



Home Office

# Exclusion of EEA nationals and their family members from the UK

## Exclusion of EEA nationals and their family members from the UK

### About this guidance

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This guidance tells you about the exclusion of European Economic Area (EEA) nationals and their family members from the UK under the Immigration (European Economic Area) Regulations 2006 (as amended) ('the Regulations').

Under regulation 19(1B) of the Regulations the Secretary of State may make an exclusion order against an EEA national or the family member of an EEA national.

An exclusion order must only be made against a person who is outside the UK. This includes a person who is stopped at a port but is not granted admission to the UK under the regulations.

To make an exclusion order the test the case must meet depends on how long the person has been residing in the UK under the regulations:

Length of time the person has been residing in the UK	The test to meet
Less than five years	Regulation 19(1) - whether the order is justified on grounds of: <ul style="list-style-type: none"> <li>• public policy</li> <li>• public security, or</li> <li>• public health.</li> </ul>
Between five and 10 years	Regulation 21(3) – whether the order is justified on serious grounds of: <ul style="list-style-type: none"> <li>• public policy, or</li> <li>• public security.</li> </ul>
10 years or more	Regulation 21(4) – whether the order is justified on imperative grounds of public security.

### In this section

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### See also

European casework instructions

### External links

[The Immigration \(EEA\) Regulations 2006](#)

[The Immigration \(EEA\) \(Amendment\) Regulations 2009](#)

[The Immigration \(EEA\) \(Amendment\) Regulations 2011](#)

	<p>An exclusion order prohibits a person's admission to the UK while it remains in force (Regulation 19(1A)).</p> <p>Changes to this guidance – This page tells you what has changed since the previous version of this guidance.</p> <p>Contact – This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.</p> <p>Information owner – This page tells you about this version of the guidance and who owns it.</p>	
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## Exclusion of EEA nationals and their family members from the UK

### Changes to this guidance

<p><a href="#">About this guidance</a></p> <p><a href="#">Considering whether to exclude</a></p> <p><a href="#">Appeals</a></p> <p><a href="#">Breaching an exclusion order</a></p>	<p>This page lists changes to the 'Exclusion of European Economic Area (EEA) nationals and their family members from the UK' guidance, with the most recent at the top.</p> <table border="1"> <thead> <tr> <th data-bbox="490 391 831 432">Date of the change</th> <th data-bbox="831 391 1532 432">Details of the change</th> </tr> </thead> <tbody> <tr> <td data-bbox="490 432 831 544">31 January 2017</td> <td data-bbox="831 432 1532 544">           Change request:           <ul style="list-style-type: none"> <li>• out of date appeals information redacted</li> </ul> </td> </tr> <tr> <td data-bbox="490 544 831 922">27 January 2014</td> <td data-bbox="831 544 1532 922">           Six month review by the modernised guidance team:           <ul style="list-style-type: none"> <li>• Exclusion of EEA nationals and their family members from the UK:               <ul style="list-style-type: none"> <li>○ bullet points incorporated into table.</li> </ul> </li> <li>• Breaching an exclusion order:               <ul style="list-style-type: none"> <li>○ details in the restricted box amended.</li> </ul> </li> <li>• Minor housekeeping and plain English changes throughout.</li> </ul> </td> </tr> <tr> <td data-bbox="490 922 831 1337">22 July 2013</td> <td data-bbox="831 922 1532 1337">           Six month review by the modernised guidance team:           <ul style="list-style-type: none"> <li>• About this guidance/Landing page:               <ul style="list-style-type: none"> <li>○ third paragraph, bullet points have been amended</li> </ul> </li> <li>• Considering whether to exclude:               <ul style="list-style-type: none"> <li>○ sub-heading 'Set of principles' second paragraph has been amended</li> </ul> </li> <li>• Minor housekeeping changes.</li> </ul> </td> </tr> <tr> <td data-bbox="490 1337 831 1401"></td> <td data-bbox="831 1337 1532 1401">           For previous changes you will need to access the archived guidance. See related link:         </td> </tr> </tbody> </table>	Date of the change	Details of the change	31 January 2017	Change request: <ul style="list-style-type: none"> <li>• out of date appeals information redacted</li> </ul>	27 January 2014	Six month review by the modernised guidance team: <ul style="list-style-type: none"> <li>• Exclusion of EEA nationals and their family members from the UK:               <ul style="list-style-type: none"> <li>○ bullet points incorporated into table.</li> </ul> </li> <li>• Breaching an exclusion order:               <ul style="list-style-type: none"> <li>○ details in the restricted box amended.</li> </ul> </li> <li>• Minor housekeeping and plain English changes throughout.</li> </ul>	22 July 2013	Six month review by the modernised guidance team: <ul style="list-style-type: none"> <li>• About this guidance/Landing page:               <ul style="list-style-type: none"> <li>○ third paragraph, bullet points have been amended</li> </ul> </li> <li>• Considering whether to exclude:               <ul style="list-style-type: none"> <li>○ sub-heading 'Set of principles' second paragraph has been amended</li> </ul> </li> <li>• Minor housekeeping changes.</li> </ul>		For previous changes you will need to access the archived guidance. See related link:	<p><b>Related links</b></p> <p><a href="#">About this guidance</a></p> <p><a href="#">Breaching an exclusion order</a></p> <p><b>See also</b></p> <p><a href="#">Contact</a></p> <p><a href="#">Information owner</a></p> <p>Exclusion of EEA nationals and their family members from the UK - archive</p>
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## Exclusion of EEA nationals and their family members from the UK

