



Interim operational instruction

Date: 1 February 2017

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Please see the Border Force Guidance <internal link redacted>. If you have any queries please email Border Force NCC <email address redacted>.

Contact details

If you want to publish an interim operational instruction please send an email to the National Command Centre: Border Force NCC <email address redacted>

All instructions must be submitted on this template, meet accessibility standards <internal link redacted> and be cleared at director level.

Border Force

Interim operational instruction

Issue no:

Subject: EEA Regulations 2016: Public Policy and Public Security

Action: Follow these instructions

Circulation: All Border Force staff

Instruction to staff:

From 1 February 2017, changes set out in the Immigration (European Economic Area) Regulations 2016, on criminality and abuse will come into force. These changes, which affect EEA nationals and their family members, will require Border Force officers to apply the revised public policy and public security test when considering admission to the UK. The guidance can be found here <internal link redacted>.

The main changes include:

- In cases where there are public policy or public security grounds to refuse admission, re-balancing the proportionality argument in favour of the Secretary of State's responsibilities towards protecting British Citizens and away from an EEA national's free movement rights.
- Clarity on the definition of '*the fundamental interests of society*' - a non-exhaustive list of behaviours contrary to the principle of free movement is included in Schedule 1 of the EEA Regulations 2016. Sham marriage, the use of fraudulent documents, tax evasion and duties and low-level persistent offending now come under the scope of public policy. Immigration Officers may therefore refuse entry where there is evidence of a present, genuine and sufficiently serious threat to these interests and it is proportionate to do so.
- In-country casework will be able to impose deportation orders on EEA nationals or their family members whose behaviour is contrary to the 'fundamental interests of society'. These will range from indefinite to time-limited (3, 5 or 10 years) depending on the risk posed to the fundamental interests of society and proportionality considerations. A time limited deportation order has the same effect as an indefinite one for the period that it is in force and admission to the UK must be refused.
- Replacing provisions relating to 'abuse of rights and fraud' set out in the EEA Regulations 2006 with new provisions to tackle the 'misuse of rights'. This allows Immigration Officers to continue to refuse entry to those:
 - who re-enter the UK within 12-months of an EEA administrative removal where they do not meet the requirements for re-entry
 - who repeatedly leave and re-enter the UK within the 3 month initial right of residence in order to circumvent free movement requirements.

The <redacted> have been updated to reflect these changes. Any previous versions of this form should not be used.

Background:

On 3 November 2016, new regulations were laid which replace the Immigration (European Economic Area) Regulations 2006. These changes give effect to the Government's manifesto commitment to make it easier to deport EU criminals and introduce a longer re-entry ban.

Contact for this instruction:

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Mandatory field

Director clearance: Yes

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