



**COURT OF APPEAL
CIVIL DIVISION**

BENCH BOOK

**IMMIGRATION
AND ASYLUM LAW**

APPENDICES 1 - 5

APPENDIX 1:

SELECTED STATUTES

(only relevant sections are reproduced)

Part I

The Special Immigration Appeals Commission Act 1997

1 Establishment of the Commission

- (1) There shall be a commission, known as the Special Immigration Appeals Commission, for the purpose of exercising the jurisdiction conferred by this Act.
- (2) Schedule 1 to this Act shall have effect in relation to the Commission.
- [(3) The Commission shall be a superior court of record.
- (4) A decision of the Commission shall be questioned in legal proceedings only in accordance with—
 - (a) section 7, or...
 - (b) ...]¹

[2 Jurisdiction: appeals]²

- [(1) A person may appeal to the Special Immigration Appeals Commission against a decision if—
 - (a) he would be able to appeal against the decision under section 82(1) [,83(2) or 83A(2)]³ or 83(2) of the Nationality, Immigration and Asylum Act 2002 but for a certificate of the Secretary of State under section 97 of that Act (national security, &c), or
 - (b) an appeal against the decision under section 82(1)[,83(2) or 83A(2)] of that Act lapsed under section 99 of that Act by virtue of a certificate of the Secretary of State under section 97 of that Act.

¹Sub-ss (3), (4): inserted by the Anti-terrorism, Crime and Security Act 2001, s 35.

Date in force: 14 December 2001: see the Anti-terrorism, Crime and Security Act 2001, s 127(2)(a).

Sub-s (4): para (b) and word omitted immediately preceding it repealed by the Prevention of Terrorism Act 2005, s 16(2)(b). Sub-sections 1(3) and 1(4) were inserted by s35 of the *Anti-terrorism, Crime and Security Act 2001*

² Section 2 was substituted by Paragraph 20 of Schedule 7 to the Nationality, Immigration and Asylum Act 2002

³ Sub-s (1): in paras (a), (b) words “, 83(2) or 83A(2)” in square brackets substituted by the Immigration, Asylum and Nationality Act 2006, s 14, Sch 1, para 14(a).

- (2) The following provisions shall apply, with any necessary modifications, in relation to an appeal against an immigration decision under this section as they apply in relation to an appeal under section 82(1) of the Nationality, Immigration and Asylum Act 2002—
- (a) section 3C [or 3D]⁴ of the Immigration Act 1971 (c 77) [continuation of leave],
 - (b) section 78 of the Nationality, Immigration and Asylum Act 2002 (no removal while appeal pending),
 - (c) section 79 of that Act (deportation order: appeal),
 - (d) section 82(3) of that Act (variation or revocation of leave to enter or remain: appeal),
 - (e) section 84 of that Act (grounds of appeal),
 - (f) section 85 of that Act (matters to be considered),
 - (g) section 86 of that Act (determination of appeal),
 - (h) section 87 of that Act (successful appeal: direction),
 - (i) section 96 of that Act (earlier right of appeal),
 - (j) section 104 of that Act (pending appeal),
 - (k) section 105 of that Act (notice of immigration decision), and
 - (l) section 110 of that Act (grants).
- (3) The following provisions shall apply, with any necessary modifications, in relation to [an appeal against a decision other than an immigration decision] under this section as they apply in relation to an appeal under section 83(2) [or 83A(2)]⁵ of the Nationality, Immigration and Asylum Act 2002—
- (a) section 85(4) of that Act (matters to be considered),
 - (b) section 86 of that Act (determination of appeal),
 - (c) section 87 of that Act (successful appeal: direction), and
 - (d) section 110 of that Act (grants).
- (4) An appeal against the rejection of a claim for asylum under this section shall be treated as abandoned if the appellant leaves the United Kingdom.
- (5) A person may bring or continue an appeal against an immigration decision under this section while he is in the United Kingdom only if he would be able to bring or continue

⁴ Sub-s (2): in para (a) words “or 3D” in square brackets inserted by the Immigration, Asylum and Nationality Act 2006, s 14, Sch 1, para 14(b)(i).

⁵ Sub-s (3): words “an appeal against a decision other than an immigration decision” in square brackets substituted by the Immigration, Asylum and Nationality Act 2006, s 14, Sch 1, para 14(c)(i).

the appeal while he was in the United Kingdom if it were an appeal under section 82(1) of that Act.

- (6) In this section “immigration decision” has the meaning given by section 82(2) of the Nationality, Immigration and Asylum Act 2002.]

...

3 Jurisdiction: bail

- (1) In the case of a person to whom subsection (2) below applies, the provisions of Schedule 2 to the Immigration Act 1971 specified in Schedule 3 to this Act shall have effect with the modifications set out there.
- (2) This subsection applies to a person who is detained under the Immigration Act 1971 [or the Nationality, Immigration and Asylum Act 2002]⁶ if—
- (a) the Secretary of State certifies that his detention is necessary in the interests of national security,
 - (b) he is detained following a decision to refuse him leave to enter the United Kingdom on the ground that his exclusion is in the interests of national security, or
 - (c) he is detained following a decision to make a deportation order against him on the ground that his deportation is in the interests of national security.

...

6 Appointment of person to represent the appellant’s interests

- (1) The relevant law officer may appoint a person to represent the interests of an appellant in any proceedings before the Special Immigration Appeals Commission from which the appellant and any legal representative of his are excluded.
- (2) For the purposes of subsection (1) above, the relevant law officer is—
- (a) in relation to proceedings before the Commission in England and Wales, the Attorney General,
 - (b) in relation to proceedings before the Commission in Scotland, the Lord Advocate, and
 - (c) in relation to proceedings before the Commission in Northern Ireland, the Attorney General for Northern Ireland.
- (3) A person appointed under subsection (1) above—
- (a) if appointed for the purposes of proceedings in England and Wales, shall have a general qualification for the purposes of section 71 of the Courts and Legal Services Act 1990,

⁶ In subsection (2) the words “or the Nationality, Immigration and Asylum Act 2002” in square brackets were inserted by the Nationality, Immigration and Asylum Act 2002 (Consequential and Incidental Provisions) Order 2003, SI 2003 No. 1016

- (b) if appointed for the purposes of proceedings in Scotland, shall be—
 - (i) an advocate, or
 - (ii) a solicitor who has by virtue of section 25A of the Solicitors (Scotland) Act 1980 rights of audience in the Court of Session and the High Court of Justiciary, and
 - (c) if appointed for the purposes of proceedings in Northern Ireland, shall be a member of the Bar of Northern Ireland.
- (4) A person appointed under subsection (1) above shall not be responsible to the person whose interests he is appointed to represent.

7 Appeals from the Commission

- (1) Where the Special Immigration Appeals Commission has made a final determination of an appeal, any party to the appeal may bring a further appeal to the appropriate appeal court on any question of law material to that determination.
- (2) An appeal under this section may be brought only with the leave of the Commission or, if such leave is refused, with the leave of the appropriate appeal court.
- (3) In this section “the appropriate appeal court” means—
 - (a) in relation to a determination made by the Commission in England and Wales, the Court of Appeal,
 - (b) in relation to a determination made by the Commission in Scotland, the Court of Session, and
 - (c) in relation to a determination made by the Commission in Northern Ireland, the Court of Appeal in Northern Ireland.

...

Part II

The Nationality, Immigration and Asylum Act 2002

** Words in square brackets were substituted by the 2004 Act unless otherwise stated.

** Footnotes referring to the “2006 Act” refer to the section of the Immigration, Asylum and Nationality Act 2006 by which the relevant amendment was made.

10 Right of abode: certificate of entitlement

- (1) The Secretary of State may by regulations make provision for the issue to a person of a certificate that he has the right of abode in the United Kingdom.
- (2) The regulations may, in particular—
 - (a) specify to whom an application must be made;
 - (b) specify the place (which may be outside the United Kingdom) to which an application must be sent;
 - (c) provide that an application must be *made in a specified form* [accompanied by specified information];⁷
 - (d) provide that an application must be accompanied by specified documents;
 - (e) *require the payment of a fee on the making of an application*;⁸
 - (f) specify the consequences of failure to comply with a requirement under any of paragraphs (a) to (e) [(a) to (d)] above;
 - (g) provide for a certificate to cease to have effect after a period of time specified in or determined in accordance with the regulations;
 - (h) make provision about the revocation of a certificate.
- (3) The regulations may—
 - (a) make provision which applies generally or only in specified cases or circumstances;
 - (b) make different provision for different purposes;
 - (c) include consequential, incidental or transitional provision.
- (4) The regulations—
 - (a) must be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of

⁷ 2006 Act, s 50(5).

⁸ Repealed by 2006 Act, ss 52(7), 61, Sch 2, para 4(a), Sch 3.

Parliament.

- (5) The Immigration Act 1971 (c 77) shall be amended as follows—
- (a) in section 3(9)(b) (proof of entitlement to right of abode) the words “issued by or on behalf of the Government of the United Kingdom certifying that he has such a right of abode” shall cease to have effect, and
 - (b) in section 33(1) for the definition of “certificate of entitlement” substitute—
““certificate of entitlement” means a certificate under section 10 of the Nationality, Immigration and Asylum Act 2002 that a person has the right of abode in the United Kingdom;”.
- (6) Regulations under this section may, in particular, include provision saving, with or without modification, the effect of a certificate which—
- (a) is issued before the regulations come into force, and
 - (b) is a certificate of entitlement for the purposes of sections 3(9) and 33(1) of the Immigration Act 1971 as those sections have effect before the commencement of subsection (5) above.

76 Revocation of leave to enter or remain

- (1) The Secretary of State may revoke a person's indefinite leave to enter or remain in the United Kingdom if the person—
- (a) is liable to deportation, but
 - (b) cannot be deported for legal reasons.
- (2) The Secretary of State may revoke a person's indefinite leave to enter or remain in the United Kingdom if—
- (a) the leave was obtained by deception,
 - (b) the person would be liable to removal because of the deception, but
 - (c) the person cannot be removed for legal or practical reasons.
- (3) The Secretary of State may revoke a person's indefinite leave to enter or remain in the United Kingdom if the person, or someone of whom he is a dependant, ceases to be a refugee as a result of—
- (a) voluntarily availing himself of the protection of his country of nationality,
 - (b) voluntarily re-acquiring a lost nationality,
 - (c) acquiring the nationality of a country other than the United Kingdom and availing himself of its protection, or
 - (d) voluntarily establishing himself in a country in respect of which he was a refugee.

- (4) In this section—
- “indefinite leave” has the meaning given by section 33(1) of the Immigration Act 1971 (c 77) (interpretation),
- “liable to deportation” has the meaning given by section 3(5) and (6) of that Act (deportation),
- “refugee” has the meaning given by the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol, and
- “removed” means removed from the United Kingdom under—
- (a) paragraph 9 or 10 of Schedule 2 to the Immigration Act 1971 (control of entry: directions for removal), or
 - (b) section 10(1)(b) of the Immigration and Asylum Act 1999 (c 33) (removal of persons unlawfully in United Kingdom: deception).
- (5) A power under subsection (1) or (2) to revoke leave may be exercised—
- (a) in respect of leave granted before this section comes into force;
 - (b) in reliance on anything done before this section comes into force.
- (6) A power under subsection (3) to revoke leave may be exercised—
- (a) in respect of leave granted before this section comes into force, but
 - (b) only in reliance on action taken after this section comes into force.
- (7) In section 10(1) of the Immigration and Asylum Act 1999 (removal of persons unlawfully in United Kingdom) after paragraph (b) (and before the word “or”) there shall be inserted—
- “(ba) his indefinite leave to enter or remain has been revoked under section 76(3) of the Nationality, Immigration and Asylum Act 2002 (person ceasing to be refugee);”.

78 No removal while appeal pending

- (1) While a person's appeal under section 82(1) is pending he may not be—
- (a) removed from the United Kingdom in accordance with a provision of the Immigration Acts, or
 - (b) required to leave the United Kingdom in accordance with a provision of the Immigration Acts.
- (2) In this section “pending” has the meaning given by section 104.
- (3) Nothing in this section shall prevent any of the following while an appeal is pending—
- (a) the giving of a direction for the appellant's removal from the United Kingdom,
 - (b) the making of a deportation order in respect of the appellant (subject to section

79), or

- (c) the taking of any other interim or preparatory action.
- (4) This section applies only to an appeal brought while the appellant is in the United Kingdom in accordance with section 92.

[81 The Asylum and Immigration Tribunal]

- (1) There shall be a tribunal to be known as the Asylum and Immigration Tribunal.
- (2) Schedule 4 (which makes provision about the Tribunal) shall have effect.
- (3) A reference in this Part to the Tribunal is a reference to the Asylum and Immigration Tribunal.]

82 Right of appeal: general

- (1) Where an immigration decision is made in respect of a person he may appeal [to the Tribunal].
- (2) In this Part “immigration decision” means—
 - (a) refusal of leave to enter the United Kingdom,
 - (b) refusal of entry clearance,
 - (c) refusal of a certificate of entitlement under section 10 of this Act,
 - (d) refusal to vary a person’s leave to enter or remain in the United Kingdom if the result of the refusal is that the person has no leave to enter or remain,
 - (e) variation of a person’s leave to enter or remain in the United Kingdom if when the variation takes effect the person has no leave to enter or remain,
 - (f) revocation under section 76 of this Act of indefinite leave to enter or remain in the United Kingdom,
 - (g) a decision that a person is to be removed from the United Kingdom by way of directions under section 10(1)(a), (b) or (c) of the Immigration and Asylum Act 1999 (c 33) (removal of person unlawfully in United Kingdom),
 - (h) a decision that an illegal entrant is to be removed from the United Kingdom by way of directions under paragraphs 8 to 10 of Schedule 2 to the Immigration Act 1971 (c 77) (control of entry: removal),
 - [(ha) a decision that a person is to be removed from the United Kingdom by way of directions under section 47 of the Immigration, Asylum and Nationality Act 2006 (removal: persons with statutorily extended leave),]⁹
 - (i) a decision that a person is to be removed from the United Kingdom by way of directions given by virtue of paragraph 10A of that Schedule (family),

⁹ Inserted by 2006 Act, s 47(6).

[(ia) a decision that a person is to be removed from the United Kingdom by way of directions under paragraph 12(2) of Schedule 2 to the Immigration Act 1971 (c 77) (seamen and aircrews),]

[(ib) a decision to make an order under section 2A of that Act (deprivation of right of abode),]¹⁰

(j) a decision to make a deportation order under section 5(1) of that Act, and

(k) refusal to revoke a deportation order under section 5(2) of that Act.

(3) ...¹¹

(4) The right of appeal under subsection (1) is subject to the exceptions and limitations specified in this Part.

83 Appeal: asylum claim

(1) This section applies where a person has made an asylum claim and—

(a) his claim has been rejected by the Secretary of State, but

(b) he has been granted leave to enter or remain in the United Kingdom for a period exceeding one year (or for periods exceeding one year in aggregate).

(2) The person may appeal [to the Tribunal] against the rejection of his asylum claim.

[83A Appeal: variation of limited leave]¹²

[(1) This section applies where—

(a) a person has made an asylum claim,

(b) he was granted limited leave to enter or remain in the United Kingdom as a refugee within the meaning of the Refugee Convention,

(c) a decision is made that he is not a refugee, and

(d) following the decision specified in paragraph (c) he has limited leave to enter or remain in the United Kingdom otherwise than as a refugee.

(2) The person may appeal to the Tribunal against the decision to curtail or to refuse to extend his limited leave.]

¹⁰ Inserted by 2006 Act, s 57(2).

¹¹ Repealed by 2006 Act, ss 11(6), 61, Sch 3 (in force: 31 August 2006 (except in relation to a decision made before that date) (SI 2006/2226, arts 3, 4(5), Sch 1, Sch 2).

¹² Inserted by 2006 Act, s 1

84 Grounds of appeal

- (1) An appeal under section 82(1) against an immigration decision must be brought on one or more of the following grounds—
 - (a) that the decision is not in accordance with immigration rules;
 - (b) that the decision is unlawful by virtue of section 19B of the Race Relations Act 1976 (c 74) [or Article 20A of the Race Relations (Northern Ireland) Order 1997] (discrimination by public authorities);
 - (c) that the decision is unlawful under section 6 of the Human Rights Act 1998 (c 42) (public authority not to act contrary to Human Rights Convention) as being incompatible with the appellant's Convention rights;
 - (d) that the appellant is an EEA national or a member of the family of an EEA national and the decision breaches the appellant's rights under the Community Treaties in respect of entry to or residence in the United Kingdom;
 - (e) that the decision is otherwise not in accordance with the law;
 - (f) that the person taking the decision should have exercised differently a discretion conferred by immigration rules;
 - (g) that removal of the appellant from the United Kingdom in consequence of the immigration decision would breach the United Kingdom's obligations under the Refugee Convention or would be unlawful under section 6 of the Human Rights Act 1998 as being incompatible with the appellant's Convention rights.
- (2) In subsection (1)(d) "EEA national" means a national of a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time).
- (3) An appeal under section 83 must be brought on the grounds that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention.
- [(4) An appeal under section 83A must be brought on the grounds that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention.]¹³

85 Matters to be considered

- (1) An appeal under section 82(1) against a decision shall be treated by [the Tribunal] as including an appeal against any decision in respect of which the appellant has a right of appeal under section 82(1).
- (2) If an appellant under section 82(1) makes a statement under section 120, [the Tribunal] shall consider any matter raised in the statement which constitutes a ground of appeal of a kind listed in section 84(1) against the decision appealed against.

¹³ Inserted by 2006 Act, s 3 (in force: 31 August 2006 (in relation to a decision made on or after that date): see SI 2006/2226, arts 3, 4(1), Sch 1.

- (3) Subsection (2) applies to a statement made under section 120 whether the statement was made before or after the appeal was commenced.
- (4) On an appeal under section 82(1) [, 83(2) or 83A(2)]¹⁴ against a decision [the Tribunal] may consider evidence about any matter which [it] thinks relevant to the substance of the decision, including evidence which concerns a matter arising after the date of the decision.
- (5) But in relation to an appeal under section 82(1) against refusal of entry clearance or refusal of a certificate of entitlement under section 10—
 - (a) subsection (4) shall not apply, and
 - (b) [the Tribunal] may consider only the circumstances appertaining at the time of the decision to refuse.

86 Determination of appeal

- (1) This section applies on an appeal under section 82(1)[, 83 or 83A].¹⁵
- (2) [The Tribunal] must determine—
 - (a) any matter raised as a ground of appeal (whether or not by virtue of section 85(1)), and
 - (b) any matter which section 85 requires [it] to consider.
- (3) [The Tribunal] must allow the appeal in so far as [it] thinks that—
 - (a) a decision against which the appeal is brought or is treated as being brought was not in accordance with the law (including immigration rules), or
 - (b) a discretion exercised in making a decision against which the appeal is brought or is treated as being brought should have been exercised differently.
- (4) For the purposes of subsection (3) a decision that a person should be removed from the United Kingdom under a provision shall not be regarded as unlawful if it could have been lawfully made by reference to removal under another provision.
- (5) In so far as subsection (3) does not apply, [the Tribunal] shall dismiss the appeal.
- (6) Refusal to depart from or to authorise departure from immigration rules is not the exercise of a discretion for the purposes of subsection (3)(b).

¹⁴ Inserted by 2006 Act, s 14, Sch 1, paras 1, 3.

¹⁵ Inserted by 2006 Act, s 14, Sch 1, paras 1, 4 (in force: 31 August 2006. SI 2006/2226, art 3, Sch 1).

87 Successful appeal: direction

- (1) If [the Tribunal] allows an appeal under section 82[, 83 or 83A] [it] may give a direction for the purpose of giving effect to [its] decision.
- (2) A person responsible for making an immigration decision shall act in accordance with any relevant direction under subsection (1).
- [(3) But a direction under this section shall not have effect while—
 - (a) an application under section 103A(1) (other than an application out of time with permission) could be made or is awaiting determination,
 - (b) reconsideration of an appeal has been ordered under section 103A(1) and has not been completed,
 - (c) an appeal has been remitted to the Tribunal and is awaiting determination,
 - (d) an application under section 103B or 103E for permission to appeal (other than an application out of time with permission) could be made or is awaiting determination,
 - (e) an appeal under section 103B or 103E is awaiting determination, or
 - (f) a reference under section 103C is awaiting determination.]
- (4) A direction under subsection (1) shall be treated [as part of the Tribunal's decision on the appeal for the purposes of section 103A].

88 Ineligibility

- (1) This section applies to an immigration decision of a kind referred to in section 82(2)(a), (b), (d) or (e).
- (2) A person may not appeal under section 82(1) against an immigration decision which is taken on the grounds that he or a person of whom he is a dependant—
 - (a) does not satisfy a requirement as to age, nationality or citizenship specified in immigration rules,
 - (b) does not have an immigration document of a particular kind (or any immigration document),
 - [(ba) has failed to supply a medical report or a medical certificate in accordance with a requirement of immigration rules,]¹⁶
 - (c) is seeking to be in the United Kingdom for a period greater than that permitted in his case by immigration rules, or
 - (d) is seeking to enter or remain in the United Kingdom for a purpose other than one for which entry or remaining is permitted in accordance with immigration rules.

¹⁶ Inserted by 2006 Act, s 5 (in force: 31 August 2006 (in relation to a decision made on or after that date): see SI 2006/2226, arts 3, 4(1), Sch 1.

- (3) In subsection (2)(b) “immigration document” means—
- (a) entry clearance,
 - (b) a passport,
 - (c) a work permit or other immigration employment document within the meaning of section 122, and
 - (d) a document which relates to a national of a country other than the United Kingdom and which is designed to serve the same purpose as a passport.
- (4) Subsection (2) does not prevent the bringing of an appeal on any or all of the grounds referred to in section 84(1)(b), (c) and (g).

[88A Ineligibility: entry clearance] [88A Entry clearance]

[(1) A person may not appeal under section 82(1) against refusal of entry clearance if the decision to refuse is taken on grounds which—

- (a) relate to a provision of immigration rules, and*
- (b) are specified for the purpose of this section by order of the Secretary of State.*

(2) Subsection (1)—

- (a) does not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c), and*
- (b) is without prejudice to the effect of section 88 in relation to an appeal under section 82(1) against refusal of entry clearance.]*

[(1)¹⁷ A person may not appeal under section 82(1) against refusal of an application for entry clearance unless the application was made for the purpose of—

- (a) visiting a person of a class or description prescribed by regulations for the purpose of this subsection, or*
- (b) entering as the dependant of a person in circumstances prescribed by regulations for the purpose of this subsection.*

(2) Regulations under subsection (1) may, in particular—

- (a) make provision by reference to whether the applicant is a member of the family (within such meaning as the regulations may assign) of the person he seeks to visit;*
- (b) provide for the determination of whether one person is dependent on another;*
- (c) make provision by reference to the circumstances of the applicant, of the person whom the applicant seeks to visit or on whom he depends, or of both (and the regulations may, in particular, include provision by reference to—*

¹⁷ Substituted by 2006 Act, s 4(1); for effect see s 4(3) thereof. Date in force: to be appointed: s 62(1), 2006 Act.

- (i) whether or not a person is lawfully settled in the United Kingdom within such meaning as the regulations may assign;
 - (ii) the duration of two individuals' residence together);
 - (d) make provision by reference to an applicant's purpose in entering as a dependant;
 - (e) make provision by reference to immigration rules;
 - (f) confer a discretion.
- (3) Subsection (1)—
- (a) does not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c), and
 - (c) is without prejudice to the effect of section 88 in relation to an appeal under section 82(1) against refusal of entry clearance.]

[89 Refusal of leave to enter]¹⁸

- [(1) A person may not appeal under section 82(1) against refusal of leave to enter the United Kingdom unless—
- (a) on his arrival in the United Kingdom he had entry clearance, and
 - (b) the purpose of entry specified in the entry clearance is the same as that specified in his application for leave to enter.
- (2) Subsection (1) does not prevent the bringing of an appeal on any or all of the grounds referred to in section 84(1)(b), (c) and (g).]

[90 Non-family visitor]¹⁹

- (1) *A person who applies for entry clearance for the purpose of entering the United Kingdom as a visitor may appeal under section 82(1) against refusal of entry clearance only if the application was made for the purpose of visiting a member of the applicant's family.*
- (2) *In subsection (1) the reference to a member of the applicant's family shall be construed in accordance with regulations.*
- (3) *Regulations under subsection (2) may, in particular, make provision wholly or partly by reference to the duration of two individuals' residence together.*
- (4) *Subsection (1) does not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c).*

¹⁸ Substituted by 2006 Act, s 6 (in force: 31 August 2006 (except in relation to a decision made before that date): see SI 2006/2226, arts 3, 4(2), Sch 1.

¹⁹ Substituted by 2006 Act, s 4(1); for effect see s 4(3) thereof (in force: to be appointed: 2006 Act, s 62(1).

