

# The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

As in force at 15 January 2018

This document shows the Rules as amended by S.I. 2017/1168 and reflecting the disapplication of Schedule 1 (fast track rules).

It has been produced in order to assist users but is not an authoritative statement of the law. For the definitive Rules, users should refer to the original statutory instruments at <http://www.legislation.gov.uk/2014/2604> and <http://www.legislation.gov.uk/2017/1168>.

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Having consulted in accordance with paragraph 28(1) of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007<sup>(a)</sup>, the Tribunal Procedure Committee has made the following Rules in exercise of the powers conferred by—

- (a) sections 9, 22, 29(3) and (4) of and Schedule 5 to the Tribunals, Courts and Enforcement Act 2007,
- (b) paragraph 25 of Schedule 2 to the Immigration Act 1971<sup>(b)</sup>,
- (c) section 106(3) of the Nationality, Immigration and Asylum Act 2002<sup>(c)</sup>,
- (d) section 40A(3) of the British Nationality Act 1981<sup>(d)</sup>, and
- (e) Schedule 1 to the Immigration (European Economic Area) Regulations 2006<sup>(e)</sup>.

The Lord Chancellor has allowed the Rules in accordance with paragraph 28(3) of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007.

## PART 1

### Introduction

#### **Citation, commencement, application and interpretation**

**1.**—(1) These Rules may be cited as the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 and come into force on 20th October 2014.

(2) They apply to proceedings before the Immigration and Asylum Chamber of the First-tier Tribunal.

(3) [...]

(4) In these Rules—

“the 1999 Act” means the Immigration and Asylum Act 1999<sup>(f)</sup>;

“the 2002 Act” means the Nationality, Immigration and Asylum Act 2002;

“the 2004 Act” means the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004<sup>(g)</sup>;

“the 2006 Regulations” means the Immigration (European Economic Area) Regulations 2006;

“the 2007 Act” means the Tribunals, Courts and Enforcement Act 2007;

“appealable decision” means a decision from which there is a right of appeal to the Immigration and Asylum Chamber of the First-tier Tribunal;

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(a) 2007 c.15

(b) 1971 c. 77. Paragraph 25 of Schedule 2 was amended by S.I. 2010/21.

(c) 2002 c. 41. Section 106 was amended by paragraph 21 of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19). It was also amended by paragraph 9 of Schedule 1 to the Immigration, Asylum and Nationality Act 2006 (c. 13), by section 19 of the UK Borders Act 2007 (c. 30) and by S.I. 2010/21. It applies in relation to appeals under the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003) by virtue of paragraph 1 of Schedule 1 to those Regulations.

(d) 1981 c. 61. Section 40A was inserted by section 4(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41) and amended by paragraph 4 of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19).

(e) S.I. 2006/1003. Schedule 1 was amended by S.I. 2010/21.

(f) 1999 c.33

(g) 2004 c. 19.

“appellant” means a person who has provided a notice of appeal to the Tribunal against an appealable decision in accordance with these Rules;

“asylum claim” has the meaning given in section 113(1) of the 2002 Act;

“certificate of fee satisfaction” means a certificate of fee satisfaction issued by the Lord Chancellor under article 8 of the Fees Order;

“decision maker” means the maker of a decision against which an appeal is brought;

“dispose of proceedings” includes, unless indicated otherwise, disposing of a part of the proceedings;

“document” means anything in which information is recorded in any form, and an obligation under these Rules to provide or allow access to a document or a copy of a document for any purpose means, unless the Tribunal directs otherwise, an obligation to provide or allow access to such document or copy in a legible form or in a form which can be readily made into a legible form;

[...]

“the Fees Order” means the First-tier Tribunal (Immigration and Asylum Chamber) Fees Order 2011(a);

“hearing” means an oral hearing and includes a hearing conducted in whole or in part by video link, telephone or other means of instantaneous two-way electronic communication;

“the Immigration Acts” means the Acts referred to in section 61 of the UK Borders Act 2007(b);

“party” means—

- (a) an appellant or respondent to proceedings;
- (b) a party to a bail application as provided for in rule 37(3) and 37(4); and
- (c) the UNHCR where notice has been given to the Tribunal in accordance with rule 8(3);

“practice direction” means a direction given under section 23 of the 2007 Act;

“qualified representative” means a person who is a qualified person in accordance with section 84(2) of the 1999 Act;

“respondent” means—

- (a) the decision maker specified in the notice of decision against which a notice of appeal has been provided; and
- (b) a person substituted or added as a respondent in accordance with rule 8.

“Tribunal” means the First-tier Tribunal;

“the UNHCR” means the United Kingdom Representative of the United Nations High Commissioner for Refugees; and

“working day” means any day except—

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(a) S.I. 2011/2841  
(b) 2007 c.30.

- (a) a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971<sup>(a)</sup>; and
  - (b) 27th to 31st December inclusive.
- (5) A rule or Part referred to by number alone, means a rule in, or Part of, these Rules.

### **Overriding objective and parties' obligation to co-operate with the Tribunal**

2.—(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes—

- (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal;
- (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
- (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
- (d) using any special expertise of the Tribunal effectively; and
- (e) avoiding delay, so far as compatible with proper consideration of the issues.

(3) The Tribunal must seek to give effect to the overriding objective when it—

- (a) exercises any power under these Rules; or
- (b) interprets any rule or practice direction.

(4) Parties must—

- (a) help the Tribunal to further the overriding objective; and
- (b) co-operate with the Tribunal generally.

## **PART 2**

### **General Powers and Provisions**

#### **Delegation to staff**

3.—(1) Anything of a formal or administrative nature which is required or permitted to be done by the Tribunal under these Rules may be done by a member of the Tribunal's staff.

(2) Staff appointed by the Lord Chancellor may, with the approval of the Senior President of Tribunals, carry out functions of a judicial nature permitted or required to be done by the Tribunal.

