

# IMMIGRATION

## The Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005

*Version in force from 15<sup>th</sup> February 2010. This document has been produced in order to assist users but its accuracy is not guaranteed and should not be relied upon. For a definitive version of the Rules, users should refer to the original statutory instruments.*

### Part 1 Introduction

#### 1 Citation and commencement

These Rules may be cited as the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005 and shall come into force on 4th April 2005.

#### 2 Interpretation

- (1) In these Rules, "the Principal Rules" means the Asylum and Immigration Tribunal (Procedure) Rules 2005.
- (2) Subject to paragraph (3), words and expressions used in these Rules which are defined in rule 2 of the Principal Rules have the same meaning in these Rules as in the Principal Rules.
- (3) In these Rules, and in any provision of the Principal Rules which applies by virtue of these Rules, "business day" means any day other than a Saturday or Sunday, a bank holiday, 24th to 31st December, Maundy Thursday, Good Friday or the Tuesday after the last Monday in May.
- (5) Where a provision of the Principal Rules applies by virtue of these Rules—
  - (a) any reference in that provision to the Principal Rules is to be interpreted as including a reference to these Rules; and
  - (b) any reference in that provision to a specific Part or rule in the Principal Rules is to be interpreted as including a reference to any equivalent Part or rule in these Rules.

#### 3 Scope of these Rules

- (1) Part 2 of these Rules applies to appeals to the Tribunal in the circumstances specified in rule 5.
- (2) Part 3 applies to [applications to appeal to the Upper Tribunal](#) in the circumstances specified in rule 15.
- (3) Part 4 applies to proceedings before the Tribunal to which Part 2 or 3 applies.

(4) Part 5 applies to proceedings before the Tribunal to which Part 2 or 3 applies or has applied.

(5) For the purpose of rules 5 and 15, a party does not cease to satisfy a condition that he must have been continuously in detention under the Immigration Acts at a place or places specified in Schedule 2 to these Rules by reason only of—

(a) being transported from one place of detention specified in that Schedule to another place which is so specified; or

(b) leaving and returning to such a place of detention for any purpose between the hours of 6am and 10pm.

#### **4 Application of the Principal Rules**

(1) Rule 4 of the Principal Rules (Overriding objective) applies to these Rules.

(2) Where Part 2 or 3 of these Rules applies to proceedings before the Tribunal, the Principal Rules also apply to the extent specified in rules 6 and 27 of these Rules.

### **Part 2 Appeals to the Tribunal**

#### **5 Scope of this Part**

(1) This Part applies to an appeal to the Tribunal where the person giving notice of appeal—

(a) was in detention under the Immigration Acts at a place specified in Schedule 2 when he was served with notice of the immigration decision against which he is appealing; and

(b) has been continuously in detention under the Immigration Acts at a place or places specified in Schedule 2 since that notice was served on him.

(2) This Part shall cease to apply if the Tribunal makes an order under rule 30(1).

#### **6 Application of Part 2 of the Principal Rules**

Where this Part applies to an appeal, the following provisions of Part 2 of the Principal Rules apply—

(a) rule 6(1) to (3), omitting the reference to rule 6(4) in rule 6(2);

(b) rule 8;

(c) rule 10(1);

(d) rule 13(1) and (4);

(e) rule 14;

(f) rules 17 to 19;

(g) rule 20, provided that this Part applies to all of the appeals proposed to be heard together; [and](#)

[\(h\) rule 23A.](#)

## **7 Giving notice of appeal**

Where a notice of appeal is served on a custodian under rule 6(3)(b) of the Principal Rules, the custodian must—

- (a) endorse on the notice the date that it is served on him; and
- (b) forward it to the Tribunal immediately.

## **8 Time limit**

(1) A person who wishes to appeal must give a notice of appeal not later than 2 days after the day on which he is served with notice of the immigration decision against which he is appealing.

(2) Where a notice of appeal is given outside the time limit in paragraph (1), the Tribunal must not extend the time for appealing unless it is satisfied that, because of circumstances outside the control of the person giving notice of appeal or his representative, it was not practicable for the notice of appeal to be given within that time limit.