91 Student²⁰

- (1) *A person may not appeal under section 82(1) against refusal of entry clearance if he seeks it—*
 - (a) *in order to follow a course of study for which he has been accepted and which will not last more than six months,*
 - (b) *in order to study but without having been accepted for a course, or*
 - (c) *as the dependant of a person seeking entry clearance for a purpose described in paragraph (a) or (b).*
- (2) *Subsection (1) does not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c).*

92 Appeal from within United Kingdom: general

- (1) A person may not appeal under section 82(1) while he is in the United Kingdom unless his appeal is of a kind to which this section applies.
- (2) This section applies to an appeal against an immigration decision of a kind specified in section 82(2)(c), (d), (e), (f) [(ha)] and (j).
- [(3) This section also applies to an appeal against refusal of leave to enter the United Kingdom if—
 - (a) at the time of the refusal the appellant is in the United Kingdom, and
 - (b) on his arrival in the United Kingdom the appellant had entry clearance.
- (3A) But this section does not apply by virtue of subsection (3) if subsection (3B) or (3C) applies to the refusal of leave to enter.
- (3B) This subsection applies to a refusal of leave to enter which is a deemed refusal under paragraph 2A(9) of Schedule 2 to the Immigration Act 1971 (c 77) resulting from cancellation of leave to enter by an immigration officer—
 - (a) under paragraph 2A(8) of that Schedule, and
 - (b) on the grounds specified in paragraph 2A(2A) of that Schedule.
- (3C) This subsection applies to a refusal of leave to enter which specifies that the grounds for refusal are that the leave is sought for a purpose other than that specified in the entry clearance.
- (3D) This section also applies to an appeal against refusal of leave to enter the United Kingdom if at the time of the refusal the appellant—

²⁰ Substituted by 2006 Act, s 4(1) (in force: to be appointed: 2006 Act, s 62(1)).

- (a) is in the United Kingdom,
- (b) has a work permit, and
- (c) is any of the following (within the meaning of the British Nationality Act 1981 (c 61))—
 - (i) a British overseas territories citizen,
 - (ii) a British Overseas citizen,
 - (iii) a British National (Overseas),
 - (iv) a British protected person, or
 - (v) a British subject.]
- (4) This section also applies to an appeal against an immigration decision if the appellant—
 - (a) has made an asylum claim, or a human rights claim, while in the United Kingdom, or
 - (b) is an EEA national or a member of the family of an EEA national and makes a claim to the Secretary of State that the decision breaches the appellant’s rights under the Community Treaties in respect of entry to or residence in the United Kingdom.

93...

...

Repealed by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, ss 33(3)(b), 47, Sch 4.

94 Appeal from within United Kingdom: unfounded human rights or asylum claim

- (1) This section applies to an appeal under section 82(1) where the appellant has made an asylum claim or a human rights claim (or both).
- [(1A) A person may not bring an appeal against an immigration decision of a kind specified in section 82(2)(c), (d), (e) [or (ha)] in reliance on section 92(2) if the Secretary of State certifies that the claim or claims mentioned in subsection (1) above is or are clearly unfounded.]
- (2) A person may not bring an appeal to which this section applies [in reliance on section 92(4)(a)] if the Secretary of State certifies that the claim or claims mentioned in subsection (1) is or are clearly unfounded.
- (3) If the Secretary of State is satisfied that an asylum claimant or human rights claimant is entitled to reside in a State listed in subsection (4) he shall certify the claim under subsection (2) unless satisfied that it is not clearly unfounded.
- (4) Those States are—
 - [(k) the Republic of Albania,

- (l) Bulgaria,
 - (m) Serbia and Montenegro,
 - (n) Jamaica,
 - (o) Macedonia,
 - (p) the Republic of Moldova, . . .
 - (q) Romania]²¹,
 - [(r) . . . ²²
 - (s) Bolivia,
 - (t) Brazil,
 - (u) Ecuador,
 - (v) Sri Lanka,
 - (w) South Africa, and
 - (x) Ukraine]²³,
 - [(y) India]²⁴.
 - [(z) Mongolia,²⁵
 - (aa) Ghana (in respect of men),
 - (bb) Nigeria (in respect of men)].
- (5) The Secretary of State may by order add a State, or part of a State, to the list in subsection (4) if satisfied that—
- (a) there is in general in that State or part no serious risk of persecution of persons entitled to reside in that State or part, and

²¹ The states formerly at (a) to (j) were the countries which joined the European Union in 2003, namely: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. Those states were removed from the list by s 27 of the 2004 Act. Paragraphs (k)–(q) inserted by the Asylum (Designated States) Order 2003 SI 2003 No. 970

²² Paragraph (r) repealed by the Asylum (Designated States) (Amendment) Order 2005 SI 2005 No. 1016 as a result of the judgment of the Administrative Court in *R (on the Application of Husan –v- Secretary of State for the Home Department* [2005] EWHC 189 (Admin); *The Times*, 1 March 2005; [2003] All ER (D) 371 (Feb) that Bangladesh ought not to appear on the list.

²³ Paragraphs (r)–(x) inserted by the Asylum (Designated States) No 2 Order 2003 SI 2003 No. 1919

²⁴ Paragraph (y) inserted by the Asylum (Designated States) Order 2005 SI 2005 No. 330

²⁵ Sub-s (4): paras (z), (aa), (bb) inserted by SI 2005/3306, art 2.

- (b) removal to that State or part of persons entitled to reside there will not in general contravene the United Kingdom's obligations under the Human Rights Convention.
- [(5A) If the Secretary of State is satisfied that the statements in subsection (5) (a) and (b) are true of a State or part of a State in relation to a description of person, an order under subsection (5) may add the State or part to the list in subsection (4) in respect of that description of person.
- (5B) Where a State or part of a State is added to the list in subsection (4) in respect of a description of person, subsection (3) shall have effect in relation to a claimant only if the Secretary of State is satisfied that he is within that description (as well as being satisfied that he is entitled to reside in the State or part).
- (5C) A description for the purposes of subsection (5A) may refer to—
- (a) gender,
 - (b) language,
 - (c) race,
 - (d) religion,
 - (e) nationality,
 - (f) membership of a social or other group,
 - (g) political opinion, or
 - (h) any other attribute or circumstance that the Secretary of State thinks appropriate.]
- [(6) The Secretary of State may by order amend the list in subsection (4) so as to omit a State or part added under subsection (5); and the omission may be—
- (a) general, or
 - (b) effected so that the State or part remains listed in respect of a description of person.]
- [(6A) Subsection (3) shall not apply in relation to an asylum claimant or human rights claimant who—
- (a) is the subject of a certificate under section 2 or 70 of the Extradition Act 2003 (c 41),
 - (b) is in custody pursuant to arrest under section 5 of that Act,
 - (c) is the subject of a provisional warrant under section 73 of that Act,
 - (d) is the subject of an authority to proceed under section 7 of the Extradition Act 1989 (c 33) or an order under paragraph 4(2) of Schedule 1 to that Act, or
 - (e) is the subject of a provisional warrant under section 8 of that Act or of a warrant under paragraph 5(1)(b) of Schedule 1 to that Act.]

[(6B) A certificate under subsection (1A) or (2) may not be issued (and subsection (3) shall not apply) in relation to an appeal under section 82(2)(d) or (e) against a decision relating to leave to enter or remain in the United Kingdom, where the leave was given in circumstances specified for the purposes of this subsection by order of the Secretary of State.]²⁶

- (7) A person may not bring an appeal to which this section applies in reliance on section 92(4) if the Secretary of State certifies that—
- (a) it is proposed to remove the person to a country of which he is not a national or citizen, and
 - (b) there is no reason to believe that the person's rights under the Human Rights Convention will be breached in that country.
- (8) In determining whether a person in relation to whom a certificate has been issued under subsection (7) may be removed from the United Kingdom, the country specified in the certificate is to be regarded as—
- (a) a place where a person's life and liberty is not threatened by reason of his race, religion, nationality, membership of a particular social group, or political opinion, and
 - (b) a place from which a person will not be sent to another country otherwise than in accordance with the Refugee Convention.
- (9) Where a person in relation to whom a certificate is issued under this section subsequently brings an appeal under section 82(1) while outside the United Kingdom, the appeal shall be considered as if he had not been removed from the United Kingdom.

95 Appeal from outside United Kingdom: removal

A person who is outside the United Kingdom may not appeal under section 82(1) on the ground specified in section 84(1)(g) (except in a case to which section 94(9) applies).

96 Earlier right of appeal

- (1) An appeal under section 82(1) against an immigration decision ("the new decision") in respect of a person may not be brought if the Secretary of State or an immigration officer certifies—
- (a) that the person was notified of a right of appeal under that section against another immigration decision ("the old decision") (whether or not an appeal was brought and whether or not any appeal brought has been determined),
 - (b) that the claim or application to which the new decision relates relies on a matter that could have been raised in an appeal against the old decision, and
 - (c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that matter not having been raised in an appeal against the old decision.

²⁶ Inserted by 2006 Act, s 13 (in force: to be appointed: 2006 Act, s 62(1)).

- (2) An appeal under section 82(1) against an immigration decision (“the new decision”) in respect of a person may not be brought if the Secretary of State or an immigration officer certifies—
- (a) that the person received a notice under section 120 by virtue of an application other than that to which the new decision relates or by virtue of a decision other than the new decision,
 - (b) that the new decision relates to an application or claim which relies on a matter that should have been, but has not been, raised in a statement made in response to that notice, and
 - (c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that matter not having been raised in a statement made in response to that notice.]
- (4) In subsection (1) “notified” means notified in accordance with regulations under section 105.
- (5) [Subsections (1) and (2) apply to prevent] a person’s right of appeal whether or not he has been outside the United Kingdom since an earlier right of appeal arose or since a requirement under section 120 was imposed.
- (6) In this section a reference to an appeal under section 82(1) includes a reference to an appeal under section 2 of the Special Immigration Appeals Commission Act 1997 (c 68) which is or could be brought by reference to an appeal under section 82(1).
- [(7) A certificate under subsection (1) or (2) shall have no effect in relation to an appeal instituted before the certificate is issued.]

97 National security, &c

- (1) An appeal under section 82(1)[, 83(2) or 83A(2)]²⁷ against a decision in respect of a person may not be brought or continued if the Secretary of State certifies that the decision is or was taken—
- (a) by the Secretary of State wholly or partly on a ground listed in subsection (2), or
 - (b) in accordance with a direction of the Secretary of State which identifies the person to whom the decision relates and which is given wholly or partly on a ground listed in subsection (2).
- (2) The grounds mentioned in subsection (1) are that the person’s exclusion or removal from the United Kingdom is—
- (a) in the interests of national security, or
 - (b) in the interests of the relationship between the United Kingdom and another country.
- (3) An appeal under section 82(1) [, 83(2) or 83A(2)] against a decision may not be brought or continued if the Secretary of State certifies that the decision is or was taken

²⁷ Substituted by 2006 Act, s 14, Sch 1, paras 1, 6 (in force: 31 August 2006. SI 2006/2226, art 3, Sch 1).

wholly or partly in reliance on information which in his opinion should not be made public—

- (a) in the interests of national security,
 - (b) in the interests of the relationship between the United Kingdom and another country, or
 - (c) otherwise in the public interest.
- (4) In subsections (1)(a) and (b) and (3) a reference to the Secretary of State is to the Secretary of State acting in person.

[97A National security: deportation]²⁸

- (1) This section applies where the Secretary of State certifies that the decision to make a deportation order in respect of a person was taken on the grounds that his removal from the United Kingdom would be in the interests of national security.
- (2) Where this section applies—
- (a) section 79 shall not apply,
 - (b) the Secretary of State shall be taken to have certified the decision to make the deportation order under section 97, and
 - (c) for the purposes of section 2(5) of the Special Immigration Appeals Commission Act 1997 (c 68) (appeals from within United Kingdom) it shall be assumed that section 92 of this Act—
 - (i) would not apply to an appeal against the decision to make the deportation order by virtue of section 92(2) to (3D),
 - (ii) would not apply to an appeal against that decision by virtue of section 92(4)(a) in respect of an asylum claim, and
 - (iii) would be capable of applying to an appeal against that decision by virtue of section 92(4)(a) in respect of a human rights claim unless the Secretary of State certifies that the removal of the person from the United Kingdom would not breach the United Kingdom's obligations under the Human Rights Convention.
- (3) A person in respect of whom a certificate is issued under subsection (2)(c)(iii) may appeal to the Special Immigration Appeals Commission against the issue of the certificate; and for that purpose the Special Immigration Appeals Commission Act 1997 shall apply as to an appeal against an immigration decision to which section 92 of this Act applies.
- (4) The Secretary of State may repeal this section by order.]

²⁸ Inserted by 2006 Act, s 7(1) (in force: 31 August 2006. SI 2006/2226, art 3, Sch 1).

98 Other grounds of public good

- (1) This section applies to an immigration decision of a kind referred to in section 82(2)(a) or (b).
- (2) An appeal under section 82(1) against an immigration decision may not be brought or continued if the Secretary of State certifies that the decision is or was taken—
 - (a) by the Secretary of State wholly or partly on the ground that the exclusion or removal from the United Kingdom of the person to whom the decision relates is conducive to the public good, or
 - (b) in accordance with a direction of the Secretary of State which identifies the person to whom the decision relates and which is given wholly or partly on that ground.
- (3) In subsection (2)(a) and (b) a reference to the Secretary of State is to the Secretary of State acting in person.
- (4) Subsection (2) does not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c).
- (5) Subsection (2) does not prevent the bringing of an appeal against an immigration decision of the kind referred to in section 82(2)(a) on the grounds referred to in section 84(1)(g).

99 Sections 96 to 98: appeal in progress

- (1) This section applies where a certificate is issued under section 96(1) or (2), 97 or 98 in respect of a pending appeal.
- (2) The appeal shall lapse.

100 ...

...

Repealed by s26(5)(a) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004

101 ...

...

Repealed by s26(5)(a) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004

102 ...

...

Repealed by s26(5)(a) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004

103 ...

...

Repealed by s26(5)(a) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004

[103A Review of Tribunal's decision]

- (1) A party to an appeal under section 82[, 83 or 83A] may apply to the appropriate court, on the grounds that the Tribunal made an error of law, for an order requiring the Tribunal to reconsider its decision on the appeal.
- (2) The appropriate court may make an order under subsection (1)—
 - (a) only if it thinks that the Tribunal may have made an error of law, and
 - (b) only once in relation to an appeal.
- (3) An application under subsection (1) must be made—
 - (a) in the case of an application by the appellant made while he is in the United Kingdom, within the period of 5 days beginning with the date on which he is treated, in accordance with rules under section 106, as receiving notice of the Tribunal's decision,
 - (b) in the case of an application by the appellant made while he is outside the United Kingdom, within the period of 28 days beginning with the date on which he is treated, in accordance with rules under section 106, as receiving notice of the Tribunal's decision, and
 - (c) in the case of an application brought by a party to the appeal other than the appellant, within the period of 5 days beginning with the date on which he is treated, in accordance with rules under section 106, as receiving notice of the Tribunal's decision.
- (4) But—
 - (a) rules of court may specify days to be disregarded in applying subsection (3)(a), (b) or (c), and
 - (b) the appropriate court may permit an application under subsection (1) to be made outside the period specified in subsection (3) where it thinks that the application could not reasonably practicably have been made within that period.
- (5) An application under subsection (1) shall be determined by reference only to—
 - (a) written submissions of the applicant, and
 - (b) where rules of court permit, other written submissions.
- (6) A decision of the appropriate court on an application under subsection (1) shall be final.

- (7) In this section a reference to the Tribunal’s decision on an appeal does not include a reference to—
- (a) a procedural, ancillary or preliminary decision, or
 - (b) a decision following remittal under section 103B, 103C or 103E.
- (8) This section does not apply to a decision of the Tribunal where its jurisdiction is exercised by three or more legally qualified members.
- (9) In this section “the appropriate court” means—
- (a) in relation to an appeal decided in England or Wales, the High Court,
 - (b) in relation to an appeal decided in Scotland, the Court of Session, and
 - (c) in relation to an appeal decided in Northern Ireland, the High Court in Northern Ireland.
- (10) An application under subsection (1) to the Court of Session shall be to the Outer House.]

[103B Appeal from Tribunal following reconsideration]

- [(1) Where an appeal to the Tribunal has been reconsidered, a party to the appeal may bring a further appeal on a point of law to the appropriate appellate court.
- (2) In subsection (1) the reference to reconsideration is to reconsideration pursuant to—
- (a) an order under section 103A(1), or
 - (b) remittal to the Tribunal under this section or under section 103C or 103E.
- (3) An appeal under subsection (1) may be brought only with the permission of—
- (a) the Tribunal, or
 - (b) if the Tribunal refuses permission, the appropriate appellate court.
- (4) On an appeal under subsection (1) the appropriate appellate court may—
- (a) affirm the Tribunal’s decision;
 - (b) make any decision which the Tribunal could have made;
 - (c) remit the case to the Tribunal;
 - (d) affirm a direction under section 87;
 - (e) vary a direction under section 87;
 - (f) give a direction which the Tribunal could have given under section 87.
- (5) In this section “the appropriate appellate court” means—

- (a) in relation to an appeal decided in England or Wales, the Court of Appeal,
 - (b) in relation to an appeal decided in Scotland, the Court of Session, and
 - (c) in relation to an appeal decided in Northern Ireland, the Court of Appeal in Northern Ireland.
- (6) An appeal under subsection (1) to the Court of Session shall be to the Inner House.]

[103C Appeal from Tribunal instead of reconsideration]

- [(1) On an application under section 103A in respect of an appeal the appropriate court, if it thinks the appeal raises a question of law of such importance that it should be decided by the appropriate appellate court, may refer the appeal to that court.
- (2) On a reference under subsection (1) the appropriate appellate court may—
- (a) affirm the Tribunal’s decision;
 - (b) make any decision which the Tribunal could have made;
 - (c) remit the case to the Tribunal;
 - (d) affirm a direction under section 87;
 - (e) vary a direction under section 87;
 - (f) give a direction which the Tribunal could have given under section 87;
 - (g) restore the application under section 103A to the appropriate court.
- (3) In this section—
- “the appropriate court” has the same meaning as in section 103A, and
- “the appropriate appellate court” has the same meaning as in section 103B.
- (4) A reference under subsection (1) to the Court of Session shall be to the Inner House.]

[103D Reconsideration: legal aid]

- (1) On the application of an appellant under section 103A, the appropriate court may order that the appellant’s costs in respect of the application under section 103A shall be paid out of the Community Legal Service Fund established under section 5 of the Access to Justice Act 1999 (c 22).
- (2) Subsection (3) applies *where the Tribunal has decided an appeal following reconsideration pursuant to an order made [where an order for reconsideration is made]*—
- (a) under section 103A(1), and
 - (b) on the application of the appellant.

- (3) *The Tribunal may order that the appellant's costs—*
- (a) *in respect of the application for reconsideration, and*
 - (b) *in respect of the reconsideration,*
- shall be paid out of that Fund.*
- [(3) The Tribunal may order payment out of that Fund of the appellant's costs—
- (a) in respect of the application for reconsideration;
 - (b) in respect of preparation for reconsideration;
 - (c) in respect of the reconsideration.]²⁹
- (4) The Secretary of State may make regulations about the exercise of the powers in subsections (1) and (3).
- (5) Regulations under subsection (4) may, in particular, make provision—
- (a) specifying or providing for the determination of the amount of payments;
 - (b) about the persons to whom the payments are to be made;
 - (c) restricting the exercise of the power (whether by reference to the prospects of success in respect of the appeal at the time when the application for reconsideration was made, the fact that a reference has been made under section 103C(1), the circumstances of the appellant, the nature of the appellant's legal representatives, or otherwise).
- (6) Regulations under subsection (4) may make provision—
- (a) conferring a function on the Legal Services Commission;
 - (b) modifying a duty or power of the Legal Services Commission in respect of compliance with orders under subsection (3);
 - (c) applying (with or without modifications), modifying or disapplying a provision of, or of anything done under, an enactment relating to the funding of legal services.
- (7) Before making regulations under subsection (4) the Secretary of State shall consult such persons as he thinks appropriate.
- (8) This section has effect only in relation to an appeal decided in—
- (a) England,
 - (b) Wales, or
 - (c) Northern Ireland.
- (9) In relation to an appeal decided in Northern Ireland this section shall have effect—

²⁹ Amended by 2006 Act s 8(1), (2) (in force: to be appointed: 2006 Act, s 62(1)).

- (a) as if a reference to the Community Legal Service Fund were to the fund established under paragraph 4(2)(a) of Schedule 3 to the Access to Justice (Northern Ireland) Order 2003 (SI 2003/ 435 (NI 10)), and
- (b) with any other necessary modifications.]

[103E Appeal from Tribunal sitting as panel]

- (1) This section applies to a decision of the Tribunal on an appeal under section 82[, 83 or 83A] where its jurisdiction is exercised by three or more legally qualified members.
- (2) A party to the appeal may bring a further appeal on a point of law to the appropriate appellate court.
- (3) An appeal under subsection (2) may be brought only with the permission of—
 - (a) the Tribunal, or
 - (b) if the Tribunal refuses permission, the appropriate appellate court.
- (4) On an appeal under subsection (2) the appropriate appellate court may—
 - (a) affirm the Tribunal’s decision;
 - (b) make any decision which the Tribunal could have made;
 - (c) remit the case to the Tribunal;
 - (d) affirm a direction under section 87;
 - (e) vary a direction under section 87;
 - (f) give a direction which the Tribunal could have given under section 87.
- (5) In this section “the appropriate appellate court” means—
 - (a) in relation to an appeal decided in England or Wales, the Court of Appeal,
 - (b) in relation to an appeal decided in Scotland, the Court of Session, and
 - (c) in relation to an appeal decided in Northern Ireland, the Court of Appeal in Northern Ireland.
- (6) A further appeal under subsection (2) to the Court of Session shall be to the Inner House.
- (7) In this section a reference to the Tribunal’s decision on an appeal does not include a reference to—
 - (a) a procedural, ancillary or preliminary decision, or
 - (b) a decision following remittal under section 103B or 103C.]

104 Pending appeal

- (1) An appeal under section 82(1) is pending during the period—
- (a) beginning when it is instituted, and
 - (b) ending when it is finally determined, withdrawn or abandoned (or when it lapses under section 99).
- [(2) An appeal under section 82(1) is not finally determined for the purposes of subsection (1)(b) while—
- (a) an application under section 103A(1) (other than an application out of time with permission) could be made or is awaiting determination,
 - (b) reconsideration of an appeal has been ordered under section 103A(1) and has not been completed,
 - (c) an appeal has been remitted to the Tribunal and is awaiting determination,
 - (d) an application under section 103B or 103E for permission to appeal (other than an application out of time with permission) could be made or is awaiting determination,
 - (e) an appeal under section 103B or 103E is awaiting determination, or
 - (f) a reference under section 103C is awaiting determination.]
- (3) . . .
- [(4) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant leaves the United Kingdom.
- (4A) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant is granted leave to enter or remain in the United Kingdom (subject to subsections (4B) and (4C)).
- (4B) Subsection (4A) shall not apply to an appeal in so far as it is brought on the ground relating to the Refugee Convention specified in section 84(1)(g) where the appellant—
- (a) is granted leave to enter or remain in the United Kingdom for a period exceeding 12 months, and
 - (b) gives notice, in accordance with any relevant procedural rules (which may include provision about timing), that he wishes to pursue the appeal in so far as it is brought on that ground.
- (4C) Subsection (4A) shall not apply to an appeal in so far as it is brought on the ground specified in section 84(1)(b) where the appellant gives notice, in accordance with any relevant procedural rules (which may include provision about timing), that he wishes to pursue the appeal in so far as it is brought on that ground.]³⁰

³⁰ Substituted by 2006 Act, s 9 (in force: 13 November 2006: see SI 2006/2838, art 3).

- (5) An appeal under section 82(2)(a), (c), (d), (e) or (f) shall be treated as finally determined if a deportation order is made against the appellant.

120 Requirement to state additional grounds for application

- (1) This section applies to a person if—
- (a) he has made an application to enter or remain in the United Kingdom, or
 - (b) an immigration decision within the meaning of section 82 has been taken or may be taken in respect of him.
- (2) The Secretary of State or an immigration officer may by notice in writing require the person to state—
- (a) his reasons for wishing to enter or remain in the United Kingdom,
 - (b) any grounds on which he should be permitted to enter or remain in the United Kingdom, and
 - (c) any grounds on which he should not be removed from or required to leave the United Kingdom.
- (3) A statement under subsection (2) need not repeat reasons or grounds set out in—
- (a) the application mentioned in subsection (1)(a), or
 - (b) an application to which the immigration decision mentioned in subsection (1)(b) relates.

Part III

The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

NOTE – The substantive provisions of the 2004 Act are not reproduced here as they merely amend the 2002 Act (for which see above). The relevant parts of Schedule 2, Part II (which provides for continuity of judicial staff in the AIT and institutes the “filter process”) are reproduced here.

Schedule 2, Part II Transitional provisions

...

Paragraph 26

In this Part “commencement” means the coming into force of section 26.

Paragraph 27

A person who immediately before commencement is, or is to be treated as, an adjudicator appointed under section 81 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals) (as it has effect before commencement) shall be treated as having been appointed as a member of the Asylum and Immigration Tribunal under paragraph 1 of Schedule 4 to that Act (as it has effect after commencement) immediately after commencement.

Paragraph 28

Where immediately before commencement a person is a member of the Immigration Appeal Tribunal-

- (a) he shall be treated as having been appointed as a member of the Asylum and Immigration Tribunal under paragraph 1 of Schedule 4 to that Act immediately after commencement, and
- (b) if he was a legally qualified member of the Immigration Appeal Tribunal (within the meaning of Schedule 5 to that Act) he shall be treated as having been appointed as a legally qualified member of the Asylum and Immigration Tribunal.

...

