authorities handle an application for a disability benefit (uføretrygd, Section 12 of the National Insurance Act (NIA - Folketrygdloven), if the applicant has less than 12 months of insurance in Norway, but several years of insurance in at least one other EEA State?*

### **Reply:**

When the Labour and Welfare Administration (Nav) is the competent institution for a claim in which aggregation of periods under Article 6 is relevant, information on completed periods is collected in accordance with the procedures set out in Article 12(1) and Article 47(4) and (5) of Regulation 987/2009.

If the applicant resides in Norway, Nav will perform a preliminary assessment of the applicant's periods of insurance in the Norwegian National Insurance Scheme (NIS) in accordance with the relevant provisions of title II of regulation 883/2004 and the conditions set out in Chapters 2 and 12 of the National Insurance Act (NIA). The result of this preliminary assessment is presented on a SED P5000 (insurance periods) and sent to other relevant EUEEA States together with the application. When a reply with a SED P5000 containing the credited periods of insurance from other EU/EEA States is received, Nav will finalise the assessment of periods of insurance in the NIS and apply the relevant conflict-of-law rules, see below. Once Nav has made a final decision, a copy of the decision letter and a SED P6000 (information of decision) is sent to the other relevant institutions.

If the applicant resides in another EU/EEA state, Nav will receive an application (SED P2200) from the competent institution in the country of residence. In approximately 50 percent of the cases, a confirmation of insurance periods in the other EU/EEA state (SED P5000) is received simultaneously with the SED P2200 (claim for disability benefit). In the remaining cases, Nav requests this confirmation.

The time of onset of disability is set pursuant to Section 12-8 of the NIA. Article 57(1) of Regulation 883/2004 is applied so that the applicant must have at least 12 months of insurance periods in the NIS from the age of 16 and until the onset of disability. These 12 months do not need to be one continuous period.

The claimant is notified of the decision. In accordance with Article 3(4), second subparagraph, and Article 48(1), first subparagraph of Regulation 987/2009, the decision informs of the reasons for rejecting the claim and provides information on the available remedies and the deadline for appeals. A copy of the decision is sent to relevant institution in the other EU/EEA-state.

## Question 2

*Does Norway apply any exception to the rule of aggregation, apart from Article 57 of Regulation 883/2004, whenever national legislation imposes a minimum threshold of periods of residence or insurance? If so, please elaborate.*

### Reply:

Norway does not apply any exception to the rule of aggregation, for persons who have been economically active in a Member State, except for Article 57.

Non-economically active persons are required to have completed three years (36 months) of insurance based on residence in Norway before the onset of disability for Article 6 of Regulation 883/2004 to apply. This constitutes a special provision pursuant to article 83, and is stated in Annex XI to the Regulation, provided in Annex VI to the EEA Agreement litra I point 3a: «Notwithstanding the provisions of Article 6, persons who have not been gainfully employed in one or more EC Member States or EFTA States are entitled to a Norwegian social pension only if they have been, or have previously been, permanent residents of

Norway for at least three years, subject to the age limits prescribed by Norwegian legislation.”. These periods do not need to be continuous, nor immediately prior to the onset of disability.

### Question 3

*Section 12-2 NIA requires an insurance period of 5 years to qualify for a benefit. Do these periods have to be uninterrupted? If so, when does Norway consider that the insurance record of a person has been interrupted? And, if so, is there a situation possible where a person who has resided in Norway as from birth could have an interruption of its insurance record in Norway?*

#### Reply:

##### 3.1 Whether the insurance period of 5 years has to be uninterrupted

It should be noted that Section 12-2 of the NIA sets out a general rule and a number of alternatives, cf. our reply to question 4. Section 12-2(1) establishes a requirement of five years of uninterrupted insurance immediately prior to the onset of disability, pursuant to Section 12-8(1) of the NIA. Persons with interrupted periods of insurance may however qualify after Section 12-2(2) and (3) of the NIA, which do not require five years of uninterrupted insurance, provided the conditions in these provisions are satisfied.

In addition, the provisions on the determination of the legislation applicable in Regulation 883/2004 may prove decisive. In some cases, the employment relationship in another EU/EEA State may end before the person takes up residence/work in Norway. This can result in periods without insurance in any EU/EEA State. An interruption of insurance may be remedied if it is established that the person's residence (habitual centre of interests) was in Norway even before his or her physical arrival. This depends on a case-by-case assessment. An interruption of a few days or weeks is generally considered acceptable. Longer periods must be assessed individually, where the person's intention is given significant weight.

