

Part 6
Residence for family reasons

Section 27
Subsequent immigration of dependants

(1) The temporary residence permit to enable foreign dependants to rejoin foreigners in the federal territory so that they can live together as a family (subsequent immigration of dependants) is granted and extended to protect marriage and the family in accordance with Article 6 of the Basic Law.

(1a) The subsequent immigration of dependants is not permitted

1. if it is established that the marriage has been entered into or kinship established solely for the purpose of enabling the persons immigrating subsequently to enter and stay in the federal territory or
2. if there are concrete indications that one of the spouses has been forced into marriage.

(2) Subsections (1a) and (3), section 9 (3), section 9c sentence 2, sections 28 to 31, 36a, section 51 (2) and (10) sentence 2 apply accordingly to establish and maintain a civil partnership in the federal territory.

(3) The temporary residence permit for the subsequent immigration of dependants may be denied if the person to be joined by the dependants relies on benefits under Book Two or Book Twelve of the Social Code to support other dependants or other members of the household. Section 5 (1) no. 2 may be waived.

(3a) The temporary residence permit for the subsequent immigration of dependants is to be denied if the person to be joined by the dependants

1. threatens the free democratic basic order or the security of the Federal Republic of Germany; this is assumed to be the case where there is reason to believe that the foreigner is or has been a member of an organisation which supports terrorism, or the foreigner supports or has supported such an organisation, or is, as referred to in section 89a (1) of the Criminal Code, preparing or has prepared a serious violent offence endangering the state as described in section 89a (2) of the Criminal Code,
2. was one of the leaders of an organisation which was incontestably banned because its purposes or its activity contravenes criminal law or it is directed against

the constitutional order or the concept of international understanding,

3. is involved in violent activities in the pursuit of political or religious objectives or calls publicly for the use of violence or threatens the use of violence or

4. incites others to hatred against segments of the population; this will be assumed to be the case where the foreigner exerts a targeted and permanent influence on other persons in order to incite or increase hatred against members of certain ethnic groups or religions, or he or she publicly, in a meeting or by disseminating writings in a manner which is suited to disturbing public safety and law and order,

a) incites others to take arbitrary measures against segments of the population,

b) maliciously disparages segments of the population, thereby attacking the human dignity of others or

c) endorses or promotes crimes against peace, against humanity, war crimes or acts of terrorism of comparable severity,

(4) The temporary residence permit for the subsequent immigration of dependants may not have a longer period of validity than the temporary residence permit held by the foreigner whom the dependants concerned are joining in the federal territory. It is to be issued for this period if the foreigner to be joined in the federal territory by the dependants immigrating subsequently holds a temporary residence permit pursuant to sections 18d, 18f or 38a, an EU Blue Card, an ICT Card or a Mobile ICT Card, or is entitled to stay in the federal territory in accordance with section 18e. In all other cases, the temporary residence permit is to be issued for an initial period of at least one year.

(5) (repealed)

Section 28

Subsequent immigration of dependants to join a German national

(1) The temporary residence permit is to be granted to the foreign

1. spouse of a German,

2. minor, unmarried child of a German,

3. parent of a minor, unmarried German for the purpose of care and custody

if the German's habitual residence is in the federal territory. In derogation from

section 5 (1) no. 1 it is to be granted in the cases covered by sentence 1 nos. 2 and

3. In derogation from section 5 (1), no. 1, it is to be granted as a general rule in the cases covered by sentence 1 no. 1. In derogation from section 5 (1) no. 1, the

temporary residence permit may be granted to the parent of a minor, unmarried German who does not possess the right of care and custody of said child, if the family unit already exists in the federal territory. Section 30 (1) sentence 1 nos. 1 and 2, sentence 3 and subsection (2) sentence 1 applies accordingly in the cases covered by sentence 1 no. 1.

