
S T A T U T O R Y I N S T R U M E N T S

2000 No. 1849

IMMIGRATION

**The Special Immigration Appeals Commission
(Procedure) (Amendment) Rules 2000**

Made - - - - - *14th July 2000*

Coming into force - - - *2nd October 2000*

The Lord Chancellor, in exercise of the powers conferred by section 5 of the Special Immigration Appeals Commission Act 1997^(a), makes the following Rules of which a draft has, in accordance with section 5(9), been laid before and approved by resolution of each House of Parliament:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Special Immigration Appeals Commission (Procedure) (Amendment) Rules 2000 and shall come into force on 2nd October 2000.

(2) In these Rules, “the 1998 Rules” means the Special Immigration Appeals Commission (Procedure) Rules 1998^(b).

Amendment of the 1998 Rules

2. In the Arrangement of Rules of the 1998 Rules, after the entry relating to rule 9 “Notice of appeal”, there shall be inserted the following entry “9A Additional grounds for appealing”.

3. In rule 2 of the 1998 Rules (Interpretation), after the entry relating to the 1997 Act, there shall be inserted the following entry—

““the 1999 Act” means the Immigration and Asylum Act 1999^(c)”.

4. In rule 5(1)(b) of the 1998 Rules (Notices etc.), for the words “the Appeal Support Section of the Asylum Directorate of the Home Office” there shall be substituted the words “an address or fax number specified by him”.

(a) 1997 c. 68.

(b) S.I. 1998/1881.

(c) 1999 c. 33.

5. For rule 6 of the 1998 Rules (Application of Part II), there shall be substituted the following rule—

“Application of Part II

6.—(1) Subject to paragraph (2), this Part applies to appeals brought under section 2 of the 1997 Act and to appeals transferred to the Commission under subsection (3) or (5) of section 78 of the 1999 Act where an appeal has been or may be made under section 2(1) of the 1997 Act.

(2) The provisions of this Part shall not—

- (a) prejudice steps already taken in respect of an appeal transferred under either of those subsections, or
- (b) require any step to be taken under these Rules which is equivalent to a step which has already been taken in respect of such an appeal.”.

6.—(1) Rule 7 of the 1998 Rules (The special advocate) shall be amended as follows.

(2) In paragraph (1), the words “a copy of” shall be omitted.

7. For rule 8 of the 1998 Rules (Time limit for appealing), there shall be substituted the following rule—

“Time limit for appealing

8.—(1) The appellant shall give notice of an appeal no later than—

- (a) 5 days after receiving the notice of the decision being appealed against, where the appellant appeals in the United Kingdom; or
- (b) 28 days after receiving the notice of the decision being appealed against, where the appellant appeals from outside the United Kingdom.

(2) The period specified in paragraph (1) shall begin from the end of the day on which the notice of the decision being appealed against was received.

(3) Where the period specified under paragraph (1) expires on an excluded day, the notice of appeal shall be taken to have been served as required if served on the next day that is not an excluded day.

(4) Where the period specified under paragraph (1)(a) includes an excluded day, that day shall be discounted.

(5) The notice of appeal shall be taken to have been served as required on the day on which it is received at the address or fax number specified in the notice of the decision against which the appeal is made.

(6) “Excluded day” means a Saturday, a Sunday, a bank holiday, Christmas Day, 27th to 31st December or Good Friday.

(7) “Bank holiday” means a day that is specified in, or appointed under, the Banking and Financial Dealings Act 1971(a).”.

8. For rule 9 of the 1998 Rules (Notice of appeal), there shall be substituted the following rule—

“Notice of appeal

9.—(1) An appeal to the Commission shall be made by sending to the Secretary of State a notice of appeal by hand, by fax or by post to the address or fax number specified in the document which informed him of the decision against which he is appealing.

(2) The notice of appeal shall set out the grounds for the appeal.

(3) The notice of appeal shall state the name and address of the appellant and the name and address of any representative of the appellant.

(4) The appellant or his representative shall sign the notice of appeal.

(5) The appellant shall attach to the notice of appeal—

- (a) a copy of the document which informed him of the decision against which he is appealing; and

(a) 1971 c. 80.

(b) where a notice has been served on the appellant under section 74(4) of the 1999 Act, a statement form, on which additional grounds which he has or may have for wishing to enter or remain in the United Kingdom may be stated, whether or not that form has been completed.

(6) As soon as practicable after he receives a notice of appeal in a case where no such grounds have been stated, the Secretary of State shall send that notice, together with any documents attached to it under paragraph (5), to the Commission.”.

9. After rule 9 of the 1998 Rules, there shall be inserted the following rule—

“Additional grounds for appealing

9A.—(1) Where the appellant is treated as appealing on additional grounds by virtue of section 77(2) of the 1999 Act, he shall serve any variation of his grounds of appeal on the Secretary of State no later than 5 days after he received the supplementary grounds of refusal.

(2) As soon as practicable after this period, the Secretary of State shall send to the Commission—

- (a) the notice of appeal, together with any documents attached to it under rule 9(5),
- (b) any supplementary grounds for refusal, and
- (c) any variation of the grounds of appeal.

(3) For the purpose of calculating the period specified in paragraph (1), paragraphs (2) to (7) of rule 8 shall apply as if the variation of grounds of appeal were a notice of appeal and the supplementary grounds of refusal were the notice of the decision against which the appeal is made.

(4) In this rule, “supplementary grounds of refusal” means the reasons given by the Secretary of State for maintaining the decision being appealed against after consideration by him of the additional grounds.”.

10. In rule 10(1) of the 1998 Rules (Secretary of State’s reply), the words “, no later than 42 days after receiving a copy of the notice of appeal” shall be omitted.

11. For paragraphs (1) and (2) of rule 12 of the 1998 Rules (Amendment and supplementary grounds), there shall be substituted the following paragraphs—

“(1) Subject to paragraph (1A), the appellant may amend his notice of appeal or deliver supplementary grounds of appeal.

(1A) Where the Secretary of State has provided material under rule 10, the appellant shall obtain the leave of the Commission before amending his notice of appeal or delivering supplementary grounds of appeal under paragraph (1).

(2) The appellant shall send any proposed amended notice of appeal or supplementary grounds of appeal to the Secretary of State who shall, as soon as practicable, send a copy to the Commission.”.

12. For rule 13(3) of the 1998 Rules (Directions), there shall be substituted the following paragraph—

“(3) The Commission may—

- (a) subject to any specific provision of the Rules, specify time limits for steps to be taken in the proceedings; and
- (b) extend any time limit.”.

13. In rule 22(1) of the 1998 Rules (Notification to appellant before determination), for the words “makes a determination” there shall be substituted the words “determines the appeal”.

14. For paragraphs (3) and (4) of rule 26 of the 1998 Rules (Application for bail: procedure), there shall be substituted the following paragraph—

“(3) Rules 8, 9 and 9A shall not apply to bail applications.”.

Irvine of Lairg, C.

14th July 2000

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Special Immigration Appeals Commission (Procedure) Rules 1998. The majority of the amendments are necessary as a result of, or are related to, the introduction of the “one-stop” procedure for appeals under Part IV of the Immigration and Asylum Act 1999. These Rules also contain other minor amendments to the 1998 Rules.

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