

# Factsheet: Removal of EEA national criminals

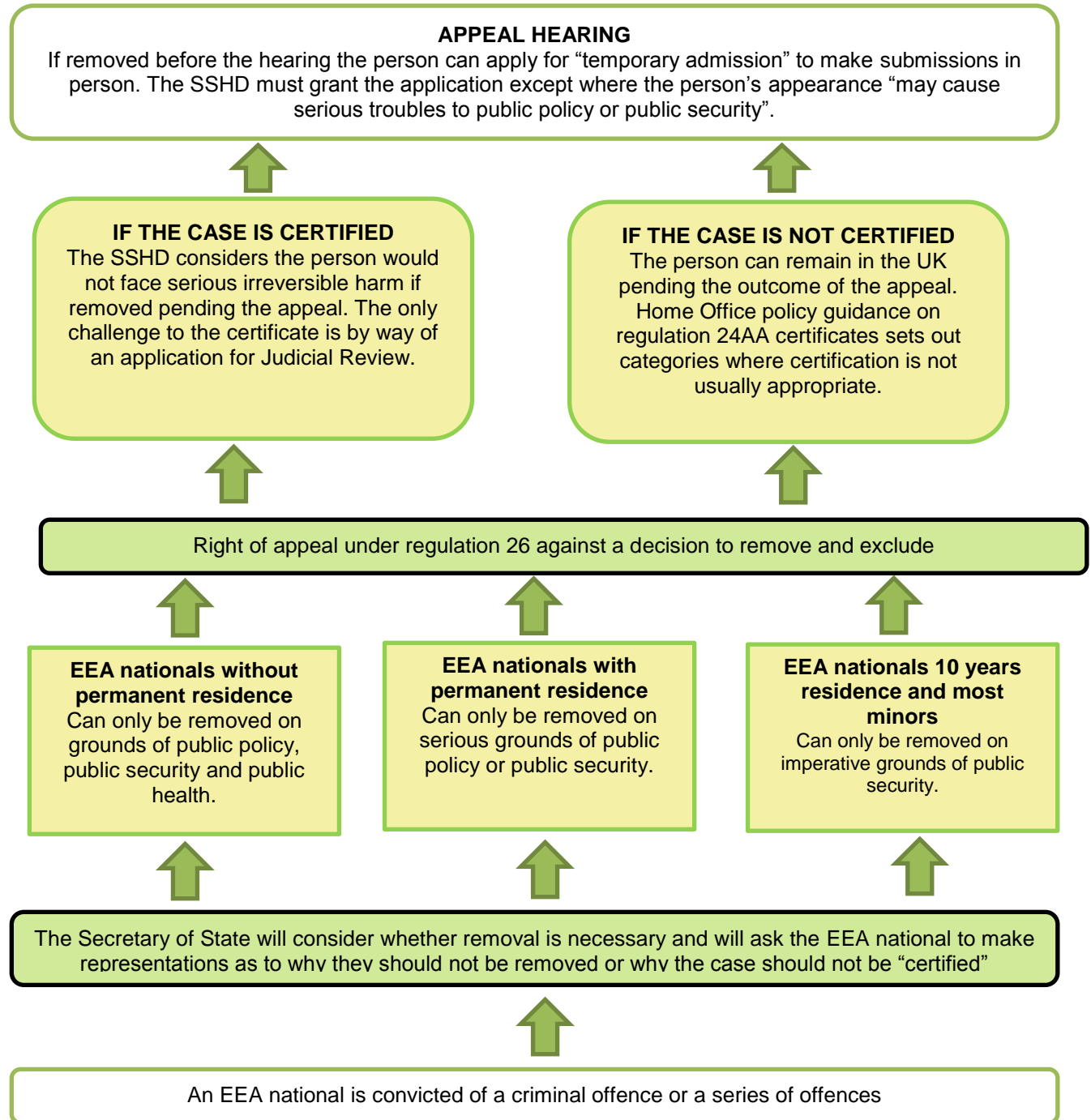
Although still commonly referred to as “deportation”, in legal terms, deportation is a power given to the Secretary of State under UK law to remove non-EEA foreign criminals and does not apply to the removal of EEA nationals.

The removal of EEA nationals who have committed crimes in the UK is dealt with under the provisions of European law as incorporated in The Immigration (European Economic Area) Regulations 2006. In general the law is more generous than for deportation of non-EEA nationals.

EEA national criminals can be “removed” on the grounds of public policy, public security or public health under regulation 19 of the EEA Regulations 2006. There are three different thresholds for removal depending on how long an EEA national has been living in the UK and what their status is under EU law.

When a decision is taken on the grounds of public policy, public security and public health it must:

- (i) comply with the principle of proportionality;
- (ii) be based exclusively on the conduct of the person concerned;
- (iii) the personal conduct of the person concerned must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society;
- (iv) considerations relating to general prevention of crime do not justify the decision; and
- (v) previous criminal convictions do not in themselves justify the decision.



An EEA national is convicted of a criminal offence or a series of offences

The Secretary of State will consider whether removal is necessary and will ask the EEA national to make representations as to why they should not be removed or why the case should not be “certified”

**EEA nationals without permanent residence**  
Can only be removed on grounds of public policy, public security and public health.

**EEA nationals with permanent residence**  
Can only be removed on serious grounds of public policy or public security.

**EEA nationals 10 years residence and most minors**  
Can only be removed on imperative grounds of public security.

Right of appeal under regulation 26 against a decision to remove and exclude

**IF THE CASE IS CERTIFIED**  
The SSHD considers the person would not face serious irreversible harm if removed pending the appeal. The only challenge to the certificate is by way of an application for Judicial Review.

**IF THE CASE IS NOT CERTIFIED**  
The person can remain in the UK pending the outcome of the appeal. Home Office policy guidance on regulation 24AA certificates sets out categories where certification is not usually appropriate.

## APPEAL HEARING

If removed before the hearing the person can apply for “temporary admission” to make submissions in person. The SSHD must grant the application except where the person’s appearance “may cause serious troubles to public policy or public security”.