
STATUTORY INSTRUMENTS

2005 No. 230

The Asylum and Immigration Tribunal (Procedure) Rules 2005

PART 2

Appeals to the Tribunal

Scope of this Part

5. This Part applies to appeals to the Tribunal.

Giving notice of appeal

6.—(1) An appeal to the Tribunal may only be instituted by giving notice of appeal against a relevant decision in accordance with these Rules.

(2) Subject to paragraphs (3) and (4), notice of appeal must be given by filing it with the Tribunal in accordance with rule 55(1).

(3) A person who is in detention under the Immigration Acts may give notice of appeal either—

- (a) in accordance with paragraph (2); or
- (b) by serving it on the person having custody of him.

(4) A person who is outside the United Kingdom and wishes to appeal against a decision of an entry clearance officer may give notice of appeal either—

- (a) in accordance with paragraph (2); or
- (b) by serving it on the entry clearance officer.

(5) Where a notice of appeal is served on a custodian under paragraph (3)(b), that person must—

- (a) endorse on the notice the date that it is served on him; and
- (b) forward it to the Tribunal within 2 days.

(6) Where a notice of appeal is served on an entry clearance officer under paragraph (4)(b), the officer must—

- (a) endorse on the notice the date that it is served on him;
- (b) forward it to the Tribunal as soon as reasonably practicable, and in any event within 10 days; and
- (c) if it is practicable to do so within the time limit in sub-paragraph (b), send to the Tribunal with the notice of appeal a copy of the documents listed in rule 13(1).

Time limit for appeal

7.—(1) A notice of appeal by a person who is in the United Kingdom must be given—

- (a) if the person is in detention under the Immigration Acts when he is served with notice of the decision against which he is appealing, not later than 5 days after he is served with that notice; and

- (b) in any other case, not later than 10 days after he is served with notice of the decision.
- (2) A notice of appeal by a person who is outside the United Kingdom must be given—
 - (a) if the person—
 - (i) was in the United Kingdom when the decision against which he is appealing was made; and
 - (ii) may not appeal while he is the United Kingdom by reason of a provision of the 2002 Act,
not later than 28 days after his departure from the United Kingdom; or
 - (b) in any other case, not later than 28 days after he is served with notice of the decision.
- (3) Where a person—
 - (a) is served with notice of a decision to reject an asylum claim; and
 - (b) on the date of being served with that notice does not satisfy the condition in section 83(1)(b) of the 2002 Act, but later satisfies that condition,

paragraphs (1) and (2)(b) apply with the modification that the time for giving notice of appeal under section 83(2) runs from the date on which the person is served with notice of the decision to grant him leave to enter or remain in the United Kingdom by which he satisfies the condition in section 83(1)(b).

Form and contents of notice of appeal

- 8.—**(1) The notice of appeal must be in the appropriate prescribed form and must—
- (a) state the name and address of the appellant; and
 - (b) state whether the appellant has authorised a representative to act for him in the appeal and, if so, give the representative’s name and address;
 - (c) set out the grounds for the appeal;
 - (d) give reasons in support of those grounds; and
 - (e) so far as reasonably practicable, list any documents which the appellant intends to rely upon as evidence in support of the appeal.
- (2) The notice of appeal must if reasonably practicable be accompanied by the notice of decision against which the appellant is appealing, or a copy of it.
- (3) The notice of appeal must be signed by the appellant or his representative, and dated.
- (4) If a notice of appeal is signed by the appellant’s representative, the representative must certify in the notice of appeal that he has completed it in accordance with the appellant’s instructions.

Rejection of invalid notice of appeal

- 9.—**(1) Where—
- (a) a person has given a notice of appeal to the Tribunal; and
 - (b) there is no relevant decision,
- the Tribunal shall not accept the notice of appeal.
- (2) Where the Tribunal does not accept a notice of appeal, it must—
- (a) notify the person giving the notice of appeal and the respondent; and
 - (b) take no further action.

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.

Special provisions for imminent removal cases

11.—(1) This rule applies in any case in which the respondent notifies the Tribunal that removal directions have been issued against a person who has given notice of appeal, pursuant to which it is proposed to remove him from the United Kingdom within 5 calendar days of the date on which the notice of appeal was given.

(2) The Tribunal must, if reasonably practicable, make any preliminary decision under rule 10 before the date and time proposed for his removal.

(3) Rule 10 shall apply subject to the modifications that the Tribunal may—

- (a) give notification under rule 10(2) orally, which may include giving it by telephone;
- (b) shorten the time for giving evidence under rule 10(3); and
- (c) direct that any evidence under rule 10(3) is to be given orally, which may include requiring the evidence to be given by telephone, and hold a hearing or telephone hearing for the purpose of receiving such evidence.

