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Home Office

Removals and revocations of European Economic Area (EEA) nationals

Version 2.0

This guidance applies and interprets the [Immigration \(European Economic Area\) Regulations 2016](#) (the regulations). These regulations make sure the UK complies with its duties under the Free Movement of Persons Directive 2004/38/EC.

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About this guidance

This guidance tells you about the provisions for removing a European Economic Area (EEA) national from the UK, and for revoking a document issued to an EEA national confirming a right of residence in the UK.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Free Movement Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Clearance

Below is information on when this version of the guidance was cleared:

- version **2.0**
- published for Home Office staff on **01 February 2017**

Changes from last version of this guidance

01 February 2017

- changes to reflect the Immigration (European Economic Area) Regulations 2016
- Completely revised by the free movement policy team and the guidance, rules and forms team.
- Other minor changes

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Revocation of documentation

This page tells you the circumstances in which a document issued under the [Immigration \(European Economic Area\) Regulations 2016](#) (the regulations) can be revoked.

In line with regulation 24, you may revoke a document on the grounds of:

- public policy, public security or public health
- misuse of rights
- the person has stopped having or never had a right of residence or permanent right of residence

Appeal rights

If a person has a document revoked in line with regulation 24, they will have an in-country right of appeal against that revocation.

There are some limited circumstances however, when the right of appeal will be out of country. These are, as follows, where the decision was to:

- refuse to revoke a deportation or exclusion order
- revoke, refuse to issue or renew any document where that decision was taken at a time when the relevant person was outside the UK

Referral to enforcement

Once the person can be removed, you must pass the case to the relevant immigration compliance and enforcement (ICE) team covering the area in which the person lives. For details on how to contact the relevant ICE team, see contacting the relevant ICE team.

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Administrative removal

This section tells you when a European Economic Area (EEA) national or their family member can be administratively removed from the UK.

An EEA national or their family member (or any person with a derivative right of residence) can be administratively removed from the UK for the following reasons:

- they never had or stopped having a right to reside under the regulations (regulation 23(6)(a))
- their removal from the UK is justified on the grounds of the misuse of a right to reside (regulation 23(6)(c))

Unlike a decision to deport (under 23(6)(b)), a person who is administratively removed from the UK is not subject to a fixed bar on re-entry.

However, in line with regulation 26(4), where a person has been administratively removed from the UK, and they seek to re-enter within 12 months of that removal, they must show they are exercising Treaty rights immediately upon re-entry.

For further information, see related links:

- [Ceased to have a right to reside](#)
- Misuse of a right to reside
- [Service of administrative removal papers](#)

For further information on the process for administrative removal, see the related link: [EEA administrative removal](#).

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Ceased to have a right of residence

This page tells you when a person with a right to reside in the UK in line with the [Immigration \(European Economic Area \(EEA\)\) Regulations 2016](#) (the regulations) can be removed from the UK because they do not have, or ceased to have a right to reside.

Ceased to have a right to reside

Examples of where a person may cease to have a right to reside are:

- EEA nationals without a permanent right of residence who cease to be a qualified person because, for example they are no longer working in the UK
- EEA nationals who have had their EEA nationality renounced or revoked
- family members of EEA nationals who have divorced their spouse and have not retained a right of residence

The regulations enable enforcement officers to take enforcement action against those EEA nationals without a permanent right of residence who are not exercising Treaty rights. Such that they cannot be considered a 'qualified person' and do not benefit from the right to reside in the UK. Such individuals who are not in the UK lawfully should be treated as if they were a person to whom [section 10 of the Immigration and Asylum Act 1999](#) applies.

Never had a right to reside

A person can also have a document revoked and be removed from the UK if they never had a right to reside. This is to deal with situations where a document is wrongly issued (whether due to mistake or abuse).

Decisions to remove on the basis that a person never had or ceased to have a right to reside, will lead to an administrative removal. The person will be treated as if they were someone to whom section 10(1)(a) of the 1999 Act applied (regulation 32(2) refers).

A decision to remove taken under regulation 23(6)(a) treats the person as if they were a person to whom section 10(1)(a) of the 1999 Act applied should not to be confused with a decision taken solely under UK immigration legislation that the person is to be removed under section 10.

Decisions which can be taken under UK immigration legislation only and not under the regulations are where a non-EEA national has not previously been engaged with or recognised by the EEA regime.

For example a visa national overstays their period of limited leave to enter as a visitor, and then applies for a residence card on the basis of marriage to an EEA national. They are unable to provide proof of their claimed relationship to the EEA national and the application is refused.

