

2005 No. 569 (L.14)

IMMIGRATION

**The Asylum and Immigration Tribunal (Procedure)
(Amendment) Rules 2005**

<i>Made</i> - - - -	<i>13th March 2005</i>
<i>Laid before Parliament</i>	<i>14th March 2005</i>
<i>Coming into force</i> - -	<i>4th April 2005</i>

The Lord Chancellor, in exercise of the powers conferred by sections 106(1)-(3) and 112(3) of the Nationality, Immigration and Asylum Act 2002(a) and section 40A(3) of the British Nationality Act 1981(b), after consulting with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(c), makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2005 and shall come into force on 4th April 2005.

(2) In these Rules, a reference to a rule by number alone refers to the rule so numbered in the Asylum and Immigration Tribunal (Procedure) Rules 2005(d).

Amendments to the Asylum and Immigration Tribunal (Procedure) Rules 2005

2. In rule 3(1)—

(a) at the end of sub-paragraph (d), omit “and”;

(b) after sub-paragraph (e) insert—

“; and

(f) proceedings incidental to any of the above proceedings, including in particular applications relating to the Tribunal’s exercise of its powers under section 103D of the 2002 Act (Reconsideration: legal aid).”.

3. After rule 28 insert—

“Orders for funding on section 103A applications

28A.—(1) This rule applies where a section 103A application has been made by an appellant in relation to an appeal decided in England, Wales or Northern Ireland.

(a) 2002 c.41. Section 106 was amended by paragraph 21 of Schedule 2 to the 2004 Act.

(b) 1981 c.61. Section 40A was inserted by section 4(1) of the 2002 Act and amended by paragraph 4 of Schedule 2 to the 2004 Act.

(c) 1992 c.53.

(d) S.I. 2005/230.

(2) If an immigration judge, when he considers a section 103A application, makes an order under section 103D(1) of the 2002 Act, the Tribunal must send a copy of that order to—

- (a) the appellant's representative; and
- (b) the relevant funding body.

(3) If, pursuant to regulations under section 103D of the 2002 Act, the appellant's representative applies for an order under section 103D(1) of the 2002 Act where an immigration judge has made an order for reconsideration of an appeal but the reconsideration does not proceed—

- (a) the immigration judge may decide that application without a hearing; and
- (b) the Tribunal must send notice of his decision to—
 - (i) the appellant's representative; and
 - (ii) if he makes an order under section 103D(1), the relevant funding body.

(4) In a case to which rule 27(5) applies, the Tribunal must not send an order or decision under this rule to the appellant's representative until either—

- (a) the respondent has notified the Tribunal under rule 27(5)(c) that it has served the documents mentioned in rule 27(5)(b) on the appellant; or
- (b) the Tribunal has served those documents on the appellant under rule 27(5)(d).

(5) In this rule, "relevant funding body" has the same meaning as in rule 33."

4. In rule 33, after paragraph (4) insert—

"(4A) Where, in accordance with regulations under section 103D of the 2002 Act, a senior immigration judge reviews a decision by the Tribunal not to make an order under section 103D(3), the Tribunal must send notice of the decision upon that review to—

- (a) the appellant's representative; and
- (b) if the senior immigration judge makes an order under section 103D(3), the relevant funding body."

13th March 2005

Falconer of Thoroton, C.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Asylum and Immigration Tribunal (Procedure) Rules 2005 (SI 2005/230), to insert further provisions about procedure in relation to the exercise by the Tribunal of its powers under section 103D of the Nationality, Immigration and Asylum Act 2002 (Reconsideration: legal aid) to make orders in respect of a legally aided appellant's costs of proceedings for the review or reconsideration of a decision on an appeal.

STATUTORY INSTRUMENTS

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