Service of notice of appeal on respondent

12.—(1) Subject to paragraph (2), when the Tribunal receives a notice of appeal it shall serve a copy upon the respondent as soon as reasonably practicable.

(2) Paragraph (1) does not apply where the notice of appeal was served on an entry clearance officer under rule 6(4)(b).

Filing of documents by respondent

13.—(1) When the respondent is served with a copy of a notice of appeal, it must (unless it has already done so) file with the Tribunal a copy of—

- (a) the notice of the decision to which the notice of appeal relates, and any other document served on the appellant giving reasons for that decision;
 - (b) any—
 - (i) statement of evidence form completed by the appellant; and
 - (ii) record of an interview with the appellant, in relation to the decision being appealed;
 - (c) any other unpublished document which is referred to in a document mentioned in subparagraph (a) or relied upon by the respondent; and
 - (d) the notice of any other immigration decision made in relation to the appellant in respect of which he has a right of appeal under section 82 of the 2002 Act.
- (2) Subject to paragraph (3), the respondent must file the documents listed in paragraph (1)—
- (a) in accordance with any directions given by the Tribunal; and
 - (b) if no such directions are given, as soon as reasonably practicable and in any event not later than 2.00 p.m. on the business day before the earliest date appointed for any hearing of or in relation to the appeal.

(3) If the Tribunal considers the timeliness of a notice of appeal as a preliminary issue under rule 10, the respondent must file the documents listed in paragraph (1) as soon as reasonably practicable after being served with a decision of the Tribunal allowing the appeal to proceed, and in any event not later than 2.00 p.m. on the business day before the earliest date appointed for any hearing of or in relation to the appeal following that decision.

(4) The respondent must, at the same time as filing them, serve on the appellant a copy of all the documents listed in paragraph (1), except for documents which the respondent has already sent to the appellant.

Variation of grounds of appeal

14. Subject to section 85(2) of the 2002 Act, the appellant may vary his grounds of appeal only with the permission of the Tribunal.

Method of determining appeal

15.—(1) Every appeal must be considered by the Tribunal at a hearing, 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) 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;
- (b) paragraph (2) of this rule applies; or
- (c) any other provision of these Rules or of any other enactment permits or requires the Tribunal to dispose of an appeal without a hearing.

(2) The Tribunal may determine an appeal without a hearing if—

- (a) all the parties to the appeal consent;
- (b) the appellant is outside the United Kingdom or it is impracticable to give him notice of a hearing and, in either case, he is unrepresented;
- (c) a party has failed to comply with a provision of these Rules or a direction of the Tribunal, and the Tribunal is satisfied that in all the circumstances, including the extent of the failure and any reasons for it, it is appropriate to determine the appeal without a hearing; or
- (d) subject to paragraph (3), the Tribunal is satisfied, having regard to the material before it and the nature of the issues raised, that the appeal can be justly determined without a hearing.

(3) Where paragraph (2)(d) applies, the Tribunal must not determine the appeal without a hearing without first giving the parties notice of its intention to do so, and an opportunity to make written representations as to whether there should be a hearing.

Certification of pending appeal

16.—(1) If the Secretary of State or an immigration officer issues a certificate under section 97 or 98 of the 2002 Act which relates to a pending appeal, he must file notice of the certification with the Tribunal.

(2) Where a notice of certification is filed under paragraph (1), the Tribunal must—

- (a) notify the parties; and
- (b) take no further action in relation to the appeal.

Withdrawal of appeal

17.—(1) An appellant may withdraw an appeal—

- (a) orally, at a hearing; or
- (b) at any time, by filing written notice with the Tribunal.

(2) An appeal shall be treated as withdrawn if the respondent notifies the Tribunal that the decision (or, where the appeal relates to more than one decision, all of the decisions) to which the appeal relates has been withdrawn.

(3) If an appeal is withdrawn or treated as withdrawn, the Tribunal must serve on the parties a notice that the appeal has been recorded as having been withdrawn.

Abandonment of appeal

18.—(1) Any party to a pending appeal must notify the Tribunal if they are aware that an event specified in—

- (a) section 104(4) or (5) of the 2002 Act; or
- (b) regulation 33(1A) of the Immigration (European Economic Area) Regulations 2000⁽¹⁾ (“the 2000 Regulations”),

has taken place.

(2) Where an appeal is treated as abandoned pursuant to section 104(4) of the 2002 Act or regulation 33(1A) of the 2000 Regulations, or finally determined pursuant to section 104(5) of the 2002 Act, the Tribunal must—

- (a) serve on the parties a notice informing them that the appeal is being treated as abandoned or finally determined; and
- (b) take no further action in relation to the appeal.

Hearing appeal in absence of a party

19.—(1) The Tribunal must hear an appeal in the absence of a party or his representative, if satisfied that the party or his representative—

- (a) has been given notice of the date, time and place of the hearing, and
- (b) has given no satisfactory explanation for his absence.