(3) The approval referred to at paragraph (2) may apply generally to the carrying out of specified functions by members of staff of a specified description in specified circumstances.

(4) Within 14 days after the date on which the Tribunal sends notice of a decision made by a member of staff under paragraph (2) to a party, that party may apply in writing to the Tribunal for that decision to be considered afresh by a judge.

#### **Case management powers**

4.—(1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure.

(2) The Tribunal may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.

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(a) 1971 c.80

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Tribunal may—

- (a) extend or shorten the time for complying with any rule, practice direction or direction;
- (b) consolidate or hear together two or more sets of proceedings or parts of proceedings raising common issues;
- (c) permit or require a party to amend a document;
- (d) permit or require a party or another person to provide documents, information, evidence or submissions to the Tribunal or a party;
- (e) provide for a particular matter to be dealt with as a preliminary issue;
- (f) hold a hearing to consider any matter, including a case management issue;
- (g) decide the form of any hearing;
- (h) adjourn or postpone a hearing;
- (i) require a party to produce a bundle for a hearing;
- (j) stay (or, in Scotland, sist) proceedings;
- (k) transfer proceedings to another court or tribunal if that other court or tribunal has jurisdiction in relation to the proceedings and—
  - (i) because of a change of circumstances since the proceedings were started, the Tribunal no longer has jurisdiction in relation to the proceedings; or
  - (ii) the Tribunal considers that the other court or tribunal is a more appropriate forum for the determination of the case; or
- (l) suspend the effect of its own decision pending the determination by the Tribunal or the Upper Tribunal of an application for permission to appeal against, and any appeal or review of, that decision.

#### **Procedure for applying for and giving directions**

**5.**—(1) The Tribunal may give a direction on the application of one or more of the parties or on its own initiative.

(2) An application for a direction may be made—

- (a) by sending or delivering a written application to the Tribunal; or
- (b) orally during the course of a hearing.

(3) An application for a direction must include the reason for making that application.

(4) Unless the Tribunal considers that there is good reason not to do so, the Tribunal must send written notice of any direction to every party and to any other person affected by the direction.

(5) If a party or any other person sent notice of the direction under paragraph (4) wishes to challenge the direction which the Tribunal has given, they may do so by applying for another direction which amends, suspends or sets aside the first direction.

#### **Failure to comply with rules etc**

**6.**—(1) An irregularity resulting from a failure to comply with any requirement in these Rules, a practice direction or a direction does not of itself render void the proceedings or any step taken in the proceedings.

(2) If a party has failed to comply with a requirement in these Rules, a practice direction or a direction, the Tribunal may take such action as it considers just, which may include—

- (a) waiving the requirement;
- (b) requiring the failure to be remedied; or
- (c) exercising its power under paragraph (3).

(3) The Tribunal may refer to the Upper Tribunal, and ask the Upper Tribunal to exercise its power under section 25 (supplementary powers of Upper Tribunal) of the 2007 Act in relation to, any failure by a person to comply with a requirement imposed by the Tribunal—

- (a) to attend at any place for the purpose of giving evidence;
- (b) otherwise to make themselves available to give evidence;
- (c) to swear an oath in connection with the giving of evidence;
- (d) to give evidence as a witness;
- (e) to produce a document; or
- (f) to facilitate the inspection of a document or any other thing (including any premises).

#### **Striking out of an appeal for non-payment of fee and reinstatement**

7.—(1) Where the Tribunal is notified by the Lord Chancellor that a certificate of fee satisfaction has been revoked, the appeal shall automatically be struck out without order of the Tribunal and the Tribunal must notify each party that the appeal has been struck out.

(2) Where an appeal has been struck out in accordance with paragraph (1), the appeal may be reinstated if—

- (a) the appellant applies to have the appeal reinstated; and
- (b) the Lord Chancellor has issued a new certificate of fee satisfaction.

(3) An application made under paragraph (2)(a) must be made in writing and received by the Tribunal within 14 days, or if the appellant is outside the United Kingdom within 28 days, of the date on which the Tribunal sent notification of the striking out to the appellant.

#### **Substitution and addition of parties**

8.—(1) The Tribunal may give a direction substituting a respondent if—

- (a) the wrong person has been named as a respondent; or
- (b) the substitution has become necessary because of a change in circumstances since the start of proceedings.

(2) The Tribunal may give a direction adding a person to the proceedings as a respondent.

(3) The UNHCR may give notice to the Tribunal that they wish to participate in any proceedings where the appellant has made an asylum claim and on giving such notice becomes a party to the proceedings.

(4) If—

- (a) the Tribunal gives a direction under paragraph (1) or (2); or
- (b) the UNHCR gives notice to the Tribunal under paragraph (3),

the Tribunal may give such consequential directions as it considers appropriate.

#### **Orders for payment of costs and interest on costs (or, in Scotland, expenses)**

9.—(1) If the Tribunal allows an appeal, it may order a respondent to pay by way of costs to the appellant an amount no greater than—

- (a) any fee paid under the Fees Order that has not been refunded; and
- (b) any fee which the appellant is or may be liable to pay under that Order.

(2) The Tribunal may otherwise make an order in respect of costs only—

- (a) under section 29(4) of the 2007 Act (wasted costs) and costs incurred in applying for such costs; or
- (b) if a person has acted unreasonably in bringing, defending or conducting proceedings.

(3) The Tribunal may make an order under this rule on an application or on its own initiative.

