

SCHEDULE

APPEALS: PROCEDURAL MATTERS

Late appeals

2.—(1) Where a dispute arises as to whether an appeal was brought within the time specified under the Tribunal Procedure Rules the dispute shall be referred to, and determined by, the First-tier Tribunal.

(2) The Secretary of State may treat a late appeal as made in time in accordance with the Tribunal Procedure Rules if the Secretary of State is satisfied that it is in the interests of justice to do so.

(3) For the purposes of sub-paragraph (2) it is not in the interests of justice to treat the appeal as made in time unless the Secretary of State is satisfied that—

- (a) the special circumstances specified in sub-paragraph (4) are relevant; or
- (b) some other special circumstances exist which are wholly exceptional and relevant,

and as a result of those special circumstances, it was not practicable for the appeal to be made within the time limit specified in the Tribunal Procedure Rules.

(4) For the purposes of sub-paragraph (3)(a), the special circumstances are that—

- (a) the appellant or a partner or dependant of the appellant has died or suffered serious illness;
- (b) the appellant is not resident in the United Kingdom; or
- (c) normal postal services were disrupted.

(5) In determining whether it is in the interests of justice to treat the appeal as made in time regard must be had to the principle that the greater the amount of time that has elapsed between the expiration of the time limit under the Tribunal Procedure Rules and the submission of the notice of appeal, the more compelling should be the special circumstances.

(6) In determining whether it is in the interests of justice to treat the appeal as made in time no account shall be taken of the following—

- (a) that the applicant or any person acting for him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by the Tribunal Procedure Rules); or
- (b) that the Upper Tribunal or a court has taken a different view of the law from that previously understood and applied.