(2) Where paragraph (1) does not apply, the Tribunal may hear an appeal in the absence of a party if satisfied that—

- (a) a representative of the party is present at the hearing;
- (b) the party is outside the United Kingdom;
- (c) the party is suffering from a communicable disease or there is a risk of him behaving in a violent or disorderly manner;
- (d) the party is unable to attend the hearing because of illness, accident or some other good reason;
- (e) the party is unrepresented and it is impracticable to give him notice of the hearing; or
- (f) the party has notified the Tribunal that he does not wish to attend the hearing.

Hearing two or more appeals together

20. Where two or more appeals are pending at the same time, the Tribunal may direct them to be heard together if it appears that—

- (a) some common question of law or fact arises in each of them;
- (b) they relate to decisions or action taken in respect of persons who are members of the same family; or

(1) [S.I. 2000/2326](#). There are relevant amendments in [S.I. 2003/3188](#) and [S.I. 2004/1236](#).

- (c) for some other reason it is desirable for the appeals to be heard together.

Adjournment of appeals

21.—(1) Where a party applies for an adjournment of a hearing of an appeal, he must—

- (a) if practicable, notify all other parties of the application;
- (b) show good reason why an adjournment is necessary; and
- (c) produce evidence of any fact or matter relied upon in support of the application.

(2) The Tribunal must not adjourn a hearing of an appeal on the application of a party, unless satisfied that the appeal cannot otherwise be justly determined.

(3) The Tribunal must not, in particular, adjourn a hearing on the application of a party in order to allow the party more time to produce evidence, unless satisfied that—

- (a) the evidence relates to a matter in dispute in the appeal;
- (b) it would be unjust to determine the appeal without permitting the party a further opportunity to produce the evidence; and
- (c) where the party has failed to comply with directions for the production of the evidence, he has provided a satisfactory explanation for that failure.

(4) Where the hearing of an appeal is adjourned, the Tribunal will fix a new hearing date which—

- (a) shall be not more than 28 days after the original hearing date, unless the Tribunal is satisfied that because of exceptional circumstances the appeal cannot justly be heard within that time; and
- (b) shall in any event be not later than is strictly required by the circumstances necessitating the adjournment.

Giving of determination

22.—(1) Except in cases to which rule 23 applies, where the Tribunal determines an appeal it must serve on every party a written determination containing its decision and the reasons for it.

(2) The Tribunal must send its determination—

- (a) if the appeal is considered at a hearing, not later than 10 days after the hearing finishes; or
- (b) if the appeal is determined without a hearing, not later than 10 days after it is determined.

Special procedures and time limits in asylum appeals

23.—(1) This rule applies to appeals under section 82 of the 2002 Act where—

- (a) the appellant is in the United Kingdom; and
- (b) the appeal relates, in whole or in part, to an asylum claim.

(2) Subject to paragraph (3)—

- (a) where an appeal is to be considered by the Tribunal at a hearing, the hearing must be fixed for a date not more than 28 days after the later of—
 - (i) the date on which the Tribunal receives the notice of appeal; or
 - (ii) if the Tribunal makes a preliminary decision under rule 10 (late notice of appeal), the date on which notice of that decision is served on the appellant; and
- (b) where an appeal is to be determined without a hearing, the Tribunal must determine it not more than 28 days after the later of those dates.

- (3) If the respondent does not file the documents specified in rule 13(1) within the time specified in rule 13 or directions given under that rule—
- (a) paragraph (2) does not apply; and
 - (b) the Tribunal may vary any hearing date that it has already fixed in accordance with paragraph (2)(a), if it is satisfied that it would be unfair to the appellant to proceed with the hearing on the date fixed.
- (4) The Tribunal must serve its determination on the respondent—
- (a) if the appeal is considered at a hearing, by sending it not later than 10 days after the hearing finishes; or
 - (b) if the appeal is determined without a hearing, by sending it not later than 10 days after it is determined.
- (5) The respondent must—
- (a) serve the determination on the appellant—
 - (i) if the respondent makes a section 103A application or applies for permission to appeal under section 103B or 103E of the 2002 Act, by sending, delivering or personally serving the determination not later than the date on which it makes that application; and
 - (ii) otherwise, not later than 28 days after receiving the determination from the Tribunal; and
 - (b) as soon as practicable after serving the determination, notify the Tribunal on what date and by what means it was served.
- (6) If the respondent does not give the Tribunal notification under paragraph (5)(b) within 29 days after the Tribunal serves the determination on it, the Tribunal must serve the determination on the appellant as soon as reasonably practicable thereafter.
- (7) In paragraph (2) of this rule, references to a hearing do not include a case management review hearing or other preliminary hearing.