- (4) A person making an application for an order for costs—
- (a) must, unless the application is made orally at a hearing, send or deliver an application to the Tribunal and to the person against whom the order is sought to be made; and
  - (b) may send or deliver together with the application a schedule of the costs claimed in sufficient detail to allow summary assessment of such costs by the Tribunal.
- (5) An application for an order for costs may be made at any time during the proceedings but must be made within 28 days after the date on which the Tribunal sends—
- (a) a notice of decision recording the decision which disposes of the proceedings; or
  - (b) notice that a withdrawal has taken effect under rule 17 (withdrawal).
- (6) The Tribunal may not make an order for costs against a person (in this rule called the “paying person”) without first giving that person an opportunity to make representations.
- (7) The amount of costs to be paid under an order under this rule may be determined by—
- (a) summary assessment by the Tribunal;
  - (b) agreement of a specified sum by the paying person and the person entitled to receive the costs (in this rule called the “receiving person”);
  - (c) detailed assessment of the whole or a specified part of the costs (including the costs of the assessment) incurred by the receiving person, if not agreed.
- (8) Except in relation to paragraph (9), in the application of this rule in relation to Scotland, any reference to costs is to be read as a reference to expenses.
- (9) Following an order for detailed assessment made by the Tribunal under paragraph (7)(c) the paying person or the receiving person may apply—
- (a) in England and Wales, to the county court for a detailed assessment of the costs on the standard basis or, if specified in the order, on the indemnity basis; and the Civil Procedure Rules 1998(a), section 74 (interest on judgment debts, etc) of the County Courts Act 1984(b) and the County Court (Interest on Judgment Debts) Order 1991(c) shall apply, with necessary modifications, to that application and assessment as if the proceedings in the Tribunal had been proceedings in a court to which the Civil Procedure Rules 1998 apply;
  - (b) in Scotland, to the Auditor of the Sheriff Court or the Court of Session (as specified in the order) for the taxation of the expenses according to the fees payable in that court; or
  - (c) in Northern Ireland, to the Taxing Office of the High Court of Northern Ireland for taxation on the standard basis or, if specified in the order, on the indemnity basis.

### **Representatives**

- 10.**—(1) A party may be represented by any person not prohibited from representing by section 84 of the 1999 Act.
- (2) Where a party is or has been represented by a person prohibited from representing by section 84 of the 1999 Act, that does not of itself render void the proceedings or any step taken in the proceedings.
- (3) If a party appoints a representative, that party (or the representative if the representative is a qualified representative) must send or deliver to the Tribunal written notice of the representative’s name and address, which may be done at a hearing.
- (4) Anything permitted or required to be done by a party under these Rules, a practice direction or a direction may be done by the representative of that party, except signing a witness statement.
- (5) A person who receives notice of the appointment of a representative—

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(a) S.I. 1998/3132.  
 (b) 1984 c. 28  
 (c) S.I. 1981/1184



- (a) must provide to the representative any document which is required to be provided to the represented party, and need not provide that document to the represented party; and
- (b) may assume that the representative is and remains authorised as such until they receive written notification that this is not so from the representative or the represented party.

(6) As from the date on which a person has notified the Tribunal that they are acting as the representative of an appellant and has given an address for service, if any document is provided to the appellant a copy must also at the same time be provided to the appellant's representative.

### **Calculating time**

**11.**—(1) An act required or permitted to be done on or by a particular day by these Rules, a practice direction or a direction must, unless otherwise directed, be done by midnight on that day.

(2) Subject to the Tribunal directing that this paragraph does not apply, if the time specified by these Rules, a practice direction or a direction for doing any act ends on a day other than a working day, the act is done in time if it is done on the next working day.

### **Sending, delivery and language of documents**

**12.**—(1) Any document to be provided to the Tribunal or any person under these Rules, a practice direction or a direction must be—

- (a) delivered, or sent by post, to an address;
- (b) sent via a document exchange to a document exchange number or address;
- (c) sent by fax to a fax number;
- (d) sent by e-mail to an e-mail address; or
- (e) sent or delivered by any other method,

identified for that purpose by the Tribunal or person to whom the document is directed.

(2) A document to be provided to an individual may be provided by leaving it with that individual.

(3) If the respondent believes that the address specified under paragraph (1) for the provision of documents to the appellant is not appropriate for that purpose, the respondent must notify the Tribunal in writing of that fact and, if aware of it, an address which would be appropriate.

(4) If any document is provided to a person who has notified the Tribunal that they are acting as the representative of a party, it shall be deemed to have been provided to that party.

(5) Subject to paragraph (6)—

- (a) any notice of appeal or application notice provided to the Tribunal must be completed in English; and
- (b) if a document provided to the Tribunal is not written in English, it must be accompanied by an English translation.

(6) In proceedings that are in Wales or have a connection with Wales, a document or translation may be provided to the Tribunal in Welsh.

### **Use of documents and information**

**13.**—(1) The Tribunal may make an order prohibiting the disclosure or publication of—

- (a) specified documents or information relating to the proceedings; or
- (b) any matter likely to lead members of the public to identify any person whom the Tribunal considers should not be identified.

(2) The Tribunal may give a direction prohibiting the disclosure of a document or information to a person if—

- (a) the Tribunal is satisfied that such disclosure would be likely to cause that person or some other person serious harm; and

(b) the Tribunal is satisfied, having regard to the interests of justice, that it is proportionate to give such a direction.

(3) If a party (“the first party”) considers that the Tribunal should give a direction under paragraph (2) prohibiting the disclosure of a document or information to another party (“the second party”), the first party must—

- (a) exclude the relevant document or information from any documents to be provided to the second party; and
- (b) provide to the Tribunal the excluded document or information, and the reason for its exclusion, so that the Tribunal may decide whether the document or information should be disclosed to the second party or should be the subject of a direction under paragraph (2).

(4) The Tribunal must conduct proceedings as appropriate in order to give effect to a direction given under paragraph (2).

(5) If the Tribunal gives a direction under paragraph (2) which prevents disclosure to a party who has appointed a representative, the Tribunal may give a direction that the documents or information be disclosed to that representative if the Tribunal is satisfied that—

- (a) disclosure to the representative would be in the interests of the party; and
- (b) the representative will act in accordance with paragraph (6).

(6) Documents or information disclosed to a representative in accordance with a direction under paragraph (5) must not be disclosed either directly or indirectly to any other person without the Tribunal’s consent.

