

**From:** European Operational Policy Team

**Subject:** EEA nationals requiring comprehensive sickness insurance (including transitional arrangements for students).

**Date:** 9 August 2011

**Issue number:** 7/2011 (Revised)

#### **A. Purpose of Notice**

1. This notice replaces Nationality Notice 10/10 (also issued as European Operational Policy Notice 02/10) and provides guidance to caseworkers on:

1) what evidence is acceptable for the purposes of meeting the comprehensive sickness insurance requirement when applying for documentary evidence of a right to reside;

**and**

2) the transitional arrangements being introduced for EEA nationals applying for documentary evidence of a right of permanent residence on the basis of being a student where they have been issued with a registration certificate before 20<sup>th</sup> June 2011.

#### **B. Legal background**

2. Regulation 4 of the Immigration (European Economic Area) Regulations 2006 (“the Regulations”) stipulates that in order to reside as a student or self-sufficient person an EEA national must have comprehensive sickness insurance.
3. For family members applying for a residence card on the basis that the relevant EEA national is exercising Treaty rights as a self-sufficient person, they must also submit evidence of comprehensive sickness insurance that covers all family members. This is in accordance with regulation 4(2)(b) of the Regulations.

#### **C. Acceptable evidence of comprehensive sickness insurance**

4. From 20<sup>th</sup> June 2011 EEA nationals applying for documentation confirming their right to reside in the UK as a student or self-sufficient person must present one of the following forms of evidence in order to demonstrate comprehensive sickness insurance. When applying for documentation confirming their permanent right of residence in the UK as a student or self-sufficient person they must present one of the following forms of evidence or a combination of such evidence covering the duration of his/her five year

period of residence preceding the date at which they claim to have acquired a right of permanent residence, unless they fall within the transitional arrangements outlined in Section F below:

- A comprehensive insurance policy document confirming that the applicant has private medical insurance. A proportionate approach should be taken when considering what is 'comprehensive'. For example, a policy may contain certain exemptions but if the applicant is covered by the policy for medical treatment in the majority of circumstances then this will be sufficient.
- For persons temporarily in the UK, a valid European Health Insurance Card ("EHIC"). The EHIC is the replacement for form E111 (see Section D below for further information).
- In certain circumstances, form S1 (or predecessor form E109 or E121), S2 (or predecessor form E102) or S3 (see Section E below for further information).

#### **D. Use of EHIC as evidence of comprehensive sickness insurance**

5. The addition of the EHIC as a valid form of comprehensive sickness insurance in circumstances where the holder is in the UK temporarily follows consultation and negotiation with other government departments. Where an applicant presents a valid EHIC issued by a Member State other than the UK, with his/her application as evidence of comprehensive sickness insurance then, in accordance with Department of Health guidelines, we can accept this as meeting the comprehensive sickness insurance requirement but **only** where s/he is resident in the UK on a **temporary** basis.
6. One way an applicant can demonstrate that s/he is temporarily resident in the UK is by providing a 'statement of intent' with his/her application. The statement may include a declaration that the applicant has a number of property and/or business interests in his/her home country to which s/he intends to return. Alternatively s/he may provide details of his/her family ties in his/her home country and evidence of visits home. Any statement should be signed and dated by the applicant and assessed on its individual merits.
7. The EEA forms 1 and 2 will change with effect from 20th June to incorporate a section requesting a statement of intent from those applicants seeking to rely on the EHIC as fulfilling the comprehensive sickness insurance requirement. Where an application is made but the person does not use the new form or has not used any form, this will require the caseworker to request a statement of intent in writing from the applicant unless it is otherwise clear from the information provided that the applicant is in the UK temporarily. An example of this may be where a

student's course is of limited duration and s/he has a provisional job offer in their home country.

8. A statement of intent is not required for persons applying for permanent residence documentation. As such, this is not included on the EEA 3 or EEA 4 form. This is because at the permanent residence documentation stage caseworkers must determine whether the applicant has already acquired a right of permanent residence and a person's intentions for the future are, therefore, irrelevant. In these circumstances, it will be sufficient for caseworkers to accept evidence that the applicant has had an EHIC for the duration of his/her five year period of residence preceding the date at which they claim to have acquired a right of permanent residence.
9. The following forms of evidence remain **unacceptable** as evidence of comprehensive sickness insurance:
  - Cash back health schemes such as dental/optical/prescription charges.
  - Reliance on access to the UK's National Health Service (NHS). This does not constitute comprehensive sickness insurance for the purposes of the Regulations, including for students.

#### **E. Use of S1, S2 or S3 form as evidence of comprehensive sickness insurance**

10. From 1<sup>st</sup> May 2010 the S1 form replaced the E109 and E121 forms. The S1 form is a certificate of entitlement to health care in another EEA country for a limited duration and may only be used in limited circumstances; for example, by state pensioners or dependents of an insured person working in another Member State.
11. The S2 form (previously E112) covers the actual cost of treatment; for example, for insured persons who are referred for specific treatment in another EEA country or Switzerland.
12. The S3 form will cover the cost of treatment; for example, for retired frontier workers continuing treatment in the Member State they previously worked.

#### **F. Transitional arrangements for students**

**Note: The transitional arrangements set out in this section apply only to EEA nationals applying for permanent residence documentation (or for exempt registration certificates for A2 nationals) on the basis of being a student where they have been issued with a registration certificate in that capacity before 20<sup>th</sup> June 2011.**

12. From 20th June in both Liverpool and Sheffield, all EEA national students and self-sufficient persons (including A2 nationals) who are applying for

documentary evidence of their right to reside in the UK, must provide evidence that they have comprehensive sickness insurance in the UK.

13. Transitional arrangements are being introduced, so that an application for permanent residence as a student will not be refused solely on the grounds that there is no evidence of comprehensive sickness insurance on the date of decision where:
  - UKBA issued a registration certificate to the applicant on the basis of their residence in the UK **as a student** before 20th June 2011.
14. When considering a permanent residence application in such a case the caseworker should also assume that time spent in the UK prior to the grant of the registration certificate was time spent in compliance with the comprehensive sickness insurance requirement.
15. Caseworkers must check the Case Information Database to ensure the requirements of the transitional arrangements are met. If these requirements are met, and the application for permanent residence does not include any evidence of comprehensive sickness insurance, then the application can be considered as if regulation 4(d)(ii) has been met.
17. Examples of when the transitional arrangements do not apply include, but are not limited to, the following:
  - EEA nationals who have already been issued with a registration certificate on another basis (for example as a worker) and who then became a student (but who did not reapply for a document confirming this before 20<sup>th</sup> June will not be treated under these transitional arrangements. Such applicants must show evidence of comprehensive sickness insurance for any time spent in the UK as a student.
  - Where an application for permanent residence is received on the basis that the EEA national is a student, but they have **never** been granted a registration certificate, then they must show evidence that they have had comprehensive sickness insurance for the duration of their time spent as student.
  - EEA nationals residing in the UK as a self-sufficient person. Such persons have always been required to provide evidence of comprehensive sickness insurance both in Liverpool and Sheffield. The transitional arrangements do not, therefore, apply to persons exercising Treaty rights in this capacity.
18. If an applicant does not fall within the transitional arrangements outlined above and they cannot provide evidence that they possess comprehensive sickness insurance, then the application must be refused.

19. Guidance on what an applicant should provide as evidence of comprehensive sickness insurance can be found in Section C of this instruction.
20. Changes will be made to the European Casework Instructions to reflect this notice.
21. Any policy enquiries on this Notice should be addressed to [REDACTED] or [REDACTED]

[REDACTED]  
Head of European and Nationality Policy  
9 August 2011