(2) As a rule, the foreigner is to be granted a permanent settlement permit if he or she has possessed a temporary residence permit for three years, the family unit with the German continues to exist in the federal territory, there is no public interest in expelling the foreigner and the foreigner has a sufficient command of the German language. Section 9 (2) sentences 2 to 5 applies accordingly. In all other cases, the temporary residence permit is extended as long as the family unit continues to exist.

(3) Sections 31 and 34 apply subject to the proviso that the foreigner's residence title is replaced by the habitual residence of the German in the federal territory. The temporary residence permit granted to a parent of a minor, unmarried German for the purpose of care and custody is to be extended also after the child has come of age as long as the child lives with the foreigner in a family household and is in education or training which leads to a recognised school, vocational or higher education qualification.

(4) Section 36 applies accordingly to other dependants.

(5) (repealed)

Section 29

Subsequent immigration of dependants to join a foreigner

(1) For the purpose of subsequent immigration to join a foreigner,

1. the foreigner must hold a permanent settlement permit, an EU long-term residence permit, a temporary residence permit, an EU Blue Card, an ICT Card or a Mobile ICT Card, or he or she must be entitled to stay in the federal territory in accordance with section 18e and

2. sufficient living space must be available.

(2) The requirements of section 5 (1) no. 1 and subsection (1) no. 2 may be waived in the case of the spouse and the minor, unmarried child of a foreigner who possesses a temporary residence permit in accordance with section 23 (4), section 25 (1) or (2), a permanent settlement permit in accordance with section 26 (3) or a permanent settlement permit in accordance with section 26 (4) after being granted

a temporary residence permit in accordance with section 25 (2) sentence 1 second alternative. In the cases covered by sentence 1, these conditions are to be waived where

1. the application for a residence title required in connection with the subsequent immigration of dependants is filed within three months of final recognition as a person entitled to asylum or final granting of refugee status or subsidiary protection or of the issuance of a temporary residence permit in accordance with section 23 (4) and
2. it is not possible for the foreigner and his or her dependants to live together as a family unit in a state which is not a member state of the European Union and to which the foreigner or his or her dependants have special ties.

The time limit stated in sentence 2 no. 1 is also met if the foreigner files the application on time.

(3) The temporary residence permit may only be granted to the spouse and the minor child of a foreigner who possesses a temporary residence permit in accordance with sections 22, 23 (1) or (2) or section 25 (3) or (4a) sentence 1, section 25a (1) or section 25b (1) for reasons of international law, on humanitarian grounds or in order to safeguard political interests of the Federal Republic of Germany. Section 26 (4) applies accordingly. The subsequent immigration of dependants is not permitted in the cases covered by section 25 (4), (4b) and (5), section 25a (2), section 25b (4), section 104a (1) sentence 1 and section 104b.

(4) In derogation from section 5 (1) and section 27 (3), the temporary residence permit is to be granted to the spouse and the minor child of a foreigner or the minor child of the foreigner's spouse if the foreigner has been granted temporary protection in accordance with section 24 (1) and

1. the family unit in the country of origin has been broken up as a result of the foreigner having fled said country and
2. the dependant is admitted from another member state of the European Union or is located outside of the European Union and is in need of protection.

The granting of a temporary residence permit to other dependants of a foreigner who has been granted temporary protection pursuant to section 24 (1) is subject to section 36. Section 24 applies to dependants who are admitted in accordance with this subsection.

(5) (repealed)