(7) The Tribunal may, on the application of a party or on its own initiative, give a direction that certain documents or information must or may be disclosed to the Tribunal on the basis that the Tribunal will not disclose such documents or information to other persons, or specified other persons.

(8) A party making an application for a direction under paragraph (7) may withhold the relevant documents or information from other parties until the Tribunal has granted or refused the application.

(9) In a case involving matters relating to national security, the Tribunal must ensure that information is not disclosed contrary to the interests of national security.

(10) The Tribunal must conduct proceedings and record its decision and reasons appropriately so as not to undermine the effect of an order made under paragraph (1), a direction given under paragraph (2), (5) or (7) or the duty imposed by paragraph (9).

### **Evidence and submissions**

**14.**—(1) Without restriction on the general powers in rule 4 (case management powers), the Tribunal may give directions as to—

- (a) issues on which it requires evidence or submissions;
- (b) the nature of the evidence or submissions it requires;
- (c) whether the parties are permitted or required to provide expert evidence;
- (d) any limit on the number of witnesses whose evidence a party may put forward, whether in relation to a particular issue or generally;
- (e) the manner in which any evidence or submissions are to be provided, which may include a direction for them to be given—
  - (i) orally at a hearing; or
  - (ii) by witness statement or written submissions; and
- (f) the time at which any evidence or submissions are to be provided.

(2) The Tribunal may admit evidence whether or not—

- (a) the evidence would be admissible in a civil trial in the United Kingdom; or

(b) subject to section 85A(4) of the 2002 Act, the evidence was available to the decision maker.

(3) The Tribunal may consent to a witness giving, or require any witness to give, evidence on oath or affirmation, and may administer an oath or affirmation for that purpose.

### **Summoning or citation of witnesses and orders to answer questions or produce documents**

**15.**—(1) On the application of a party or on its own initiative, the Tribunal may—

- (a) by summons (or, in Scotland, citation) require any person to attend as a witness at a hearing at the time and place specified in the summons or citation; or
- (b) order any person to answer any questions or produce any documents in that person's possession or control which relate to any issue in the proceedings.

(2) A summons or citation under paragraph (1)(a) must—

- (a) give the person required to attend 14 days' notice of the hearing or such shorter period as the Tribunal may direct; and
- (b) where the person is not a party, make provision for the person's necessary expenses of attendance to be paid, and state who is to pay them.

(3) No person may be compelled to give any evidence or produce any document that the person could not be compelled to give or produce on a trial of an action in a court of law in the part of the United Kingdom where the proceedings are to be determined.

(4) A summons, citation or order under this rule must—

- (a) state that the person on whom the requirement is imposed may apply to the Tribunal to vary or set aside the summons, citation or order, if they have not had an opportunity to object to it; and
- (b) state the consequences of failure to comply with the summons, citation or order.

### **Appeal treated as abandoned or finally determined**

**16.**—(1) A party must notify the Tribunal if they are aware that—

- (a) the appellant has left the United Kingdom;
- (b) the appellant has been granted leave to enter or remain in the United Kingdom;
- (c) a deportation order has been made against the appellant; or
- (d) a document listed in paragraph 4(2) of Schedule 2 to the 2006 Regulations has been issued to the appellant.

(2) Where an appeal is treated as abandoned pursuant to section 104(4A) of the 2002 Act or paragraph 4(2) of Schedule 2 to 2006 Regulations, the Tribunal must send the parties a notice informing them that the appeal is being treated as abandoned or finally determined, as the case may be.

(3) Where an appeal would otherwise fall to be treated as abandoned pursuant to section 104(4A) of the 2002 Act, but the appellant wishes to pursue their appeal, the appellant must provide a notice, which must comply with any relevant practice direction, to the Tribunal and each other party so that it is received within 28 days of the date on which the appellant was sent notice of the grant of leave to enter or remain in the United Kingdom or was sent the document listed in paragraph 4(2) of Schedule 2 to the 2006 Regulations, as the case may be.

### **Withdrawal**

**17.**—(1) A party may give notice of the withdrawal of their appeal—

- (a) by providing to the Tribunal a written notice of withdrawal of the appeal; or
- (b) orally at a hearing,

and in either case must specify the reasons for that withdrawal.

(2) The Tribunal must (save for good reason) treat an appeal as withdrawn if the respondent notifies the Tribunal and each other party that the decision (or, where the appeal relates to more than one decision, all of the decisions) to which the appeal relates has been withdrawn and specifies the reasons for the withdrawal of the decision.

(3) The Tribunal must notify each party in writing that a withdrawal has taken effect under this rule and that the proceedings are no longer regarded by the Tribunal as pending.

### **Certification of pending appeal**

**18.**—(1) The Secretary of State must, upon issuing a certificate under section 97 or 98 of the 2002 Act which relates to a pending appeal, provide notice of the certification to the Tribunal.

(2) Where a notice of certification is provided under paragraph (1), the Tribunal must—

- (a) notify the parties; and
- (b) take no further action in relation to the appeal.

## **PART 3**

### **Proceedings Before the Tribunal**

#### **CHAPTER 1**

##### **Before the Hearing**

### **Notice of appeal**

**19.**—(1) An appellant must start proceedings by providing a notice of appeal to the Tribunal.

(2) If the person is in the United Kingdom, the notice of appeal must be received not later than 14 days after they are sent the notice of the decision against which the appeal is brought.

(3) If the person is outside the United Kingdom, the notice of appeal must be received—

- (a) not later than 28 days after their departure from the United Kingdom if the person—
  - (i) was in the United Kingdom when the decision against which they are appealing was made, and
  - (ii) may not appeal while they are in the United Kingdom by reason of a provision of the 2002 Act; or
- (b) in any other case, not later than 28 days after they receive the notice of the decision.

