

2006 No. 2788 (L. 10)

IMMIGRATION

**The Asylum and Immigration Tribunal (Procedure)
(Amendment) Rules 2006**

Made - - - - - *13th October 2006*

Laid before Parliament *17th October 2006*

Coming into force in accordance with rule 1

The Lord Chancellor, in exercise of the powers conferred by sections 106(1) to (3) and 112(3) of the Nationality, Immigration and Asylum Act 2002 (a), and section 40A(3) of the British Nationality Act 1981(b), after consulting the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(c), makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2006.

(2) These Rules, except for rules 10 and 11, shall come into force on 13th November 2006.

(3) Rules 10 and 11 shall come into force on the day on which section 8 of the Immigration, Asylum and Nationality Act 2006(d) comes into force.

(4) In these Rules, a reference to a rule by number alone is to the rule so numbered in the Asylum and Immigration Tribunal (Procedure) Rules 2005(e).

Amendments to the Asylum and Immigration Tribunal (Procedure) Rules 2005

2. In rule 2, omit the definition of “appropriate prescribed form”.

3. In rule 8(1), for “in the appropriate prescribed form”, substitute “made on a form approved for the purpose by the President”.

4. For the heading of rule 9 substitute “Notice of appeal where there is no relevant decision”.

5. In rule 10—

(a) after paragraph 6 insert—

“(6A) Where the Tribunal makes a decision under this rule it must give written notice of its decision, including its reasons which may be in summary form.”;

(a) 2002 c.41. Section 106 was amended by paragraph 21 of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19).

(b) 1981 c. 61. Section 40A was inserted by section 4(1) of the Nationality, Immigration and Asylum Act 2002 (c.41) and amended by paragraph 4 of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19).

(c) 1992 c.53.

(d) 2006 c.13.

(e) S.I. 2005/230, as amended by the Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2005 (S.I. 2005/569).

- (b) in paragraph (7)—
 - (i) after “must serve” insert “the”;
 - (ii) after “written notice” insert “given under paragraph (6A)”;
 - (iii) omit “ of any decision under this rule”.

6. In rule 17, after paragraph (2) insert—

“(2A) Where an appellant dies before his appeal has been determined by the Tribunal, the Tribunal may direct that—

- (a) the appeal shall be treated as withdrawn; or
- (b) where the Tribunal considers it necessary, the personal representative of the appellant may continue the proceedings in the place of the appellant.”.

7. In rule 18—

- (a) in paragraph (1)(a), after “section 104(4)” insert “, (4A)”;
- (b) after paragraph (1) insert—

“(1A) Where section 104(4A) of the 2002 Act applies and the appellant wishes to pursue his appeal, the appellant must file a notice with the Tribunal—

- (a) where section 104(4B) of the 2002 Act applies, within 28 days of the date on which the appellant received notice of the grant of leave to enter or remain in the United Kingdom for a period exceeding 12 months; or
- (b) where section 104(4C) of the 2002 Act applies, within 28 days of the date on which the appellant received notice of the grant of leave to enter or remain in the United Kingdom.

(1B) Where the appellant does not comply with the time limits specified in paragraph (1A) the appeal will be treated as abandoned in accordance with section 104(4) of the 2002 Act.

(1C) At the same time as filing the notice under paragraph (1A), the appellant must serve a copy of the notice on the respondent.

(1D) Where section 104(4B) of the 2002 Act applies, the notice filed under paragraph (1A) must state—

- (a) the appellant’s full name and date of birth;
- (b) the Tribunal’s reference number;
- (c) the Home Office reference number, if applicable;
- (d) the Foreign and Commonwealth Office reference number, if applicable;
- (e) the date on which the appellant was granted leave to enter or remain in the United Kingdom for a period exceeding 12 months; and
- (f) that the appellant wishes to pursue the appeal in so far as it is brought on the ground specified in section 84(1)(g) of the 2002 Act which relates to the Refugee Convention.

(1E) Where section 104(4C) of the 2002 Act applies, the notice filed under paragraph (1A) must state—

- (a) the appellant’s full name and date of birth;
- (b) the Tribunal’s reference number;
- (c) the Home Office reference number, if applicable;
- (d) the Foreign and Commonwealth Office reference number, if applicable;
- (e) the date on which the appellant was granted leave to enter or remain in the United Kingdom; and

- (f) that the appellant wishes to pursue the appeal in so far as it is brought on the ground specified in section 84(1)(b) of the 2002 Act which relates to section 19B of the Race Relations Act 1976.