Section 30

Subsequent immigration of spouses

(1) A foreigner's spouse is to be granted a temporary residence permit if

1. both spouses are at least 18 years of age,
2. the spouse is able to communicate in the German language at least on a basic level and
3. the foreigner
 - a) possesses a permanent settlement permit,
 - b) possesses an EU long-term residence permit,
 - c) possesses a temporary residence permit in accordance with sections 18d, 18f or sections 25 (1) or (2) sentence 1 first alternative.
 - d) has held a temporary residence permit for two years which is not subject to an ancillary provision pursuant to section 8 (2) or the subsequent issuance of a permanent settlement permit has not been ruled out by a rule of law; this does not apply to a temporary residence permit in accordance with section 25 (2) sentence 1 second alternative,
 - e) possesses a temporary residence permit in accordance with section 7 (1) sentence 3 or Parts 3, 4, 5 or 6 or sections 37 or 38, if the marriage existed at the time said permit was granted, and the foreigner's stay in the federal territory is expected to exceed one year; this does not apply to a temporary residence permit in accordance with section 25 (2) sentence 1 second alternative,
 - f) possesses a temporary residence permit pursuant to section 38a and the marriage already existed in the member state of the European Union in which the foreigner has the status of a long-term resident, or
 - g) possesses an EU Blue Card, an ICT Card or a Mobile ICT Card.

Sentence 1 nos. 1 and 2 has no bearing on issuance of the temporary residence permit if the requirements of sentence 1, no. 3 (f) are met. Sentence 1 no. 2 has no bearing on issuance of the temporary residence permit if

1. the foreigner holds a residence title pursuant to section 23 (4), section 25 (1) or (2), section 26 (3) or possesses a permanent settlement permit in accordance with section 26 (4) after being granted a temporary residence permit in accordance with section 25 (2) sentence 1 second alternative and the marriage already existed at the time when the foreigner established his or her main ordinary residence in the

federal territory,

2. the spouse is unable to provide evidence of a basic knowledge of German on account of a physical or mental illness or disability,
3. the spouse's need for integration is discernibly minimal within the meaning of a statutory instrument issued pursuant to section 43 (4) or the spouse would, for other reasons, not be eligible for an integration course pursuant to section 44 after entering the federal territory,
4. by virtue of his or her nationality, the foreigner may enter and stay in the federal territory without requiring a visa for a period of residence which does not constitute a short stay,
5. the foreigner possesses an EU Blue Card, an ICT Card or a Mobile ICT Card or a temporary residence permit pursuant to sections 18d or 18f,
6. the spouse is unable or cannot reasonably be expected to undertake efforts to acquire a basic command of the German language before entering the country due to the specific circumstances of the individual case.
7. the foreigner possesses a residence title pursuant to sections 18c (3) and section 21 and the marriage already existed when the foreigner established his or her main ordinary residence in the federal territory, or
8. the foreigner held a temporary residence permit pursuant to section 18d immediately before a permanent settlement permit or an EU long-term residence permit was issued.

(2) In derogation from subsection (1) sentence 1 no. 1, the temporary residence permit may be issued to avoid particular hardship. If the foreigner holds a temporary residence permit, the other conditions stipulated in subsection (1) sentence 1 no. 3 (e) may be waived; the same applies if the foreigner holds a national visa.

(3) By way of derogation from section 5 (1) no. 1 and section 29 (1) no. 2, the temporary residence permit may be extended for as long as the marital cohabitation continues.

(4) If a foreigner is married to several spouses at the same time and lives together with one spouse in the federal territory, no other spouse will be granted a temporary residence permit pursuant to subsection (1) or subsection (3).

(5) If the foreigner is entitled to stay in the federal territory in accordance with

section 18e, the spouse does not need a residence title if it has been established that the spouse resided in the other member state of the European Union lawfully as the foreigner's dependant. The requirements stipulated in section 18e (1) sentence 1 nos. 1, 3 and 4, and the grounds for denial pursuant to section 19f apply accordingly to the spouse.

Section 31

Independent right of residence for spouses

(1) If marital cohabitation ends, the spouse's temporary residence permit is extended by one year as an independent right of residence unrelated to the purpose of the subsequent immigration of dependants if

1. marital cohabitation has lawfully existed in the federal territory for at least three years or

2. the foreigner has died during marital cohabitation in the federal territory

and the foreigner possessed a temporary residence permit, permanent settlement permit or EU long-term residence permit up to that time, unless the foreigner was unable to apply for an extension in time for reasons beyond his or her control.

