



Migrant Criminality Policy Operational Notice

Valid from: 1 March 2017

Subject: Which apply – the EEA Regulations 2006 or the EEA Regulations 2016?

The public policy and public security provisions of the Immigration (European Economic Area) Regulations 2016 entered into force on 1 February 2017.

This note provides guidance on when the Immigration (European Economic Area) Regulations 2006 continue to apply, and when the Immigration (European Economic Area) Regulations 2016 will apply.

Where the deportation decision was made before 1 February 2017 **and** the deportation order was signed before 1 February 2017:

- The deportation decision was made under the EEA Regulations 2006.
- The deportation order was made under the EEA Regulations 2006 and remains in force.
- An appeal against the deportation decision must be considered under the EEA Regulations 2006.
- Any further representations must be considered to see whether the decision in question was defensible under the EEA Regulations 2006, regardless of the date of the further representations. However, if the view is that the decision should be re-made, the new decision is to be made under the 2016 EEA Regulations.

Where the deportation decision was made before 1 February 2017 **but** the deportation order was signed on or after 1 February 2017:

- The deportation decision was made under the EEA Regulations 2006.
- The deportation order was made under the EEA Regulations 2016.
- An appeal against the deportation decision must be considered under the EEA Regulations 2006 (the question for the appeal is when the decision was made and not when the order was made).

- Any further representations must be considered to see whether the decision in question was defensible under the EEA Regulations 2006. However, if the view is that the decision should be re-made, the new decision is to be made under the 2016 EEA Regulations.

Where the deportation decision was made on or after 1 February 2017:

- All deportation decisions made on and after 1 February 2017 are made under the EEA Regulations 2016.
- The deportation order is made under the EEA Regulations 2016.
- An appeal against the deportation decision must be considered under the EEA Regulations 2016.
- Any further representations must be considered under the EEA Regulations 2016.

Exclusions

- All exclusion orders made before 1 February 2017 were made under the EEA Regulations 2006 and the appeals in relation to those orders are to be considered under those Regulations.
- Any further representations must be considered to see whether the exclusion in question was defensible under the EEA Regulations 2006. However, if the view is that the order should be re-made, the new order is to be made under the 2016 EEA Regulations.
- All exclusion orders made on or after 1 February 2017 are to be made under the EEA Regulations 2016 and the appeals in relation to those orders are to be considered under those Regulations.

Any questions regarding the content of this Operational Notice should be sent to the Migrant Criminality Policy Team

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Migrant Criminality Policy
Immigration & Border Policy Directorate