Paragraph 30

- (1) This paragraph shall have effect in relation to applications under section 103A(1) or for permission under section 103A(4)(b) made-
 - (a) during the period beginning with commencement and ending with such date as may be appointed by order of the Lord Chancellor, and
 - (b) during any such later period as may be appointed by order of the Lord Chancellor.
- (2) An application in relation to which this paragraph has effect shall be considered by a member of the Asylum and Immigration Tribunal (in accordance with arrangements

under paragraph 8(1) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 (inserted by Schedule 1 above)).

- (3) For the purposes of sub-paragraph (2)-
 - (a) references in section 103A to the appropriate court shall be taken as references to the member of the Tribunal who is considering the application or who is to consider the application,
 - (b) rules of court made for the purpose of section 103A(4)(a) in relation to the court to which an application is made shall have effect in relation to the application despite the fact that it is considered outside the appropriate court, and
 - (c) section 103A(6) shall be subject to sub-paragraph (5) below.
- (4) Where a member of the Tribunal considers an application under section 103A(1) or 103A(4)(b) by virtue of this paragraph-
 - (a) he may make an order under section 103A(1) or grant permission under section 103A(4)(b), and
 - (b) if he does not propose to make an order or grant permission, he shall notify the appropriate court and the applicant.
- (5) Where notice is given under sub-paragraph (4)(b)-
 - (a) the applicant may notify the appropriate court that he wishes the court to consider his application under section 103A(1) or 103A(4)(b),
 - (b) the notification must be given within the period of 5 days beginning with the date on which the applicant is treated, in accordance with rules under section 106 of the Nationality, Immigration and Asylum Act 2002, as receiving the notice under sub-paragraph (4)(b) above, and
 - (c) the appropriate court shall consider the application under section 103A(1) or 103A(4)(b) if-
 - (i) the applicant has given notice in accordance with paragraphs (a) and (b) above, or
 - (ii) the applicant has given notice under paragraph (a) above outside the period specified in paragraph (b) above, but the appropriate court concludes that the application should be considered on the grounds that the notice could not reasonably practicably have been given within that period.
- (6) Rules of court may specify days to be disregarded in applying sub-paragraph (5)(b).
- (7) A member of the Tribunal considering an application under section 103A(1) by virtue of this paragraph may not make a reference under section 103C.

Part IV

The Immigration, Asylum and Nationality Act 2006

15 Penalty³¹

- (1) It is contrary to this section to employ an adult subject to immigration control if—
 - (a) he has not been granted leave to enter or remain in the United Kingdom, or
 - (b) his leave to enter or remain in the United Kingdom—
 - (i) is invalid,
 - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
 - (iii) is subject to a condition preventing him from accepting the employment.
- (2) The Secretary of State may give an employer who acts contrary to this section a notice requiring him to pay a penalty of a specified amount not exceeding the prescribed maximum.
- (3) An employer is excused from paying a penalty if he shows that he complied with any prescribed requirements in relation to the employment.
- (4) But the excuse in subsection (3) shall not apply to an employer who knew, at any time during the period of the employment, that it was contrary to this section.
- (5) The Secretary of State may give a penalty notice without having established whether subsection (3) applies.
- (6) A penalty notice must—
 - (a) state why the Secretary of State thinks the employer is liable to the penalty,
 - (b) state the amount of the penalty,
 - (c) specify a date, at least 28 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid,
 - (d) specify how the penalty must be paid,
 - (e) explain how the employer may object to the penalty, and
 - (f) explain how the Secretary of State may enforce the penalty.
- (7) An order prescribing requirements for the purposes of subsection (3) may, in particular—
 - (a) require the production to an employer of a document of a specified description;

³¹ To be appointed: see s 62(1).

- (b) require the production to an employer of one document of each of a number of specified descriptions;
- (c) require an employer to take specified steps to verify, retain, copy or record the content of a document produced to him in accordance with the order;
- (d) require action to be taken before employment begins;
- (e) require action to be taken at specified intervals or on specified occasions during the course of employment.

21 Offence³²

- (1) A person commits an offence if he employs another (“the employee”) knowing that the employee is an adult subject to immigration control and that—
 - (a) he has not been granted leave to enter or remain in the United Kingdom, or
 - (b) his leave to enter or remain in the United Kingdom—
 - (i) is invalid,
 - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
 - (iii) is subject to a condition preventing him from accepting the employment.
- (2) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding two years,
 - (ii) to a fine, or
 - (iii) to both, or
 - (b) on summary conviction—
 - (i) to imprisonment for a term not exceeding 12 months in England and Wales or 6 months in Scotland or Northern Ireland,
 - (ii) to a fine not exceeding the statutory maximum, or
 - (iii) to both.
- (3) An offence under this section shall be treated as—
 - (a) a relevant offence for the purpose of sections 28B and 28D of the Immigration Act 1971 (c 77) (search, entry and arrest), and
 - (b) an offence under Part III of that Act (criminal proceedings) for the purposes of sections 28E, 28G and 28H (search after arrest).

³² To be appointed: see s 62(1).

- (4) In relation to a conviction occurring before the commencement of section 154(1) of the Criminal Justice Act 2003 (c 44) (general limit on magistrates' powers to imprison) the reference to 12 months in subsection (2)(b)(i) shall be taken as a reference to 6 months.

38 Disclosure of information for security purposes³³

- (1) A person specified in subsection (2) may disclose information obtained or held in the course of his functions to a person specified in subsection (3) if he thinks that the information is likely to be of use for a purpose specified in—
- (a) section 1 of the Security Service Act 1989 (c 5), or
 - (b) section 1 or 3 of the Intelligence Services Act 1994 (c 13).
- (2) The persons who may disclose information in accordance with subsection (1) are—
- (a) the Secretary of State in so far as he has functions under the Immigration Acts,
 - (b) a chief officer of police, and
 - (c) Her Majesty's Revenue and Customs.
- (3) The persons to whom information may be disclosed in accordance with subsection (1) are—
- (a) the Director-General of the Security Service,
 - (b) the Chief of the Secret Intelligence Service, and
 - (c) the Director of the Government Communications Headquarters.
- (4) The information referred to in subsection (1) is information—
- (a) which is obtained or held in the exercise of a power specified by the Secretary of State and the Treasury jointly by order and relates to—
 - (i) passengers on a ship or aircraft,
 - (ii) crew of a ship or aircraft,
 - (iii) freight on a ship or aircraft, or
 - (iv) flights or voyages, or
 - (b) which relates to such other matters in respect of travel or freight as the Secretary of State and the Treasury may jointly specify by order.
- (5) In subsection (2) “chief officer of police” means—
- (a) in England and Wales, the chief officer of police for a police area specified in section 1 of the Police Act 1996 (c 16),
 - (b) in Scotland, the chief constable of a police force maintained under the Police (Scotland) Act 1967 (c 77), and
 - (c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland.

³³ To be appointed: see s 62(1).

- (6) An order under subsection (4) may not specify—
- (a) a power of Her Majesty's Revenue and Customs if or in so far as it relates to a matter to which section 7 of the Commissioners for Revenue and Customs Act 2005 (c 11) (former Inland Revenue matters) applies, or
 - (b) a matter to which that section applies.
- (7) An order under this section—
- (a) shall be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (8) This section has effect despite any restriction on the purposes for which information may be disclosed or used.

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APPENDIX 2

Table of Starred Determinations (**This list is ONLY accurate as at 27 April 2007)

Important: This is simply a list of the starred determinations. The inclusion of a determination on this list does not indicate that it is still good law				
Last updated: 27.04.2007	Starred Determinations			
Name	Neutral Citation number	Previous Citation	Date of Promulgation	Main Issues
AE & FE (SSHD v AE & FE)	AE FE (PTSD-Internal Relocation) Sri Lanka * [2002] UKIAT 05237	[2002] UKIAT 05237	12.11.2002	Refugee law, internal relocation, mental/medical condition, psychiatric evidence
Abdillahi	Abdillahi (Appeal - Sections 69(3) 1999 Act - Notice of Decision) Somalia * [2002] UKIAT 00266	[2002] UKIAT 00266	05.02.2002	S69(3) appeals, notices of decision
Ahmed	Ahmed (Restriction of Submissions) Pakistan * [2000] UKIAT 00002	(00/TH/00230)	25.02.2000	Restriction of submissions
Ahmed (Tanveer)	AHMED (Documents unreliable and forged) Pakistan * [2002] UKIAT 00439	[2002] UKIAT 00439	19.02.2002	Documentary evidence, burden & standard of proof
AK SS KT	AK and others (Tribunal Appeal- out of time) Bulgaria * [2004] UKIAT 00201		23.07.2004	Tribunal appeal - out of time
AM	AM ("Upgrade" appeals: Art 6?) Afghanistan * [2004] UKIAT 00186		09.07.2004	Upgrade appeals – Article 6
Baig	Baig (Immigration - Validity of Pakistani Divorce) Pakistan * [2002] UKIAT 04229	[2002] UKIAT 04429	13.09.2002	Validity of Pakistani divorces

Important: This is simply a list of the starred determinations. The inclusion of a determination on this list does not indicate that it is still good law

Last updated: 27.04.2007	Starred Determinations			
Name	Neutral Citation number	Previous Citation	Date of Promulgation	Main Issues
BD	BD (Application of SK and DK) Croatia CG* [2004] UKIAT 00032	[2004] UKIAT 00032 D Croatia	26.02.2004	Consideration of new country material at substantive appeal
Chang	Chang (EEA Nationals - Spouses) Malaysia * [2001] UKIAT 00012	(01/TH/00100)	24.04.2001	Spouses of EEA nationals
Chawish	Chawish (Section 65 1999 Act - Removal - Destitution) Iraq * [2002] UKIAT 01376	[2002] UKIAT 01376	02.05.2002	Human rights appeals re destitution of irremovable failed asylum seekers
Dag	Dag (Nationality – Country of Habitual Residence –TRNC) Cyprus * CG [2001] 00002	(01/TH/00075)	14.03.2001	Country of nationality/former habitual residence; northern Cyprus
Devaseelan	Devaseelan (Second Appeals - ECHR - Extra-Territorial Effect) Sri Lanka * [2002] UKIAT 00702	[2002] UKIAT 00702	14.03.2001	Human rights appeals where human rights were not considered in previous appeal, extra-territorial application of ECHR
DM	DM (Proportionality – Article 8) Croatia * [2004] UKIAT 00024	[2004] UKIAT 00024 M Croatia	12.02.2004	Art 8 ECHR, proportionality, unreasonable delay.
DR	DR (ECO: post-decision evidence) Morocco* [2005] UKIAT 00038		09.02.2005	ECO, post decision evidence
Dyli	Fadil Dyli (Protection – UNMIK – Arif – IFA – Art1D) Kosovo CG * [2000] UKIAT 00001	(00/TH/02186)	30.08.2000	Kosovo, Art 1D Refugee Convention, reverse burden of proof in Arif, country of nationality, internal flight alternative

Important: This is simply a list of the starred determinations. The inclusion of a determination on this list does not indicate that it is still good law

Last updated: 27.04.2007	Starred Determinations			
Name	Neutral Citation number	Previous Citation	Date of Promulgation	Main Issues
El-Ali ³⁴	El-Ali (Palestinians: Article 1D) Lebanon * [2002] UKIAT 00159	[2002] UKIAT 00159	29.01.2002	Art 1D Refugee Convention, UNWRA refugees
GA	GA ("Subsisting" marriage) Ghana * [2006] UKAIT 00046		11.05.2006	Paragraph 281 HC 395, meaning of "...and the marriage is subsisting..."
Gardi ³⁵	Gardi (Asylum – KAA – Internal Flight Alternative) Iraq * [2001] UKIAT 00017	(01/TH/02997)	16.11.2001	Iraq (Kurdish autonomous area), removal directions
Gomez	Gomez (Non-state actors: Acero-Garces disapproved) Colombia * [2000] UKIAT 00007	(01/TH/02257)	24.11.2000	Political opinion, imputed political opinion
Gremesty	Gremesty (Abandonment of Appeal - Non-Compliance with Directions) Lebanon * [2001] UKIAT 00011	(01/TH/00096)	23.02.2001	Abandonment of appeal. Non-compliance with directions
Gurung	Gurung (Exclusion – Risk - Maoists) Nepal * [2002] UKIAT 04870	[2002] UKIAT 04870	14.10.2002	Asylum, Exclusion Clause Art 1F Refugee Convention
Haddad	Haddad (Paragraph 340 of HC 395 - Co-operation) Algeria * [2000] UKIAT 00008	(00/HX/00926)	13.03.2000	Paragraph 340 HC 395, non-compliance refusal of asylum applications
Hamza	Hamza (Disputed Nationality - Removal Directions - Section 66(2) 1999 Act) Kenya * [2002] UKIAT 05185	[2002] UKIAT 05185	11.11.2002	Removal directions, S66(2) appeals, disputed nationality cases
Hughes	Hughes (Leave to Appeal - Time Limits) Zimbabwe * [2001] UKIAT 00015	(01/TH01147)	22.06.2001	Withdrawal of appeal, applications for leave to appeal
Jazayeri	Jazayeri (Removal Directions) Iran * [2001] UKIAT 00014	(01/TH/00110)	16.05.2001	Removal directions

34. UK law on Art 1D Refugee Convention is now as stated by the Court of Appeal *El-Ali v SSHD* [200] EWCA Civ 1103, 26 July 2002, IAA Legal Update August 2002.

35. Upheld on the law by the Court of Appeal remitted to IAT on the facts (*Gardi v SSHD*, [2002] EWCA Civ 750).

Important: This is simply a list of the starred determinations. The inclusion of a determination on this list does not indicate that it is still good law

Last updated: 27.04.2007		Starred Determinations			
Name	Neutral Citation number	Previous Citation	Date of Promulgation	Main Issues	
JM ³⁶	JM (Rule 62(7); human rights unarguable) Liberia * [2006] UKAIT 00009		06.02.2006	2005 Procedure Rule 62(7), restriction on reconsideration grounds. Availability of human rights claim where no removal.	
Kacaj ³⁷	Kacaj (Article 3 – Standard of Proof – Non-State Actors) Albania * [2001] UKIAT 00018	(01/TH/00634)	19.07.2001	ECHR, extra territorial effect. Interaction of ECHR and Refugee Convention	
Kehinde	Kehinde (Appeal - Section 65 1999 Act - Rights of Others) Nigeria * [2001] UKIAT 00010	(01/TH/02668)	19.12.2001	S65 1999 Act (human rights appeals), jurisdiction, taking rights of persons other than appellant into account	
Khan	Khan (Disputed Nationality - Removal Directions) Afghanistan * [2002] UKIAT 04412	[2002] UKIAT 04412	26.09.2002	Validity of removal directions where nationality is disputed	
MNM	MNM (Surendran guidelines for Adjudicators) Kenya * [2000] UKIAT 00005	(00/TH/02423)	31.10.2000	Art 6 ECHR, <i>Surendran</i> guidelines. Adjudicator approach to questioning appellant if no HOPO	
MA	MA (Fresh evidence) Sri Lanka * [2004] UKIAT 00161		21.06.2004	Fresh evidence	
MY	MY (Disputed Somali nationality) Somalia * [2004] UKIAT 00174		02.06.2004	Disputed Somali nationality	
MM and Others	MM and others (Out of time appeals) Burundi * [2004] UKIAT 00182		07.07.2004	Out of time appeals	
Noruwa	Noruwa (Proportionality appeal: assessment, not discretion) Nigeria * [2001] UKIAT 00016	(00/TH/02345)	11.12.2001	Human rights appeals: proportionality	
Pardeepan	Pardeepan (Pre-2000 decision: human rights?) Sri Lanka * [2000] UKIAT 00006	(00/TH/02414)	06.10.2000	Appeals to IAA ECHR, commencement date for s65 1999 Act appeals (human rights appeals)	
Rajan	Rajan (Related Claimants:Kimbesa Explained) Sri Lanka * [2001] UKIAT 00008	(01/TH/00244)	08.02.2001	Adjournment of cases where there are appeals from other family members	

3. See *JM v SSHD* [2006] EWCA Civ 1402.

37. Remitted to the IAT on a point of fact only by Court of Appeal judgement 14 March 2002.

Important: This is simply a list of the starred determinations. The inclusion of a determination on this list does not indicate that it is still good law

Last updated: 27.04.2007	Starred Determinations			
Name	Neutral Citation number	Previous Citation	Date of Promulgation	Main Issues
Sepet & Bulbul ³⁸	Sepet & Bulbul (Conscientious objection: Convention reason?) Turkey * [2000] UKIAT 00003	(00/TH/01266)	07.04.2000	Military service
Slimani	Slimani (Content of Adjudicator Determination) Algeria * [2001] UKIAT 00009	(01/TH/00092)	12.02.2001	Contents of adjudicator determination, expert evidence
S & K	_S_K (Return – Ethnic Serb) Croatia CG* [2002] UKIAT 05613	[2002] UKIAT 05613	03.12.2002	S77(4) 1999 Act, Serbian Croats
SS	SS (ECO -Article 8) Malaysia * [2004] UKIAT 00091		29.04.2004	ECO, Article 8
Zenovics ³⁹	Zenovics (Right of Appeal - Certification) Latvia 2001 * UKIAT 00013	(01/TH/00631)	04.05.2001	Certification
Zeqaj	Zeqaj (Removal Directions to Wrong Country) Albanian * [2002] UKIAT 00232	[2002] UKIAT 00232	04.02.2002	Removal directions to wrong country, procedure

5. Overturned by Court of Appeal judgement 11 May 2001.

39. Overturned by the Court of Appeal 7 March 2002.

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APPENDIX 3:

Countries for which Guidance Determinations have been issued

(WARNING: This list is continually changing)

Last updated: 27-06-2007	Country Guideline Determinations			
Country	Name	Neutral Citation number <small>Click on the citation to access the case</small>	Previous Citation	Notes
AFGHANISTAN	RG	RG (Risk - Return - Sikh) Afghanistan CG [2002] UKIAT 02130	Gulati 02UKIAT02130	Added to the list 24.06.04
	No 14	14 (Kabul - Pashtun) Afghanistan CG [2002] UKIAT 05345	No14 02UKIAT05345	Added to the list 24.06.04
	FK	FK (Kabul) Afghanistan CG [2002] UKIAT 06054	Khan 02UKIAT06054	Added to the list 24.06.04
	No.'s 30, 27 & 28	30 27 28 (Risk - PDPA Member) Afghanistan CG [2002] UKIAT 06500	Nos 30, 27 & 28 02UKIAT06500	Added to the list 24.06.04
	No.'s 8, 3 & 6	8 3 6 (Risk - PDPA Member) Afghanistan CG [2002] UKIAT 06506	Nos 8, 3 & 6 02UKIAT06506	Added to the list 24.06.04
	No 16	16 (Return – Kabul – Pashtun) Afghanistan CG [2002] UKIAT 06507	Nos 16 02UKIAT06507	Added to the list 24.06.04
	_K	K (Risk - Christian) Afghanistan CG [2003] UKIAT 00057	K 02UKIAT00057K	Added to the list 24.06.04
	AL	AL (Article 3 - Kabul) Afghanistan CG [2003] UKIAT 00076	AL 02UKIAT00076AL	Added to the list 24.06.04
	PR	PR (Risk - Christian) Afghanistan CG [2003] UKIAT 00081	R 02UKIAT00081R	Added to the list 24.06.04
_L	L (Risk - Kabul – Women) Afghanistan CG [2003] UKIAT 00092	SL Afghanistan [2003] UKIAT 00092	Added to the list 24.06.04	

	AM	AM (Risk - Warlord - Perceived Taliban) [2004] UKIAT 00004	[2004] UKIAT 00004 M (Afghanistan) CG	Added to the list 24.06.04
	AF	AF ("Warlords/commanders"- evidence expected) Afghanistan CG [2004] UKIAT 00284		Added to the list 18.10.04
	NS	NS (Social Group – Women – Forced marriage) Afghanistan CG [2004] UKIAT 00328		Added to the list 13.01.2005
	SL and Others	SL and Others (Returning Sikhs and Hindus) Afghanistan CG [2005] UKIAT 00137		Added to the list 10.10.05
	SO and SO	SO and SO (KhaD – members and family) Afghanistan CG [2006] UKAIT 00003		Added to the list 25.01.06
	SM and Others	SM and others (Entry Clearance – proportionality) Afghanistan CG [2007] UKAIT 00010		Added to the list 26.01.07

ALBANIA ALBANIA Continued				KF (IFA - Blood Feud) Albania CG [2002] UKIAT 01419 (FETA) - deleted 1.12.04	
				FD (Sufficiency of Protection – Police Officer) Albania CG [2002] UKIAT 05778 (DANAJ) - deleted 1.12.04	
				AK (Democratic Party) Albania CG [2002] UKIAT 05822 (KALARI) - deleted 1.12.04	
				AG (Democratic Party - Abduction – Prostitution) Albania CG [2002] UKIAT 07205 (GJERGI) - deleted 1.12.04	
				DK (Protection - Blood feud) Albania CG [2002] UKIAT 08006 (KOCI) - deleted 1.12.04	
				SK (Prostitution) Albania CG [2003] UKIAT 00023 - deleted 1.12.04	
		IM	IM (Risk – Objective Evidence - Homosexuals) Albania CG [2003] UKIAT 00067	M 03UKIAT00067	Added to list 24.06.04
					SB (Sufficiency of Protection - Mafia) Albania CG [2003] UKIAT 00028 - deleted 1.12.04
		DM	DM (Sufficiency of Protection – PSG – Women – Domestic Violence) Albania CG [2004] UKIAT 00059	[2004] UKIAT 00059 M	Added to list 24.06.04
	VD	VD (Trafficking) Albania CG [2004] UKIAT 00115		Added to list 24.06.04	

	TB	TB (Blood feuds - Relevant Risk Factors) Albania CG [2004] UKIAT 00158		added on 23rd June 2004
ALGERIA				DB (Sufficiency of Protection - IFA) Algeria CG [2002] UKIAT 01013 (BRACHEMI) Removed 14.12.04
				MT (Risk – Return - GIA) Algeria CG [2002] UKIAT 01166 (TAALAH) Removed 14.12.04
	MM	MM (Article 3 – Article 8 - IFA) Algeria CG [2002] UKIAT 01327	MARDI 02UKIAT01327	Added to list 24.06.04
	MB	MB (Article 2 - Article 3) Algeria CG [2002] UKIAT 01704	BARKANI 02UKIAT01704	Added to list 24.06.04
				HOY (Risk - Terrorism) Algeria CG [2002] UKIAT 01973 (HOCINE) Removed 14.12.04
	AD	AD (Return – Garde a vu) Algeria CG [2002] UKIAT 03392	02UKIAT03392	Added to list 24.06.04
	RM	RM (Military Service – RCD-FIS) Algeria CG [2002] UKIAT 04232	MAZARI 02UKIAT04232	Added to list 24.06.04
	NO	NO (Journalists) Algeria CG [2002] UKIAT 04664	OULADTAYSE 02UKIAT04664	Added to list 24.06.04
				SE (Objective Evidence) Algeria CG [2002] UKIAT 05176 (ETTAAMI) Removed 14.12.04
				SS (Risk - Patriots - GIA) Algeria CG [2002] UKIAT 06168 (SADOODI) Removed 14.12.04
	AK	AK (Risk - Threats - Salafists) Algeria CG [2002] UKIAT 06424	KHALDOUN 02UKIAT 06424	Added to list 24.06.04
	MM	MM (Djebari Decision - Evidence) Algeria CG [2003] UKIAT 00089	M 03UKIAT00089	Added to list 24.06.04
	FM	FM (FIS Amnesty – Seddon Report) Algeria CG [2003] UKIAT 00178	M 03UKIAT00178	Added to list 24.06.04
	ZS	ZS (IFA-Women) Algeria CG [2003] UKIAT 00211		Added to list 24.06.04
				AD (Recent developments - Terrorist threat - Ex-Policeman) Algeria CG [2004] UKIAT 00137 removed from list 14.04.05
ANGOLA	AA	AA (Risk – Return - Luandan) Angola CG [2002] UKIAT 01518	AMARO 02UKIAT01518	Added to list 24.06.04
	VG	VG (Operational Guidance Note 2001) Angola CG [2002] UKIAT 04045	GREGORIO 02UKIAT	Added to list 24.06.04

	AL	AL (Documentary Evidence - UNHCR -Peaceholding) Angola CG [2002] UKIAT 06429	LUNGUIEKI 02UKIAT06429	Added to list 24.06.04
	MG	MG (Desertion - Punishment) Angola CG [2002] UKIAT 07360	GUIMARAES 02UKIAT 07360	Added to list 24.06.04
	FP	FP (Return - Cabinda - Non-Luandan) Angola CG [2003] UKIAT 00204	HX/6790/2002	Added to list 24.06.04
AZERBAIJAN	EA	EA (Azerbaijan male – Armenian ethnicity – risk) Azerbaijan CG [2007] UKAIT 00032		Added to list 17.04.07
BANGLADESH	AA	AA (Bihari - Camps) Bangladesh CG [2002] UKIAT 01995	ANSA HX/44980/2001	Added to list 24.06.04
	H	H (Fair Trial) Bangladesh CG [2002] UKIAT 05410	HUSSAIN 02UKIAT05410	Added to list 24.06.04
	GA	GA (Risk - Bihari) Bangladesh CG [2002] UKIAT 05810	AZAM 02UKIAT05810	Added to list 24.06.04
BHUTAN	DG	DG (Risk - Nepalese) Bhutan CG [2003] UKIAT 00205	GURUNG HX/03590/2002	Added to list 24.06.04
BOSNIA & HERZEGOVINA	SJ	SJ (Article 8 – Proportionality - PTSD – Bosnian Muslim - Medical Facilities) Bosnia Herzegovina CG [2002] UKIAT 2819	JASAREVIC 02UKIAT02819	Added to list 24.06.04
BULGARIA	MK	MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004		Added to list 23.01.07
BURUNDI	SS	SS (Adan – sexual violence – UNHCR letter) Burundi CG [2004] UKIAT 00290		Added to list 02.11.04
BURMA	HM	HM (Risk factors for Burmese citizens) Burma CG [2006] UKAIT 00012		Added to list 28.02.06
CAMEROON	FK	FK (SDF member/activist – risk) Cameroon CG [2007] UKAIT 00047		Added to list 07.06.07
CHAD	AA	AA (Article 3 – HIV/AIDS) Chad CG [2002] UKIAT 08004	ADOUM 02UKIAT08004	Added to list 24.06.04