Sentence 1 does not apply if the foreigner's temporary residence permit may not be extended or if the foreigner may not be granted a temporary residence permit or EU long-term residence permit because this is precluded by a rule of law on account of the purpose of residence or by an ancillary provision attaching to the temporary residence permit pursuant to section 8 (2).

(2) The requirement stipulated in subsection (1) sentence 1 no. 1 for marital cohabitation to have existed lawfully for three years in the federal territory is to be waived if necessary to enable the spouse to continue his or her residence in order to avoid particular hardship, unless an extension of the foreigner's temporary residence permit is not permitted. Particular hardship is deemed to apply especially if the marriage is not valid or has been suspended under German law because the spouse was a minor when he or she married, if the obligation to return to the country of origin resulting from the termination of marital cohabitation threatens to substantially harm the foreigner's legitimate interests, or if continuing marital cohabitation is unreasonable due to the harm to the foreigner's legitimate interests; in particular this is to be assumed if the spouse is the victim of domestic violence. Such legitimate interests also include the well-being of a child living with the spouse as part of a family unit. In order to avoid abuse, extension of the temporary residence permit may be denied if the spouse relies on benefits under Book Two or

Book Twelve of the Social Code for reasons for which he or she is responsible.

(3) In derogation from section 9 (2) sentence 1 nos. 3, 5 and 6 the spouse is also to be granted a permanent settlement permit if the spouse's subsistence is ensured after the termination of marital cohabitation by maintenance payments from the foreigner's own funds and the foreigner possesses a permanent settlement permit or an EU long-term residence permit.

(4) Without prejudice to subsection (2) sentence 4, claiming benefits under Book Two or Book Twelve of the Social Code does not preclude extension of the temporary residence permit. The temporary residence permit may thus be extended as long as the conditions for granting the permanent settlement permit or EU long-term residence permit have not been met.

Section 32

Subsequent immigration of children

(1) The minor, unmarried child of a foreigner is to be granted a temporary residence permit if the parents or the parent having the sole right of care and custody hold one of the following residence titles:

1. a temporary residence permit in accordance with section 7 (1) sentence 3 or Parts 3 or 4,
2. a temporary residence permit in accordance with section 25 (1) or (2) sentence 1 first alternative,
3. a temporary residence permit in accordance with sections 28, 30, 31, 36 or 36a,
4. a temporary residence permit in accordance with the other provisions, with the exception of a temporary residence permit in accordance with section 25 (2) sentence 1 second alternative,
5. an EU Blue Card, an ICT Card, a Mobile ICT Card,
6. a permanent settlement permit or
7. an EU long-term residence permit.

(2) If the minor, unmarried child is aged 16 or over and if he or she does not relocate the main ordinary residence to Germany together with his or her parents or the parent possessing the sole right of care and custody, subsection (1) only applies if the child speaks German or if it appears, on the basis of his or her education and way of life to date, that he or she will be able to integrate into the way of life in the Federal Republic of Germany. Sentence 1 does not apply if

1. the foreigner possesses a temporary residence permit in accordance with section 23 (4), section 25 (1) or (2), a permanent settlement permit in accordance with section 26 (3) or possesses a permanent settlement permit in accordance with section 26 (4) after being granted a temporary residence permit in accordance with section 25 (2) sentence 1 second alternative, or

2. the foreigner or his or her spouse living together as a family possesses a permanent settlement permit pursuant to section 18c (3), an EU Blue Card, an ICT Card or a Mobile ICT Card or a temporary residence permit pursuant to sections 18d or 18f.

(3) As a general rule, where parents share the right of care and custody, a temporary residence permit pursuant to subsections (1) or (2) is also to be granted for the purpose of joining just one parent, if the other parent has consented to the child's residence in Germany or if a competent authority has reached a legally binding decision to this effect.

