

Wednesday 22 February 2017

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The EEA Regulations 2016 come into force on 1 February 2017

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The regulations include changes on criminality and abuse

On 1 February 2016, the new immigration European Economic Area (EEA) regulations came into effect.

Among the key changes that the regulations introduce is a new approach to low-level persistent offenders.

As part of a pilot being launched in Spring 2017, a small number of Immigration, Compliance and Enforcement (ICE) teams will be tasked with referring offenders to Criminal Casework (CC) for consideration for a (new) 5 or 10 year time-limited deportation order.

Piloting this approach will allow processes to be properly tested and capability to be built gradually across Immigration Enforcement. In the initial phase only teams in London and North West England will be able to make such referrals.

CC will also take a more robust approach to EEA cases referred by the National Offender Management Service (NOMS), considering whether deportation can be pursued under the [EEA Regulations 2016](#) in more cases. An indefinite deportation order will continue to be the norm for individuals who receive one or more custodial sentence.

Enforcement

Other changes under the new EEA regulations will impact on investigations into sham marriages and immigration fraud, both of which are regular issues for ICE and CFI teams, as seen recently with Op Equal.

In cases of suspected sham or fraud, ICE teams will need to consider whether there is a case for taking deportation action on grounds of public policy, against the EEA national, who will now be subject to a 3-year deportation order, rather than administrative removal. For the first time, ICE teams will be able to issue deportation liability notices in these cases, and Returns Preparation will progress them to deportation.

Rough sleepers will continue to be administratively removed in the majority of cases (either for non-exercise of treaty rights or misuse of rights). Deportation on grounds of public policy will only be appropriate in rare cases where there are aggravating factors such as persistent anti-social behaviour or criminality.

Although the powers of detention within the EEA Regulations have not altered, the regulation numbers pertaining to these powers have changed and updated detention paperwork must be served to individuals who were detained prior to 1 February.

More information on what the changes mean is available in updated EEA guidance on Horizon.