(4) The notice of appeal must—

- (a) set out the grounds of appeal;
- (b) be signed and dated by the appellant or their representative;
- (c) if the notice of appeal is signed by the appellant's representative, the representative must certify in the notice of appeal that it has been completed in accordance with the appellant's instructions;
- (d) state whether the appellant requires an interpreter at any hearing and if so for which language and dialect;
- (e) state whether the appellant intends to attend at any hearing; and
- (f) state whether the appellant will be represented at any hearing.

(5) The appellant must provide with the notice of appeal—

- (a) the notice of decision against which the appellant is appealing or if it is not practicable to include the notice of decision, the reasons why it is not practicable;
- (b) any statement of reasons for that decision;

- (c) any documents in support of the appellant's case which have not been supplied to the respondent;
- (d) an application for the Lord Chancellor to issue a certificate of fee satisfaction;
- (e) any further information or documents required by an applicable practice direction.

(6) The Tribunal must send a copy of the notice of appeal and the accompanying documents or information provided by the appellant to the respondent.

(7) An appellant may, with the permission of the Tribunal, vary the grounds on which they rely in the notice of appeal.

### **Late notice of appeal**

**20.**—(1) Where a notice of appeal is provided outside the time limit in rule 19, including any extension of time directed under rule 4(3)(a) (power to extend time), the notice of appeal must include an application for such an extension of time and the reason why the notice of appeal was not provided in time.

(2) If, upon receipt of a notice of appeal, the notice appears to the Tribunal to have been provided outside the time limit but does not include an application for an extension of time, the Tribunal must (unless it extends time of its own initiative) notify the person in writing that it proposes to treat the notice of appeal as being out of time.

(3) Where the Tribunal gives notification under paragraph (2), the person may by written notice to the Tribunal contend that—

- (a) the notice of appeal was given in time; or
- (b) time for providing the notice of appeal should be extended,

and, if so, that person may provide the Tribunal with written evidence in support of that contention.

(4) The Tribunal must decide any issue under this rule as to whether a notice of appeal was given in time, or whether to extend the time for appealing, as a preliminary issue, and may do so without a hearing.

(5) Where the Tribunal makes a decision under this rule it must provide to the parties written notice of its decision, including its reasons.

### **Special provision for imminent removal cases (late notice of appeal)**

**21.**—(1) This rule applies in any case to which rule 20 applies, where the respondent notifies the Tribunal that directions have been given for the removal of that person from the United Kingdom on a date within 5 days of the date on which the notice of appeal was received.

(2) The Tribunal must, if reasonably practicable, make any decision under rule 20 before the date and time proposed for the removal.

(3) Rule 20 shall apply, subject to the modifications that the Tribunal may—

- (a) give notification under rule 20(2) orally, which may include giving it by telephone,
- (b) direct a time for providing evidence under rule 20(3), and
- (c) direct that evidence in support of a contention under rule 20(3) is to be given orally, which may include requiring the evidence to be given by telephone, and hold a hearing for the purpose of receiving such evidence.

### **Circumstances in which the Tribunal may not accept a notice of appeal**

**22.**—(1) Where a person has provided a notice of appeal to the Tribunal and any of the circumstances in paragraph (2) apply, the Tribunal may not accept the notice of appeal.

(2) The circumstances referred to in paragraph (1) are that—

- (a) there is no appealable decision; or

- (b) the Lord Chancellor has refused to issue a certificate of fee satisfaction.
- (3) Where the Tribunal does not accept a notice of appeal, it must—
  - (a) notify the person providing the notice of appeal and the respondent; and
  - (b) take no further action on that notice of appeal.

**Response: entry clearance cases**

- 23.**—(1) This rule applies to an appeal against a refusal of entry clearance or a refusal of an EEA family permit (which has the meaning given in regulation 2(1) of the 2006 Regulations).
- (2) When a respondent is provided with a copy of a notice of appeal from a refusal of entry clearance or a refusal of an EEA family permit, the respondent must provide the Tribunal with—
- (a) the notice of the decision to which the notice of appeal relates and any other document the respondent provided to the appellant giving reasons for that decision;
  - (b) a statement of whether the respondent opposes the appellant’s case and, if so, the grounds for such opposition;
  - (c) any statement of evidence or application form completed by the appellant;
  - (d) any record of an interview with the appellant in relation to the decision being appealed;
  - (e) any other unpublished document which is referred to in a document mentioned in subparagraph (a) or relied upon by the respondent; and
  - (f) the notice of any other appealable decision made in relation to the appellant.
- (3) The respondent must send to the Tribunal and the other parties the documents listed in paragraph (2) within 28 days of the date on which the respondent received from the Tribunal a copy of the notice of appeal and any accompanying documents or information provided under rule 19(6).

**Response: other cases**

- 24.**—(1) Except in appeals to which rule 23 applies, when a respondent is provided with a copy of a notice of appeal, the respondent must provide the Tribunal with—
- (a) the notice of the decision to which the notice of appeal relates and any other document the respondent provided to the appellant giving reasons for that decision;
  - (b) any statement of evidence or application form completed by the appellant;
  - (c) any record of an interview with the appellant in relation to the decision being appealed;
  - (d) any other unpublished document which is referred to in a document mentioned in subparagraph (a) or relied upon by the respondent; and
  - (e) the notice of any other appealable decision made in relation to the appellant.
- (2) The respondent must, if the respondent intends to change or add to the grounds or reasons relied upon in the notice or the other documents referred to in paragraph (1)(a), provide the Tribunal and the other parties with a statement of whether the respondent opposes the appellant’s case and the grounds for such opposition.
- (3) The documents listed in paragraph (1) and any statement required under paragraph (2) must be provided in writing within 28 days of the date on which the Tribunal sent to the respondent a copy of the notice of appeal and any accompanying documents or information provided under rule 19(6).