### Considering whether to exclude

<p><a href="#">About this guidance</a></p> <p><a href="#">Considering whether to exclude</a></p> <p><a href="#">Appeals</a></p> <p><a href="#">Breaching an exclusion order</a></p>	<p>This page tells you about considering a decision to exclude on the grounds of public policy or public security grounds and the types of behaviour that can lead to exclusion from the UK.</p> <p><b>Set of principles</b></p> <p>A decision to make an exclusion order on public policy or public security grounds in line with the principles set out in regulation 21(5):</p> <ul style="list-style-type: none"><li>• the decision must be proportionate</li><li>• the decision must be based solely on the personal conduct of the person concerned</li><li>• the personal conduct of the individual must represent a genuine, present and sufficiently serious threat which affects one of the fundamental interests of society</li><li>• matters isolated from the particulars of the case or which relate to considerations of general prevention do not justify the decision, and</li><li>• a person's previous criminal convictions alone do not justify the decision.</li></ul> <p>The third principle (third bullet point above) whatever the person has done in the past, there needs to be evidence they will tend to meet these thresholds in their future conduct. However, the Court of Justice of the European Union has accepted this may not be necessary in every case (Tsakouridis).</p> <p>In an exceptional case the crime committed may be considered to be of such a serious nature that this is sufficient in itself to demonstrate a genuine and present threat to society, even when there is no evidence of a tendency to reoffend. You must email any enquiries on the Tsakouridis case to European operational policy enquiries (see related links).</p> <p><b>Behaviour that might warrant exclusion</b></p> <p>Exclusion is not confined to those charged with or convicted of an offence. If the person's behaviour or actions (whether conducted in the UK or abroad) could fall within the scope of UK criminal legislation, whether or not the individual has been charged with or convicted of an offence, it may warrant exclusion. Examples include but are not limited to the types of offences covered by the following UK legislation:</p>	<p><b>Related links</b></p> <p><a href="#">European casework instructions</a></p> <p><a href="#">What is an SCD case?</a></p> <p><b>External links</b></p> <p><a href="#">The Immigration (EEA) Regulations 2006</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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- The Terrorism Act 2000
- The Anti-Terrorism, Crime and Security Act 2001
- The Prevention of Terrorism Act 2005 and the Terrorism Act 2006
- The Misuse of Drugs Act 1971 (for drugs supply offences)
- The Customs and Excise Management Act 1979 (for drug smuggling offences)
- The Proceeds of Crime Act 2002 (for money laundering offences)
- Schedule 15 of the Criminal Justice Act 2003 (for violent and sexual offences)
- The Public Order Act 1986 (as amended by the Race and Religious Hatred Act 2006).

Restricted information - do not disclose - start of section

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Restricted information - do not disclose - end of section

