



Guidance notes for completing the Special Immigration Appeals Commission Appeal Form (SIAC 1)

You should use the **Notice of Appeal/Notice of Application for Review Form (SIAC 1)** if you have been given a Home Office letter telling you about the decision or direction and you want to appeal or apply for review of that decision or direction.

A: Time limit for appealing or applying for a review

You must send your appeal/review application to the Secretary to the Special Immigration Appeals Commission (SIAC) within the time which the law allows (Rule 8 of the Special Immigration Appeals Commission (Procedure) Rules 2003):

- If you are in detention, the appeal/review application must be lodged within 5 days of service of the decision or direction. You may serve the appeal/review application on the person having custody of you or you may send it to SIAC.
- If you are not in detention and are in the UK, the appeal/review application must be lodged within 10 days of service of the decision or direction.
- If you are not in the UK, the appeal/review application must be lodged within 28 days of service of the decision or direction.
- If you may not appeal or apply for a review until you have departed from the UK, the appeal/review application must be lodged within 28 days of your departure from the UK.

Calculation of time (Rule 51 of the Special Immigration Appeals Commission (Procedure) Rules 2003)

Time limits are to be calculated:

- excluding the day on which the period begins; and
- where the period is 10 days or less, excluding any day which is not a business day.*

Where a time limit ends on a day which is not a business day, your appeal/review application is in time if it is lodged on the next business day.

***Business days** exclude Saturdays, Sundays, bank holidays, Christmas Day, 27 to 31 December and Good Friday.

Date of service of Home Office decision or direction

- If the decision or direction was sent by post to an address in the UK, the date of service is taken as being 2 days from the date on the letter.
- If the decision or direction was sent by post to an address outside the UK, the date of service is taken as being 28 days from the date on the letter.
- In any other case, the date of service is taken as being the date on which the decision or direction was served.

In some cases your deadline to appeal or apply for a review and the date of service of decision/direction may already be printed on your Notice of Appeal/Application.

B: Help with your appeal/review application (Representative)

Someone may help you prepare your appeal/review application and they may fill in the form for you. You, or your representative, **must sign Section 5 of the form.**

Your representative may be anyone who can be a representative **by law** [see Rule 33 of the Special Immigration Appeals Commission (Procedure) Rules 2003, as amended by Rule 19 of the Special Immigration Appeals Commission (Procedure) (Amendment) Rules 2007].

Getting legal representation

If you wish to get legal advice to help you in deciding whether or not to appeal or apply for a review you are advised to contact a legal representative as soon as possible following receipt of the notice of decision or direction. You must ensure that the advice you receive is from a properly authorised legal representative.

Details of legal advisers can be found via the following:

- at www.gov.uk/find-a-legal-adviser
- the OISC website at www.gov.uk/government/organisations/office-of-the-immigration-services-commissioner to see if you qualify for Legal Aid, www.gov.uk/check-legal-aid
- to find a Legal Aid solicitor, <http://find-legal-advice.justice.gov.uk>

If your legal representative considers that you have grounds to appeal/review they may be able to:

- assist you in preparing the case for appeal or review application
- prepare the Notice of Appeal/Application form on your behalf
- represent you at hearings.

The legal representative will be able to advise you on whether or how you will be able to obtain public funding for representation.

If you have a representative, you must make sure you keep in contact with him or her. Letters about your case will be sent to your representative at the address you give until you or your representative tell SIAC of any change of address or representative.

C: Presenting your appeal or review application

You may put your case to SIAC or your representative may do it for you.

If you require an interpreter at the hearing of your appeal/review application, SIAC will provide you with one. If you are applying for a **review, please note that in determining** your application SIAC will apply judicial review principles.

Special Advocates

If the Home Office proposes to rely upon 'Closed' evidence (evidence which it objects to disclosing to you on the grounds that disclosure is likely to harm the public interest: see Rule 4 of the Special Immigration Appeals Commission (Procedure) Rules 2003) in its response to your appeal/review application, neither you nor your legal representatives will be entitled to see this evidence. You will be notified if this is the case and your best interests in relation to such evidence will be represented in Closed Appeal/Review Hearings before SIAC by a Special Advocate (a security cleared, independent barrister).

You will be entitled to choose a Special Advocate from a list maintained by the Special Advocates Support Office (SASO). This is a team of lawyers and administrators located in the Treasury Solicitor's Department, who provide legal and administrative support to the Special Advocates.