CHINA	XH	XH (Illegal Departure – Risk - Return) China CG [2002] UKIAT 01478	HU 02UKIAT01478	Added to list 24.06.04
				DS (Persecution – Risk - Return) China CG [2002] UKIAT 02340, (formerly SHERPA 02UKIAT02340) added to list 24.06.04, removed from list 27.07.05
	SL	SL (Military Service) China CG [2002] UKIAT 03085	LI 02UKIAT03085	Added to list 24.06.04
	WC	WC (Illegal Departure – Failed Asylum Seeker) China CG [2002] UKIAT 03295	CHEN 02UKIAT03295	Added to list 24.06.04
	HL	HL (Risk – Return – Snakeheads) China CG [2002] UKIAT 03683	HUI MEI LIU 02UKIAT03683	Added to list 24.06.04
	MH	MH (Risk – Return - Falun Gong) China CG [2002] UKIAT 04134	HE 02UKIAT04134	Added to list 24.06.04
	TT	TT (Risk – Return - Snakeheads) China CG [2002] UKIAT 04937	TSENG 02UKIAT04937	Added to list 24.06.04
	LL	LL (Falun Gong – Convention Reason – Risk) China CG [2005] UKAIT 00122		Added to the list 16.08.05
	SC	SC (Double jeopardy – WC considered) China CG [2006] UKAIT 00007		Added to list 07.02.06
SP & Others	SP and Others (Tibetan – Nepalese departure – illegal – risk) People's Republic of China CG [2007] UKIAT 00021		Added to list 23.02.07	
COLOMBIA	MZ	MZ (PSG – Informers – Political Opinion) Colombia CG [2002] UKIAT 02465	GARCIA 02UKIAT02465	Added to list 24.06.04
	LR & Others	LR & Others (Persecution - Vendetta) Colombia CG [2002] UKIAT 03158	HURTADO DE RINCON 02UKIAT03158	Added to list 24.06.04
	FJ	FJ (FARC - Convention Reason) Colombia CG [2002] UKIAT 03219	JURADO 02UKIAT03219	Added to list 24.06.04
	LV	LV (Internal Relocation - FARC) Colombia CG [2002] UKIAT 04431	VELEZ 02UKIAT04431	Added to list 24.06.04
	RM	RM (Internal Relocation - FARC) Colombia CG [2002] UKIAT 05258	MORENO 02UKIAT05258	Added to list 24.06.04
	H-R	HR (UP - FARC) Columbia CG [2002] UKIAT 05736	HENAO-RENGIFO 02UKIAT05736	Added to list 24.06.04
CONGO - DEMOCRATIC				_T (Risk - UDPS) Democratic Republic of Congo CG [2002] UKIAT 02206 - removed from list 02.11.04

REPUBLIC OF (DRC)				PS (Risk - Mixed Ethnicity - Tutsi) Democratic Republic of Congo CG [2002] UKIAT 03061 - removed from list 02.11.04
				KB (Article 3 - Health, Medical Facilities) Democratic Republic of Congo CG [2002] UKIAT 03571 - removed from list 02.11.04
				RN (Risk - Connections with Mobutu) Democratic Republic of Congo CG [2002] UKIAT 03662 - removed from list 02.11.04
				PK (Article 8 – Return - Marriage - Refugee) Democratic Republic of Congo CG [2002] UKIAT 05220 - removed from list 02.11.04
				TT (Risk - UDPS) Democratic Republic of Congo CG [2002] UKIAT 06471 - removed from list 02.11.04
				GM (Risk on Return - Family) Democratic Republic of Congo CG [2002] UKIAT 06741 - removed from list 02.11.04
				VF (Risk – Article 3 - Rape) Democratic Republic of Congo CG [2002] UKIAT 07225 (formerly Fiona 02UKIAT07225) added to list 24.06.04, removed from list 27.07.05
				AN (Risk - Failed Asylum Seekers) Democratic Republic of Congo CG [2003] UKIAT 00050 - removed from list 02.11.04
CONGO - DEMOCRATIC REPUBLIC OF (DRC) Continued				NL (Mozu - Facts) Democratic Republic of Congo CG [2003] UKIAT 00058 (formerly 03UKIAT00058L) added to list 24.06.04, removed from list 27.07.05
				MM (Risk - Failed Asylum Seekers) Democratic Republic of Congo CG [2003] UKIAT 00071 (formerly 03UKIAT00071M) added to list 24.06.04, removed from list 27.07.05
				AK (Risk - UDPS) Democratic Republic of Congo CG [2003] UKIAT 00136 (formerly 2003 UKIAT00136K) added to list 24.06.04, removed from list 27.07.05
VL	VL (Risk - Failed Asylum Seekers) Democratic Republic of Congo CG [2004] UKIAT 00007		04UKIAT00007L	Added to list 24.06.04

				CI-B (Link to Mobutu) Congo – Democratic Republic of CG [2004] UKIAT 00072, added to list 24.06.04, removed from list 27.07.05
				RK (Obligation to investigate) DRC CG [2004] UKIAT 00129, added 08.1104, removed from list 27.07.05
				TC (Mixed ethnicity – Rwandan) Democratic Republic of Congo CG [2004] UKIAT 00238, added 08.1104, removed from list 27.07.05
				HE (Credibility and psychiatric reports) DRC CG [2004] UKIAT 00321 removed 20.01.05 added 20.12.2004
	AB and DM	AB and DM (Risk categories reviewed – Tutsis added) DRC CG [2005] UKIAT 00118		Added to the list 27.07.05
	MK	MK (AB & DM confirmed) Democratic Republic of Congo CG [2006] UKAIT 00001		Added to the list 25.01.06
	MM	MM (UDPS members – Risk on return) Democratic Republic of Congo CG[2007]UKAIT 00023		Added to the list 13.03.07
CONGO - REPUBLIC OF - BRAZZAVILLE	DP	DP (Risk - Lissouba Region) Republic of Congo CG [2002] UKIAT 02773	PITHER 02UKIAT02773	Added to list 24.06.04
	MP	MP (Risk - MCDDI - Lari Ethnicity) Republic of Congo CG [2004] UKIAT 00002	[2004] UKIAT 00002 P (Congo - Republic of Brazzaville) CG	Added to list 24.06.04
	BB	BB (MCDDI- known political opponent.) Congo Brazzaville CG [2004] UKIAT 00223	BB (MCDDI- known political opponent.) Congo Brazzaville [2004] UKIAT 00223	Added to list 01.12.04
COTE D'IVOIRE	TK	TK (Relocation of ex-President Bedie) Ivory Coast CG [2002] UKIAT 03140	Kanangila 02UKIAT03140	Added to list 24.06.04
	VG	VG (Coup) Ivory Coast CG [2002] UKIAT 04020	Gahie 02UKIAT04020	Added to list 24.06.04

	DI	DI (IFA - FGM) Ivory Coast CG [2002] UKIAT 04437	Ikossie 02UKIAT04437	Added to list 24.06.04
	AZ	AZ (risk on return) Ivory Coast CG [2004] UKIAT 00170		Added on 23rd June
CROATIA	SK	SK (Return - Ethnic Serb) Croatia CG * [2002] UKIAT 05613	02UKIAT00153	Added to list 24.06.04
	BN	BN (War Crimes - Ethnic Serb – Fair Trial) Croatia CG [2002] UKIAT 05750	02UKIAT05750	Added to list 24.06.04
	DK	DK (Return - Ethnic Serb - Upheld SK - Accommodation) Croatia CG [2003] UKIAT 00153	03UKIAT00153	Added to list 24.06.04
	DM	DM (Proportionality – Article 8) Croatia CG * [2004] UKIAT 00024	[2004] UKIAT 00024M	Added to list 24.06.04
	BD	BD (Application of SK and DK) Croatia CG * [2004] UKIAT 00032	[2004] UKIAT 00032D	Added to list 24.06.04
CUBA	OM	OM (Cuba Returning Dissident) Cuba CG [2004] UKIAT 00120		Added to list 24.06.04
CYPRUS				Dag (Nationality - Country of Habitual Residence - TRNC) Cyprus CG * [2001] UKIAT 00002. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)
CZECH REPUBLIC				OP & Others (Roma – Ethnicity) Czech Republic CG [2001] UKIAT 00001. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)
CZECH REPUBLIC				MH (Sufficiency of Protection – Roma - Svazas) Czech Republic CG [2002] UKIAT 01845 . See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)

ERITREA				FA (Risk - ELF-RC - Activity) Eritrea CG [2002] UKIAT 05039 - removed 02.11.04
				DK (Ethiopian - Eritrean – Return - Eritrea) Eritrea CG [2002] UKIAT 05243 - removed 02.11.04
				EB (Risk – Return – Ethiopia - Ethiopian - Eritrea) Eritrea CG [2002] UKIAT 06317 - removed 02.11.04
	YL	YL (Nationality - Statelessness – Eritrea – Ethiopia) Eritrea CG [2003] UKIAT 00016	2003UKIAT00016L	Added to list 24.06.04
	BG	BG (Return - Ethiopian - Eritrean) Eritrea CG [2003] UKIAT 00091	2003 UKIAT00091G	Added to list 24.06.04
	YF	YF (Risk - Stateless - Homosexual - Illegal) Eritrea CG [2003] UKIAT 00177	03UKIAT00177F	Added to list 24.06.04
				MA (Female Draft Evader) Eritrea CG [2004] UKIAT 00098, Added to list 24.06.04, removed from list 24.05.05
	YT	YT (Minority church members at risk) Eritrea CG [2004] UKIAT 00218		added 28 October 2004
	AN	AN (ELF-RC – low level members – risk) Eritrea CG [2004] UKIAT 00300		added 19.11.2004
				SE (Deportation – Malta – 2002 – General Risk) Eritrea CG [2004] 00295, added 03.11.04, removed from list 24.05.05
	FA	FA (Eritrea – nationality)Eritrea CG [2005] UKIAT 00047		Added 28.02.05
	IN	IN (Draft evaders – evidence of risk) Eritrea CG [2005]UKIAT 00106		Added to list 24.05.05
	KA	KA (Draft-related Risk Categories Updated) Eritrea CG [2005] UKAIT 00165		Added 28.11.05
	AH	AH(Failed asylum seekers – involuntary returns) Eritrea CG [2006] UKAIT 00078		Added to list 28.11.06
WA	WA(Draft related risks updated – Muslim women) Eritrea CG [2006] UKAIT 00079		Added to list 28.11.06	
MA	MA (Draft evaders – illegal departures – risk) Eritrea CG [2007] UKAIT 00059		Added to list 26.06.07	
ESTONIA				AP (Return) Estonia CG [2002] UKIAT 02544 . See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)
ETHIOPIA				HG (Risk - Eritrean) Ethiopia CG [2002] UKIAT 05689 - removed 02.11.04
	GG	GG (Return - Eritrean) Ethiopia CG [2002] UKIAT 05996	Goitom 02UKIAT05996	

				BT (Deportation) Ethiopia CG [2002] UKIAT 06378 - removed 02.11.04
	NB	NB (Mixed Ethnicity – Ethiopian - Eritrean) Ethiopia CG [2002] UKIAT 06526	Bashir 02UKIAT06526	Added to list 24.06.04
	AA	AA (Children - Eritrean) Ethiopia CG [2002] UKIAT 06533	Abreha 02UKIAT06526	Added to list 24.06.04
	TG	TG (Mixed Ethnicity) Ethiopia CG [2002] UKIAT 07289	Getachew 02UKIAT07289	Added to list 24.06.04
	DA	DA (Ethnicity - Eritrean - Country Conditions) Ethiopia CG [2004] UKIAT 00046	[2004] UKIAT 00046 A (Ethiopia) CG	Added to list 24.06.04
	AA	AA (Vulnerable Female – Article 3) Ethiopia CG [2004] UKIAT 00184		Added to list 08.11.04 Remitted on 26 April 2005 for hearing by the AIT
	HB	HB(Ethiopia EDP/UEDP members)Ethiopia CG [2004]UKIAT 00235		Added to list 08.11.04
	MB	MB (OLF and MTA – risk) Ethiopia CG [2007] UKAIT 00030		Added to list 29.03.07
GERMANY	MT	MT (Safe Third Country – HR - Germany) Germany CG [2003] UKIAT 00130	03UKIAT00130T	Added to list 24.06.04
INDIA	OS	OS (Sufficiency of Protection - Sikh - Separatists) India CG [2002] UKIAT 00843	ONKAR SINGH 02UKIAT00843	Added to list 24.06.04
	SA	SA (Kashmiri Muslim – Activism) India CG [2002] UKIAT 02884	ANDRABI 02UKIAT02884	Added to list 24.06.04
	SS	SS (Moslem - False Charges) India CG [2002] UKIAT 03340	SHEIKH 02UKIAT03340	Added to list 24.06.04
	BK	BK (Risk - Adultery –PSG) India CG [2002] UKIAT 03387	KAUR 02UKIAT 03387	Added to list 24.06.04
	LS	LS (Internal Relocation - Sikh - Separatists) India CG [2002] UKIAT 04714	LAKWINDER SINGH 02UKIAT04714	Added to list 24.06.04
	WF	WF (Internal Relocation - Christian) India CG [2002] UKIAT 04874	FARRER 02UKIAT04874	Added to list 24.06.04
INDIA	HS	HS (Return - Failed Asylum Seeker) India CG [2002] UKIAT 04912	HARWINDER SINGH 02UKIAT04912	Added to list 24.06.04
	AS	AS (Risk - Return – Sikh - Separatists) India CG [2002] UKIAT 05994	AJIT SINGH 02UKIAT 05994	Added to list 24.06.04

IRAN	SF	SF (Article 3 - Prison Conditions) Iran CG [2002] UKIAT 00973	Fazilat 02UKIAT00973	Added to list 24.06.04
	FK	FK (Persecution – Refugee - Political Writer) Iran CG [2002] UKIAT 01328	Kiani 02UKIAT01328	Added to list 24.06.04
	FM	FM (Risk - Homosexual - Illegal Departure) Iran CG [2002] UKIAT 05660	Mohammadzadeh 02UKIAT05660	Added to list 24.06.04
	BZ	BZ (Risk - Political Journalist) Iran CG [2002] UKIAT 06452	Zarandi 02UKKIAT06452	Added to list 24.06.04
	MT	MT (Refugee - Communist Party) Iran CG [2002] UKIAT 06995	Topaesfandyari 02UKIAT06995	Added to list 24.06.04
	FT	FT (Fair Trial - Adultery) Iran CG [2002] UKIAT 07576	Torabi 02UKIAT07576	Added to list 24.06.04
	ZH	ZH (Women as Particular Social Group) Iran CG [2003] UKIAT 00207		Added to list 24.06.04
	SS	SS (Risk - Manastry) Iran CG [2003] UKIAT 00035	SS Iran [2003] UKIAT 00035	Added to list 24.06.04
	HA	HA (Article 3 – Refugee - Adultery - Punishment) Iran CG [2003] UKIAT 00095	03UKIAT00095A	Added to list 24.06.04
	AD	AD (Risk - Illegal Departure) Iran CG [2003] UKIAT 00107	03UKIAT00107D	Added to list 24.06.04
	ME	ME (Risk - Manastry) Iran [2003] UKIAT 00166	2003UKIAT00166	Added to list 24.06.04
	AH	AH (Gashgai nomads-no persecution) Iran CG [2004] UKIAT 00169		Added 7th July 2004
	FS & others	FS and others (Iran – Christian Converts) Iran CG [2004] UKIAT 00303		Added 25.11.2004
	RM and BB	RM and BB (Homosexuals) Iran CG [2005] UKIAT 00117		Added to list 11.07.2005
SH	SH (Baha'is) Iran CG [2006] UKAIT 00041		Added to list 10.05.2006	
IRAQ	TK	TK (Article 3 - KAA - Prison Conditions) Iraq CG [2002] UKIAT 03576	Kadir 02UKIAT03576	Added to list 24.06.04
	DK	DK (Sufficiency of Protection – KAA - Blood Feud) Iraq CG [2002] UKIAT 03608	Kareza 02UKIAT03608	Added to list 24.06.04 See DK v SSHD [2006] EWCA Civ 682
	DH	DH (Risk - IMIK - KAA) Iraq CG [2002] UKIAT 05099	Hamagharib 02UKIAT05099	Added to list 24.06.04
	YJ	YJ (Non-Kurdish Speakers - KAA) Iraq CG [2002] UKIAT 05271	Al-Jaf 02UKIAT05271	Added to list 24.06.04

IRAQ Cont...	RG	RG (Sufficiency of Protection - Honour Killings - KAA) Iraq CG [2002] UKIAT 05788	Gharib 02UKIAT05788	Added to list 24.06.04
	DG	DG (Due Process - KAA) Iraq CG [2002] UKIAT 06874	Ghader 02UKIAT06874	Added to list 24.06.04
	MH	MH (Article 3 - Blind Person - KAA) Iraq CG [2002] UKIAT 07196	Hama 02UKIAT07196	Added to list 24.06.04
	AA	AA (Persecution – “causing” – Public Affection - Religion -Unmarried) Iraq CG [2002] UKIAT 07246	Ameen 02UKIAT07246	Added to list 24.06.04
	SF	SF (Sufficiency of Protection - KAA - Michigan Guidelines) Iraq CG [2002] UKIAT 07376	Faraj 02UKIAT07376	Added to list 24.06.04
	NS	NS (Risk - Kurd - Mosal) Iraq CG [2003] UKIAT 00045	03UKIAT00045S	Added to list 24.06.04
	_M	_M (Risk - PUK/KDP – Cessation of Conflict ceased - Traitor) Iraq CG [2003] UKIAT 00101	03UKIAT00101	Added to list 24.06.04
	_A	_A (Risk - Sufficiency of Protection – KAA) Iraq CG [2003] UKIAT 00118	03UKIAT00118A	Added to list 24.06.04
	GH	GH (Former Kaz – Country Conditions – Effect) Iraq CG [2004] UKIAT 00248		Added to list 27.09.2004
	AM	AM (IWCP – Conditions in Mosul) Iraq CG [2004] UKIAT 00263		Added to list 27.09.2004
	AK	AK (Iraq – Christians – risk) Iraq CG [2004] UKIAT 00298		Added to list 08.11.04
	NH	NH (Iraq – Yazidis) Iraq CG [2004] UKIAT 00306		Added to list 25.11.04
	FK	FK (Iraq - medical conditions for children) Iraq CG [2004] UKIAT 00310		Added to list 25.11.04
				MN (Entry clearance facilities – Availability) Iraq CG [2004] UKIAT 00316 added 13.12.04, removed from list 25.04.05
				AH(Kurd-PKK-Risks in KDP area) Iraq CG [2004] UKIAT 00318, added 20.12.2004, removed 28.02.05
	RA	RA (Christians) Iraq CG [2005] UKIAT 00091		Added 22.04.05 Remitted on 14/12/05 for rehearing by AIT
	MA	MA (Iraq – Fayli Kurds) Iraq CG [2005] UKIAT 00022		Added 25.04.05
JA	JA (Ethnic Palestinian- Iraq- Objective Evidence) Iraq CG [2005] UKIAT 00045		Added to list 21.02.07	
			KJ (Entry Clearance Proportionality) Iraq [2005] UKIAT 00066, added to list 25.04.05, removed from list 10.02.06	
SM & Others	SM & Others (Kurds – Protection – Relocation) Iraq CG [2005] UKIAT 00111		Added to list 30.06.05	

	SA	SA (Entry clearance application in Jordan – proportionality) Iraq CG [2006] UKAIT 00011		Added to list 10.02.06
	LM	LM (Educated women – Chaldo-Assyrians – risk) Iraq CG [2006] UKAIT 00060		Added to the list on 27.7.06
	NS	NS (Iraq: perceived collaborator: relocation) Iraq CG [2007] UKAIT 00046		Added to list on 05.06.07
JAMAICA	DW	DW (Homosexual Men – Persecution – Sufficiency of Protection) Jamaica CG [2005] UKAIT 00168		Added 05.12.05
	JS	JS (Victims of gang violence – Sufficiency of protection) Jamaica CG [2006] UKAIT 00057		Added 21.7.06
	AB	AB (Protection –criminal gangs-internal relocation) Jamaica CG [2007] UKAIT 00018		Added 22.02.07
JORDAN	NA	NA (Palestinians – Not at general risk) Jordan CG [2005] UKIAT 00094		Added 27.04.05
	KK IH HE	KK IH HE (Palestinians – Lebanon – camps) Jordan CG [2004] UKIAT 00293		Added to list 21.02.07
KENYA	JMS	JMS (Homosexual - Behaviour - Prosecution) Kenya CG [2001] UKIAT 00007		Added to list 24.06.04
	BM & Others	BM & Others (KMDJ) Kenya CG [2002] UKIAT 01841	Mwaura 02UKIAT01841	Added to list 24.06.04
				JW (Fear – Sufficiency of Protection - Mungiki) Kenya CG [2002] UKIAT 03402 - removed 02.11.04
				WN (Risk - Kikuyu - Rift Valley – Documentary Evidence) Kenya CG [2002] UKIAT 04138 - removed 02.11.04
	AS	AS (Article 3 - Kenyan Asian) Kenya CG [2002] UKIAT 05943	Somra 02UKIAT05943	Added to list 24.06.04 Remitted on 14/11/03 for rehearing by AIT
				JK (Risk - Kikuyu) Kenya CG [2003] UKIAT 00044. Added to list 24.06.04. Removed 02.05.07. See FK (FGM – Risk and Relocation) Kenya CG [2007] UKAIT 00041

				RM (Sufficiency of Protection-IFA-FGM) Kenya CG [2004] UKIAT 00022. Added to list 24.06.04. Removed 02.05.07. See FK (FGM – Risk and Relocation) Kenya CG [2007] UKAIT 00041
	FK	FK (FGM – Risk and Relocation) Kenya CG [2007] UKAIT 00041		Added to list 02.05.07
KOSOVO		See Serbia and Montenegro		
KUWAIT	BA & others	BA and others (Bedoon–statelessness–risk of persecution) Kuwait CG [2004] UKIAT 00256		Added 29.09.2004
	HE	HE (Bidoon – Statelessness – Risk of persecution) Kuwait CG [2006] UKAIT 00051		Added 23.6.06
KYRGYZSTAN	MK	MK (Risk - Political Opinion) Kyrgyzstan CG [2004] UKIAT 00063	[2004] UKIAT00063K	Added to list 24.06.04

LATVIA				Added on the 28th July 2004 - Sumenkova (Sufficiency Of Protection - Ethnic Russian) Latvia CG [2001] UKIAT 00019 (01/TH/0944) - deleted 01.12.04
				JM (Sufficiency of Protection - Ethnic Russian) Latvia CG [2002] UKIAT 03133. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)
				MC (Persecution – Police - Roma) Latvia CG [2002] UKIAT 06480. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)
				MB (Homosexual – Military Service) Latvia CG [2003] UKIAT 00209. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)
LIBERIA	LB	LB (Article 3 – Monrovia – Security) Liberia CG [2004] UKIAT 00299		Added to list 09.11.04
	SK	SK (FGM – ethnic groups) Liberia CG [2007] UKAIT 00001		Added to list 09.01.07
LIBYA	ME	ME (Risk - Failed Asylum Seekers - Hassan) Libya CG [2003] UKIAT 00200	2003 UKIAT00200E	Added to list 24.06.04
	HH	HH (Risk – Failed Asylum Seekers) Libya CG [2003] UKIAT 00202	HX/18773/03	Added to list 24.06.04
	KK	KK (Failed Asylum Seeker) Libya CG [2004] UKIAT 00151		Added to list 24.06.04
LITHUANIA				MF JF (Sufficiency of Protection - Anti-Semitic Acts – Anti-Russian Acts) Lithuania CG [2001] UKIAT 00004 (formerly Filiusina 01/TH/3309) – added to the list 24.06.04, removed from the list 08.11.04
				LB (Sufficiency of Protection – Communism) Lithuania CG [2001] UKIAT 00005. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)