## Exclusion of EEA nationals and their family members from the UK

### Appeals

<p><a href="#">About this guidance</a></p> <p><a href="#">Considering whether to exclude</a></p> <p><a href="#">Appeals</a></p> <p><a href="#">Breaching an exclusion order</a></p>	<p>This page tells you about a person's rights to appeal against both a decision to make an exclusion order and a decision not to revoke an exclusion order.</p> <p><b>Appeal against a decision to make an exclusion order</b></p> <p>Individuals have the right to appeal against a decision to make an exclusion order against them (under regulation 26) but they can only exercise that right of appeal outside the UK (regulation 27(1)(aa)), subject to the following exceptions:</p> <ul style="list-style-type: none"><li>• they held a valid EEA family permit, registration certificate, residence card, derivative residence card, document certifying permanent residence or permanent residence card or qualifying EEA State residence card on their arrival in the UK, or they can otherwise prove they are resident in the UK (regulation 27(2)(a))</li><li>• are detained, or temporarily admitted or released but on the date the notice of the decision to refuse to admit them was served they had been in the UK for at least three months (regulation 27(2)(b))</li></ul> <p>Anyone who arrives in the UK whilst subject to an extant exclusion order will normally either fall to be refused admission or be removable as an illegal entrant (see link on left: Breaching an exclusion order).</p> <p>Bringing an appeal in the UK against a decision depends on the factors above. If possible, you should deal with rights of appeal against decisions to exclude and refuse admission or remove as an illegal entrant together.</p> <p><b>Appeal against refusal to revoke an exclusion order</b></p> <p>Anyone subject to an exclusion order can apply from outside the UK to have the order revoked if they believe there has been a material change in the circumstances since the order was made (regulation 24A(2)). It is the person's responsibility to provide evidence to support the application.</p> <p>A decision to refuse to revoke the order attracts a right of appeal (under regulation 26) but it</p>	<p><b>Related links</b></p> <p>European casework instructions</p> <p><b>External links</b></p> <p><a href="#">The Immigration (EEA) Regulations 2006</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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	can only be made outside the UK (regulation 27(1)(b)).	
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## Exclusion of EEA nationals and their family members from the UK

### Breaching an exclusion order

<p><a href="#">About this guidance</a></p> <p><a href="#">Considering whether to exclude</a></p> <p><a href="#">Appeals</a></p> <p><a href="#">Breaching an exclusion order</a></p>	<p>This page tells you how a person can breach an exclusion order made under the Immigration (European Economic Area) Regulations 2006 (as amended).</p> <p>A European Economic Area (EEA) national, or family member, who returns to the UK while an exclusion order is still in force (extant) will either be:</p> <ul style="list-style-type: none"><li>• stopped on entry by a Border Force officer, for example, before they pass through immigration control, or</li><li>• encountered in the UK after they manage to pass through or circumvent the control on arrival.</li></ul> <p><b>On entry</b> Individuals stopped on entry will be considered to have sought to enter in breach of an exclusion order and must be refused admission. See link on left: Appeals.</p> <p><b>After entry</b> An EEA national or family member who enters the UK in breach of an extant exclusion order can be removed as an illegal entrant in line with regulation 24(4).</p> <p>The process that applies to anyone who enters in breach of a deportation order also applies to entry in breach of an exclusion order. For more information on entry in breach of a deportation order see related link: 08 Enforcement action taken against EEA nationals and family members.</p> <p>A person's right of appeal against a decision to remove can be found in regulation 26. Through regulation 27(1)(d) this is an out of country right of appeal unless regulation 27(3) applies, for example, if the person raises asylum or human rights grounds that are not certified as clearly unfounded.</p> <p style="border: 2px solid red; padding: 2px; text-align: center;">Restricted information - do not disclose - start of section</p>	<p><b>Related links</b></p> <p>08 Enforcement action taken against EEA nationals and family members</p> <p><b>External links</b></p> <p><a href="#">The Immigration (EEA) Regulations 2006</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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## Exclusion of EEA nationals and their family members from the UK

### Contact

<p><a href="#">About this guidance</a></p> <p><a href="#">Considering whether to exclude</a></p> <p><a href="#">Appeals</a></p> <p><a href="#">Breaching an exclusion order</a></p>	<p>This page explains who to contact for more help with a specific case on excluding European Economic Area nationals and their family members from the UK.</p> <p>If your query relates to the findings in the case of Tsakouridis email European operational policy (see related link).</p> <div data-bbox="465 502 1765 790" style="border: 2px solid red; padding: 10px;"><p style="text-align: center;">Restricted information - do not disclose - start of section</p><p>The information on this page has been removed as it is restricted for internal Home Office use.</p><p style="text-align: center;">Restricted information - do not disclose - end of section</p></div> <p>Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact the policy team, who will ask the MGT to update the guidance, if appropriate.</p> <p>The MGT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Modernised guidance team.</p>	<p><b>Related links</b></p> <p><a href="#">Changes to this guidance</a></p> <p><a href="#">Information owner</a></p> <p><b>External links</b></p>
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This page tells you about this version of the 'exclusion of European Economic Area (EEA) nationals and their family members' guidance and who owns it.

Version	5.0
Valid from date	31 January 2017
<b>Restricted – Do not disclose - start of section</b>	
Policy owner	Official sensitive
Cleared by director	Official sensitive
Director's role	Official sensitive
Clearance date	Official sensitive
This version approved for publication by	Official sensitive
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<b>Restricted – Do not disclose – end of section</b>	
Approval date	26 October 2016

Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact the policy team, who will ask the MGT to update the guidance, if appropriate.

The MGT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Modernised guidance team.

### Related links

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### External links