
STATUTORY INSTRUMENTS

2003 No. 1034

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

PART 3

CERTIFICATION: APPEALS

Scope of this Part

13. This Part contains rules about appeals under section 25 of the 2001 Act against certification.

Notice of appeal

14.—(1) An appeal against certification must be made by giving notice of appeal in accordance with these Rules.

(2) Subject to paragraph (3), notice of appeal must be given by filing it with the Commission.

(3) A person who is in detention under the Immigration Acts or the 2001 Act may give notice of appeal either—

- (a) in accordance with paragraph (2); or
- (b) by serving it on the person having custody of him.

(4) When a person files a notice of appeal in accordance with paragraph (2), he must at the same time serve a copy of the notice and any accompanying documents on the Secretary of State.

(5) Where notice of appeal is given in accordance with paragraph (3)(b)—

- (a) the person having custody of the appellant must endorse on the notice the date that it is served on him and forward it to the Commission; and
- (b) the Commission must serve a copy of the notice and any accompanying documents on the Secretary of State.

(6) The notice of appeal must—

- (a) set out the grounds for the appeal; and
- (b) state the name and address of—
 - (i) the appellant; and
 - (ii) any representative of the appellant.

(7) The notice of appeal must be signed by the appellant or his representative, and dated.

Time limit for appealing

15.—(1) A notice of appeal to the Commission against certification must be given—

- (a) within the period of three months beginning with the date on which the certificate is issued;
or

- (b) subject to paragraph (2), after the end of that period but before the commencement of the first review of the certification.
- (2) Where a notice of appeal is given during the period specified in paragraph (1)(b)—
 - (a) the appeal may proceed only with the leave of the Commission; and
 - (b) the notice of appeal shall be treated as including an application for leave to appeal, and must state the grounds on which the appellant applies for such leave.

Secretary of State's reply

16.—(1) If the Secretary of State intends to oppose an appeal, he must as soon as practicable file with the Commission a statement of the evidence upon which he relies in opposition to the appeal.

(2) Unless the Secretary of State objects to the statement being disclosed to the appellant or his representative, he must serve a copy of the statement on the appellant at the same time as filing it.

(3) Where the Secretary of State objects to a statement filed under paragraph (1) being disclosed to the appellant or his representative, rules 37 and 38 shall apply.

Variation of grounds of appeal

17.—(1) The appellant may vary the grounds of appeal only with the leave of the Commission.

(2) The appellant must file any proposed variation of the grounds of appeal with the Commission and serve a copy on the Secretary of State.

Hearing of appeal

18. Every appeal must be determined at a hearing before the Commission, except where—

- (a) the appeal is withdrawn by the appellant;
- (b) the Secretary of State consents to the appeal being allowed; or
- (c) the appellant is outside the United Kingdom or it is impracticable to give him notice of a hearing and, in either case, he is unrepresented.

Determination of appeal

19. Where the Commission dismisses an appeal against certification—

- (a) it must serve on the parties, together with its determination, notice of when it is going to commence the first review of the certificate; and
- (b) it may serve on the parties directions relating to that review.