				AS (Sufficiency of Protection - Organised Crime) Lithuania CG [2002] UKIAT 02843. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)
				AR (Visaginas Church) Lithuania CG [2003] UKIAT 00024. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)
MACEDONIA	MS	MS (Risk - Homosexuality – Military Service) Macedonia CG [2002] UKIAT 03308	Stojanovsky 02UKIAT3308	Added to list 24.06.04
	EN	EN (Roma) Macedonia CG [2002] UKIAT 04488	Nikilov 02UKIAT4488	Added to list 24.06.04
	_N	_N (RR – Ceasefire) Macedonia CG [2003] UKIAT 00077	03UKIAT00077N	Added to list 24.06.04
MOLDOVA	OV	OV (Persecution – PSG - Jews) Moldova CG [2002] UKIAT 06886	02UKIAT0073	Added to list 24.06.04
	PH	PH (Sufficiency of Protection - Mafia) Moldova CG [2004] UKIAT 00011	04UKIAT00011H	Added to list 24.06.04
NEPAL				KH (Risk - Maoist) Nepal CG [2002] UKIAT 03945 Added to list 24.06.04 Removed from CG list on 31.10.06
				IP (Risk - Maoist - Farmer) Nepal CG [2002] UKIAT 04038 Added to list 24.06.04 Removed from CG list on 31.10.06
				DG (Journalist – Healthcare) Nepal CG [2002] UKIAT 04284 Added to list 24.06.04 Removed from CG list on 31.10.06
				LG (Maoist – Ex -Military) Nepal CG [2002] UKIAT 04334 Added to list 24.06.04 Removed from CG list on 31.10.06
				Gurung (Exclusion - Risk – Maoist) Nepal CG * [2002] UKIAT 04870 Added to list 24.06.04 Removed from CG list on 31.10.06
				GC (Relocation - Maoists) Nepal CG [2002] UKIAT 05241 Added to list 24.06.04 Removed from CG list on 31.10.06
				RS (Relocation - Maoists) Nepal CG [2002] UKIAT 05407 Added to list 24.06.04 Removed from CG list on 31.10.06

	KG	KG (Review of current situation) Nepal CG [2006] UKAIT 00076		Added to list 31.10.06
NIGERIA	BL	BL (Ogboni Cult - Protection - Relocation) Nigeria CG [2002] UKIAT 01708	Leboahang 02UKIAT01708	Added to list 24.06.04
	DJ	DJ (Muslim - Christian Conflict - Medical Evidence) Nigeria CG [2002] UKIAT 03837	Jatto 02UKIAT03837	Added to list 24.06.04
	CO	CO (Sufficiency of Protection – Internal Relocation - OPC) Nigeria CG [2002] UKIAT 04404	Oluya 02UKIAT04404	Added to list 24.06.04
	PI	PI (Relocation - Osu-Igbo - Christian) Nigeria CG [2002] UKIAT 04720	Ihejirika 02UKIAT04720	Added to list 24.06.04
	KO	KO (Article 8 - Deportation – Kehinde) Nigeria CG [2002] UKIAT 06038	Oviasogie 02UKIAT06038	Added to list 24.06.04
	WO	WO (Ogboni cult) Nigeria CG [2004] UKIAT 00277		Added 01.10.2004
PAKISTAN	MI	MI (Fair Trial – Pre-Trial Conditions) Pakistan CG [2002] UKIAT 02239	Iqbal 02UKIAT02239	Added to list 24.06.04
	AZ	AZ (Risk - Ahmadi) Pakistan CG [2002] UKIAT 02642	Zeb 02UKIAT02642	Added to list 24.06.04
	NL	NL (Mental Illness - Support for Family) Pakistan CG [2002] UKIAT 04408	Liaquat 02UKIAT04408	Added to list 24.06.04
	SA	SA (Fair Trial – Prison Conditions) Pakistan CG [2002] UKIAT 05631	Ahmed 02UKIAT05631	Added to list 24.06.04
	MM	MM (Ahmadi - Internal Relocation) Pakistan CG [2002] UKIAT 05714	Mirza 02UKIAT05714	Added to list 24.06.04
	AH	AH (Sufficiency of Protection – Sunni Extremists) Pakistan CG [2002] UKIAT 05862	Hussein 02UKIAT05869	Amended 07.03.05 See Hussein v SSHD [2005] CSIH 45
	AJ	AJ (Risk - Christian Convert) Pakistan CG [2003] UKIAT 00040	03UKIAT00040J	Added to list 24.06.04
	HI	HI (Limited Visa Facilities – Insurmountable Obstacle?) Pakistan CG [2004] UKIAT 00092		Added to list 24.06.04
	SN & HM	SN & HM (Divorced women – risk on return) Pakistan CG [2004] UKIAT 00283		Added to list 07.10.04
FS	FS (domestic violence –SN and HM – OGN) Pakistan CG [2006] UKAIT 00023		Added to list 15.03.06	

PALESTINIAN TERRITORIES				KK IH HE (Palestinians – Lebanon – camps) Palestine CG [2004] UKIAT 00293. Re-categorised under Jordan on 21.02.07
				JA (Ethnic Palestinian- Iraq- Objective Evidence) Palestine CG [2005] UKIAT 00045. Re-categorised under Iraq on 21.02.07
				AB and others (Risk- Return – Israel Check Points) Palestine CG [2005] UKIAT 00046. Removed from list 21.02.07
	MA		MA (Palestinian Arabs – Occupied Territories – Risk) Palestinian Territories CG [2007] UKAIT 00017	Added to list 15.03.2007
PERU	CG		CG (Peru Membership of Cambio 90) Peru [2004] UKIAT00141	Added to list 27.09.2004
POLAND				RD (Sufficiency of Protection – IFA – Roma) Poland CG [2002] UKIAT 00983. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)
ROMANIA				AH (IFA - Jewish Activist - Bucharest) Romania CG [2002] UKIAT 01086. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)
				LR (Roma – Remedies - Police Brutality) Romania CG [2002] UKIAT 04123. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)
				IM (Sufficiency of Protection - Roma) Romania CG [2002] UKIAT 04872 ([2004] UKIAT 00045 GP (Romania) CG) - deleted 01.12.04

				GP (Return - Minor - Roma) Romania CG [2004] UKIAT 00045 removed 05.10.04 as same case as CC (Roma Return of Minor) Romania CG [2003] UKIAT 00212 reported twice
				CC (Roma Return of Minor) Romania CG [2003] UKIAT 00212. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)
				FD (Sufficiency of Protection - Roma – Munteanu) Romania CG [2004] UKIAT 00001. See MK (Accession – effect on asylum related appeals) Bulgaria CG [2007] UKAIT 00004 (23.01.07)

RUSSIA				MA (Risk - IFA - Chechen –Moscow) Russia CG [2001] UKIAT 00006 - deleted 01.12.04
	AK	AK (Article 3 - Military Service - Chechen War) Russia CG [2002] UKIAT 01325	Hamilton 02UKIAT1325	Added to list 24.06.04 See Krotov v SSHD [2004] EWCA Civ 69
	MD	MD (Medical Facilities - Adequate Treatment) Russia CG [2002] UKIAT 02678	Drotsevich 02UKIAT2678	Added to list 24.06.04
	OA	OA (IFA - Unduly Harsh - Chechens - Relocation) Russia CG [2002] UKIAT 03796	Asaev 02UKIAT3796	Added to list 24.06.04
	AV	AV (IFA – Mixed Ethnicity Relationship – Russian/Chechen) Russia CG [2002] UKIAT 05260	Varvarina 02UKIAT5260	Added to list 24.06.04
	IM	IM (Article 3 - Orthodox Jew – Military Service) Russia CG [2002] UKIAT 05952	Malyutin 02UKIAT5952	Added to list 24.06.04
				MR (Chechen – Return) Russia CG [2002] UKIAT 07562 – deleted 21.6.06
	VB	VB (Desertion - Chechnya War - Hamilton) Russia CG [2003] UKIAT 00020	03UKIAT0020B	Added to list 24.06.04
	EM LM	EM LM (IFA - Chechen) Russia CG [2003] UKIAT 00210	HX/57769/02	Added to list 24.06.04
	ZB	ZB (Russian prison conditions) Russian Federation CG [2004] UKIAT 00239		Added 01.12.04
RM	RM (Young Chechen Male – Risk – IFA) Russia CG [2006] UKAIT 00050		Added 21.6.2006	

RWANDA	_K	_K (Young Female - Risk on Return) Rwanda CG [2004] 00054	[2004] UKIAT 00054 K (Rwanda)	Added to list 24.06.04
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	AG	AG (Returnees – deserters - prison conditions) Rwanda CG [2004] UKIAT 00289		Added to list 02.11.04
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SERBIA AND MONTENEGRO	Dyli	Dyli (Protection – UNMIK – Arif – IFA – Art1D) Kosovo CG * [2000] UKIAT 00001		key words revised 20.12.2004
				AB SR (KLA - Deserters) Kosovo CG [2001] UKIAT 00003 - deleted 1.12.04
				EL (Ex-minor - ELR – Return) Kosovo CG [2002] UKIAT 02345 (Leka 02UKIAT02345) - deleted 1.12.04
				SQ (Delay - Minor) Kosovo CG [2002] UKIAT 02448 (Qata 02UKIAT2448) - deleted 1.12.04
				IM (Medical Facilities - Bensaid) Kosovo CG [2002] UKIAT 02727 (Malo 02UKIAT2727) - deleted 1.12.04
				SS (IFA - Relocation) Kosovo CG [2002] UKIAT 02869 (Shahini 02UKIAT2869) - deleted 1.12.04
				MZ (Rape - Stigma - UNHCR Advice) Kosovo CG [2002] UKIAT 03012 (Zymeri 02UKIAT3012) - deleted 1.12.04
				FJ (Proportionality – Kosovo) Kosovo CG [2002] UKIAT 03516 (Jashari 02UKIAT03516) - deleted 1.12.04
				AT (Medical Facilities - PTSD) Kosovo CG [2002] UKIAT 03520 (Thaqi 02UKIAT3520) - deleted 1.12.04
				BS (IFA – Mixed Ethnicity) Kosovo CG [2002] UKAIT 04254 (sadiku 02ukait4254) – deleted 20.09.06
	FC	FC (Article 3 – Medical Facilities - Psychiatric) Kosovo CG [2002] UKIAT 04608	Cela 02UKIAT4608	Added to list 24.06.04
	AI	AI (Mixed Ethnicity - Albanian/Bosnian) Kosovo CG [2002] UKIAT 05547	Isufu 02UKIAT5547	Added to list 24.06.04
				ZG (Catholic - Woman – Kidnapping - Prostitution) Kosovo CG [2002] UKIAT 06307 (Gjoni 02UKIAT6307) - deleted 01.12.04
			FV (Article 8 – FAQs) Kosovo CG [2002] UKIAT 06562 (Veseli 02UKIAT6562) - deleted 01.12.04	
LH RQ	LH RQ (Risk – Albanians - Presevo Valley) Serbia and Montenegro CG [2002] UKIAT 06359	Haxhiu 02UKIAT6359	Added to list 24.06.04	

SERBIA AND MONTENEGRO continued	MH	MH (Safe Route - Presevo Valley via Belgrade) Serbia and Montenegro CG [2002] UKIAT 06398	Hasani 02UKIAT6398	Added to list 24.06.04
				EC (Queue Jumping – Marriage - Apply from Kosovo) Kosovo CG [2002] UKIAT 06673 (Cota 02UKIAT6673) - deleted 01.12.04
	GL	GL (IFA - Albanian/Roman - Catholic) Serbia and Montenegro CG [2002] UKIAT 06984	Lumaj 02UKIAT6984	Added to list 24.06.04
				DH (IFA - Albanian) Kosovo CG [2002] UKIAT 07056 (Hysi 02UKIAT7056) - deleted 1.12.04
	SL	SL (Medical Facilities - PTSD) Serbia and Montenegro CG [2002] UKIAT 07178	Luli 02UKIAT7178	Added to list 24.06.04
	AR	AR (Article 8 – Mahmood - Private Life) Kosovo CG [2002] UKIAT 07378	Rama 02UKIAT7378	Added to list 24.06.04
	AH	AH (Medical Facilities) Serbia and Montenegro CG [2002] UKIAT 07478	Hasani 02UKIAT7473	Added to list 24.06.04
	KB	KB (Mixed Ethnicity - Roma/Albanian) Kosovo CG [2003] UKIAT 00013	03UKIAT00013B	Added to list 24.06.04
	SP	SP (Risk – Suicide – PTSD – IFA - Medical Facilities) Kosovo CG [2003] UKIAT 00017	03UKIAT00017P	Added to list 24.06.04
	MS & Others	MS & Others (Risk on Return - Depleted Uranium) Kosovo CG [2003] UKIAT 00031	SZHDM 03UKIAT00031	Added to list 24.06.04
	_J	_J (Article 8 - 'Queue Jumping' - Visa Applications – Neighbouring Countries) Kosovo CG [2003] UKIAT 00041	03UKIAT00041J	Added to list 24.06.04
	AA	AA (Article 8 - Medical Facilities) Kosovo CG [2003] UKIAT 00123	03UKIAT00123A	Added to list 24.06.04
	KS	KS (IFA - Albanian - Blood Feud) Kosovo CG [2003] UKIAT 00208	HX/02839/02	Added to list 24.06.04
	RB	RB (Risk - Ethnicity - Gorani - Sanxhali) Kosovo CG [2004] UKIAT 00037	[2004] UKIAT00037B	Added to list 24.06.04
				FM (IFA – Mixed Marriage – Albanian – Ashkaelin) Kosovo CG [2004] UKAIT 00081 ([2004] UKAIT00081M) – deleted 20.09.06
	BK	BK (Blood Feud) Serbia and Montenegro CG [2004] UKIAT 00156		Added on 23rd June 2004
				AB (Ashkaelia) Serbia and Montenegro CG [2004] UKAIT 00188 – deleted 20.9.06
			FD (Kosovo – Roma) Serbia and Montenegro CG [2004] UKAIT 00214 – deleted 20.09.06	
			Entry K, no citation, Bondo Society - FGM - Retribution removed from list 08/07/04	

	YK and RL	YK and RL (Kosovo – Risk to homosexuals) Serbia and Montenegro CG [2005] UKIAT 00005		added 25.01.05
	ES	ES (Ashkaelians, mixed Ashkaelians ethnicity) Serbia and Montenegro (Kosovo) CG [2006] UKAIT 00071		Added to list 20.09.06
	KX	KX (Mixed marriages – Roma – Albanian – Januzi applied) Serbia and Montenegro (Kosovo) CG [2006] UKAIT 00072		Added to list 20.09.06
SIERRA LEONE	PO	PO (Risk - Return – General) Sierra Leone CG [2002] UKIAT 03285	Owen 02UKIAT03285	Added to list 24.06.04
	FH	FH (HIV/AIDS – Medical Facilities) Sierra Leone CG [2002] UKIAT 03905	Hamid 02UKIAT03905	Added to list 24.06.04
	HM	HM (Mental Health) Sierra Leone CG [2002] UKIAT 04459	Mansaray 02UKIAT04459	Added to list 24.06.04
	FS	FS (Camps - Vulnerable Group - Woman) Sierra Leone CG [2002] UKIAT 05588	Sumah UKIAT05588	Added to list 24.06.04
	BK	BK (Risk - Return – General) Sierra Leone CG [2002] UKIAT 05842	Kamara 02UKIAT05842	Added to list 24.06.04
	LS	LS (Risk - Return – General Sierra Leone CG [2002] UKIAT 06390	Sheriff 02UKIAT06390	Added to list 24.06.04
	MD	MD (Medical Facilities) Sierra Leone CG [2002] UKIAT 07187	Decker 02UKIAT07187	Added to list 24.06.04
	SB	SB (Risk - Freetown) Sierra Leone CG [2002] UKIAT 07323	Bah 02UKIAT07323	Added to list 24.06.04
SOMALIA	Suleiman	LS (Bajuni - Kibajuni Speaker) Somalia CG [2002] UKIAT 00416	Suleiman 02UKIAT00416	added 8th July 2004
				AM (Bajuni - Somali Speaker - Kibajuni Speaker) Somalia CG [2002] UKIAT 03169 - removed 02.11.04
				MA (Risk - Jaaji Clan - Benadiri) Somalia CG [2002] UKIAT 04084 (Amin UKIAT04084) added to list 24.06.04, removed from list with effect from 22.04.05
	HF	HF (Persecution – Discrimination – Yibir – Occupation - Caste) Somalia CG [2002] UKIAT 05520	Farah 02UKIAT05520	Added to list 24.06.04
	AA	AA (Risk-Geledi-Benadiri Clan) Somalia CG [2002] UKIAT 05720	Ali 02UKIAT05720	Added to list 24.06.04

SOMALIA Continued				IJ (Risk - Midgan) Somalia CG [2002] UKIAT 06314 (Jama 02UKIAT06314) added to list 24.06.04, removed from list with effect from 22.04.05
				SA (Persecution - Eyle – Weak) Somalia CG [2002] UKIAT 06665 (Ali 02UKIAT06665) added to list 24.06.04, removed from list with effect from 22.04.05
				FB (Risk – Class - Midgan) Somalia CG [2002] UKIAT 06753 (Meldeq 02UKIAT06753) added to list 24.06.04, removed from list with effect from 31.03.05
				AH (Midgan – Disabled Woman – Relocation - Mogadishu) Somalia CG [2002] UKIAT 07343 (Hirsi 02UKIAT07343) added to list 24.06.04, removed from list with effect from 31.03.05
				NG (Risk - Female Eyle - Internal Displacement) Somalia CG [2003] UKIAT 00011 (03UKIAT00011G) added to list 24.06.04, removed from list with effect from 31.03.05
	SA & Others	SA & Others (Minority Group – Swahili Speakers) Somalia CG [2003] UKIAT 00094	03UKIAT00094AJH	Added to list 24.06.04
	FE	FE (Risk - Minority group – Yemeni Background) Somalia CG [2003] UKIAT 00115	03UKIAT00115E	Added to list 24.06.04
				AW (Article 3 – Risk - General Situation) Somalia CG [2003] UKIAT 00111 (03UKIAT00111A) added to list 24.06.04, removed from list with effect from 22.04.05
	MM	MM (Risk - Return - Tuni) Somalia CG [2003] UKIAT 00129	03UKIAT00129M	Added to list 24.06.04
	FJ	FJ (Risk - Return - Tuni) Somalia CG [2003] UKIAT 00147	03UKIAT00147J	Added to list 24.06.04
				FG (Risk - Single Female - Clan Member - Article 3) Somalia CG [2003]UKIAT 00175 (03UKIAT00175G) added to list 24.06.04, removed from list with effect from 31.03.05
	AM	AM (Use of Sharif name) Somalia CG [2004] UKIAT 00110		Added to list 24.06.04
	FK	FK (Shekhal Gandhershe) Somalia CG [2004] UKIAT 00127		added 08.11.04
	MN	MN (Town Tunnis regarded as Bravanese) Somalia CG [2004] UKIAT 00224		added 17th Aug 2004
	KS	KS (Minority Clans - Bajuni – ability to speak Kibajuni) Somalia CG [2004] UKIAT 00271		added 27.09.2004
SH	SH (Rahanweyn not a minority clan) Somalia CG [2004] UKIAT 00272		added 08.11.04	

SOMALIA Continued	NM and Others	NM and Others (Lone women – Ashraf) Somalia CG [2005] UKIAT 00076		Added 04.04.05
	HS and HA	YS and HA (Midgan – not generally at risk) Somalia CG [2005] UKIAT 00088		Added to list 22.04.05
	DJ	DJ (Bantu-not generally at risk) Somalia CG [2005] UKIAT 00089		Added to list 22.04.05
	MA	MA (Galgale – Sab clan) Somalia CG [2006] UKAIT 00073		Added to the list on 20.9.06

SRI LANKA	PT	P (Medical Report – Analysis) Sri Lanka CG [2002] UKIAT 01336	Pirahalathan 02UKIAT01336	Added to list 24.06.04
	CB	CB (Detailed Appraisal - Objective Evidence) Sri Lanka CG [2002] UKIAT 01547	Brinston 02UKIAT01547	Added to list 24.06.04
	TJ	TJ (Risk - Returns) Sri Lanka CG [2002] UKIAT 01869	Jeyachandran 02UKIAT01869	Added to list 24.06.04
	PT	PT (Risk - Bribery – Release) Sri Lanka CG [2002] UKIAT 03444	Tharmakulaseelan 02UKIAT03444	Added to list 24.06.04
	IS	IS (Risk - Conviction - Fine Paid – Release) Sri Lanka CG [2002] UKIAT 04230	Shelvaraajah 02UKIAT04230	Added to list 24.06.04
	PR	PR (Medical Facilities) Sri Lanka CG [2002] UKIAT 04269	Rhanchitha 02UKIAT04269	Added to list 24.06.04
	DA	DA (Risk – Return - Reporting Restrictions) Sri Lanka CG [2002] UKIAT 04279	CC 30413/2001 (STARRED) [2002] UKIAT 00232	Added to list 24.06.04
	AE FE	AE FE (PTSD – Internal Relocation) Sri Lanka CG * [2002] UKIAT 05237	AE&FE 02UKIAT05237	Added to list 24.06.04
	VS	VS (Risk - LTTE – Escape) Sri Lanka CG [2003] UKIAT 00003	03UKIAT00003S	Added to list 24.06.04
	TK	TK (Ceasefire - Negotiations) Sri Lanka CG [2003] UKIAT 00026	03UKIAT00026S	Added to list 24.06.04
VK	VK (Risk - Release – Escapes – LTTE) Sri Lanka CG [2003] UKIAT 00096	03UKIAT00096K	Added to list 24.06.04	

	SV	SV (Passport Renewal) Sri Lanka CG [2003] UKIAT 00125	03UKIAT00125V	Added to list 24.06.04
	JP	JP (Maintenance - Detention Records) Sri Lanka CG [2003] UKIAT 00142	03UKIAT00142P	Added to list 24.06.04
	YP	YP (Maintenance - Detention Records) Sri Lanka CG [2003] UKIAT 00145	03UKIAT00145P	Added to list 24.06.04
	SN	SN (Scarring- Bribes – LTTE - Reprisals) Sri Lanka CG [2003] UKIAT 00150	03UKIAT00150N	Added to list 24.06.04
	PS	PS (Ltte – Internal Flight – Sufficiency of protection) Sri Lankan CG [2004] UKIAT 00297		Added to list 08.11.04

SUDAN SUDAN continued				ME (Failed Asylum Seeker - Danian) Sudan CG [2002] UKIAT 00997, added to list 24.06.04, removed from list 30.01.06
				MS (DUP – Activities Abroad) Sudan CG [2002] UKIAT 02385, added to list 24.06.04, removed from list 30.01.06
				MH & Others (Article 3 - FGM) Sudan CG [2002] UKIAT 02691, added to list 24.06.04, removed from list 30.01.06
				GA (Umma - Reconciliation with Government) Sudan CG [2002] UKIAT 04605, added to list 24.06.04, removed from list 30.01.06
				TM (Persecution – Christians – Individual – General) Sudan CG [2002] UKIAT 04849, added to list 24.06.04, removed from list 08.06.06
				AA (Failed Asylum Seeker) Sudan CG [2002] UKIAT 05894, added to list 24.06.04, removed from list 30.01.06
				AB (return of Southern Sudanese) Sudan CG [2004] UKIAT 00260, added to list 20.09.2004, removed from list 30.01.06
				AE (Relocation-Darfur-Khartoum an option) Sudan CG [2005] UKAIT 00101 Added to list 18.05.05 Removed from the list on 3.8.05
	BA	BA (military service – no risk) Sudan CG [2006] UKAIT 00006		Added to list 30.01.06
	MG	MG (Christians, including Coptic Christians) Sudan CG [2006] UKAIT 00047		MH (Darfurians: relocation to Khartoum?) Sudan CG [2006] UKAIT 00033 Added to list 03.04.06 Removed from the list on 3.8.06 Added to list 31.05.06

	HGMO	HGMO (Relocation to Khartoum) Sudan CG [2006] UKAIT 00062		Added to the list on 3.8.06. See AH (Sudan) & Others v Secretary of State for the Home Department [2007] EWCA Civ 297.
	FM	FM (FGM) Sudan CG [2007] UKAIT 00060		Added to list 27.06.07
SYRIA				SY (Kurd-No Political Profile) Syria CG [2005] UKIAT 00039, added to list 25.04.05, removed from list 23.05.06
	AR	AR (Kurd: not risk per se) Syria CG [2006] UKAIT 00048		Added to list 08.06.06
TAJIKISTAN	NA	NA (Kyrgyz Woman) Tajikistan CG [2004] UKIAT 00133		Added to list 24.06.04
TURKEY	FA	FA (Military Service – Prison Conditions) Turkey CG [2002] UKIAT 01111	Akcan 02UKIAT01111	Added to list 24.06.04
	DS	DS (Risk - ODP) Turkey CG [2002] UKIAT 02563	Saricecili 02UKIAT02563	Added to list 24.06.04
	MO	MO (McDowall – Reviewed - Objectivity) Turkey CG [2002] UKIAT 02583	Ozdemir 02UKIAT02583	Added to list 24.06.04
	MU	MU (Documentation - Nufus Card) Turkey CG [2002] UKIAT 03528	Uzar 02UKIAT03528	Added to list 24.06.04
				YD (Risk - Fazilet) Turkey CG [2002] UKIAT 04154, formerly Dondu 02UKIAT04154, added to list 24.06.04, removed from list 16.05.05
	ST	ST (Dev Sol) Turkey CG [2002] UKIAT 04883		added 26th July 2004, to replace previous error
	YK	YK (PSG - Women) Turkey CG [2002] UKIAT 05491	Kircicek 02UKIAT05491	Added to list 24.06.04
	MS	MS (Risk - Homosexual) Turkey CG [2002] UKIAT 05654	Sever 02UKIAT05654	Added to list 24.06.04
				CA (Human Rights - Military Service – Sentence) Turkey CG [2002] UKIAT 06709, formerly Aydogdu 02UKIAT06709, added to list 24.06.04, removed from list 11.05.05
				KY (HADEP - PK) Turkey CG [2003] UKIAT 00018, formerly 03UKIAT00018S, added to list 24.06.04, removed from list 16.05.05