(4) In all other cases, a minor, unmarried child of a foreigner may be granted a temporary residence permit if necessary to prevent special hardship on account of the circumstances in the individual case concerned. The child's well-being and the family situation are to be taken into consideration. Section 36a applies to minor, unmarried children of foreigners who possess a temporary residence permit in accordance with section 25 (2) sentence 1 second alternative

(5) If the foreigner is entitled to stay in the federal territory pursuant to section 18e, the minor unmarried child does not need a residence title if it has been established that the child stayed in the other member state of the European Union lawfully as the foreigner's dependant. The requirements stipulated in section 18e (1) sentence 1 nos. 1, 3 and 4, and the grounds for rejection pursuant to section 19f apply accordingly to the minor child.

Section 33

Children born in the federal territory

In derogation from sections 5 and 29 (1) no. 2, a child who is born in the federal territory may be granted a temporary residence permit ex officio if one parent possesses a temporary residence permit, permanent settlement permit or EU long-term residence permit. Where both parents or the parent possessing sole right of care and custody hold a temporary residence permit, a permanent settlement permit or an EU long-term residence permit at the time of their child's birth, the child born in the federal territory is granted a temporary residence permit ex officio.

A child born in the federal territory whose mother or father possesses a visa or is permitted to stay in the federal territory without a visa at the time of the child's birth is permitted to stay in the federal territory until the visa or the lawful period of stay without a visa expires.

Section 34

Children's right of residence

(1) In derogation from section 5 (1) no. 1 and section 29 (1) no. 2, the temporary residence permit granted to a child is to be extended as long as a parent possessing the right of care and custody holds a temporary residence permit, permanent settlement permit or EU long-term residence permit and the child lives together with the said parent as part of a family unit, or if the child would have a right of return pursuant to section 37 if he or she left the federal territory.

(2) When a child comes of age, the temporary residence permit granted to the child becomes an independent right of residence which is unrelated to the purpose of the subsequent immigration of dependants. The same applies to the granting of a permanent settlement permit and an EU long-term residence permit or if the temporary residence permit is extended accordingly under section 37.

(3) The temporary residence permit may be extended as long as the conditions for granting the permanent settlement permit and the EU long-term residence permit have not yet been met.

Section 35

Children's independent, permanent right of residence

(1) In derogation from section 9 (2), a foreign minor who possesses a temporary residence permit in accordance with this Part is to be granted a permanent settlement permit if he or she has been in possession of the temporary residence permit for five years on reaching the age of 16. The same applies if

1. the foreigner is of age and has been in possession of the temporary residence permit for five years,
2. the foreigner has a sufficient command of the German language, and
3. the foreigner's subsistence is ensured or he or she is in education or training which leads to a recognised school, vocational or higher education qualification.

(2) Periods in which the foreigner attended school outside of the federal territory are not normally counted towards the required duration of possession of a temporary residence permit as stipulated in subsection (1).

(3) No entitlement to a permanent settlement permit pursuant to subsection (1) applies if

1. there is a public interest in expelling the foreigner which is based on the foreigner's personal conduct,
2. the foreigner has been sentenced to a term of youth custody of at least six months or a prison term of at least three months or a fine of at least 90 daily rates in the past three years due to an intentionally committed offence, or if a term of youth custody has been suspended or
3. the foreigner's subsistence cannot be ensured without claiming benefits under Book Two or Book Twelve of the Social Code or juvenile welfare under Book Eight of the Social Code, unless the foreigner is in education or training which leads to a recognised school or vocational qualification.

The permanent settlement permit may be granted or the temporary residence permit extended in the cases covered by sentence 1. As a rule, if, in cases covered by sentence 1 no. 2, the foreigner is placed on probation or the term of youth custody is suspended, the temporary residence permit is extended until the end of the probationary period.

(4) The requirements stipulated in subsection (1) sentence 2 nos. 2 and 3 and subsection (3) sentence 1 no. 3 are to be waived if the foreigner is unable to fulfil them on account of a physical or mental illness or disability.