There is no automatic entitlement to insurance in the NIS merely because Norwegian legislation applies. However, the EEA definition of residence takes precedence over the NIA. If the person is considered a resident of Norway under Regulation 883/2004 Nav interprets the Norwegian concept of residence, as expressed in Section 2-1 of the NIA, in line with this, so that the system of provisions on the determination of the legislation applicable retains its substance. In most cases, this results in coverage under national rules.

##### 3.2 When Norway considers a person's insurance period to be interrupted

Insurance periods are granted based on both residence and employment. Pursuant to regulations Section 2-14 of the NIA the insurance period is interrupted when:

- the person moves to another country with the intention of staying there for more than 12 months, when the stay actually exceeds 12 months or when the person stays abroad for more than six months per year for two or more consecutive years.
- If the person takes up employment in another country or on a ship registered abroad.

The provisions on the determination of the legislation applicable in Articles 12 and 13 of Regulation 883/2004 may lead to a different outcome than what the independent application of national law would yield.

3.3 Whether a person who has resided in Norway since birth could have an interruption of their insurance coverage

In most cases, a person who has resided legally in Norway since birth will not have an interruption of his or her insurance in the NIS. Employment in another country will however generally interrupt the person's period of insurance, cf. our reply to 3.2. The answer to the question of whether a person who has resided in Norway from birth could have an interruption of his or her insurance record in Norway, is consequently yes.

#### *Question 4*

*In cases where after applying the principle of aggregation of foreign periods of insurances/residence the national entitlement criteria are still not fulfilled, could a person acquire a right to the disability benefit when remaining resident and being subject to Norwegian social security system? Or, in other words, could periods of residence from the time after the disability has occurred be counted in to fulfil national insurance affiliation requirements, i.e. the one of 5 years under Section 12-2 NIA?*

#### Reply:

Section 12-2 of the NIA reads (unofficial translation):

“Section 12-2. Prior periods of insurance

It is a condition for entitlement to disability benefit that the person concerned has been insured in the national insurance scheme for the five years preceding the onset of disability, see Section 12-8. In the assessment of whether the condition is fulfilled, no account shall be taken of periods spent serving with international organisations or bodies of which the Norwegian State is a member, to which it makes financial contributions or to which it is responsible for contributing to staffing.

The condition of five years of prior insurance in the first paragraph shall not apply to a person who has been insured in the scheme for at least one year immediately before he or she submits a claim for disability benefits, if

- a. the person concerned became disabled before turning 26 years of age and at that time was insured under the scheme, or
- b. the person concerned, after turning 16 years, has been insured in the scheme except for a maximum of five years.

The condition in the first paragraph shall not apply if the person concerned was insured in the scheme at the onset of disability and the disability benefit in the event of a 100 per cent degree of disability:

- a. calculated on the basis under Section 12-11, first paragraph, will at least correspond to half of the high rate under Section 12-13, second paragraph, third subparagraph, or b.

calculated on the basis of periods of insurance will at least correspond to half of the minimum benefit under Section 12-13, second paragraph. Future periods of insurance shall not be included, see Section 12-12 fifth paragraph.”

The conditions of Section 12-2(1) and (3) refer to periods of insurance before the onset of disability. Periods of insurance after this point can not be used to fulfil the conditions. Pursuant to Section 12-2(2), insurance periods after the onset of disability can be counted towards the condition of one year of insurance before the submission of the claim.

#### Question 5

*Any other clarification relevant to understand the entitlement to disability benefits in the context of aggregation of periods and also potential entitlement to alternative benefits where no entitlement to disability benefits can be obtained.*

#### Reply:

##### *Supplementary allowance*

Supplementary allowance is granted according to an act of 29 April 2005<sup>1</sup>. The scheme includes disabled refugees who, due to their short period of membership in the NIS, are not entitled to a disability benefit from the NIA. In order for a disabled refugee to be included in the supplementary allowance scheme, it is required that the person in question has had his or her claim for disability benefit processed and that it has been concluded that the NIA's conditions for entitlement to disability benefit have been met, with the exception of the requirements concerning prior insurance periods.

Under the Supplementary Allowance Act, a person is granted a supplementary allowance that is equal to the annual amount in Section 12-13(2) of the NIA, see Section 5(2) of the Supplementary Allowance Act.

The allowance is fully financed over the central government budget and is listed in Annex X to Regulation 833/2004 as a special non-contributory cash-benefit, see Article 70(3).