## CHAPTER 2

### Hearings

**Consideration of decision with or without a hearing**

- 25.**—(1) The Tribunal must hold a hearing before making a decision which disposes of proceedings except where—

- (a) each party has consented to, or has not objected to, the matter being decided without a hearing;
- (b) the appellant has not consented to the appeal being determined without a hearing but the Lord Chancellor has refused to issue a certificate of fee satisfaction for the fee payable for a hearing;
- (c) the appellant is outside the United Kingdom and does not have a representative who has an address for service in the United Kingdom;
- (d) it is impracticable to give the appellant notice of the hearing;
- (e) a party has failed to comply with a provision of these Rules, a practice direction or a direction and the Tribunal is satisfied that in all the circumstances, including the extent of the failure and any reasons for it, it is appropriate to determine the appeal without a hearing;
- (f) the appeal is one to which rule 16(2) or 18(2) applies; or
- (g) subject to paragraph (2), the Tribunal considers that it can justly determine the matter without a hearing.

(2) Where paragraph (1)(g) applies, the Tribunal must not make the decision without a hearing without first giving the parties notice of its intention to do so, and an opportunity to make written representations as to whether there should be a hearing.

(3) This rule does not apply to decisions under Part 4 or Part 5.

#### **Notice of hearings**

**26.** The Tribunal must give each party entitled to attend a hearing reasonable notice of the time and place of the hearing (including any adjourned or postponed hearing) and any changes to the time and place of the hearing.

#### **Public and private hearings**

**27.**—(1) Subject to the following paragraphs and to section 108 of the 2002 Act, all hearings must be held in public.

(2) The Tribunal may give a direction that a hearing, or part of it, is to be held in private.

(3) Where a hearing, or part of it, is to be held in private, the Tribunal may determine who is permitted to attend the hearing or part of it.

(4) The Tribunal may give a direction excluding from any hearing, or part of it—

- (a) any person whose conduct the Tribunal considers is disrupting or is likely to disrupt the hearing;
- (b) any person whose presence the Tribunal considers is likely to prevent another person from giving evidence or making submissions freely;
- (c) any person who the Tribunal considers should be excluded in order to give effect to a direction under rule 13(2) (withholding a document or information likely to cause serious harm); or
- (d) any person where the purpose of the hearing would be defeated by the attendance of that person.

(5) The Tribunal may give a direction excluding a witness from a hearing until that witness gives evidence.

#### **Hearing in a party's absence**

**28.** If a party fails to attend a hearing the Tribunal may proceed with the hearing if the Tribunal—

- (a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and

- (b) considers that it is in the interests of justice to proceed with the hearing.

## CHAPTER 3

### Decisions

#### **Decisions and notice of decisions**

**29.**—(1) The Tribunal may give a decision orally at a hearing.

(2) Subject to rule 13(2) (withholding information likely to cause serious harm), the Tribunal must provide to each party as soon as reasonably practicable after making a decision (other than a decision under Part 4) which disposes of the proceedings—

- (a) a notice of decision stating the Tribunal’s decision; and
- (b) notification of any right of appeal against the decision and the time within which, and the manner in which, such right of appeal may be exercised.

(3) Where the decision of the Tribunal relates to—

- (a) an asylum claim or a humanitarian protection claim, the Tribunal must provide, with the notice of decision in paragraph (2)(a), written reasons for its decision;
- (b) any other matter, the Tribunal may provide written reasons for its decision but, if it does not do so, must notify the parties of the right to apply for a written statement of reasons.

(4) Unless the Tribunal has already provided a written statement of reasons, a party may make a written application to the Tribunal for such statement following a decision which disposes of the proceedings.

(5) An application under paragraph (4) must be received within 28 days of the date on which the Tribunal sent or otherwise provided to the party a notice of decision relating to the decision which disposes of the proceedings.

(6) If a party makes an application in accordance with paragraphs (4) and (5) the Tribunal must, subject to rule 13(2) (withholding a document or information likely to cause serious harm), send a written statement of reasons to each party as soon as reasonably practicable.

## PART 4

### Correcting, Setting Aside, Reviewing and Appealing Tribunal Decisions

#### **Interpretation**

**30.** In this Part—

“appeal” means the exercise of a right of appeal on a point of law under section 11 of the 2007 Act;

“review” means the review of a decision by the Tribunal under section 9 of the 2007 Act.

#### **Clerical mistakes and accidental slips or omissions**

**31.** The Tribunal may at any time correct any clerical mistake or other accidental slip or omission in a decision, direction or any document produced by it, by—

- (a) providing notification of the amended decision or direction, or a copy of the amended document, to all parties; and
- (b) making any necessary amendment to any information published in relation to the decision, direction or document.



**Setting aside a decision which disposes of proceedings**

**32.**—(1) The Tribunal may set aside a decision which disposes of proceedings, or part of such a decision, and re-make the decision, or the relevant part of it, if—

- (a) the Tribunal considers that it is in the interests of justice to do so; and
- (b) one or more of the conditions in paragraph (2) are satisfied.

(2) The conditions are—

- (a) a document relating to the proceedings was not provided to, or was not received at an appropriate time by, a party or a party's representative;
- (b) a document relating to the proceedings was not provided to the Tribunal at an appropriate time;
- (c) a party, or a party's representative, was not present at a hearing related to the proceedings; or
- (d) there has been some other procedural irregularity in the proceedings.

(3) An application for a decision, or part of a decision, to be set aside under paragraph (1) must be made—

- (a) if the appellant is outside the United Kingdom, within 28 days; or
- (b) in any other case, within 14 days,

of the date on which the party was sent the notice of decision.

**Application for permission to appeal to the Upper Tribunal**

**33.**—(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 provided to the Tribunal so that it is received no later than 14 days after the date on which the party making the application was provided with written reasons for the decision.

(3) Where an appellant is outside the United Kingdom, an application to the Tribunal under paragraph (1) must be provided to the Tribunal so that it is received no later than 28 days after the date on which the party making the application was provided with written reasons for the decision.

(4) The time within which a party may apply for permission to appeal against an amended notice of decision runs from the date on which the party is sent the amended notice of decision.

