

2003 No. 364 (L. 5)

**SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES**

The Civil Procedure (Amendment) Rules 2003

Made - - - - - *20th February 2003*

Laid before Parliament *24th February 2003*

Coming into force - - *in accordance with rule 1*

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997(a) to make rules of court under section 1 of that Act, after consulting in accordance with section 2(6)(a) of that Act, make the following Rules—

Citation, commencement and interpretation

1. These Rules may be cited as the Civil Procedure (Amendment) Rules 2003 and shall come into force on the commencement of Part 5 of the Nationality, Immigration and Asylum Act 2002(b).

2. In these Rules, “the Rules” means the Civil Procedure Rules 1998(c) and a reference to a Part or rule by number alone means the Part or rule so numbered in the Rules.

Amendments to Civil Procedure Rules 1998

3. In Part 54, the title is amended to “JUDICIAL REVIEW AND STATUTORY REVIEW”.

4. For the list of contents in Part 54, substitute the list of contents and insert the section heading as set out in Part 1 of the Schedule to these Rules.

5. In Part 54—

- (a) in rule 54.1, in paragraph (1), for “This Part” substitute “This Section of this Part”;
- (b) in rule 54.1, in paragraph (2)—
 - (i) at the beginning, for “In this Part” substitute “In this Section”; and
 - (ii) in sub-paragraph (e), for “this Part” substitute “this Section”;
- (c) in the headings of rules 54.2 and 54.3, for “Part” substitute “Section”;
- (d) in rule 54.4, and in rule 54.16, for “Part” substitute “Section”;

(a) 1997 c. 12.

(b) 2002 c. 41.

(c) S.I. 1998/3132. Part 54 was inserted by S.I. 2000/2092. There are no other relevant amending instruments.

- (e) in rule 54.20, in sub-paragraph (a), for “Part” substitute “Section”; and
(f) after rule 54.20, insert Section II as set out in Part 2 of the Schedule to these Rules.

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I allow these Rules
20th February 2003

Irvine of Lairg, C.

SCHEDULE

Rules 4 and 5

Part 1

JUDICIAL REVIEW AND STATUTORY REVIEW

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SECTION I—JUDICIAL REVIEW

Part 2

SECTION II—STATUTORY REVIEW UNDER THE NATIONALITY, IMMIGRATION AND ASYLUM ACT 2002

Scope and interpretation

54.21 (1) This Section of this Part contains rules about applications to the High Court under section 101(2) of the Nationality, Immigration and Asylum Act 2002(a) for a review of a decision of the Immigration Appeal Tribunal on an application for permission to appeal from an adjudicator.

(2) In this Section—

- (a) “the Act” means the Nationality, Immigration and Asylum Act 2002;
- (b) “adjudicator” means an adjudicator appointed for the purposes of Part 5 of the Act;
- (c) “applicant” means a person applying to the High Court under section 101(2) of the Act;
- (d) “other party” means the other party to the proceedings before the Tribunal; and
- (e) “Tribunal” means the Immigration Appeal Tribunal.

Application for review

54.22 (1) An application under section 101(2) of the Act must be made to the Administrative Court.

(2) The application must be made by filing an application notice.

(3) The applicant must file with the application notice—

- (a) the decision to which the application relates, and any document giving reasons for the decision;
- (b) the grounds of appeal to the adjudicator;
- (c) the adjudicator’s determination;
- (d) the grounds of appeal to the Tribunal together with any documents sent with them;
- (e) the Tribunal’s determination on the application for permission to appeal; and
- (f) any other documents material to the application which were before the adjudicator.

(4) The applicant must also file with the application notice written submissions setting out—

- (a) the grounds upon which it is contended that the Tribunal made an error of law; and
- (b) reasons in support of those grounds.

(5) In paragraph (3)(a) of this rule, “decision” means an immigration decision within the meaning of section 82 of the Act, or a decision to reject an asylum claim to which section 83 of the Act applies.

Time limit for application

54.23 (1) The application notice must be filed not later than 14 days after the applicant is deemed to have received notice of the Tribunal’s decision in accordance with rules made under section 106 of the Act.

(2) The court may extend the time limit in paragraph (1) in exceptional circumstances.

(3) An application to extend the time limit must be made in the application notice and supported by written evidence verified by a statement of truth.

Service of application

54.24 (1) The applicant must serve on the Tribunal copies of the application notice and written submissions.

(2) Where an application is for review of a decision by the Tribunal to grant permission to appeal, the applicant must serve on the other party copies of—

- (a) the application notice;
- (b) the written submissions; and
- (c) all the documents filed in support of the application, except for documents which come from or have already been served on that party.

(3) Where documents are required to be served under paragraphs (1) and (2), they must be served as soon as practicable after they are filed.

Determining the application

54.25 (1) The application will be determined by a single judge without a hearing, and by reference only to the written submissions and the documents filed with them.

(a) 2002 c. 41.

- (2) If the applicant relies on evidence which was not submitted to the adjudicator or the Tribunal, the court will not consider that evidence unless it is satisfied that there were good reasons why it was not submitted to the adjudicator or the Tribunal.
- (3) The court may affirm or reverse the Tribunal's decision.
- (4) Where the Tribunal refused permission to appeal, the court will reverse the Tribunal's decision only if it is satisfied that—
- (a) the Tribunal may have made an error of law; and
 - (b) either—
 - (i) the appeal would have a real prospect of success; or
 - (ii) there is some other compelling reason why the appeal should be heard.
- (5) Where the Tribunal granted permission to appeal, the court will reverse the Tribunal's decision only if it is satisfied that—
- (a) the appeal would have no real prospect of success; and
 - (b) there is no other compelling reason why the appeal should be heard.
- (6) If the court reverses the Tribunal's decision to refuse permission to appeal—
- (a) the court's order will constitute a grant of permission to appeal to the Tribunal; and
 - (b) the court may limit the grant of permission to appeal to specific grounds.
- (7) The court's decision shall be final and there shall be no appeal from that decision or renewal of the application.

Service of order

- 54.26 (1) The court will send copies of its order to—
- (a) the applicant, except where paragraph (2) applies;
 - (b) the other party; and
 - (c) the Tribunal.
- (2) Where—
- (a) the application relates, in whole or in part, to a claim for asylum;
 - (b) the Tribunal refused permission to appeal; and
 - (c) the court affirms the Tribunal's decision,
- the court will send a copy of its order to the Secretary of State, who must serve the order on the applicant.
- (3) Where the Secretary of State has served an order in accordance with paragraph (2), he must notify the court on what date and by what method the order was served.
- (4) If the court issues a certificate under section 101(3)(d) of the Act, it will send a copy of the certificate together with the order to—
- (a) the persons to whom it sends the order under paragraphs (1) and (2); and
 - (b) if the applicant is in receipt of public funding, the Legal Services Commission.

Costs

- 54.27 The court may reserve the costs of the application to be determined by the Tribunal.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Civil Procedure Rules 1998 by inserting a new Section II of Part 54, containing rules about applications to the High Court under section 101(2) of the Nationality, Immigration and Asylum Act 2002. That section provides that a party to an application to the Immigration Appeal Tribunal for permission to appeal against an adjudicator's determination may apply to the High Court for a review of the Tribunal's decision on the ground that the Tribunal made an error of law.

The title of Part 54 is changed to "Judicial Review and Statutory Review" and consequential amendments are made to the existing rules in Part 54.

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