A more detailed explanation of the role of Special Advocates can be found in the 'Guide to the Role of Special Advocates' on the Attorney General's Office website www.gov.uk/government/organisations/attorney-generals-office, or by contacting SASO at the Treasury Solicitor's Department, One Kemble Street, London WC2B 4TS. Current contact details are also available on the website.

In cases where Closed evidence is relied upon, you or your appointed representative will be contacted in due course by SASO and assistance will be provided in the appointment of a Special Advocate. All evidence relied upon and correspondence between you and the Secretary of State must be copied to SASO.

D: What to do

Fill in sections 1, 2, 3, 4, 5, 6 and 7 of the Notice of Appeal/Application Form as directed below at 'E: Completing the SIAC 1 form'. If you need more space use another sheet of paper and put your full name on it.

E: Completing the SIAC 1 form

Section 1: The Decision or Direction

Please enter on the form the requested details of the decision(s) or direction(s) that you are challenging.

Section 2: About You

Please complete sections A – K.

Section 3: Your grounds for challenging the Decision or Direction

In this section you must set out the grounds for your appeal or application for review and give the reasons in support of these grounds. This is where you explain why you disagree with the decision or direction.

Section 4: Late Appeal or Application for Review

You must complete this section if your appeal is late or if you are not sure whether it will be received in time. The Commission **cannot** allow a late appeal/application to proceed unless it is satisfied that by reason of special circumstances it would be unjust not to do so. It is therefore essential that you give full reasons why your appeal/application is late.

The time limits which explain when your appeal/application must be received at SIAC are set out in Rule 8 of the Special Immigration Appeals Commission (Procedure) Rules 2003. Rule 8 provides that your appeal/application must be received at SIAC;

- no later than **five days** after you have been served with the notice of decision you are appealing or applying to review (or notice that the previous appeal/review has lapsed) if appellant/applicant is in detention under the Immigration Acts or the 2001 Act,
- no later than **10 days** after you have been served with the notice of decision you are appealing or applying to review (or notice that the previous appeal/review has lapsed) where the appellant/applicant is in the United Kingdom, or
- no later than **28 days** after you have been served with the notice of decision you are appealing or applying to review (or notice that the previous appeal/review has lapsed) where the appellant/applicant is outside the United Kingdom,
- no later than **28 days** after the appellant's/applicant's departure from the United Kingdom where he is served with notice of the decision against which he wishes to appeal or apply for review of but may not do so while in the United Kingdom by reason of section 2(5) of the Special Immigration Appeals Commission Act 1997 Act or section 97A of the Nationality, Immigration and Asylum Act 2002.

Section 5: Sending other documents

You must send the Home Office letter giving the decision or direction, or a copy of it, with the **Notice of Appeal/Application Form**.

If you want SIAC to see other papers or photographs please send them with the form, if you can. If you do not send the documents with the form, send them as soon as possible to:

The Special Immigration Appeals Commission
PO Box 36469
London
EC4A 1WR

Documents which are not in English

If you provide other documents to support your appeal/review application and these are not in English, you must provide **either**

- the documents in their original language and a translation of them in English (you must arrange for the translation)

or

- the documents in their original language and a description in English of what the documents are and what they say in general terms (if a document is long (for instance, a newspaper) you may provide a description in English of only those parts which support your case).

Section 6: Declaration

This section must be signed by both you (the Appellant/Applicant) and your representative.

Section 7: Representative's details

If you have a representative he or she must complete and sign this section of the form.

Section 8:

Please do **not** complete this section. This section is for the use of SIAC staff.

F: When you have filled in the Notice of Appeal/Application Form

You must send the form to SIAC.

You may send the form by post, fax or by hand. Please note, if you send your form by fax you must also provide SIAC with the signed paper copy (either by post or by hand).

Keep a note of how you send the form and the date:

By post By recorded delivery By fax* By hand

*(to be followed by signed paper copy)

Date: _____ Time: _____ [am][pm]

Postal address:

The Special Immigration Appeals Commission
PO Box 36469
London
EC4A 1WR

Fax number: 01264 785 091

G: If you change your address or representative after you send the form please complete section 9 – Change of Details Notification

If you change your address or your representative you must tell SIAC immediately.

This can be done by using the Change of Details Notification at section 9 of the Notice of Appeal/Application Form. Alternatively you can write a letter: if you do this please make sure you give all the information which the form asks for.