

Immigration Rules

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Immigration Rules part 13: deportation

Deportation.

Deportation

This part of the Rules sets out when a person will be considered for deportation and when a deportation order will be revoked. It also applies where deportation is recommended by a court.

A deportation order is made on the grounds that the deportation of the person is conducive to the public good.

Deportation of EEA citizens and their family members on public policy, public security or public health grounds is set out in the EEA Regulations 2016 (as saved).

Deportation of Frontier Workers is set out in the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020.

A deportation order invalidates any permission to enter or stay in the UK and prevents the person from returning to the UK while the deportation order is in force.

Where deportation is being considered and the person has made a claim under Article 8 of the Human Rights Convention, that claim will be considered in line with the provisions under this Part.

Where deportation would be a breach of a person's rights under the Human Rights Act 1998, they may be granted permission to enter or stay in the UK for a temporary period.

Exemptions from deportation are set out at Section 7 and Section 8 of the Immigration Act 1971.

This Part is in four sections:

1. Grounds for deportation
2. Article 8 ECHR exceptions to deportation
3. Outcome of an Article 8 decision
4. Revocation of a deportation order

Section 1: Grounds for deportation

13.1.1. A foreign national, who is not an Irish citizen, is liable for deportation where:

- (a) they have been convicted of a criminal offence for which they have received a custodial sentence of at least 12 months; or
- (b) the Secretary of State otherwise considers that the deportation of the foreign national is conducive to the public good; or
- (c) they are the spouse, civil partner or child aged under 18 of a foreign national who is, or has been ordered to be, deported.

13.1.2. An Irish citizen may only be deported where a court has recommended deportation or where the Secretary of State concludes that, due to the exceptional circumstances of the case, the public interest requires deportation.



13.1.3. A deportation order will not be made if the foreign national's removal from the UK pursuant to the order would be contrary to the UK's obligations under the Refugee Convention or the Human Rights Convention, and, where deportation would not be contrary to these obligations, the presumption is in favour of deportation.

Section 2: Article 8 ECHR exceptions to deportation

13.2.1. Where a foreign national has been convicted in the UK or overseas and received a custodial sentence of at least 12 months; has been convicted of an offence that has caused serious harm; or is a persistent offender, the public interest requires the foreign national's deportation unless:

- (a) the private life exception in paragraph 13.2.3, or the family life exception in paragraph 13.2.4, is met; or
- (b) there are very compelling circumstances such that removal would be contrary to the Human Rights Act 1998.

13.2.2. A foreign national, who has received a custodial sentence of at least 4 years, must show very compelling circumstances over and above the exception in paragraph 13.2.3. or 13.2.4 for deportation to be a breach of Article 8 of the Human Rights Convention.

13.2.3. The Article 8 private life exception is met where:

- (a) the foreign national has been lawfully resident in the UK for most of their life; and
- (b) they are socially and culturally integrated in the UK; and
- (c) there would be very significant obstacles to their integration into the country to which they are to be deported.

13.2.4. The Article 8 family life exception is met where the foreign national has:

- (a) a parental relationship with a child that meets all the requirements of paragraph 13.2.5;



or

(b) a partner relationship that meets all the requirements of paragraph 13.2.6.

13.2.5. The foreign national has a parental relationship with a child and all of the following apply:

(a) the relationship is genuine and subsisting; and

(b) the child is either a British citizen or has lived in the UK continuously for at least the 7 years immediately before the date of the decision to make the deportation order; and

(c) the child is at the date of the decision to make the deportation order resident in the UK; and

(d) it would be unduly harsh for the child to live in the country to which the foreign national is to be deported; and

(e) it would be unduly harsh for the child to stay in the UK without the foreign national who is to be deported.

13.2.6. The foreign national has a partner relationship and all of the following apply:

(a) the foreign national's relationship with the partner is genuine and subsisting; and

(b) the partner is either a British citizen or is settled in the UK; and

(c) the partner is resident in the UK; and

(d) the relationship did not begin when the foreign national to be deported was in the UK unlawfully or when their immigration status was precarious; and

(e) it would be unduly harsh for that partner to live in the country to which the foreign national is to be deported; and

(f) it would be unduly harsh for that partner to stay in the UK without the foreign national who is to be deported.



Part 3: Outcome of an Article 8 Decision

13.3.1. If the decision maker is satisfied that the foreign national satisfies the requirements of paragraph 13.2.1. or 13.2.2. and the foreign national does not have permission (including where previous permission has been cancelled, invalidated or revoked), the foreign national will be granted temporary permission.

13.3.2. Where temporary permission is granted under paragraph 13.3.1, it will be granted for a period not exceeding 30 months and subject to such conditions the Secretary of State considers to be appropriate.

Section 4: Revocation of a deportation order



13.4.1 Revocation of a deportation order does not entitle the foreign national to re-enter the United Kingdom; it means they may apply for and may be granted entry clearance or permission to enter or stay in the UK.

13.4.2. A deportation order remains in force until either:

- (a) it is revoked; or
- (b) it has been quashed by a court or tribunal.

13.4.3. A foreign national who is subject to a deportation order can apply to the Home Office for revocation of the order and should normally apply from outside the UK after they have been deported.

13.4.4. Where an application for revocation is made, a deportation order will be revoked where:

- (a) in the case of a foreign national who has been convicted of an offence and sentenced to a period of imprisonment of less than 4 years, the Article 8 private or family life exception set out in paragraph 13.2.3 or 13.2.4, or both, is met or where there are very compelling circumstances which would make a decision not to revoke the deportation order a breach of Article 8 of the Human Rights Convention; or
- (b) in the case of a foreign national who has been convicted of an offence and sentenced to a period of imprisonment of 4 years or more,

there are very compelling circumstances which would make a decision not to revoke the deportation order a breach of Article 8 of the Human Rights Convention; or

(c) a decision not to revoke the deportation order would be contrary to the Human Rights Convention or the Refugee Convention.

13.4.5. Where an application for revocation is made, a deportation order made in relation to a foreign national who has not been convicted of an offence for which they received a custodial sentence may be revoked where there has been a material change in circumstances in relation to the factors that resulted in the foreign national's deportation on the ground it was conducive to the public good.



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