

From: European Operational Policy Team
Subject: Alternative evidence of nationality and identity
Date: 8th November 2012
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Purpose of notice

1. This notice provides guidance on new regulation 29A of the Immigration (European Economic Area) (Amendment) (No.2) Regulations 2012 on the circumstances in which it would be appropriate to exercise discretion so as to allow an applicant to rely on alternative evidence to establish identity and nationality.

Legal Background

2. In accordance with the 2006 Regulations, a person must present a valid identity card issued by an EEA member state or a valid passport in order to benefit from certain provisions of the Regulations- for example when applying for a document or seeking to appeal a decision. It is accepted, however, that there may be exceptional reasons why a person cannot provide such documentation.
3. For this reason, regulation 29A has been inserted into the 2012 Regulations and came into force on 8th November 2012. This gives the Secretary of State discretion to accept alternative evidence of identity and nationality where the person is unable to obtain or produce the required document due to circumstances beyond his or her control.

Exercising discretion in line with regulation 29A

4. Regulation 29A allows the Secretary of State to accept alternative evidence of identity where the applicant is unable to provide a valid ID card issued by an EEA member state or a valid passport due to circumstances beyond their control.
5. Alternative evidence of identity must accordingly only be accepted where it is not possible for the applicant to obtain the specified identification documents. This may be, for example, where they have claimed asylum within the UK and there would be a potential risk to the applicant in seeking documentation from the authorities in their home country. In such cases, a Home Office issued Application Registration Card (ARC) can be accepted as alternative evidence of identity and

nationality. Where such alternative documentation is accepted, this can also be considered acceptable for the purposes of an applicant's appeal rights.

6. Each case must be considered on its individual merits and reference must be made to a deputy chief caseworker in all instances.
7. Where a person claims to be unable to provide the specified documents for reasons relating to cost or inconvenience, it would not be appropriate to accept alternative evidence.
8. Regulation 29A does not apply to applications for admission under regulation 11, as regulation 11 already contains a provision allowing an applicant to establish his or her right to enter by other means.

Enquiries

9. If you have any enquiries regarding this notice please contact [contact details redacted] or the European Operational Policy Mailbox EuropeanOperational@homeoffice.gsi.gov.uk

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Head of European Operational Policy
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