(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 and include any application for an extension of time and the reasons why such an extension should be given.

(6) If a person makes an application under paragraph (1) when the Tribunal has not given a written statement of reasons for its decision—

- (a) the Tribunal must, if no application for a written statement of reasons has been made, treat the application for permission as such an application; and
- (b) may—
  - (i) direct under rule 36 that the application is not to be treated as an application for permission to appeal; or
  - (ii) determine the application for permission to appeal.

(7) If an application for a written statement of reasons has been, or is, refused because the application was received out of time, the Tribunal must only admit the application for permission if the Tribunal considers that it is in the interests of justice to do so.

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

**34.**—(1) On receiving an application for permission to appeal the Tribunal must first consider whether to review the decision in accordance with rule 35.

(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 send a record of its decision to the parties as soon as practicable.

(4) If the Tribunal refuses permission to appeal it must send with the record of its decision—

- (a) a statement of its reasons for such refusal; and
- (b) notification of the right to make an application to the Upper Tribunal for permission to appeal and the time within which, and the manner in 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**

**35.**—(1) The Tribunal may only undertake a review of a decision—

- (a) pursuant to rule 34 (review on an application for permission to appeal); and
- (b) if it is satisfied that there was an error of law in the decision.

(2) 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—

- (a) 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
- (b) the Tribunal may regard the review as incomplete and act accordingly.

### **Power to treat an application as a different type of application**

**36.** The Tribunal may treat an application for a decision to be corrected, set aside or reviewed, or for permission to appeal against a decision, as an application for any other one of those things.

## **PART 5**

### **Bail**

#### **Scope of this Part and interpretation**

**37.**—(1) This Part applies to bail proceedings, meaning bail applications and any matter relating to bail which the Tribunal is considering on its own initiative.

(2) [In this Part—

“the 2016 Act” means the Immigration Act 2016;

“bail application” includes a reference to the Tribunal under paragraph 11 of Schedule 10 to the 2016 Act;

“bail party” means—

- (a) a person released on bail or applying to the Tribunal to be released on bail; or
- (b) a person in respect of whom a reference has been made to the Tribunal under paragraph 11 of Schedule 10 to the 2016 Act; and

“financial condition” has the meaning given in paragraph 5 of Schedule 10 to the 2016 Act.]

(3) Except where paragraph (4) applies, the parties to bail proceedings are the bail party and the Secretary of State.

(4) [Where the proceedings concern payment of a sum under a financial condition, the parties are the Secretary of State, the bail party and any other person who is liable to make payment under the financial condition.]

### **Bail applications**

**38.**—(1) A bail application must be made by sending or delivering to the Tribunal an application notice containing the information specified below.

(2) A bail application must specify whether it is for—

- (a) the bail party to be released on bail;
- (b) variation of bail conditions;
- (c) [...]
- (d) [payment of a sum under a financial condition; or
- (e) a reference for consideration under paragraph 11 of Schedule 10 to the 2016 Act.]

(3) Subject to [paragraphs (4) and (4A)], a bail application must contain the following details—

- (a) the bail party’s—
  - (i) full name;
  - (ii) date of birth; and
  - (iii) date of their most recent arrival in the United Kingdom;
- (b) the address of any place where the bail party is detained;
- (c) the address where the bail party will reside if the bail application is granted, or, if unable to give such an address, the reason why an address is not given;
- (d) [the terms of the financial condition to which the party is, or is proposed to be, subject];
- (e) whether the bail party has a pending appeal to the Tribunal or any pending application for further appeal relating to such an appeal;
- (f) [the full name, address, date of birth and any occupation of any person other than the bail party who is, or is proposed to be, subject to a financial condition];
- (g) where the bail party is aged 18 or over, whether the bail party will, if required, agree [to co-operate with an electronic monitoring condition under paragraph 2 of Schedule 10 to the 2016 Act];
- (h) the grounds on which the application is made and, where a previous application has been refused, when it was refused and details of any material change in circumstances since the refusal; and
- (i) whether an interpreter will be required at the hearing, and in respect of what language and dialect.

(4) Where the application is for [payment of a sum under a financial condition], paragraph (3) applies except for sub-paragraphs (a)(iii), (b), (c), (e) and (g) of that paragraph.

(4A) Where the application is a reference under paragraph 11 of Schedule 10 to the 2016 Act—

- (a) paragraph (3) applies except for sub-paragraph (h); and
- (b) the application must also contain—
  - (i) details of the provision or provisions under which the bail party is detained;
  - (ii) a copy of any previous Secretary of State decision on whether to grant bail; and
  - (iii) any documents relevant to (i) or (ii).]

(5) An application made by the bail party must be signed by the bail party or their representative.

(6) [On receipt of a bail application, the Tribunal must record the date on which it was received and provide a copy of the application as soon as reasonably practicable to—

- (a) the Secretary of State, the bail party and any other person subject to a financial condition, in the case of an application to vary a financial condition;
- (b) the bail party, in the case of a reference under paragraph 11 of Schedule 10 to the 2016 Act; and
- (c) the Secretary of State, in the case of other bail applications.]

### **Bail hearings**

**39.**—(1) Subject to paragraph (3), where a bail application is for the bail party to be released on bail [or is a reference under paragraph 11 of Schedule 10], the Tribunal must, as soon as reasonably practicable, hold a hearing of the application.

(2) In all other bail proceedings, the Tribunal may determine the matter without a hearing if it considers it can justly do so.

(3) Where an application for release on bail is received by the Tribunal within 28 days after a Tribunal decision made at a hearing under paragraph (1) not to release the bail party on bail, the Tribunal—

- (a) must determine whether the bail party has demonstrated that there has been a material change in circumstances since the decision;
- (b) if the Tribunal so determines, must apply paragraph (1);
- (c) otherwise, must dismiss the application without a hearing.

(4) [...]

