
STATUTORY INSTRUMENTS

2005 No. 230

The Asylum and Immigration Tribunal (Procedure) Rules 2005

PART 4

Bail

Scope of this Part and interpretation

37.—(1) This Part applies to applications under the Immigration Acts to the Tribunal, by persons detained under those Acts, to be released on bail.

(2) In this Part, “applicant” means a person applying to the Tribunal to be released on bail.

(3) The parties to a bail application are the applicant and the Secretary of State.

Applications for bail

38.—(1) An application to be released on bail must be made by filing with the Tribunal an application notice in the appropriate prescribed form.

(2) The application notice must contain the following details—

(a) the applicant's—

(i) full name;

(ii) date of birth; and

(iii) date of arrival in the United Kingdom;

(b) the address of the place where the applicant is detained;

(c) whether an appeal by the applicant to the Tribunal is pending;

(d) the address where the applicant will reside if his application for bail is granted, or, if he is unable to give such an address, the reason why an address is not given;

(e) where the applicant is aged 18 or over, whether he will, if required, agree as a condition of bail to co-operate with electronic monitoring under section 36 of the 2004 Act;

(f) the amount of the recognizance in which he will agree to be bound;

(g) the full names, addresses, occupations and dates of birth of any persons who have agreed to act as sureties for the applicant if bail is granted, and the amounts of the recognizances in which they will agree to be bound;

(h) the grounds on which the application is made and, where a previous application has been refused, full details of any change in circumstances which has occurred since the refusal; and

(i) whether an interpreter will be required at the hearing, and in respect of what language or dialect.

(3) The application must be signed by the applicant or his representative or, in the case of an applicant who is a child or is for any other reason incapable of acting, by a person acting on his behalf.

Bail hearing

- 39.**—(1) Where an application for bail is filed, the Tribunal must—
- (a) as soon as reasonably practicable, serve a copy of the application on the Secretary of State; and
 - (b) fix a hearing.
- (2) If the Secretary of State wishes to contest the application, he must file with the Tribunal and serve on the applicant a written statement of his reasons for doing so—
- (a) not later than 2.00 p.m. on the business day before the hearing; or
 - (b) if he was served with notice of the hearing less than 24 hours before that time, as soon as reasonably practicable.
- (3) The Tribunal must serve written notice of its decision on—
- (a) the parties; and
 - (b) the person having custody of the applicant.
- (4) Where bail is granted, the notice must include—
- (a) the conditions of bail; and
 - (b) the amount in which the applicant and any sureties are to be bound.
- (5) Where bail is refused, the notice must include reasons for the refusal.

Recognizances

- 40.**—(1) The recognizance of an applicant or a surety must be in writing and must state—
- (a) the amount in which he agrees to be bound; and
 - (b) that he has read and understood the bail decision and that he agrees to pay that amount of money if the applicant fails to comply with the conditions set out in the bail decision.
- (2) The recognizance must be—
- (a) signed by the applicant or surety; and
 - (b) filed with the Tribunal.

Release of applicant

- 41.** The person having custody of the applicant must release him upon—
- (a) being served with a copy of the decision to grant bail; and
 - (b) being satisfied that any recognizances required as a condition of that decision have been entered into.

Application of this Part to Scotland

- 42.** This Part applies to Scotland with the following modifications—
- (a) in rule 38, for paragraph (2)(f) and (g) substitute—
 - “(f) the amount, if any, to be deposited if bail is granted;
 - (g) the full names, addresses and occupations of any persons offering to act as cautioners if the application for bail is granted;”;
 - (b) in rule 39, for paragraph (4)(b) substitute—
 - “(b) the amount (if any) to be deposited by the applicant and any cautioners.”;

(c) rule 40 does not apply; and

(d) in rule 41, for sub-paragraph (b) substitute—

“(b) being satisfied that the amount to be deposited, if any, has been deposited.”.