## **9 Service of notice of appeal on respondent**

When the Tribunal receives a notice of appeal it shall immediately serve a copy upon the respondent.

## **10 Filing of documents by respondent**

The respondent must file the documents listed in rule 13(1) of the Principal Rules not later than 2 days after the day on which the Tribunal serves the respondent with the notice of appeal.

## **11 Listing**

(1) The Tribunal shall fix a hearing date which is—

- (a) not later than 2 days after the day on which the respondent files the documents under rule 10; or
- (b) if the Tribunal is unable to arrange a hearing within that time, as soon as practicable thereafter.

(2) The Tribunal must serve notice of the date, time and place of the hearing on every party as soon as practicable, and in any event not later than noon on the business day before the hearing.

## **12 Deciding timeliness issues**

(1) The Tribunal shall consider any issue as to—

- (a) whether a notice of appeal was given outside the applicable time limit; and

- (b) whether to extend the time for appealing where the notice of appeal was given outside that time limit,

as a preliminary issue at the hearing fixed under rule 11, subject to paragraph (2) of this rule.

- (2) Rule 13 applies to the consideration and decision of such an issue as it applies to the consideration and determination of an appeal.

(3) Where the notice of appeal was given outside the applicable time limit and the Tribunal does not grant an extension of time, the Tribunal must take no further action in relation to the notice of appeal, except that it must serve on every party written notice of its decision under this rule, including its reasons which may be in summary form, not later than 1 day after the day on which that decision is made.

### **13 Method of determining appeal**

- (1) The Tribunal must consider the appeal at the hearing fixed under rule 11 except where—

- (a) the appeal—
  - (i) lapses pursuant to section 99 of the 2002 Act;
  - (ii) is treated as abandoned pursuant to section 104(4) or (4A) of the 2002 Act;
  - (iii) is treated as finally determined pursuant to section 104(5) of the 2002 Act; or
  - (iv) is withdrawn by the appellant or treated as withdrawn in accordance with rule 17 of the Principal Rules;
- (b) the Tribunal adjourns the hearing under rule 28 or 30(2)(a) of these Rules; or
- (c) all of the parties to the appeal consent to the Tribunal determining the appeal without a hearing.

- (2) The Tribunal may consider an appeal without a hearing where—

- (a) the person giving notice of appeal fails to comply with rule 8(2) of the Principal Rules; or
- (b) the Tribunal does not consider that the reasons given under rule 8(2)(b) of those Rules are satisfactory.

### **14 Giving of determination**

- (1) Where the Tribunal determines an appeal, it must give a written determination containing its decision and the reasons for it.

- (2) The Tribunal must serve its determination on every party to the appeal—

- (a) if the appeal is considered at a hearing, not later than 2 days after the day on which the hearing of the appeal finishes; or

(b) if the appeal is determined without a hearing, not later than 2 days after the day on which it is determined.

### **PART 3**

#### **Appeals to the Upper Tribunal**

##### **Scope of this Part**

15.—(1) This Part applies to applications for permission to appeal to the Upper Tribunal made pursuant to rule 25 of the Principal Rules, where—

(a) Part 2 of these Rules applied at all times to the appeal to the Tribunal; and

(b) the appellant has been continuously in detention under the Immigration Acts at a place or places specified in Schedule 2 to these Rules since being served with notice of the immigration decision that is the subject of the appeal.

(2) This Part shall cease to apply if the Tribunal makes an order under rule 30(1).

##### **Application of the Principal Rules to this Part**

16. The following provisions of the Principal Rules apply to proceedings to which this Part applies—

(a) rule 24 except paragraphs (2) and (4); and

(b) rule 25 except for paragraph (1).

##### **Time limits for making an application for permission to appeal**

17.— (1) An application under rule 24(1) of the Principal Rules must be sent or delivered to the Tribunal so that it is received no later than 2 days after the date on which the party is served with written reasons for the decision.

(2) If a person makes an application under rule 24(1) of the Principal Rules later than the time required by paragraph (1)—

(a) the Tribunal may extend the time for appealing if satisfied that by reason of special circumstances it would be unjust not to do so; and

(b) unless the Tribunal extends time under sub-paragraph (a), the Tribunal must not admit the application.