The person was neither admitted to nor got a right to reside in the UK under the regulations. For the purpose of enforcement action they should be dealt with as an overstayer under section 10 of the 1999 Act and not the EEA Regulations.

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Service of administrative removal papers

This page provides you with an overview of the service of administrative removal papers for European Economic Area (EEA) nationals.

Administrative removal papers

The administrative removal papers are:

- IS151A (EEA) – this tells the person about their immigration status and liability to detention and removal
- IS151B (EEA) – this tells the person about their right of appeal from outside the UK against the decision to remove
- IS151D (EEA) – this tells the person about the arrangements for their removal

Service of the IS151B (EEA) gives a right of appeal in line with regulation 36, and triggers a period of 10 working days during which the person can appeal the decision to administratively remove (five working days for detained cases).

Regulation 32(6) states the EEA national or their family member should be allowed one calendar month (interpreted as 30 days) to leave the UK voluntarily. This begins on the date on which they are notified of the decision to remove by form IS151B (EEA), before enforced removal.

For further information on the service of administrative removal papers, see the related link: [EEA administrative removal](#).

Removal

In line with regulation 32(6) the person will be allowed a period of one month to leave the UK voluntarily, beginning on the date of notification of the decision to remove. In practice this will be from the date on which they are deemed to have received the IS151B (EEA).

During this period and while any appeal against the decision to remove could be brought or is pending, the person cannot be removed from the UK. Except for cases when a person should clearly be deported urgently or where the person is detained because of the sentence or order of any court. They must be allowed a period of one month to leave the UK voluntarily, beginning on the date of notification of the decision to make a deportation order. This is in line with regulation 32(6).

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Invalidation of documentation following a decision to remove

This page tells you about when a document will be automatically invalidated following a decision taken to remove that person under the [Immigration \(European Economic Area\) Regulations 2016](#) (the regulations).

In line with regulation 24(2), a decision under regulation 23(6) to remove a person from the UK will (except during any period in which a right of residence is deemed to continue in line with regulation 16(2)) invalidate the following documents held by that person:

- registration certificate
- residence card
- document certifying permanent residence
- permanent residence card
- derivative residence card

Also, any application made by that person for such a document where there has been a removal decision made under regulation 23(6) will invalidate that application.

This means that you do not need to revoke a document held by a person in order to remove them from the UK. This is because any such removal will automatically invalidate that document.

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Detention

This page tells you when a European Economic Area (EEA) national or their family member can be detained pending their removal from the UK.

In line with regulation 32(1), if there are reasonable grounds for suspecting a person is someone who can be removed from the UK under regulation 23(6)(b) (public policy), the person can be detained under the authority of the Secretary of State pending a decision as to whether or not to remove that person.

A person who is detained on the grounds set out about above is to be treated as though they are being detained under paragraph 16 of Schedule 2 of the 1971 Act for the purposes of paragraphs 17 and 18 of Schedule 2 to the 1971 Act.

Where a decision is taken to remove a person under regulation 23(6)(a) or 23(6)(c), the person must be treated as if they were a person to whom, section 10(1)(a) of the 1999 Act applied. You must apply section 10 of that act (removal of certain persons unlawfully in the UK) in line with this. This means that an EEA national cannot be detained until a removal decision has been made. In practice, this follows an IS151A (EEA) being served.

Decisions to detain must be made on a case by case basis. Where on the basis of the facts you consider that detention is necessary (for example, if you suspect an individual of actively engaging in criminality or there is a clear risk of absconding).

See chapter 55 of the enforcement instructions and guidance for information and guidance on detention, including factors influencing a decision to detain, special cases, continued detention and detention reviews.

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Cancellation of right of residence

This page tells you when a European Economic Area (EEA) national or their family member's right of residence can be cancelled in the UK.

In line with regulation 25 of the regulations, you can cancel a person's right of residence in the UK where the following conditions are met:

- a person has a right to reside in the UK as a result of these regulations
- the Secretary of State has decided that cancelling that person's right to reside in the UK is either:
 - justified on the grounds of public policy, public security or public health in line with regulation 27
 - on the grounds of misuse of rights in line with regulation 26
- the circumstances are such that the Secretary of State cannot make a decision under regulation 10(1)
- it is not possible for the Secretary of State to remove the person from the UK under regulation 23(6)(b) or (c)

This means that a person who cannot be refused a document (because they have not applied for one) or removed (because human rights reasons prevent this) will no longer be able to continue to benefit from the terms of the Free Movement Directive and can still have their right to reside cancelled.

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