Section 36

Subsequent immigration of parents and other family members

(1) In derogation from section 5 (1) no. 1 and section 29 (1) no. 2, a temporary residence permit is to be issued to the parents of a minor foreigner who possesses a temporary residence permit pursuant to section 23 (4), section 25 (1) or (2) sentence 1 first alternative, a permanent settlement permit pursuant to section 26 (3) or a permanent settlement permit under section 26 (4) after being granted a temporary residence permit pursuant to section 25 (2) sentence 1 second alternative, if no parent possessing the right of care and custody is resident in the federal territory.

(2) Other family members of a foreigner may be granted a temporary residence permit for the purpose of subsequent immigration to join the foreigner if necessary in order to avoid exceptional hardship. Section 30 (3) and section 31 apply accordingly to adult family members and section 34 applies accordingly to minor family members.

Section 36a

Subsequent immigration to join persons granted subsidiary protection status

(1) The spouse or minor, unmarried child of a foreigner holding a temporary residence permit in accordance with section 25 (2) sentence 1 second alternative may be granted a temporary residence permit on humanitarian grounds. The same applies to the parents of a foreign minor holding a temporary residence permit in accordance with section 25 (2) sentence 1 second alternative, if no parent possessing the right of care and custody is resident in the federal territory; section 5 (1) no. 1 and section 29 (1) no. 2 do not apply. The above-mentioned groups of persons have no entitlement to subsequent immigration of dependants. Sections 22, 23 remain unaffected.

(2) Humanitarian grounds within the meaning of this provision exist, in particular, where

1. it has not been possible for a long time for a foreigner and his or her dependants to live together as a family unit,
2. a minor, unmarried child is affected,
3. life, limb or liberty of the spouse, the minor, unmarried child or the parents of a foreign minor are at serious risk in the state of residence, or
4. the foreigner, the spouse or the minor, unmarried child or a parent of a minor foreigner is seriously ill, in need of care because his or her autonomy or capabilities are impaired or because he or she has a severe disability. A qualified medical certificate must be submitted to substantiate the illness, need for care or the disability, unless there are other indications that the family member abroad is ill, in need of care or disabled.

Every month, 1,000 national visas may be granted for temporary residence permits in accordance with subsection (1) sentences 1 and 2. Special attention is to be paid to the well-being of children. Where humanitarian grounds exist, special attention is to be paid to integration aspects.

(3) As a general rule, no temporary residence permit is to be granted under subsection (1) sentences 1 or 2 if

1. in the case of a temporary residence permit in accordance with subsection (1) sentence 1 first alternative, the spouses were not married before fleeing their home country,
2. the foreigner who is to be joined by his or her dependant,

a) has been incontestably sentenced to a prison term of at least one year for one or more intentionally committed offences,

b) has been incontestably sentenced to a prison term or a term of youth custody for one or more intentionally committed offences against life, physical integrity, sexual self-determination or property or for resisting enforcement officers if the criminal offence was committed using violence, using a threat of harm to life or limb, or with guile, or if it constitutes an offence under section 177 of the Criminal Code; this also applies if the foreigner has committed serial offences against property even if the perpetrator did not use violence, threats or guile,

c) has been incontestably sentenced to youth custody for at least one year for one or more intentionally committed offences and enforcement of the penalty has not been suspended on probation, or

d) has been incontestably convicted of one or more intentionally committed offences as defined in section 29 (1) sentence 1 no. 1 of the Narcotics Act (Betäubungsmittelgesetz),

3. it is not to be expected that the foreigner who is to be joined by dependants will have his or her temporary residence permit extended nor that he or she will be granted another residence title, or

4. the foreigner who is to be joined by dependants has applied for a border certificate.

(4) Section 30 (1) sentence 1 no. 1, (2) sentence 1 and (4) and section 32 (3) apply accordingly.

(5) Section 27 (3) sentence 2 and section 29 (2) sentence 2 no. 1 do not apply.