

SCHEDULE 2

Consequential provisions – secondary legislation

Asylum and Immigration Tribunal (Procedure) Rules 2005

8. For Part 3 substitute —

“PART 3

Appeals to the Upper Tribunal

Application for permission to appeal to the Upper Tribunal

24.—(1) A party seeking permission to appeal to the Upper Tribunal must make a written application to the Tribunal for permission to appeal.

(2) Subject to paragraph (3), an application under paragraph (1) must be sent or delivered to the Tribunal so that it is received no later than 5 days after the date on which the party making the application is deemed to have been served with the later of the following—

- (a) written reasons for the decision; or
- (b) notification of the outcome of a review under rule 60(1A).

(3) Where an appellant is outside the UK, the time limit for sending or delivering an application under paragraph (1) is 28 days.

(4) If a person makes an application under paragraph (1) later than the time required by paragraph (2)—

- (a) the Tribunal may extend the time for appealing if satisfied that by reason of special circumstances it would be unjust not to do so; and
- (b) unless the Tribunal extends time under sub-paragraph (a), the Tribunal must not admit the application.

(5) An application under paragraph (1) must—

- (a) identify the decision of the Tribunal to which it relates;
- (b) identify the alleged error or errors of law in the decision; and
- (c) state the result the party making the application is seeking.

Tribunal’s consideration of an application for permission to appeal to the Upper Tribunal

25.—(1) On receiving an application for permission to appeal the Tribunal must first consider whether to review the decision in accordance with rule 26.

(2) If the Tribunal decides not to review the decision, or reviews the decision and decides to take no action in relation to the decision, or part of it, the Tribunal must consider whether to give permission to appeal in relation to the decision or that part of it.

(3) The Tribunal must make a decision under paragraph (1) and, where relevant, paragraph (2), no later than 10 days after receiving the application.

(4) Subject to rule 27, if the Tribunal refuses permission to appeal it must send to the parties—

- (a) a statement of its reasons for such refusal; and

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(b) notification of the right to make an application to the Upper Tribunal for permission to appeal and the time within which, and the method by which, such application must be made.

(5) The Tribunal may give permission to appeal on limited grounds, but must comply with paragraph (4) in relation to any grounds on which it has refused permission.

Review of a decision

26.—(1) The Tribunal may only undertake a review of a decision pursuant to rule 25(2) if it is satisfied that there was an error of law in the decision.

(2) Subject to rule 27, the Tribunal must notify the parties in writing of the outcome of any review, and of any right of appeal in relation to the outcome.

(3) If the Tribunal takes any action in relation to a decision following a review without first giving every party an opportunity to make representations, the notice under paragraph (2) must state that any party that did not have an opportunity to make representations may apply for such action to be set aside and for the decision to be reviewed again.

Special procedure for providing notice of a decision relating to an asylum case

27.—(1) This Rule applies to an application to the Tribunal for permission to appeal to the Upper Tribunal where—

- (a) the appellant is in the United Kingdom at the time the application is made; and
- (b) the appeal relates, in whole or in part, to an asylum claim.

(2) In cases to which this paragraph applies—

- (a) the Tribunal must send the documents mentioned in rule 25(4), or, where appropriate, rule 26(2), to the Secretary of State for the Home Department;
- (b) the Secretary of State for the Home Department must serve those documents on the appellant not later than 28 days after receiving them from the Tribunal;
- (c) the Secretary of State for the Home Department must, as soon as practicable after serving the documents mentioned in sub-paragraph (b), notify the Tribunal on what date and by what means they were served; and
- (d) if the Secretary of State for the Home Department does not give the Tribunal notification under sub-paragraph (c) within 29 days after the Tribunal sends the documents mentioned in rule 25(4), or, where appropriate, rule 26(2) on it, the Tribunal must serve those documents on the appellant as soon as reasonably practicable thereafter.”.