TURKEY Continued	IA & Others	IA & Others (Risk – Guidelines - Separatist) Turkey CG [2003] UKIAT 00034	ACDOG 03UKIAT00034	Added to list 24.06.04
	ZK	ZK (International Reaction - Aydogdu) Turkey CG [2004] UKIAT 00036	[2004] UKIAT00036K	Added to list 24.06.04
	GS	GS (Article 3 - Persecution - Military Service) Turkey CG [2004] UKIAT 00041	[2004] UKIAT00041S	Added to list 24.06.04
	FO	FO (Risk - Service as Village Guard) Turkey CG [2004] UKIAT 00042	[2004] UKIAT00042O	Added to list 24.06.04
				HO (National Records) Turkey CG [2004] UKIAT 00038 ([2004] UKIAT00038O) - deleted 02.12.04
	HY	HY (Medical Evidence) Turkey CG [2004] UKIAT 00048	[2004] UKIAT00048Y	Added to list 24.06.04
				LT (Internal flight- Registration system) Turkey CG [2004] UKIAT 175 - deleted 02.12.04
				AG (GBTS, “tab” and other records) Turkey CG [2004] UKIAT 00168 - added 23rd June - deleted 02.12.04
				KK (GBTS – other information systems – McDowall) Turkey CG [2004] UKIAT 00177 - added 2nd July - deleted 02.12.04
				SA (GBTS Records) Turkey CG [2004] UKIAT 00229 added 23rd Aug - deleted 02.12.04
		-		CE (KK Confirmed – McDowall Report) Turkey CG [2004] UKIAT 00233 - added 27.09.204 - deleted 02.12.04
IK	IK (Returnees - Records – IFA) Turkey CG [2004] UKIAT 00312		added 02.12.04	
UGANDA	LM	LM (Acholi – LRA – internal relocation) Uganda CG [2004] UKIAT 00107		Added to list 24th June
	PN	PN (Lord’s Resistance Army) Uganda CG [2006] UKAIT 00022		Added to list 16.03.06
UKRAINE	MV	MV (Risk – Homosexuals) Ukraine CG [2003] UKIAT 00005	03UKIAT00005V	
	VS	VS (Registration on Relocation) Ukraine CG [2004] UKIAT 00242		Added to list 27.09.2004
	PS	PS (prison conditions; military service) Ukraine CG [2006] UKAIT 00016		Added to list 28.02.2006
UZBEKISTAN	OM	OM (Returning citizens – minorities - religion) Uzbekistan CG [2007] UKAIT 00045		Added to list 23.5.2007

ZIMBABWE			ES (MDC) Zimbabwe CG [2002] UKIAT 01807 - removed 02.11.04
			MN (Risk - MDC) Zimbabwe CG [2002] UKIAT 02246 - removed F409
			LS (Persecution - CIO) Zimbabwe CG [2002] UKIAT 03342, formerly Siwardi 02UKIAT03342, added to list 24.06.04, removed from list 12.05.05
			AB (Persecution - CIO) Zimbabwe CG [2002] UKIAT 03598, formerly Bango 02UKIAT03598, added to list 24.06.04, removed from list 12.05.05
			LM (MDC) Zimbabwe CG [2002] UKIAT 03916, formerly Moyo 02UKIAT03916, added to list 24.06.04, removed from list 12.05.05
			RB (Personal - Disability) Zimbabwe CG [2002] UKIAT 04144 - removed 02.11.04
			NM (MDC) Zimbabwe CG [2002] UKIAT 04263 - removed 02.11.04
			BN (MDC) Zimbabwe CG [2002] UKIAT 05518, formerly Nkangala 02UKIAT05518, added to list 24.06.04, removed from list 12.05.05
			MN (Returns – Policy - War Veterans) Zimbabwe CG [2002] UKIAT 05806 - removed 02.11.04
			BS (Liberty Party – CIO - Airport) Zimbabwe CG [2002] UKIAT 06461, formerly Sibanda 02UKIAT06461, added to list 24.06.04, removed from list 12.05.05
			TC (Teacher – Failed Asylum Seeker - Returns) Zimbabwe CG [2002] UKIAT 07342 - removed 02.11.04
ZIMBABWE Continued			FN (Risk – MDC – Relocation) Zimbabwe CG [2003] UKIAT 00163, formerly N Zimbabwe [2003] UKIAT 00163, added to list 24.06.04, removed from list 12.05.05
	SM and Others	SM and Others (MDC – internal flight – risk categories) Zimbabwe [2005] UKIAT 00100	Added to list 12.05.05

				AA (Involuntary returns to Zimbabwe) Zimbabwe [2005] UKAIT 00144 CG Added to list 18.10.05. Removed from the list on 2.8.06
	AA	AA (Risk for involuntary returnees) Zimbabwe CG [2006] UKAIT 00061		Added to the list on 2.8.06. See AA (Zimbabwe) v Secretary of State for the Home Department [2007] EWCA Civ 149.
	OM	OM (AA(1) wrong in law) Zimbabwe CG [2006] UKAIT 00077		Added to the list on 6.11.06

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APPENDIX 4

ASYLUM AND IMMIGRATION TRIBUNAL

PRACTICE DIRECTIONS

Consolidated version as at 30 April 2007

The Asylum and Immigration Tribunal (“the Tribunal”) is created by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (“the 2004 Act”). It replaces the Immigration Appellate Authority (“the IAA”), which consisted of two tiers: adjudicators and the Immigration Appeal Tribunal (“the IAT”).

As a result of the replacement of the IAA by the Tribunal, all practice directions made by the Chief Adjudicator and by the President of the IAT cease to have effect as at 4 April 2005, when the Tribunal is established, except to such extent as may be necessary for the purpose of giving effect to any transitional provisions under the 2004 Act.

The directions which follow are intended to regulate the proceedings, practice and procedure of the Tribunal from its inception on 4 April 2005. The directions must be read in conjunction with the Nationality, Immigration and Asylum Act 2002 (as amended by the 2004 Act) and the subordinate legislation made thereunder, in particular the Asylum and Immigration Tribunal (Procedure) Rules 2005 (“the Rules”).

Certain of the directions operate not only in relation to notices of appeal given on or after 4 April 2005 but also in relation to notices given before that date, including cases where, for example, an appeal to an adjudicator or to the IAT was pending immediately before that date. Reference should be made to the transitional provisions contained in the primary and secondary legislation.

A number of Guidance Notes were issued by the Chief Adjudicator (and Deputy Chief Adjudicator) between 2001 and 2004, covering issues such as sitting by part-time adjudicators, unrepresented appellants and bail proceedings.

Unless and until the Tribunal issues its own guidance, members of the Tribunal will have regard to these Guidance Notes, subject to any qualifications or modifications necessary as a result of the creation of the Tribunal and of any changes in the relevant legislation.

A list of the Guidance Notes is contained in the Annex.

Notes: The directions which follow are made under section 107 of the 2002 Act and paragraphs 7 and 8 of Schedule 4 to that Act

Any failure to comply with these directions does not of itself invalidate any decision made by the Tribunal.

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Guidance Notes

1 *Interpretation*

1.1 In these directions:

“the 2002 Act” means the Nationality, Immigration and Asylum Act 2002; and any reference in these directions to a numbered section or Schedule, without more, is a reference to the relevant section or Schedule in the 2002 Act;

“the 2004 Act” means the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004;

“adjudicator” means an adjudicator appointed, or treated as appointed, under section 81;

“the Commencement Order” means the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (Commencement No.5 and Transitional Provisions) Order 2005;

“CMR hearing” means a case management review hearing;

“Deputy President” means a Deputy President of the Tribunal;

“fast track appeal” means an appeal to which Part 2 of the Fast Track Rules applies;

“the Fast Track Rules” means the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005;

“the Fast Tack Time Limits Order” means the Asylum and Immigration (Fast Track Time Limits) Order 2005;

“the IAT” means the Immigration Appeal Tribunal;

“legally qualified member of the Tribunal” has the meaning given by paragraph 2 of Schedule 4;

“the President” means the President of the Tribunal;

“the Rules” means the Asylum and Immigration Tribunal (Procedure) Rules 2005; and any reference in these directions to a numbered rule, without more, is a reference to the relevant provision of the Rules;

“the Treaty” means the Treaty establishing the European Community;

“the Tribunal” means the Asylum and Immigration Tribunal.

1.2 Other expressions used in these directions have the same meaning as in the Rules or the 2002 Act.

1.3 Any reference in these directions to an enactment is a reference to that enactment as amended by or under any other enactment.

2. *Proceedings of Tribunal*

2.1 The President has under paragraphs 7 and 8 of Schedule 4 made directions relating to the proceedings of the Tribunal to the following effect.

2.2 Subject to paragraph 2.3 and paragraph 2.4, the jurisdiction of the Tribunal in dealing with the matters specified in the first column below shall be exercised by the number and type of members specified in the second column.

(1) Decisions as to whether notice of appeal given in time/whether to extend time for appealing (including imminent removal)/ rejection of invalid notice of appeal	A legally qualified member
(2) All appeals in which no specific direction is given or which are not specified below	A legally qualified member or two or more members, at least one of who is legally qualified
(3) Reconsiderations of appeals where no specific direction is given (including decisions on orders for funding)	A legally qualified member or two or more members, at least one of whom is legally qualified
(4) Appeals which have to be reheard if two members disagree	Three or more members (but so that there is an odd number of members sitting) at least one of whom is legally qualified

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| (5) | Case management review hearings and other interlocutory hearings, the giving of any directions concerning appeals or applications (whether or not at such hearings) and adjournments (except where a specific direction for the appeal to be heard by a group of members provides otherwise) | A legally qualified member |
| (6) | Appeals which are to be determined without a hearing | A legally qualified member |
| (7) | Applications for bail | A legally qualified member |
| (8) | The issue of a witness summons | A legally qualified member |
| (9) | Applications for review | An immigration judge authorised by the President to deal with such applications |
| (10) | Any determination that an appeal be dismissed as abandoned or finally determined | A legally qualified member |
| (11) | Reviews of decisions not to make funding order | A senior immigration judge who was not involved in the decision being reviewed |
| (12) | Any decision to request the Court of Justice for a ruling under Article 234 of the Treaty | The President or a Deputy President (or a group of members which includes the President or a Deputy President) |
- 2.3 Any of the matters specified in paragraph 2.2(5), (6), (7), (8) or (10) above may be dealt with by a Tribunal hearing an appeal as specified in paragraph 2.2(2) to (4) above.
- 2.4 The jurisdiction of the Tribunal to determine an appeal (other than on reconsideration) shall not be exercised by a panel of three or more legally qualified members unless the President or a Deputy President has permitted the allocation of that appeal to such a panel.
- 2A *Form of notice of appeal etc.*
- 2A The form of notice approved for the purpose of:-
- (a) rule 8 (notice of appeal);

(b) rule 34 (application for permission to appeal to appropriate appellate court); or

(c) rule 38 (application for bail),

as the case may be, is the appropriate form as displayed on the Tribunal's website at the time when the notice is given, or that form with any variations that the circumstances may require.

3. *Notice of appeal where there is no relevant decision*

3.1 Rule 9 (notice of appeal where there is no relevant decision) imposes a duty on the Tribunal not to accept an invalid notice of appeal and to serve notice to this effect on both the person who gave the notice of appeal and the respondent.

3.2 The Tribunal will scrutinise a notice of appeal as soon as practicable after it has been given. Rule 9 makes no provision for the issue of validity to be determined by means of a hearing or by reference to any representations of the parties.

3.3 Once the Tribunal has served the notice described in paragraph 3.1, rule 9 provides that the Tribunal shall take no further action in relation to the notice of appeal.

3.4 The fact that a hearing date may have been given to the parties does not mean that the appeal must be treated as valid. The Tribunal will therefore act accordingly if at a hearing (including a CMR hearing) it transpires that the notice of appeal does not relate to a decision against which there is an exercisable right of appeal.

3.5 Rule 9 does not apply in the case of a fast track appeal and any issue as to the validity of any such appeal will be dealt with at the hearing.

4. *Late notice of appeal*

4.1 An important consequence of appeals being made directly to the Tribunal, rather than being given to the Home Office or Entry Clearance Officer (as was the position with the former Immigration Appellate Authority), is that the Tribunal will have to consider in every case whether a notice of appeal was given in time.

4.2 Attention is drawn to rule 10 (late notice of appeal) which requires a notice of appeal given outside the applicable time limit to include an application for an extension of time for appealing. That application must give reasons for lateness and be accompanied by any written evidence relied upon in support of those reasons.

4.3 Where no such application is made but it appears to the Tribunal, upon receipt of the notice of appeal, that that notice is out of time, the Tribunal must notify the person giving the notice that it is proposed to treat the notice as out of time. That person then has three days (or ten days if outside the United Kingdom) in which to file evidence to show the notice was given in time or that there are special circumstances for failing to do so, which could not reasonably have been stated in the notice of appeal.

4.4 The obligation on the Tribunal to give such notification does not arise if the Tribunal extends time for appealing of its own initiative (rule 10(2)). Parties must **not** assume that the existence of this

power means that the limits specified in rule 7 (time limit for appeal) can in practice be ignored. The power is intended to be used where, for instance, a disruption of the postal service delays notices that would otherwise have been received in time.

4.5 Except as described in paragraph 4.4, the Tribunal may extend time for appealing if satisfied that by reason of special circumstances it would be unjust not to do so (rule 10(5)). That issue must be decided without a hearing. The Tribunal's decision cannot be the subject of an application for reconsideration under section 103A; nor can it be appealed.

4.6 The preceding provisions of this paragraph do not apply in the case of a fast track appeal. Instead, any issue of timelines will be decided as a preliminary issue at the hearing (rule 12 of the Fast Track Rules).

5. *Imminent removal*

5.1 Rule 11 (special provisions for imminent removal cases) requires the Tribunal, if reasonably practicable and except in the case of a fast track appeal, to make a preliminary decision under rule 10 (late notice of appeal) before the date and time of a person's proposed removal from the United Kingdom where:

- (a) that person has given notice of appeal; and
- (b) removal directions have been issued to take effect within five calendar days of the date on which such notice of appeal was given.

5.2 In such a case, the Tribunal may decide that notification under rule 10(2) may be given orally (including by telephone), that the three day period for giving evidence under rule 10(4) should be shortened and that any such evidence should be given orally, including by telephone. The Tribunal's decision under rule 10 must still, however, be served in writing.

5.3 Imminent removal cases under rule 11 will normally be dealt with by senior immigration judges on a "rota" basis. It will be for the senior immigration judge concerned to decide whether to exercise all or any of the powers conferred by rule 11(3), having regard to the circumstances of the particular case. These may include whether the person concerned is able to give evidence by telephone, in particular where that person's language is not English, and, where that person is represented, the practicability of receiving submissions from the representative. The judge may decide to hold a hearing or a telephone hearing for the purpose of receiving evidence.

6. *Case management review hearings and directions*

6.1 Except where the Tribunal directs otherwise, a CMR hearing shall be held in respect of every asylum appeal (other than a fast track appeal and an appeal in respect of which the determination of the Tribunal is ordered to be reconsidered), where the appellant:

- (a) is present in the United Kingdom; and
- (b) has a right of appeal whilst in the United Kingdom.

6.2 It is important that the parties and their representatives understand that a CMR hearing or similar first hearing is a **hearing** in the appeal and that the appeal may be determined by the Tribunal under

rule 15(2) (determination of an appeal without a hearing) or rule 19 (hearing of appeal in the absence of a party) if a party does not appear and is not represented at that hearing.

6.3 In addition to any information required by rule 8 (form and contents of notice of appeal), the appellant must provide the Tribunal and the respondent at the CMR hearing with:

- (a) particulars of any application for permission to vary the grounds of appeal (see rule 14 (variation of grounds of appeal));
- (b) particulars of any amendments to the reasons in support of the grounds of appeal;
- (c) particulars of any witnesses to be called or whose written statement or report is proposed to be relied upon at the full hearing; and
- (d) a draft of any directions that the appellant is requesting the Tribunal to make at the CMR hearing.

6.4 In addition to any documents required by rule 13 (filing of documents by the respondent), the respondent must provide the Tribunal and the appellant at the CMR hearing with:

- (a) any amendment that has been made or that is proposed to be made to the notice of decision to which the appeal relates or to any other document served on the appellant giving reasons for that decision; and
- (b) a draft of any directions that the respondent is requesting the Tribunal to make at the CMR hearing.

6.5 In most cases, including those appeals where a CMR hearing is to be held, the Tribunal will normally have given to the parties the following directions with the notice of hearing:

- (a) not later than 5 working days before the full hearing (or 10 days in the case of an out-of-country appeal) the appellant shall serve on the Tribunal and the respondent:
 - (i) witness statements of the evidence to be called at the hearing, such statements to stand as evidence in chief at the hearing;
 - (ii) a paginated and indexed bundle of all the documents to be relied upon at the hearing with a schedule identifying the essential passages;
 - (iii) a skeleton argument, identifying all relevant issues including human rights claims and citing all the authorities relied upon; and
 - (iv) a chronology of events;
- (b) not later than 5 working days before the full hearing the respondent shall serve on the Tribunal and the appellant a paginated and indexed bundle of all the documents to be relied on at the hearing, which a schedule identifying the relevant passages, and a list of any authorities relied upon.

6.6 At the end of the CMR hearing, the Tribunal will give to the parties any further written directions relating to the conduct of the appeal.

6.7 Although in normal circumstances a witness statement should stand as evidence in chief, there may be cases where it will be appropriate for appellants or witnesses to have the opportunity of adding to

or supplementing their witness statements. Parties are referred to the judgment of the Court of Appeal in *R v Secretary of State for the Home Department ex p Singh* [1998] INLR 608.

6.8 If at the CMR hearing the Tribunal considers that the circumstances are such that the jurisdiction of the Tribunal at the full hearing should be exercised by a group of members the Tribunal may give a direction to that effect at the CMR hearing.

6.9 In addition to the directions referred to above, at the end of the CMR hearing the Tribunal shall also give to the parties written confirmation of:

- (a) any issues that have been agreed at the CMR hearing as being relevant to the determination of the appeal; and
- (b) any concessions made at the CMR hearing by a party.

6.10 In paragraph 6.1, “asylum appeal” means an appeal that relates, in whole or part, to an asylum claim.

7. *Standard directions in fast track appeals*

7.1 In the case of a fast track appeal, the appellant and the respondent shall respectively serve the materials specified in paragraph 6.5(a) and (b) either at the hearing or, if practicable, on the business day immediately preceding the date of the hearing.

7.2 Subject to the point made in paragraph 6.7, witness statements served in pursuance of paragraph 7.1 shall stand as evidence in chief at the hearing.

8. *Trial bundles*

8.1 The parties shall have regard to paragraph 8.2 to 8.6 in the preparation of trial bundles for hearings before the Tribunal.

8.2 The best practice for the preparation of bundles is as follows:

- (a) all documents must be relevant, be presented in logical order and be legible;
- (b) where the document is not in the English language, a typed translation of the document signed by the translator in accordance with rule 52 (language of documents) to certify that the translation is accurate, must be inserted in the bundle next to the copy of the original document, together with details of the identity and qualifications of the translator;
- (c) if it is necessary to include a lengthy document, that part of the document on which reliance is placed should, unless the passages are outlined in any skeleton argument, be highlighted or clearly identified by reference to page and/or paragraph number;
- (d) bundles submitted must have an index showing the page numbers of each document in the bundle;
- (e) the skeleton argument or written submission should define and confine the areas at issue in a numbered list of brief points and each point should refer to any

documentation in the bundle on which the appellant proposes to rely (together with its page number);

- (f) where reliance is placed on a particular case or text, photocopies of the case or text must be provided in full for the Tribunal and the other party; and
- (g) large bundles should be contained in a ring binder or lever arch file, capable of lying flat when opened.

8.3 The Tribunal recognises the constraints on those representing the parties in appeals in relation to the preparation of trial bundles and this direction does not therefore make it mandatory in every case that bundles in exactly the form prescribed must be prepared. Where the issues are particularly complex it is of the highest importance that comprehensive bundles are prepared. If parties to appeals fail in individual cases to present documentation in a way which complies with the direction, it will be for the Tribunal to deal with any such issue.

8.4 Much evidence in asylum and immigration appeals is in documentary form. Representatives preparing bundles need to be aware of the position of the Tribunal, which may be coming to the case for the first time. The better a bundle has been prepared, the greater it will assist the Tribunal. Bundles should contain all the documents that the Tribunal will require to enable it to reach a decision without the need to refer to any other file or document. The Tribunal will not be assisted by repetitious, outdated or irrelevant material.

8.5 It may not be practical in many appeals to require there to be an agreed trial bundle but it nevertheless remains vital that the parties inform each other at an early stage of all and any documentation upon which they intend to rely.

8.6 The parties cannot rely on the Tribunal having judicial notice of any country information or background reports in relation to the case in question. If either party wishes to rely on such country or background information, copies of the relevant documentation must be provided.

8A *Expert evidence*

8A.1 A party who instructs an expert must provide clear and precise instructions to the expert, together with all relevant information concerning the nature of the appellant's case, including the appellant's immigration history, the reasons why the appellant's claim or application has been refused by the respondent and copies of any relevant previous reports prepared in respect of the appellant.

8A.2 It is the duty of an expert to help the Tribunal on matters within the expert's own expertise. This duty is paramount and overrides any obligation to the person from whom the expert has received instructions or by whom the expert is paid.

8A.3 Expert evidence should be the independent product of the expert uninfluenced by the pressures of litigation.

8A.4 An expert should assist the Tribunal by providing objective, unbiased opinion on matters within his or her expertise, and should not assume the role of an advocate.

8A.5 An expert should consider all material facts, including those which might detract from his or her opinion.

8A.6 An expert should make it clear:-

- (a) when a question or issue falls outside his or her expertise; and
- (b) when the expert is not able to reach a definite opinion, for example because of insufficient information.

8A.7 If, after producing a report, an expert changes his or her view on any material matter, that change of view should be communicated to the parties without delay, and when appropriate to the Tribunal.

8A.8 An expert's report should be addressed to the Tribunal and not to the party from whom the expert has received instructions.

8A.9 An expert's report must:-

- (a) give details of the expert's qualifications;
- (b) give details of any literature or other material which the expert has relied on in making the report;
- (c) contain a statement setting out the substance of all facts and instructions given to the expert which are material to the opinions expressed in the report or upon which those opinions are based;
- (d) make clear which of the facts stated in the report are within the expert's own knowledge;
- (e) say who carried out any examination, measurement or other procedure which the expert has used for the report, give the qualifications of that person, and say whether or not the procedure has been carried out under the expert's supervision;
- (f) where there is a range of opinion on the matters dealt with in the report –
 - (i) summarise the range of opinion, so far as reasonably practicable, and
 - (ii) give reasons for the expert's own opinion;
- (g) contain a summary of the conclusions reached;
- (h) if the expert is not able to give an opinion without qualification, state the qualification; and
- (j) contain a statement that the expert understands his or her duty to the Tribunal, and has complied and will continue to comply with that duty.

8A.10 An expert's report must be verified by a Statement of Truth as well as containing the statements required in paragraph 8A.9(h) and (j).

8A.11 The form of the Statement of Truth is as follows:

“I confirm that insofar as the facts stated in my report are within my own knowledge I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion”.

8A.12 The instructions referred to in paragraph 8A.9(c) are not protected by privilege but cross-examination of the expert on the contents of the instructions will not be allowed unless the Tribunal permits it (or unless the party who gave the instructions consents to it). Before it gives permission the Tribunal must be satisfied that there are reasonable grounds to consider that the statement in the report or the substance of the instructions is inaccurate or incomplete. If the Tribunal is so satisfied, it will allow the cross-examination where it appears to be in the interests of justice to do so.

8B *Sponsors*

8B.1 As held in *HH (Sponsor as representative) Serbia* [2006] UKAIT 00063, there is no objection to a sponsor acting as the representative of the appellant, provided that the sponsor is not prohibited from doing so by section 84 (provision of immigration services) of the Immigration and Asylum Act 1999.

8B.2 A person who is not a “qualified person” within the meaning of section 84 may provide immigration services so long as those services are not provided in the course of a business carried on (whether or not for profit) by that person or another person (section 82(2)).

8B.3 Unless notification to the Tribunal has been given (whether in the notice of appeal or otherwise as provided by rule 48) that the sponsor is the appellant's representative, the Tribunal shall not deal with the sponsor as if he were a representative.

9. *Adjournments*

9.1 Applications for the adjournment of appeals (other than fast track appeals) listed for hearing before the Tribunal must be made not later than 4.00 pm one clear working day before the date of the hearing.

9.2 For the avoidance of doubt, where a case is listed for hearing on, for example, a Friday, the application must be received by 4.00 pm on the Wednesday.

9.3 The application for an adjournment must be supported by full reasons and must be made in accordance with rule 21 (adjournment of appeals).

