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STATUTORY INSTRUMENTS

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**2005 No. 230**

**The Asylum and Immigration Tribunal (Procedure) Rules 2005**

**PART 2**

*Appeals to the Tribunal*

**Late notice of appeal**

**10.**—(1) If a notice of appeal is given outside the applicable time limit, it must include an application for an extension of time for appealing, which must—

- (a) include a statement of the reasons for failing to give the notice within that period; and
- (b) be accompanied by any written evidence relied upon in support of those reasons.

(2) If a notice of appeal appears to the Tribunal to have been given outside the applicable time limit but does not include an application for an extension of time, unless the Tribunal extends the time for appealing of its own initiative, it must notify the person giving notice of appeal in writing that it proposes to treat the notice of appeal as being out of time.

(3) Where the Tribunal gives notification under paragraph (2), if the person giving notice of appeal contends that—

- (a) the notice of appeal was given in time, or
- (b) there were special circumstances for failing to give the notice of appeal in time which could not reasonably have been stated in the notice of appeal,

he may file with the Tribunal written evidence in support of that contention.

(4) Written evidence under paragraph (3) must be filed—

- (a) if the person giving notice of appeal is in the United Kingdom, not later than 3 days; or
- (b) if the person giving notice of appeal is outside the United Kingdom, not later than 10 days,

after notification is given under paragraph (2).

(5) Where the notice of appeal was given out of time, the Tribunal may extend the time for appealing if satisfied that by reason of special circumstances it would be unjust not to do so.

(6) The Tribunal must decide any issue as to whether a notice of appeal was given in time, or whether to extend the time for appealing, as a preliminary decision without a hearing, and in doing so may only take account of—

- (a) the matters stated in the notice of appeal;
- (b) any evidence filed by the person giving notice of appeal in accordance with paragraph (1) or (3); and
- (c) any other relevant matters of fact within the knowledge of the Tribunal.

(7) Subject to paragraphs (8) and (9), the Tribunal must serve written notice of any decision under this rule on the parties.

(8) Where—

- (a) a notice of appeal under section 82 of the 2002 Act which relates in whole or in part to an asylum claim was given out of time;
- (b) the person giving notice of appeal is in the United Kingdom; and
- (c) the Tribunal refuses to extend the time for appealing,

the Tribunal must serve written notice of its decision on the respondent, which must—

- (i) serve the notice of decision on the person giving notice of appeal not later than 28 days after receiving it from the Tribunal; and
- (ii) as soon as practicable after serving the notice of decision, notify the Tribunal on what date and by what means it was served.

(9) Where paragraph (8) applies, if the respondent does not give the Tribunal notification under sub-paragraph (ii) within 29 days after the Tribunal serves the notice of decision on it, the Tribunal must serve the notice of decision on the person giving notice of appeal as soon as reasonably practicable thereafter.