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## STATUTORY INSTRUMENTS

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# 2003 No. 1034

## The Special Immigration Appeals Commission (Procedure) Rules 2003

### PART 4

#### CERTIFICATION: REVIEWS

##### Scope of this Part

**20.** This Part contains rules about reviews of certification.

##### Commencement of first review

**21.—**(1) Before the Commission holds the first review of a certificate under section 26 of the 2001 Act—

- (a) it must serve on the person certified, the Secretary of State and the relevant law officer notice of when it is going to commence the review, unless it has already served on them a notice under rule 19; and
- (b) it may give directions in relation to the review.

(2) A notice under paragraph (1)(a) must be served not later than 42 days before the commencement of the review, unless the Commission orders otherwise.

##### Application for review

**22.—**(1) An application for a review under section 26(4) of the 2001 Act—

- (a) must be made in writing; and
- (b) must state the grounds of the application, including details of the matters relied upon as constituting a change of circumstances for the purpose of section 26(4)(b).

(2) An application under paragraph (1) must be filed with the Commission, and a copy of the application must at the same time be served on the Secretary of State.

(3) If the Secretary of State objects to a review being held, he must file any written representations with the Commission within 5 days of being served with the application.

(4) If the Commission decides to hold a review—

- (a) it must send notice of when it is going to commence a review to the person certified, the Secretary of State and the relevant law officer; and
- (b) it may give directions in relation to the review.

##### Method of conducting review

**23.—**(1) The Commission shall conduct a review as soon as reasonably practicable after the date notified to the parties as the date of commencement of the review.

(2) Subject to paragraph (3), a review shall be conducted without an oral hearing unless the Commission orders otherwise.

(3) The first review of a certificate shall, unless the Commission orders otherwise, be conducted at an oral hearing if there has not previously been an oral hearing of an appeal against the certificate.

(4) Where paragraph (3) does not apply, a party or the special advocate may apply to the Commission for a review to be conducted at an oral hearing.

(5) An application under paragraph (4)—

- (a) must be made in writing; and
- (b) must state the applicant's reasons for requesting an oral hearing.

### **Evidence and written submissions**

**24.**—(1) Subject to any directions given by the Commission, the parties must file and serve any evidence and written submissions for a review, and the special advocate must file and serve any written submissions, in accordance with this rule.

(2) The person certified must, not later than 28 days before the review is to commence, file with the Commission and serve on the Secretary of State—

- (a) any written evidence which he wishes the Commission to take into account upon the review; and
- (b) any written submissions.

(3) The Secretary of State must, not later than 14 days before the review is to commence, file with the Commission—

- (a) a statement of the reasons for the continuation of the certificate;
- (b) any written evidence upon which the Secretary of State relies to support the continuation of the certificate, other than evidence already filed upon a previous appeal against or review of the certificate;
- (c) if he relies upon evidence already filed, a statement identifying that evidence and confirming that it remains true; and
- (d) any written submissions.

(4) Unless the Secretary of State objects to the material filed under paragraph (3) being disclosed to the person certified or his representative, he must serve a copy of the material on the person certified at the same time as filing it.

(5) Where the Secretary of State objects to material filed under paragraph (3) being disclosed to the person certified or his representative, rules 37 and 38 shall apply.

(6) The person certified may, not later than the date on which the review is to commence, file with the Commission and serve on the Secretary of State any evidence or written submissions in reply to the material served by the Secretary of State.

(7) Where a special advocate is appointed for the purposes of a review he may, not later than the date on which the review is to commence, file with the Commission and serve on the Secretary of State any written submissions.

### **Determination of review**

**25.** Where, upon holding a review, the Commission upholds a certificate—

- (a) it shall send to the parties, together with its determination, notice of when it is going to commence the next review of the certificate; and
- (b) it may send to the parties directions in relation to that review.