9.4 Any application made later than the end of the period mentioned in paragraph 9.1 must be made to the Tribunal at the hearing and will require the attendance of the party or the representative of the party seeking the adjournment.

- 9.5 It will be only in the most exceptional circumstances that late applications for adjournment will be considered without the attendance of a party or representative.
- 9.6 Parties must not assume that an application, even if made in accordance with paragraph 9.1, will be successful and they must always check with the Tribunal as to the outcome of the application. This is particularly important, given the restrictions imposed by rule 21 on the Tribunal's power to adjourn appeal hearings.
- 9.7 Any application for the adjournment of a fast track appeal must be made to the Tribunal at the hearing and will be considered by the Tribunal under rule 28 (adjournment) of the Fast Track Rules (see also rule 30(2)(a) of those Rules).
- 9.8 If an adjournment is not granted and a party fails to attend the hearing, the Tribunal is required by rule 19 (hearing appeal in absence of a party) to proceed with the hearing, if satisfied that valid notice of the hearing has been given and that there has been no satisfactory explanation for absence.
10. *Determinations where jurisdiction of Tribunal exercised by more than one member*
- 10.1 Where, in respect of any appeal, the jurisdiction of the Tribunal is exercised by more than one member, the determination is that reached by the majority of those members.
- 10.2 It is accordingly inappropriate that a dissenting view should be expressed or that the determination should indicate that it is that of a majority.
- 10.3 Such a determination will therefore not disclose whether it is unanimous or by a majority nor will any minority or dissenting view be included in it or otherwise communicated.
11. *Record of Proceedings*
- 11.1 The Tribunal shall keep a proper record of proceedings of any hearing.
- 11.2 That record should be signed and dated by the member of the Tribunal responsible for taking the record and be attached to the Tribunal's case file.
12. *Transfer of proceedings*
- 12.1 Where:
- (a) the Tribunal ("the original Tribunal") has started to hear an appeal but has not completed the hearing or given its determination; and
 - (b) a senior immigration judge or designated immigration judge decides that it is not practicable for the original Tribunal to complete the hearing or to give its determination justly or without undue delay,
- the senior immigration judge or designated immigration judge may direct the appeal to be heard by a differently constituted Tribunal ("the new Tribunal").
- 12.2 Where an appeal is transferred under paragraph 12.1:

- (a) any documents sent to or given by the original Tribunal shall be deemed to have been sent to or given by the new Tribunal; and
 - (b) the new Tribunal shall have power to deal with the appeal as if it had been commenced before it.
- 12.3 The Tribunal may transfer proceedings regarding the reconsideration of an appeal in the circumstances described in paragraph 14.2 and 14.9.
- 12.4 Where proceedings are transferred under paragraph 12.3, any documents sent to or given by the Tribunal which transferred the proceedings shall be deemed to have been sent to or given by the Tribunal to which those proceedings are transferred.
- 12.5 The President or a Deputy President may direct the transfer to the President or a Deputy President (or a group of members which includes the President or a Deputy President) of the whole or any part of the proceedings in an appeal, if satisfied that it is necessary to do so in order to decide whether to request the Court of Justice for a ruling under Article 234 of the Treaty.
- 12.6 Paragraph 12.2 shall apply in the case of an appeal transferred under paragraph 12.5 as it applies to an appeal transferred under paragraph 12.1.
- 12.7 References in paragraph 12.1, 12.2 and 12.5 to an appeal include references to the reconsideration of an appeal.
- 13. *Review*
- 13.1 It is an important feature of the single-tier Tribunal that a party dissatisfied by a determination may, in certain circumstances, apply for that determination to be reconsidered by the Tribunal.
- 13.2 The relevant statutory provisions concerning reconsideration of appeals are to be found in:
 - (a) section 103A (as inserted by section 26(6) of the 2004 Act);
 - (b) paragraph 30 of Schedule 2 to the 2004 Act (“the filter provision”);
 - (c) rules 24 to 33;
 - (d) rules 16 to 23 of the Fast Track Rules (in the case of fast track appeals); and
 - (e) rules 54.28 to 54.35 of the Civil Procedure Rules 1998 (“CPR”) (as inserted by rule 7 of the Civil Procedure (Amendment) Rules 2005).
- 13.3 For an unspecified period beginning with 4 April 2005, an application for an order requiring the Tribunal to review its decision on an appeal will be considered initially by the Tribunal itself under the filter provision, with a right to apply to the High Court where the immigration judge decides not to order reconsideration.
- 13.4 A reconsideration order may not be made in respect of a determination of the Tribunal:

- (a) where such an order has previously been made in relation to the appeal (section 103A(2)(b)); or
 - (b) where the jurisdiction of the Tribunal was exercised by three or more legally qualified members (section 103A(8)).
- 13.5 In those cases, sections 103B and 103E provide for an appeal to the Court of Appeal/Court of Session/Court of Appeal in Northern Ireland.
- 13.6 The time limits for applying for an order for reconsideration are contained in section 103A(3) or, in the case of fast track appeals, in rule 3 of the Fast Track Time Limits Order. The requirements for filing the application are contained in CPR 54.29. An application outside the relevant time limit may be entertained if the immigration judge thinks that the application could not reasonably practicably have been made within that period (section 103A(4)(b)).
- 13.7 The immigration judge may make an order for reconsideration only if that judge thinks that the original Tribunal may have made an error of law **and** that there is a real possibility that the Tribunal would decide the appeal differently on reconsideration (rule 26(6)).
- 13.8 The effect of rule 26(6) is that, as with applications for permission to appeal to the IAT under section 101 (now repealed), a party seeking to adduce evidence that was not before the original Tribunal must explain in the application the significance of that evidence with regard to **both** of the requirements specified in paragraph 13.7 (*see E&R [2004] EWCA Civ 49; CA [2004] EWCA Civ 1165*).
- 13.9 The immigration judge who has decided to make an order for reconsideration:
 - (a) must state the grounds on which the Tribunal is ordered to reconsider its decision (rule 27(2)(a)); and
 - (b) will (amongst other things) decide under rule 27 (2)(b) whether to direct that a CMR hearing be held before the reconsideration hearing takes place and whether to make a direction as to the evidence to be adduced at the hearing initially fixed for the reconsideration (as to which, see paragraphs 14 and 14A).
- 13.10 The references in paragraph 13.7 and 13.8 to the original Tribunal include references to an adjudicator in any case where, by virtue of article 6 of the Commencement Order, the order under section 103A is made in respect of the decision of an adjudicator
- 14. *Procedure on reconsideration*
- 14.1 Subject to paragraph 14.12, where an appeal has been ordered under section 103A to be reconsidered, then, unless and to the extent that they are directed otherwise, the parties to the appeal should assume that the issues to be considered at the hearing fixed for the reconsideration will be whether the original Tribunal made a material error of law (see rule 31(2)) and, if so, whether the appeal should be allowed or dismissed, by reference to the original Tribunal's findings of fact and any new documentary evidence admitted under rule 32 which it is reasonably practicable to adduce for consideration at that hearing.
- 14.2 Where the Tribunal decides that the original Tribunal made a material error of law but that the Tribunal cannot proceed under rule 31(3) to substitute a fresh decision to allow or dismiss the appeal

- because findings of fact are needed which the Tribunal is not in a position to make, the Tribunal will make arrangements for the adjournment of the hearing or for the transfer of the proceedings under paragraph 12.3 so as to enable evidence to be adduced for that purpose.
- 14.3 Where the Tribunal acting under paragraph 14.2 adjourns the hearing or transfers the proceedings, it shall prepare written reasons for its finding that the original Tribunal made a material error of law and those written reasons shall be sent to the parties before the next reconsideration hearing.
- 14.4 The written reasons for finding that the original Tribunal made a material error of law shall be incorporated **in full** in, and form part of, the determination of the Tribunal which completes the reconsideration of the appeal. Only in very exceptional cases can the decision contained in those written reasons be departed from or varied by the Tribunal which completes the reconsideration (see *R (Wani) v SSHD and AIT* [2005] EWHC 2815 (Admin); *JA (Practice on reconsideration: Wani applied)* Ecuador [2006] UKAIT 00013).
- 14.5 The references in paragraph 14.1 to 14.4 to the original Tribunal include references to an adjudicator in any case where, by virtue of article 6 of the Commencement Order, the order under section 103A is made in respect of the decision of an adjudicator.
- 14.6 Under article 5 of the Commencement Order, any appeal that was pending before the IAT immediately before 4 April 2005 shall on and after that date be dealt with in the same manner as if the Tribunal had originally decided the appeal and was reconsidering its decision.
- 14.7 Rule 62(7) provides that, in the case of an appeal described in paragraph 14.6, the reconsideration shall be limited to the grounds upon which the IAT granted permission to appeal. In most cases, those grounds will require the Tribunal to decide whether the adjudicator made a material error of law.
- 14.8 Subject to paragraph 14.12, on and after 4 April 2005, and in the absence of any direction to the contrary, the parties to any appeal that falls to be dealt with as described in paragraph 14.6 should assume that the issues to be considered at the hearing will be whether the adjudicator made a material error of law and, if so, whether the appeal should be allowed or dismissed, by reference to that adjudicator's findings of fact and any new documentary evidence admitted under rule 32 which it is reasonably practicable to adduce for consideration at that hearing.
- 14.9 Where the Tribunal decides that the adjudicator made a material error of law but that the Tribunal cannot proceed under rule 31(3) to substitute a fresh decision to allow or dismiss the appeal because findings of fact are needed which the Tribunal is not in a position to make, the Tribunal will make arrangements for the adjournment of the hearing or for the transfer of the proceedings under paragraph 12.3 so as to enable evidence to be adduced for that purpose.
- 14.10 The provisions of paragraph 14.3 and 14.4 shall apply in relation to paragraph 14.9 as they apply in relation to paragraph 14.2 but with the modification that the references to the original tribunal shall be interpreted as referring to the adjudicator.
- 14.11 Where, immediately before 4 April 2005, an appeal was pending before an adjudicator, having been remitted to an adjudicator by a court or the IAT, it will already have been decided that the original adjudicator's determination cannot stand. The Tribunal will accordingly proceed to re-hear the appeal.

- 14.12 In the case of a reconsideration of a fast track appeal, the Tribunal reconsidering the appeal is required by rule 23 of the Fast Track Rules to reconsider its decision on the appeal at the reconsideration hearing, subject to the qualifications described in rule 23(1) of those Rules. The Tribunal's power to adjourn a fast track appeal that remains as such is governed by rule 28 of those Rules.
- 14.13 The parties to any fast track appeal which is being reconsidered by the Tribunal on or after 4 April 2005 will be expected to attend with all necessary witnesses and evidence that may be required if the Tribunal should decide that it is necessary to re-hear the appeal. It will be unusual for the Tribunal to adjourn the reconsideration hearing but, if it does so, paragraph 14.4 will, so far as appropriate, apply.
- 14.14 The preceding provisions of this paragraph and paragraph 13 are subject to article 9 of the Commencement Order in the case of certain "old" appeals, where the issue is not restricted to whether the adjudicator made an error of law.

14A *Evidence on reconsideration*

- 14A.1 In general, the parties to an appeal should be aware that the Tribunal at the initial reconsideration hearing will expect to proceed under rule 31(3) to substitute a fresh decision to allow or dismiss the appeal, in the event that the Tribunal finds that the original Tribunal made a material error of law, where this can be done without having to hear oral evidence or consider new documentary evidence admitted under rule 32 that could not reasonably practicably be adduced for consideration at that hearing.
- 14A.2 Rule 32(2) and (3) must be complied with in **every case** where reconsideration is ordered and a party wishes the Tribunal to consider evidence that was not submitted on any previous occasion when the appeal was considered. Notice under rule 32(2), indicating the nature of the evidence and explaining why it was not previously submitted, must be filed with the Tribunal and served on the other party **as soon as practicable after the order for reconsideration is served.**
- 14A.3 A party who wishes the Tribunal on reconsideration to consider any evidence that was not before the original Tribunal must indicate in the notice under rule 32(2) whether the evidence is sought to be adduced:-
- (a) in connection with the issue of whether the original Tribunal made a material error of law; or
 - (b) in connection with the substitution of a fresh decision to allow or dismiss the appeal under rule 31(3), in the event of the original Tribunal being found to have made a material error of law.
- 14A.4 The notice must clearly indicate whether the party concerned wishes the evidence to be considered at the initial reconsideration hearing and state whether the evidence is in oral or documentary form.
- 14A.5 Where a party wishes, in the circumstances described in paragraph 14A.3(b), to adduce only documentary evidence, the Tribunal, if it decides to admit the additional evidence, can be expected to direct under rule 32(4) that that evidence shall be so filed as to enable

the Tribunal at the initial reconsideration hearing to proceed under rule 31(3), in the event that it finds the original Tribunal made a material error of law, unless it is satisfied that, in the circumstances, it is not reasonably practicable for that evidence to be adduced for consideration at that hearing.

14A.6 Where a party wishes, in the circumstances described in paragraph 14A.3(b), to adduce oral evidence at the initial reconsideration hearing, the notice under rule 32(2) must explain why it is considered desirable to proceed in such a manner.

14A.7 Where the Tribunal acts under paragraph 14 to adjourn or transfer the reconsideration hearing, it shall consider any notice given under rule 32(2) and give any directions under rule 32(4), if and to the extent that this has not already been done.

14A.8 The preceding provisions of this paragraph do not apply in the case of a fast track appeal (as to which, see paragraph 14.13).

14A.9 In this paragraph:-

“the initial reconsideration hearing” means the hearing described in paragraph 14.1; and

references to the original Tribunal include references to an adjudicator in any case where, by virtue of article 6 of the Commencement Order, the order under section 103A is made in respect of the decision of an adjudicator.

15. *Legal aid on reconsideration*

15.1 The relevant statutory provisions concerning the provision of legal aid in respect of the reconsideration of appeals (other than fast track appeals) decided in England and Wales are to be found in:

- (a) section 103D (as inserted by section 26(6) of the 2004 Act and amended by section 8 of the Immigration, Asylum and Nationality Act 2006);
- (b) rule 28A (orders for funding of section 103A applications) (as inserted by the Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2005 and amended by the Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2006) and rule 33 (orders for funding on reconsideration) (as amended by the 2006 Rules);
- (c) the Community Legal Service (Asylum and Immigration Appeals) Regulations 2005 (“the CLS Regulations”) (as amended by the Community Legal Service (Asylum and Immigration Appeals) (Amendment) Regulations 2007).

15.2 On an application under section 103A which is dealt with by an immigration judge under the filter provision referred to in paragraph 13.3, the immigration judge has power to make an order under section 103D for the appellant’s costs to be paid out of the CLR fund (“a funding order”). That power is, however, exercisable only where:-

- (a) the immigration judge dismisses or makes no order on the section 103A application;

- (b) there has been a change in relevant circumstances or a change in the law since the application was made; and
 - (c) at the time the application was made, there was a significant prospect that the appeal would be allowed upon reconsideration (regulation 5(4)).
- 15.3 Rule 33 (orders for funding on reconsideration) requires the Tribunal that has reconsidered an appeal to make a funding determination, where the appellant's representative has specified that he is seeking a funding order. The funding determination is separate from the determination of the appeal itself.
- 15.4 Unless it directs otherwise, the Tribunal shall hear any submissions as to such an order at the conclusion of the proceedings on the reconsideration.
- 15.5 If the Tribunal allows the appeal on reconsideration, it must make a funding order (regulation 6(2)).
- 15.6 If the Tribunal dismisses the appeal on reconsideration, the Tribunal must not make a funding order unless it is satisfied that, at the time when the appellant made the section 103A application, there was a significant prospect that the appeal would be allowed upon reconsideration (regulation 6(3)). The Tribunal will apply the same criteria where it decides on reconsideration that the original Tribunal did not make a material error of law.
- 15.7 The Tribunal shall give reasons where it decides not to make a funding order, following a reconsideration of an appeal. A supplier, or counsel instructed by a supplier, may apply under regulation 7 for a review of such a decision. The review will be carried out by a senior immigration judge, who will decide whether to hold a hearing, if one is requested. Such a review may also be requested where the Tribunal has, in special circumstances, made a funding order in respect of counsel's fees only or in respect of the costs incurred by the supplier, excluding counsel's fees (regulation 8(2)). The Tribunal shall give its reasons for deciding to make such a limited order.
- 15.8 As a result of the amendments made to section 103D and the CLS Regulations, from 30 April 2007 the Tribunal has power to make a funding order in respect of the preparation for reconsideration, where the reconsideration does not take place or is not completed because the appeal lapses or is treated as abandoned or finally determined, by operation of an enactment (see section 104 and rule 18), or where the appeal is withdrawn or treated as withdrawn because the respondent withdraws the decision or decisions to which the appeal relates (see rule 17). In such circumstances, the Tribunal must not make an order under section 103D(3) unless it is satisfied that, at the time when the appellant made the section 103A application, there was a significant prospect that the appeal would be allowed upon reconsideration (regulation 6(1A) and (3A)).
- 15.9 A funding order can be made only where there has been an application for an order under section 103A(1) (see section 103D(2)(b)). Accordingly, a funding order may not be made in a case described in paragraph 14.6 or paragraph 14.11. Nor can such an order be made in a case described in paragraph 14.1, where a pending application to the IAT is treated as an application under section 103A(1) (see paragraph 14.5 and article 6(5) of the Commencement Order)."

16. *Format of determinations*

16 In order to ensure consistency in the formatting of determinations, the member of the Tribunal who is preparing the determination shall:

- (a) state in the heading whether the appeal is being determined following a hearing or without a hearing;
- (b) number sequentially each paragraph of the determination; and
- (c) sign and date the determination at the end of the document or employ such electronic methods as the President may approve for signifying that the determination is finalised.

17. *Reporting and citation of determinations*

17.1 The decision whether to report a case is that of the Tribunal and is not perceived to be an issue in which the parties to the appeal have an interest.

17.2 A determination is reportable if and only if it follows a hearing or other consideration where the jurisdiction of the Tribunal was exercised by the President, a Deputy President or a senior immigration judge (whether sitting alone or with another member or members).

17.3 Reported determinations will receive a neutral citation number in the form [2005] UKAIT 00000 and will be widely available (including being available on the Tribunal's website). They will be anonymised and will be cited by the neutral citation number.

17.4 A determination which is reportable but not in fact reported will be anonymised, treated as an unreported determination for the purposes of the Tribunal's website and entered as such on that website.

17.5 Determinations not falling within paragraph 17.2 are unreportable. They will be sent to the parties (in accordance with the Rules) but will not be published or archived in publicly accessible form.

17.6 A determination of the Tribunal which has not been reported may not be cited in proceedings before the Tribunal unless:-

- (a) the appellant in the present proceedings, or a member of the appellant's family, was a party to the proceedings in which the previous determination was issued; or
- (b) the Tribunal gives permission.

17.7 An application for permission to cite a determination which has not been reported must:

- (a) include a **full** transcript of the determination;
- (b) identify the proposition for which the determination is to be cited;

- (c) certify that the proposition is not found in any reported determination of the Tribunal or of the IAT and has not been superseded by a decision of a higher authority; and
 - (d) be accompanied by a summary analysis of all other decisions of the Tribunal and all available decisions of higher authority, relating to the same issue, promulgated in the period beginning six months before the date of the decision proposed to be cited and ending two weeks before the date of the hearing. (This analysis is intended to show the trend of Tribunal decisions on the issue).
- 17.8 Permission under paragraph 17.6 will be given only where the Tribunal considers that it would be materially assisted by citation of the determination, as distinct from the adoption in argument of the reasoning to be found in the determination. Such instances are likely to be rare; in particular, in the case of determinations which are unreportable. It should be emphasised that the Tribunal will not exclude good arguments from consideration but it will be rare for such an argument to be capable of being made only by reference to an unreported determination.
- 17.9 The provisions of paragraph 17.6 to 17.8 apply to unreported determinations of the IAT and to determinations of adjudicators as those provisions apply respectively to determinations within paragraph 17.4 and unreportable determinations of the Tribunal.
- 17.10 A party citing a determination of the IAT bearing a neutral citation number prior to [2003] (including all series of ‘bracket numbers’) must be in a position to certify that the matter or proposition for which the determination is cited has not been the subject of more recent, reported, determinations of the IAT or of the Tribunal.
- 17.11 The Tribunal’s website is the only official source of the determinations of the Tribunal.
- 17.12 In this paragraph, “determination” includes any decision of the Tribunal.
- 18. *Starred and Country Guidance determinations*
 - 18.1 Reported determinations of the Tribunal and of the IAT which are “starred” shall be treated by the Tribunal as authoritative in respect of the matter to which the “starring” relates, unless inconsistent with other authority that is binding on the Tribunal.
 - 18.2 A reported determination of the Tribunal or of the IAT bearing the letters “CG” shall be treated as an authoritative finding on the country guidance issue identified in the determination, based upon the evidence before the members of the Tribunal or the IAT that determined the appeal. As a result, unless it has been expressly superseded or replaced by any later “CG” determination, or is inconsistent with other authority that is binding on the Tribunal, such a country guidance case is authoritative in any subsequent appeal, so far as that appeal:
 - (a) relates to the country guidance issue in question; and
 - (b) depends upon the same or similar evidence.
 - 18.3 A list of current CG cases will be maintained on the Tribunal website. Both the respondent and any representative of the appellant in an appeal concerning a particular country will be expected to be conversant with the current “CG” determinations relating to that country.

18.4 Because of the principle that like cases should be treated in like manner, any failure to follow a clear, apparently applicable country guidance case or to show why it does not apply to the case in question is likely to be regarded as grounds for review or appeal on a point of law.

19. *Bail applications*

19.1 An application for bail shall if practicable be listed for hearing within three working days of receipt by the Tribunal of the notice of application.

19.2 Any such notice which is received by the Tribunal after 3.30pm on a particular day shall be treated for the purposes of this paragraph as if it were received on the next business day.

20. *Discrimination*

20.1 Section 84(1)(b) makes it a ground of appeal against an immigration decision that that decision is unlawful by virtue of section 19B of the Race Relations Act 1976 (discrimination by public authorities).

20.2 In cases where there is a finding of discrimination, the person affected can bring a claim in the County Court. On that claim, both the claimant and the court are bound by the decision in the immigration appeal (section 57A of the Race Relations Act 1976).

20.3 Accordingly, in a case where discrimination is raised as a ground of appeal, it is particularly important that the Tribunal is aware of its duty under section 86(2)(a) to determine any matter raised as a ground of appeal and that it makes a finding on that ground, even if the alleged discrimination is not relevant to the ultimate outcome of the appeal (see *Bibi* [2005] EWHC 396 (Admin)).

21. *Council on Tribunals*

21.1 Under rule 54(5), members of the Council on Tribunals (and its Scottish equivalent) are entitled to attend hearings of cases before the Tribunal.

21.2 Although that rule does not specifically envisage that such a member should have access to discussions between members of the Tribunal before and after the hearing (where the jurisdiction of the Tribunal is being exercised by more than one of its members), a member of the Council visiting in an official capacity should be invited to observe the whole of the Tribunal's work if that member wishes to do so.

21.3 In order to avoid any misunderstanding, the parties (including their representatives) present at a hearing should be informed that the member of the Council will retire with the Tribunal and will observe (but not take part in or communicate) the Tribunal's deliberations.

22. *Modes of address and titles*

22.1 Any member of the Tribunal, when sitting, shall be addressed as "Sir" or "Madam", as the case may be, whatever their personal status.

22.2 In cause lists, forms and orders, legally qualified members, other than the President or a Deputy President, should be addressed as “Senior Immigration Judge/Designated Immigration Judge/Immigration Judge A”, as the case may be.

23. *Council Directive 2004/83/EC*

23 Subject to any argument to the contrary in any individual case:

(a) the Tribunal will treat the changes to the Immigration Rules under Cm 6918 as applying to all applications and appeals pending on 9 October 2006 as well as to decisions made on or after that date;

(b) in the case of appeals pending on 9 October 2006 (but not appeals filed after that date) the Tribunal will treat the grounds of appeal as including, and as having always included, such grounds as are needed in order to enable it to consider matters under the Regulations and the changes to the Rules both on initial appeal and on any reconsideration.

HODGE J
PRESIDENT

(Consolidated version as at 30 April 2007)

ANNEX

Guidance Notes

Guidance Note No 1 (November 2001) – Guidance on sitting for part-time adjudicators

Guidance Note No 2 (May 2002) – Guidance on transfer of proceedings

Guidance Note No 3 (May 2002) – Pre-hearing introduction

Guidance Note No 4 (February 2003) – Delayed promulgations

Guidance Note No. 5 (April 2003) – Unrepresented appellants

Bail Guidance Notes for Adjudicators (May 2003) (Third edition)

Guidance Note No 6 (June 2003) – Guidance for adjudicators on deposit of recognizances

Guidance Note No 7 (July 2003) – Guidance for adjudicators on withdrawals

Guidance Note No 8 (April 2004) – Unaccompanied children

Guidance Note (August 2004) – Unrepresented appellants who do not understand English

APPENDIX 5:

ASYLUM AND IMMIGRATION TRIBUNAL (PROCEDURE) RULES 2005

Made 6th February 2005

Laid before Parliament 8th February 2005

Coming into force 4th April 2005

UK Parliament SIs 2000-Present/2005/201-250/Asylum and Immigration Tribunal (Procedure) Rules 2005 (SI 2005/230)

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 and section 40A(3) of the British Nationality Act 1981, after consulting with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992, makes the following Rules:

UK Parliament SIs 2000-Present/2005/201-250/Asylum and Immigration Tribunal (Procedure) Rules 2005 (SI 2005/230)/Part 1 Introduction/1 Citation and commencement

Part 1

Introduction

1 Citation and commencement

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

2 Interpretation

In these Rules--

"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;

"appellant" means a person who has given a notice of appeal to the Tribunal against a relevant decision in accordance with these Rules;

"appropriate appellate court" has the meaning given in sections 103B(5) and 103E(5) of the 2002 Act;

"appropriate court" has the meaning given in section 103A(9) of the 2002 Act;

...

