



UK Borders Act 2007

2007 CHAPTER 30

Treatment of claimants

19 Points-based applications: no new evidence on appeal

- (1) For section 85(5) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeal: new evidence may be considered: exception) substitute—

“(5) But subsection (4) is subject to the exceptions in section 85A.”

- (2) After section 85 of that Act insert—

“85A Matters to be considered: new evidence: exceptions

- (1) This section sets out the exceptions mentioned in section 85(5).
- (2) Exception 1 is that in relation to an appeal under section 82(1) against an immigration decision of a kind specified in section 82(2)(b) or (c) the Tribunal may consider only the circumstances appertaining at the time of the decision.
- (3) Exception 2 applies to an appeal under section 82(1) if—
- the appeal is against an immigration decision of a kind specified in section 82(2)(a) or (d),
 - the immigration decision concerned an application of a kind identified in immigration rules as requiring to be considered under a “Points Based System”, and
 - the appeal relies wholly or partly on grounds specified in section 84(1) (a), (e) or (f).
- (4) Where Exception 2 applies the Tribunal may consider evidence adduced by the appellant only if it—
- was submitted in support of, and at the time of making, the application to which the immigration decision related,
 - relates to the appeal in so far as it relies on grounds other than those specified in subsection (3)(c),

Status: This is the original version (as it was originally enacted).

- (c) is adduced to prove that a document is genuine or valid, or
 - (d) is adduced in connection with the Secretary of State's reliance on a discretion under immigration rules, or compliance with a requirement of immigration rules, to refuse an application on grounds not related to the acquisition of "points" under the "Points Based System".
- (3) In section 106(2) of that Act after paragraph (u) insert—
- “(ua) may make provision, for the purposes of section 85A(4)(a), about the circumstances in which evidence is to be treated, or not treated, as submitted in support of, and at the time of making, an application;”.