

**EXPLANATORY MEMORANDUM TO THE
DETENTION CENTRE (AMENDMENT) RULES 2005**

2005 No. 673

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument amends the Detention Centre Rules 2001 (2001/238) to take account of the changes made to the immigration appeal system by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The instrument makes changes to the Detention Centre Rules 2001 (“the 2001 Rules”) which are consequential to changes to the appeals system in the Nationality Immigration and Asylum Act 2002 (“the 2002 Act”) made by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (“the 2004 Act”).

4.2 The 2004 Act amends the 2002 Act so that appeals are no longer made to an adjudicator or to the Immigration Appeal Tribunal but to the new Asylum and Immigration Tribunal. Rule 27(6) of the 2001 Rules requires the Secretary of State to cover postage expenses incurred by detainees in corresponding with various appellate bodies where they were unable to meet these costs. These Rules amend the 2001 Rules so that the reference to correspondence with the Immigration Appeal Tribunal or an adjudicator now refers to correspondence to the Asylum and Immigration Tribunal.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Not applicable

7. Policy background

7.1 The 2002 Act provided that there should be, in appropriate cases, a right of appeal against an immigration decision to an adjudicator of the Immigration Appellate Authority with onward avenues of appeal to the Immigration Appeal Tribunal. The 2004 Act modified the appeal structure to provide a single tier of appeal to the new Asylum and Immigration Tribunal (the AIT). The relevant statutory provisions will be commenced on the 4.4.05. The instrument amends the 2001 Rules so that the postage expense of any letter to the AIT shall, in the case of a detained person without the necessary funds, be borne by the Secretary of State.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

8.2 The impact on the public sector is to maintain an existing provision.

9. Contact

Simon Barrett at the Detention Services Policy Unit, Immigration and Nationality Directorate can answer any queries regarding the instrument. Tel: 020 8760 2535, or email: simon.barrett@homeoffice.gsi.gov.uk