(1F) Where an appellant has filed a notice under paragraph (1A) the Tribunal will notify the appellant of the date on which it received the notice.

(1G) The Tribunal will send a copy of the notice issued under paragraph (1F) to the respondent.”;

- (c) in paragraph (2) after “section 104(4)” insert “or (4A)”.

8. In rule 23(2)—

- (a) in sub-paragraph (a) for “28” substitute “35”; and
- (b) in sub-paragraph (b) for “28” substitute “35”.

9. In rule 27(1), for “a section 103A application” substitute—

“—

- (a) an application for permission under section 103A(4)(b); or
- (b) an application for an order under section 103A(1),”.

10. In rule 28A(3)(b)(ii), for “103D(1)” substitute “103D(3)”.

11. In rule 33, for paragraph (2) substitute—

“(2) The Tribunal must make a separate determination (‘the funding determination’) stating whether it orders payment out of the relevant fund of the appellant’s costs—

- (a) in respect of the application for reconsideration;
- (b) in respect of the preparation for reconsideration; and
- (c) in respect of the reconsideration.”.

12. In rule 34(2)(a), for “in the appropriate prescribed form”, substitute “made on a form approved for the purpose by the President.”.

13. In rule 38(1), for “the appropriate prescribed form”, substitute “a form approved for the purpose by the President.”.

14. In rule 48—

- (a) after paragraph (4) insert—

“(4A) Where a notice of appeal, or an application for bail under rule 38, is signed by a representative, the representative will be deemed to have notified the Tribunal and the other party that he is acting for a party in accordance with paragraph (4).

(4B) Where a notice of appeal, or an application for bail under rule 38, is not signed by a representative, the representative must file a separate notice with the Tribunal and serve it on the other party to comply with his obligations under paragraph (4).”;

- (b) in paragraph (7) after “the other party” insert “in writing”;
- (c) in paragraph (8)—
 - (i) omit “or (7)”;
 - (ii) insert at the beginning of sub-paragraph (a) “where a representative is appointed to act for a party on the day of a hearing,”; and
 - (iii) for “a” substitute “that”.

15. In rule 60, after paragraph (1) insert—

“(1A) The President may, either of his own motion or on application, review any order, notice of decision or determination made by the Tribunal and, after consulting all the parties to the appeal, may set it aside and direct that the relevant proceedings be dealt with

again by the Tribunal, on the ground that it was wrongly made as the result of an administrative error on the part of the Tribunal or its staff.

(1B) An application under paragraph (1A) must be filed—

(a) if the party making the application is in the United Kingdom, within 10 days; or

(b) if the party making the application is outside the United Kingdom, within 28 days, of the date on which the party is served with the order, notice of decision or determination.

(1C) At the same time as filing an application under paragraph (1A), the party making the application must serve a copy on the other party to the appeal.

(1D) The President may delegate his power under paragraph (1A) to a Deputy President or a senior immigration judge.”.

16. Omit the Schedule.

13th October 2006

Bridget Prentice
Parliamentary Under Secretary of State
Department for Constitutional Affairs

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Asylum and Immigration Tribunal (Procedure) Rules 2005 (SI 2005/230). They—

de-prescribe the appeal forms and provide that the appeal must be made in a form approved for the purpose by the President (rules 2,3,12,13 and 16);

change the title of rule 9 to remove the reference to an “invalid appeal” (rule 4);

require the Tribunal to provide reasons for a decision in relation to a late notice of appeal (rule 5);

make provision for an appeal to be treated as withdrawn, or for the Tribunal to direct that an appeal may continue, if an appellant dies before his appeal has been considered by the Tribunal (rule 6)

amend the provision on abandonment of appeals consequential on an amendment to section 104 of the Nationality, Immigration and Asylum Act 2002 (c.41) by section 9 of the Immigration, Asylum and Nationality Act 2006 (c.13) (rule 7);

extend the time limits within which the Tribunal must fix a date for a hearing, or determine an appeal without a hearing, in asylum appeals (rule 8);

amend the provisions on orders of funding consequential to an amendment to section 103D of the Nationality, Immigration and Asylum Act 2002 (c.41) by section 8 of the Immigration, Asylum and Nationality Act 2006 (c.13) (rules 10 and 11);

make provision for a notice of appeal which is signed by a representative to be deemed to constitute notification to the Tribunal that the representative is acting (rule 14); and

make provision for the President of the Tribunal to review and set aside orders, notices of decision and determinations in circumstances where they are wrongly made as a result of administrative errors at the Tribunal (rule 15).

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