### **Response to a bail application**

**40.**—(1) If the Secretary of State opposes a bail application, the Secretary of State must provide the Tribunal and the bail party with a written statement of the reasons for doing so—

- (a) not later than 2.00 pm on the working day before the hearing; or
- (b) if the Secretary of State was provided with notice of the hearing less than 24 hours before that time, as soon as reasonably practicable.

(2) Where the Secretary of State's reasons for opposition include that directions are in force for the removal of the bail party from the United Kingdom, the Secretary of State must provide a copy of the notice of those directions.

(3) [If the bail party intends to respond to a reference under paragraph 11 of Schedule 10 to the 2016 Act, the bail party must provide the Tribunal and the Secretary of State with a written statement—

- (a) not later than 2.00 pm on the working day before the hearing; or
- (b) if the bail party was provided with notice of the hearing less than 24 hours before that time, as soon as reasonably practicable.]

### **Decision in bail proceedings**

**41.**—(1) The Tribunal must provide written notice of its decision to—

- (a) the parties; and
- (b) if the bail application is for the bail party to be released on bail, the person having custody of the bail party.

(2) [Where bail is granted, varied or continued, the notice must state—

- (a) when the grant of bail commences;

- (b) any bail conditions, including any amounts payable under a financial condition; and
- (c) the information required under rule 42.]

(3) Where bail is refused or where the Tribunal orders [payment of a sum under a financial condition], the notice must include reasons for the decision.

(4) [...]

(5) Paragraph (6) applies where the Tribunal determines that directions for the removal of the bail party from the United Kingdom are for the time being in force and the directions require the bail party to be removed from the United Kingdom within 14 days of the date of the decision to release the bail party on bail or under paragraph (4).

(6) The notice provided under paragraph (1) must state—

- (a) the determination of the Tribunal under paragraph (5);
- (b) whether the Secretary of State has consented to the release of the bail party;
- (c) where the Secretary of State has not consented to that release, that the bail party must therefore not be released on bail.

### **[Power to vary bail conditions**

41A.— (1) Subject to paragraph (2), where bail is granted by the Tribunal, the Tribunal may direct that the Secretary of State has the power to amend or remove bail conditions or impose new bail conditions.

(2) The Tribunal may not give a direction under paragraph (1) without first giving the bail party and any other person subject to a financial condition an opportunity to make representations.

(3) Where the Tribunal has made a direction under paragraph (1), it may not amend or remove bail conditions or impose new bail conditions in relation to the bail party.]

### **[Financial Conditions**

42.—(1) Any financial condition must be in writing and must state—

- (a) the bail conditions, including the sum of money to be paid under the financial condition;
- (b) when it is to be paid;
- (c) the form and manner in which it is to be paid; and
- (d) that the bail party, and any other person who is liable to make payment under it, understand the bail conditions and that, if the bail party fails to comply with those conditions, they may be liable to make payment under it.

(2) The financial condition must be signed by the bail party and any other person who is liable to make payment under it and provided to the Tribunal, and a copy provided to—

- (a) the parties, and
- (b) any person having custody of the bail party.]

### **Release of bail party**

43. The person having custody of the bail party must release the bail party upon—

- (a) being provided with a notice of decision to grant bail; or
- (b) [being provided with a notice of decision fixing the amount and conditions of the bail.]

### **Application of this Part to Scotland**

44. [...]

## PART 6

## Final

**Revocations**

45. The statutory instruments listed in the left hand column of Table 1 below are revoked to the extent specified in the right hand column

**Table 1****Revocations**

<i>Statutory Instrument</i>	<i>Extent of revocation</i>
The Asylum and Immigration Tribunal (Procedure) Rules 2005 (S.I. 2005/230)	The entire Rules
The Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2006 (S.I. 2006/2788)	The entire Rules
The Asylum and Immigration Tribunal (Procedure) Rules 2007 (S.I. 2007/835)	The entire Rules
The Asylum and Immigration Tribunal (Procedure) (Amendment No. 2) Rules 2007 (S.I. 2007/3170)	The entire Rules
The Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2008 (S.I. 2008/1088)	The entire Rules
The Tribunal Procedure (Amendment No. 2) Rules 2010 (S.I. 2010/44)	Rules 23 to 28 inclusive
The Tribunal Procedure (Amendment No. 3) Rules 2010 (S.I. 2010/2653)	Rule 4
The Tribunal Procedure (Amendment) (No. 2) Rules 2011 (S.I. 2011/2840)	The entire Rules
The Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005 (S.I. 2005/560)	The entire Rules
The Asylum and Immigration Tribunal (Fast Track Procedure) (Amendment) Rules 2006 (S.I. 2006/2789)	The entire Rules
The Asylum and Immigration Tribunal (Fast Track Procedure) (Amendment) Rules 2008 (S.I. 2008/1089)	The entire Rules

**Transitional provisions**

46.—(1) The Tribunal may give any direction to ensure that proceedings are dealt with fairly and, in particular, may—

- (a) apply any provision of the Asylum and Immigration Tribunal (Procedure) Rules 2005 or the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005 which applied to the proceedings immediately before the date these Rules came into force; or
- (b) disapply provisions of these Rules (including the Fast Track Rules).

(2) A time period which has started to run before the date on which these Rules come into force and which has not expired shall continue to apply.

**EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules replace the Asylum and Immigration Tribunal (Procedure) Rules 2005 (S.I. 2005/230) as amended and the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005 (S.I. 2005/560) as amended.

Part 1 contains interpretation provisions and states the overriding objective applicable to proceedings before the Immigration and Asylum Chamber of the First-tier Tribunal.

Part 2 includes provisions on delegation to staff, case management powers, sanctions for non-compliance, costs and expenses, service of documents and information and rules about evidence, submissions and witnesses.

Part 3 contains provisions on notices of appeal, hearings and decisions by the Tribunal.

Part 4 deals with correcting, setting aside, reviewing and appealing against Tribunal decisions.

Part 5 deals with bail.

Part 6 contains transitional and revocation provisions.

[...]