##### **Service of permission application decision**

18. The Tribunal must send to the parties written reasons for its decision in relation to an application for permission to appeal not later than 1 business day after the application was received by the Tribunal.

### **Part 4 General Provisions**

#### **27 Application of Part 5 of the Principal Rules**

Where this Part applies, Part 5 of the Principal Rules applies, except that—

(a) rule 47 applies subject to rule 28 of these Rules; and

- (b) rule 60(2) does not apply.

## **28 Adjournment**

The Tribunal may only adjourn a hearing where—

- (a) it is necessary to do so because there is insufficient time to hear the appeal or application which is before the Tribunal;
- (b) a party has not been served with notice of the hearing in accordance with these Rules;
- (c) the Tribunal is satisfied by evidence filed or given by or on behalf of a party that—
  - (i) the appeal or application cannot be justly determined on the date on which it is listed for hearing; and
  - (ii) there is an identifiable future date, not more than 10 days after the date on which the appeal or application is listed for hearing, by which it can be justly determined; or
- (d) the Tribunal makes an order under rule 30.

## **29 Correction of orders and determinations**

Where an order, notice of decision or determination is amended under rule 60(1) of the Principal Rules, the Tribunal must, not later than 1 day after making the amendment, serve an amended version on every party on whom it served the original.

## **29A Correction of administrative errors**

Where an order, notice of decision or determination is set aside and the [Tribunal](#) orders that the relevant proceedings be dealt with again by the Tribunal under rule 60(1A) of the Principal Rules, the Tribunal must, not later than 1 day after making the order, notify every party of its decision.

## **Part 5**

### **Removal of Pending Proceedings from Fast Track**

## **30 Transfer out of fast track procedure**

- (1) Where Part 2 or 3 of these Rules applies to an appeal or application, the Tribunal must order that that Part shall cease to apply—
  - (a) if all the parties consent;
  - (b) if it is satisfied by evidence filed or given by or on behalf of a party that there are exceptional circumstances which mean that the appeal or application cannot otherwise be justly determined; or
  - (c) if—
    - (i) the respondent to the appeal has failed to comply with a provision of these Rules, or the Principal Rules as applied by these Rules, or a direction of the Tribunal; and

(ii) the Tribunal is satisfied that the appellant would be prejudiced by that failure if the appeal or application were determined in accordance with these Rules.

- (2) When making an order under paragraph (1), the Tribunal may—
- (a) adjourn any hearing of the appeal or application; and
  - (b) give directions relating to the further conduct of the appeal or application.
- (3) Where the Tribunal adjourns a hearing under paragraph (2)(a)—
- (a) it must fix a new date, time and place for the hearing; and
  - (b) in the case of an adjournment of an appeal, rule 21(4) of the Principal Rules shall apply.

### **31 Application of the Principal Rules on transfer out of fast track**

- (1) This rule applies where Part 2 or 3 of these Rules ceases to apply to an appeal or application because—
- (a) the conditions in rule 5 or 15 cease to apply; or
  - (b) the Tribunal makes an order under rule 30(1).
- (2) Subject to paragraph (3), the Principal Rules shall apply to the appeal or application from the date on which these Rules cease to apply.
- (3) Where—
- (a) a period of time for doing something has started to run under a provision of these Rules; and
  - (b) that provision ceases to apply,

if the Principal Rules contain a time limit for doing the same thing, the time limit in the Principal Rules shall apply, and the relevant period of time shall be treated as running from the date on which the period of time under these Rules started to run.

## **SCHEDULE 2 SPECIFIED PLACES OF DETENTION**

### **Rules 5 and 15**

Campsfield House Immigration Removal Centre, Kidlington, Oxfordshire  
Colnbrook House Immigration Removal Centre, Harmondsworth, Middlesex  
Harmondsworth Immigration Removal Centre, Harmondsworth, Middlesex  
Oakington Reception Centre, Longstanton, Cambridgeshire  
Yarls Wood Immigration Removal Centre, Clapham, Bedfordshire