##### *Attendance benefit*

Members of the NIS who, due to illness, injury, or disability, require special supervision and care, may be granted attendance benefit if a private care arrangement is in place. There are no requirements of waiting periods. Attendance benefit for adults is provided at a fixed rate (ordinary rate). Children under the age of 18 may also receive three higher fixed rates. A condition for entitlement is that the need for help corresponds to a level of care that would justify compensation at least equal to the said rate.

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<sup>1</sup> [Lov om supplerande stønad til personar med kort butid i Noreg - Lovdata](#)

Question 6

*a) The Norwegian legislation foresees less restrictive conditions to access disability benefits when the disability has occurred before the age of 26 (NIA Section 12-2, second paragraph). How would Norway assess an application for such benefits, when the applicant was a member of a social security system of another EEA State at time of the occurrence of the disability? Or, to phrase it more generally, to which benefits and under which conditions would a disabled person as newcomer in Norway be entitled to, when the disability has occurred in the home State when the person was less than 26 years old (under the assumption that the applicant cannot export any disability benefits from the home State to Norway)?*

Reply:

The individual must, pursuant to this provision, be insured under the NIS when the disability occurred. For benefits in the event of disability, the general principle of aggregation set out in Article 6 of Regulation 883/2004 is supplemented by the specific provisions in Chapter 5 Old-age and survivors' pensions. It follows from Article 51(3) that where the legislation makes the acquisition of disability benefit conditional upon the person concerned being insured at the time of the onset of disability, this condition shall be regarded as having been satisfied if that person has been previously insured under the legislation of that State and is, at the time of the materialisation of the risk, insured under the legislation of another EU/EEA State. Whether the conditions set out in Section 12-2(2)(a) of the NIA are met will depend on the circumstances of the case, i.e. if the person has been previously insured under the NIS.

If the applicant has been insured in the NIS after the age of 16, except for a maximum of five years, disability may be granted pursuant to Section 12-2(2)(b) of the NIA.

*b) Does it make a difference whether the application is lodged in Norway before or after the age of 26?*

Reply:

No, the age requirement refers to the onset of disability, not the time of application.

*c) Would it change anything in the assessment of questions 6a and 6b, if a parent of the disabled child is a migrant worker having been already economically active in Norway for several years and only later brought the disabled child along?*

Reply:

There is no derived right to disability benefit in the NIA. The access to disability benefit is based on individual rights. Thus, the parents' economic activity does not affect whether the adult child is entitled to disability benefit.

However, if the situation concerns a child under the age of 21 years old, the requirement in Section 12-2(2)(b) of the NIA, will in general be deemed fulfilled, cf. reply to question 6(a).

*d) Would the exceptions to the same entitlement conditions (see Section 12-17 NIA) also be waived for an applicant, who newly arrives in Norway, if the work accident happened while the person was insured in another EEA State?*

Reply:

Accidents at work that occur while a person is under the legislation of another EEA State, are treated as equivalent to accidents at work that occur in Norway, pursuant to Article 40, cf. Article 5, of Regulation (EC) 883/2004. The principle of equal treatment applies to the assessment of the degree of disability, the entitlement to disability benefit, and the calculation of the benefit, as set out in Section 12-17 of the NIA.

Article 40(3) of Regulation 883/2004 stipulates that, for equal treatment to apply, the accident at work must have been recognized under the legislation of the other EEA State. Furthermore, under Article 40(3)(a) and (b), there is a prerequisite that no compensation has been or will be awarded under the legislation of the other EEA State.

Consequently, the requirements concerning prior periods of insurance under the Norwegian National Insurance Scheme, as set out in Section 12-2 of the NIA, are waived for an applicant, who newly arrives in Norway, if the work accident happened while the person was insured in another EEA State, and no compensation has been or will be awarded by that other EEA State for that specific injury.

A Structured Electronic Document (SED) will be sent to the other EEA State to determine whether the accident at work is recognized under its legislation, and whether compensation has been or will be awarded under that legislation.

*e) Are the basic benefit (grunnstønad) and the attendance benefit (hjelpetønad) (NIA, Section 6 §4 and §5) independent benefits or only provided when there is already a basic right to disability benefits in accordance with Article 12 NIA*

Reply:

Basic benefit and Attendance benefit are independent benefits. They are not contingent on having a right to disability benefit pursuant to Chapter 12 of the NIA.

Yours sincerely

Haakon Hertzberg  
Deputy Director General

Ida Karine Kjelsberg  
Research Coordinator

*This document is signed electronically and has therefore no handwritten signature*