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

"business day" means any day other than a Saturday or Sunday, a bank holiday, 25th to 31st December or Good Friday;

"determination", in relation to an appeal, means a decision by the Tribunal in writing to allow or dismiss the appeal, and does not include a procedural, ancillary or preliminary decision;

"the Immigration Acts" means the Acts referred to in section 44(1) of the 2004 Act;

"immigration decision" means a decision of a kind listed in section 82(2) of the 2002 Act;

"immigration rules" means the rules referred to in section 1(4) of the Immigration Act 1971;

"order for reconsideration" means an order under section 103A(1) or any other statutory provision requiring the Tribunal to reconsider its decision on an appeal;

"President" means the President of the Tribunal;

"relevant decision" means a decision against which there is an exercisable right of appeal to the Tribunal;

"respondent" means the decision maker specified in the notice of decision against which a notice of appeal has been given;

"section 103A" means section 103A of the 2002 Act (Review of Tribunal's decision) and "section 103A application" means an application under section 103A;

"Tribunal" means the Asylum and Immigration Tribunal;

"United Kingdom Representative" means the United Kingdom Representative of the United Nations High Commissioner for Refugees.

NOTES

Amendment

Definition "appropriate prescribed form" (omitted) revoked by SI 2006/2788, r 2.
Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

3 Scope of these Rules

- (1) These Rules apply to the following proceedings--
- (a) appeals to the Tribunal;
 - (b) section 103A applications which are considered by a member of the Tribunal in accordance with paragraph 30 of Schedule 2 to the 2004 Act;
 - (c) reconsideration of appeals by the Tribunal;
 - (d) applications to the Tribunal for permission to appeal to the Court of Appeal, the Court of Session, or the Court of Appeal in Northern Ireland; . . .
 - (e) applications to the Tribunal for bail[]; 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)].
- (2) These Rules apply subject to any other Rules made under section 106 of the 2002 Act which apply to specific classes of proceedings.

NOTES

Amendment

Para (1): in sub-para (d) word omitted revoked by SI 2005/569, r 2(a).
Date in force: 4 April 2005: see SI 2005/569, r 1(1).

Para (1): sub-para (f) and word "; and" immediately preceding it inserted by SI 2005/569, r 2(b).
Date in force: 4 April 2005: see SI 2005/569, r 1(1).

4 Overriding objective

The overriding objective of these Rules is to secure that proceedings before the Tribunal are handled as fairly, quickly and efficiently as possible; and, where appropriate, that members of the Tribunal have responsibility for ensuring this, in the interests of the parties to the proceedings and in the wider public interest.

PART 2

APPEALS TO THE TRIBUNAL

5 Scope of this Part

This Part applies to appeals to the Tribunal.

6 Giving notice of appeal

(1) An appeal to the Tribunal may only be instituted by giving notice of appeal against a relevant decision in accordance with these Rules.

(2) Subject to paragraphs (3) and (4), notice of appeal must be given by filing it with the Tribunal in accordance with rule 55(1).

(3) A person who is in detention under the Immigration Acts may give notice of appeal either--

- (a) in accordance with paragraph (2); or
- (b) by serving it on the person having custody of him.

(4) A person who is outside the United Kingdom and wishes to appeal against a decision of an entry clearance officer may give notice of appeal either--

- (a) in accordance with paragraph (2); or
- (b) by serving it on the entry clearance officer.

(5) Where a notice of appeal is served on a custodian under paragraph (3)(b), that person must--

- (a) endorse on the notice the date that it is served on him; and
- (b) forward it to the Tribunal within 2 days.

(6) Where a notice of appeal is served on an entry clearance officer under paragraph (4)(b), the officer must--

- (a) endorse on the notice the date that it is served on him;
- (b) forward it to the Tribunal as soon as reasonably practicable, and in any event within 10 days; and
- (c) if it is practicable to do so within the time limit in sub-paragraph (b), send to the Tribunal with the notice of appeal a copy of the documents listed in rule 13(1).

7 Time limit for appeal

(1) A notice of appeal by a person who is in the United Kingdom must be given--

- (a) if the person is in detention under the Immigration Acts when he is served with notice of the decision against which he is appealing, not later than 5 days after he is served with that notice; and
- (b) in any other case, not later than 10 days after he is served with notice of the decision.

- (2) A notice of appeal by a person who is outside the United Kingdom must be given--
- (a) if the person--
 - (i) was in the United Kingdom when the decision against which he is appealing was made; and
 - (ii) may not appeal while he is the United Kingdom by reason of a provision of the 2002 Act,

not later than 28 days after his departure from the United Kingdom; or

- (b) in any other case, not later than 28 days after he is served with notice of the decision.

- (3) Where a person--
- (a) is served with notice of a decision to reject an asylum claim; and
 - (b) on the date of being served with that notice does not satisfy the condition in section 83(1)(b) of the 2002 Act, but later satisfies that condition,

paragraphs (1) and (2)(b) apply with the modification that the time for giving notice of appeal under section 83(2) runs from the date on which the person is served with notice of the decision to grant him leave to enter or remain in the United Kingdom by which he satisfies the condition in section 83(1)(b).

8 Form and contents of notice of appeal

- (1) The notice of appeal must be [made on a form approved for the purpose by the President] and must--
- (a) state the name and address of the appellant; and
 - (b) state whether the appellant has authorised a representative to act for him in the appeal and, if so, give the representative's name and address;
 - (c) set out the grounds for the appeal;
 - (d) give reasons in support of those grounds; and
 - (e) so far as reasonably practicable, list any documents which the appellant intends to rely upon as evidence in support of the appeal.

(2) The notice of appeal must if reasonably practicable be accompanied by the notice of decision against which the appellant is appealing, or a copy of it.

(3) The notice of appeal must be signed by the appellant or his representative, and dated.

(4) If a notice of appeal is signed by the appellant's representative, the representative must certify in the notice of appeal that he has completed it in accordance with the appellant's instructions.

NOTES

Amendment

Para (1): words "made on a form approved for the purpose by the President" in square brackets substituted by SI 2006/2788, r 3.

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

[9 Notice of appeal where there is no relevant decision]

- (1) Where--
- (a) a person has given a notice of appeal to the Tribunal; and
 - (b) there is no relevant decision,

the Tribunal shall not accept the notice of appeal.

- (2) Where the Tribunal does not accept a notice of appeal, it must--
- (a) notify the person giving the notice of appeal and the respondent; and
 - (b) take no further action.

NOTES

Amendment

Provision heading: substituted by SI 2006/2788, r 4.

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

10 Late notice of appeal

(1) If a notice of appeal is given outside the applicable time limit, it must include an application for an extension of time for appealing, which must--

- (a) include a statement of the reasons for failing to give the notice within that period; and
- (b) be accompanied by any written evidence relied upon in support of those reasons.

(2) If a notice of appeal appears to the Tribunal to have been given outside the applicable time limit but does not include an application for an extension of time, unless the Tribunal extends the time for appealing of its own initiative, it must notify the person giving notice of appeal 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), if the person giving notice of appeal contends that--

- (a) the notice of appeal was given in time, or
- (b) there were special circumstances for failing to give the notice of appeal in time which could not reasonably have been stated in the notice of appeal,

he may file with the Tribunal written evidence in support of that contention.

(4) Written evidence under paragraph (3) must be filed--

- (a) if the person giving notice of appeal is in the United Kingdom, not later than 3 days; or
- (b) if the person giving notice of appeal is outside the United Kingdom, not later than 10 days,

after notification is given under paragraph (2).

(5) Where the notice of appeal was given out of time, the Tribunal may extend the time for appealing if satisfied that by reason of special circumstances it would be unjust not to do so.

(6) The Tribunal must decide any issue as to whether a notice of appeal was given in time, or whether to extend the time for appealing, as a preliminary decision without a hearing, and in doing so may only take account of--

- (a) the matters stated in the notice of appeal;
- (b) any evidence filed by the person giving notice of appeal in accordance with paragraph (1) or (3); and
- (c) any other relevant matters of fact within the knowledge of the Tribunal.

[(6A) Where the Tribunal makes a decision under this rule it must give written notice of its decision, including its reasons which may be in summary form.]

(7) Subject to paragraphs (8) and (9), the Tribunal must serve [the] written notice [given under paragraph (6A)] . . . on the parties.

(8) Where--

- (a) a notice of appeal under section 82 of the 2002 Act which relates in whole or in part to an asylum claim was given out of time;
- (b) the person giving notice of appeal is in the United Kingdom; and
- (c) the Tribunal refuses to extend the time for appealing,

the Tribunal must serve written notice of its decision on the respondent, which must--

- (i) serve the notice of decision on the person giving notice of appeal not later than 28 days after receiving it from the Tribunal; and
- (ii) as soon as practicable after serving the notice of decision, notify the Tribunal on what date and by what means it was served.

(9) Where paragraph (8) applies, if the respondent does not give the Tribunal notification under sub-paragraph (ii) within 29 days after the Tribunal serves the notice of decision on it, the Tribunal must serve the notice of decision on the person giving notice of appeal as soon as reasonably practicable thereafter.

NOTES

Amendment

Para (6A): inserted by SI 2006/2788, r 5(a).

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

Para (7): word "the" in square brackets inserted by SI 2006/2788, r 5(b)(i).

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

Para (7): words "given under paragraph (6A)" in square brackets inserted by SI 2006/2788, r 5(b)(ii).

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

Para (7): words omitted revoked by SI 2006/2788, r 5(b)(iii).

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

11 Special provisions for imminent removal cases

(1) This rule applies in any case in which the respondent notifies the Tribunal that removal directions have been issued against a person who has given notice of appeal, pursuant to which it is proposed to remove him from the United Kingdom within 5 calendar days of the date on which the notice of appeal was given.

(2) The Tribunal must, if reasonably practicable, make any preliminary decision under rule 10 before the date and time proposed for his removal.

(3) Rule 10 shall apply subject to the modifications that the Tribunal may--

- (a) give notification under rule 10(2) orally, which may include giving it by telephone;
- (b) shorten the time for giving evidence under rule 10(3); and
- (c) direct that any evidence under rule 10(3) is to be given orally, which may include requiring the evidence to be given by telephone, and hold a hearing or telephone hearing for the purpose of receiving such evidence.

12 Service of notice of appeal on respondent

- (1) Subject to paragraph (2), when the Tribunal receives a notice of appeal it shall serve a copy upon the respondent as soon as reasonably practicable.
- (2) Paragraph (1) does not apply where the notice of appeal was served on an entry clearance officer under rule 6(4)(b).

13 Filing of documents by respondent

- (1) When the respondent is served with a copy of a notice of appeal, it must (unless it has already done so) file with the Tribunal a copy of--

- (a) the notice of the decision to which the notice of appeal relates, and any other document served on the appellant giving reasons for that decision;
- (b) any--
 - (i) statement of evidence form completed by the appellant; and
 - (ii) record of an interview with the appellant,

in relation to the decision being appealed;

- (c) any other unpublished document which is referred to in a document mentioned in subparagraph (a) or relied upon by the respondent; and
- (d) the notice of any other immigration decision made in relation to the appellant in respect of which he has a right of appeal under section 82 of the 2002 Act.

- (2) Subject to paragraph (3), the respondent must file the documents listed in paragraph (1)--

- (a) in accordance with any directions given by the Tribunal; and
- (b) if no such directions are given, as soon as reasonably practicable and in any event not later than 2.00 pm on the business day before the earliest date appointed for any hearing of or in relation to the appeal.

- (3) If the Tribunal considers the timeliness of a notice of appeal as a preliminary issue under rule 10, the respondent must file the documents listed in paragraph (1) as soon as reasonably practicable after being served with a decision of the Tribunal allowing the appeal to proceed, and in any event not later than 2.00 pm on the business day before the earliest date appointed for any hearing of or in relation to the appeal following that decision.

- (4) The respondent must, at the same time as filing them, serve on the appellant a copy of all the documents listed in paragraph (1), except for documents which the respondent has already sent to the appellant.

14 Variation of grounds of appeal

Subject to section 85(2) of the 2002 Act, the appellant may vary his grounds of appeal only with the permission of the Tribunal.

15 Method of determining appeal

- (1) Every appeal must be considered by the Tribunal at a hearing, except where--

- (a) the appeal--
 - (i) lapses pursuant to section 99 of the 2002 Act;
 - (ii) is treated as abandoned pursuant to section 104(4) of the 2002 Act;
 - (iii) is treated as finally determined pursuant to section 104(5) of the 2002 Act; or

- (iv) is withdrawn by the appellant or treated as withdrawn in accordance with rule 17;
 - (b) paragraph (2) of this rule applies; or
 - (c) any other provision of these Rules or of any other enactment permits or requires the Tribunal to dispose of an appeal without a hearing.
- (2) The Tribunal may determine an appeal without a hearing if--
- (a) all the parties to the appeal consent;
 - (b) the appellant is outside the United Kingdom or it is impracticable to give him notice of a hearing and, in either case, he is unrepresented;
 - (c) a party has failed to comply with a provision of these Rules or a direction of the Tribunal, 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; or
 - (d) subject to paragraph (3), the Tribunal is satisfied, having regard to the material before it and the nature of the issues raised, that the appeal can be justly determined without a hearing.
- (3) Where paragraph (2)(d) applies, the Tribunal must not determine the appeal 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.

16 Certification of pending appeal

- (1) If the Secretary of State or an immigration officer issues a certificate under section 97 or 98 of the 2002 Act which relates to a pending appeal, he must file notice of the certification with the Tribunal.
- (2) Where a notice of certification is filed under paragraph (1), the Tribunal must--
- (a) notify the parties; and
 - (b) take no further action in relation to the appeal.

17 Withdrawal of appeal

- (1) An appellant may withdraw an appeal--
- (a) orally, at a hearing; or
 - (b) at any time, by filing written notice with the Tribunal.
- (2) An appeal shall be treated as withdrawn if the respondent notifies the Tribunal 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.
- [(2A) Where an appellant dies before his appeal has been determined by the Tribunal, the Tribunal may direct that--
- (a) the appeal shall be treated as withdrawn; or
 - (b) where the Tribunal considers it necessary, the personal representative of the appellant may continue the proceedings in the place of the appellant.]
- (3) If an appeal is withdrawn or treated as withdrawn, the Tribunal must serve on the parties a notice that the appeal has been recorded as having been withdrawn.

NOTES: Amendment

Para (2A): inserted by SI 2006/2788, r 6.

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

18 Abandonment of appeal

(1) Any party to a pending appeal must notify the Tribunal if they are aware that an event specified in--

- (a) section 104(4)[, (4A)] or (5) of the 2002 Act; or
- (b) regulation 33(1A) of the Immigration (European Economic Area) Regulations 2000 ("the 2000 Regulations") [or, on or after 30th April 2006, paragraph 4(2) of Schedule 2 to the Immigration (European Economic Area) Regulations 2006 ("the 2006 Regulations")],

has taken place.

[(1A) Where section 104(4A) of the 2002 Act applies and the appellant wishes to pursue his appeal, the appellant must file a notice with the Tribunal--

- (a) where section 104(4B) of the 2002 Act applies, within 28 days of the date on which the appellant received notice of the grant of leave to enter or remain in the United Kingdom for a period exceeding 12 months; or
- (b) where section 104(4C) of the 2002 Act applies, within 28 days of the date on which the appellant received notice of the grant of leave to enter or remain in the United Kingdom.

(1B) Where the appellant does not comply with the time limits specified in paragraph (1A) the appeal will be treated as abandoned in accordance with section 104(4) of the 2002 Act.

(1C) At the same time as filing the notice under paragraph (1A), the appellant must serve a copy of the notice on the respondent.

(1D) Where section 104(4B) of the 2002 Act applies, the notice filed under paragraph (1A) must state--

- (a) the appellant's full name and date of birth;
- (b) the Tribunal's reference number;
- (c) the Home Office reference number, if applicable;
- (d) the Foreign and Commonwealth Office reference number, if applicable;
- (e) the date on which the appellant was granted leave to enter or remain in the United Kingdom for a period exceeding 12 months; and
- (f) that the appellant wishes to pursue the appeal in so far as it is brought on the ground specified in section 84(1)(g) of the 2002 Act which relates to the Refugee Convention.

(1E) Where section 104(4C) of the 2002 Act applies, the notice filed under paragraph (1A) must state--

- (a) the appellant's full name and date of birth;
- (b) the Tribunal's reference number;
- (c) the Home Office reference number, if applicable;
- (d) the Foreign and Commonwealth Office reference number, if applicable;
- (e) the date on which the appellant was granted leave to enter or remain in the United Kingdom; and
- (f) that the appellant wishes to pursue the appeal in so far as it is brought on the ground specified in section 84(1)(b) of the 2002 Act which relates to section 19B of the Race Relations Act 1976.

(1F) Where an appellant has filed a notice under paragraph (1A) the Tribunal will notify the appellant of the date on which it received the notice.

(1G) The Tribunal will send a copy of the notice issued under paragraph (1F) to the respondent.]

(2) Where an appeal is treated as abandoned pursuant to section 104(4) [or (4A)] of the 2002 Act or regulation 33(1A) of the 2000 Regulations [or paragraph 4(2) of Schedule 2 to the 2006 Regulations], or finally determined pursuant to section 104(5) of the 2002 Act, the Tribunal must--

- (a) serve on the parties a notice informing them that the appeal is being treated as abandoned or finally determined; and
- (b) take no further action in relation to the appeal.

NOTES

Amendment

Para (1): in sub-para (a) reference to ", (4A)" in square brackets inserted by SI 2006/2788, r 7(a).
Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

Para (1): in sub-para (b) words from "or, on or" to "(the 2006 Regulations)" in square brackets inserted by SI 2006/1003, reg 31(2), Sch 5, para 8(1), (2).
Date in force: 30 April 2006: see SI 2006/1003, reg 1.

Paras (1A)-(1G): inserted by SI 2006/2788, r 7(b).
Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

Para (2): words "or (4A)" in square brackets inserted by SI 2006/2788, r 7(c).
Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

Para (2): words "or paragraph 4(2) of Schedule 2 to the 2006 Regulations" in square brackets inserted by SI 2006/1003, reg 31(2), Sch 5, para 8(1), (3).
Date in force: 30 April 2006: see SI 2006/1003, reg 1.

19 Hearing appeal in absence of a party

(1) The Tribunal [may] hear an appeal in the absence of a party or his representative, if satisfied that . . .--

- (a) [the party or his representative] has been given notice of the date, time and place of the hearing, and
- (b) there is no good reason for such absence].

(2) Where paragraph (1) does not apply, the Tribunal may hear an appeal in the absence of a party if satisfied that--

- (a) a representative of the party is present at the hearing;
- (b) the party is outside the United Kingdom;
- (c) the party is suffering from a communicable disease or there is a risk of him behaving in a violent or disorderly manner;
- (d) the party is unable to attend the hearing because of illness, accident or some other good reason;
- (e) the party is unrepresented and it is impracticable to give him notice of the hearing; or
- (f) the party has notified the Tribunal that he does not wish to attend the hearing.

NOTES

Amendment

Para (1): word "may" in square brackets substituted by SI 2007/835, r 2(a).
Date in force: 10 April 2007: see SI 2007/835, r 1(2).

Para (1): words omitted revoked by SI 2007/835, r 2(b).
Date in force: 10 April 2007: see SI 2007/835, r 1(2).

Para (1): in sub-para (a) words "the party or his representative" in square brackets inserted by SI 2007/835, r 2(c).

Date in force: 10 April 2007: see SI 2007/835, r 1(2).

Para (1): sub-para (b) substituted by SI 2007/835, r 2(d).

Date in force: 10 April 2007: see SI 2007/835, r 1(2).

20 Hearing two or more appeals together

Where two or more appeals are pending at the same time, the Tribunal may direct them to be heard together if it appears that--

- (a) some common question of law or fact arises in each of them;
- (b) they relate to decisions or action taken in respect of persons who are members of the same family; or
- (c) for some other reason it is desirable for the appeals to be heard together.

21 Adjournment of appeals

- (1) Where a party applies for an adjournment of a hearing of an appeal, he must--
 - (a) if practicable, notify all other parties of the application;
 - (b) show good reason why an adjournment is necessary; and
 - (c) produce evidence of any fact or matter relied upon in support of the application.
- (2) The Tribunal must not adjourn a hearing of an appeal on the application of a party, unless satisfied that the appeal cannot otherwise be justly determined.
- (3) The Tribunal must not, in particular, adjourn a hearing on the application of a party in order to allow the party more time to produce evidence, unless satisfied that--
 - (a) the evidence relates to a matter in dispute in the appeal;
 - (b) it would be unjust to determine the appeal without permitting the party a further opportunity to produce the evidence; and
 - (c) where the party has failed to comply with directions for the production of the evidence, he has provided a satisfactory explanation for that failure.
- (4) Where the hearing of an appeal is adjourned, the Tribunal will fix a new hearing date which--
 - (a) shall be not more than 28 days after the original hearing date, unless the Tribunal is satisfied that because of exceptional circumstances the appeal cannot justly be heard within that time; and
 - (b) shall in any event be not later than is strictly required by the circumstances necessitating the adjournment.

22 Giving of determination

- (1) Except in cases to which rule 23 applies, where the Tribunal determines an appeal it must serve on every party a written determination containing its decision and the reasons for it.
- (2) The Tribunal must send its determination--
 - (a) if the appeal is considered at a hearing, not later than 10 days after the hearing finishes; or
 - (b) if the appeal is determined without a hearing, not later than 10 days after it is determined.

23 Special procedures and time limits in asylum appeals

- (1) This rule applies to appeals under section 82 of the 2002 Act where--
 - (a) the appellant is in the United Kingdom; and
 - (b) the appeal relates, in whole or in part, to an asylum claim.

- (2) Subject to paragraph (3)--
 - (a) where an appeal is to be considered by the Tribunal at a hearing, the hearing must be fixed for a date not more than [35] days after the later of--
 - (i) the date on which the Tribunal receives the notice of appeal; or
 - (ii) if the Tribunal makes a preliminary decision under rule 10 (late notice of appeal), the date on which notice of that decision is served on the appellant; and

 - (b) where an appeal is to be determined without a hearing, the Tribunal must determine it not more than [35] days after the later of those dates.

- (3) If the respondent does not file the documents specified in rule 13(1) within the time specified in rule 13 or directions given under that rule--
 - (a) paragraph (2) does not apply; and

 - (b) the Tribunal may vary any hearing date that it has already fixed in accordance with paragraph (2)(a), if it is satisfied that it would be unfair to the appellant to proceed with the hearing on the date fixed.

- (4) The Tribunal must serve its determination on the respondent--
 - (a) if the appeal is considered at a hearing, by sending it not later than 10 days after the hearing finishes; or

 - (b) if the appeal is determined without a hearing, by sending it not later than 10 days after it is determined.

- (5) The respondent must--
 - (a) serve the determination on the appellant--
 - (i) if the respondent makes a section 103A application or applies for permission to appeal under section 103B or 103E of the 2002 Act, by sending, delivering or personally serving the determination not later than the date on which it makes that application; and
 - (ii) otherwise, not later than 28 days after receiving the determination from the Tribunal; and

 - (b) as soon as practicable after serving the determination, notify the Tribunal on what date and by what means it was served.

- (6) If the respondent does not give the Tribunal notification under paragraph (5)(b) within 29 days after the Tribunal serves the determination on it, the Tribunal must serve the determination on the appellant as soon as reasonably practicable thereafter.

- (7) In paragraph (2) of this rule, references to a hearing do not include a case management review hearing or other preliminary hearing.

NOTES

Amendment

Para (2): in sub-para (a) reference to "35" in square brackets substituted by SI 2006/2788, r 8(a).

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

Para (2): in sub-para (b) reference to "35" in square brackets substituted by SI 2006/2788, r 8(b).
Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

Part 3

Reconsideration of Appeals etc

24 Scope of this Part

- (1) Section 1 of this Part applies to section 103A applications made during any period in which paragraph 30 of Schedule 2 to the 2004 Act has effect, which are considered by an immigration judge in accordance with that paragraph.
- (2) Section 2 of this Part applies to reconsideration of appeals by the Tribunal pursuant to--
 - (a) an order under section 103A(1) made by--
 - (i) the appropriate court; or
 - (ii) an immigration judge in accordance with paragraph 30 of Schedule 2 to the 2004 Act; and
 - (b) remittal by the appropriate appellate court under section 103B(4)(c), 103C(2)(c) or 103E(4)(c) of the 2002 Act.
- (3) Section 3 of this Part applies to applications for permission to appeal to the appropriate appellate court.

Section 1

Section 103A Applications Considered by Members of the Tribunal

25 Procedure for applying for review

Where paragraph 30 of Schedule 2 to the 2004 Act has effect in relation to a section 103A application, the application must be made in accordance with relevant rules of court (including any practice directions supplementing those rules).

26 Deciding applications for review

- (1) A section 103A application shall be decided by an immigration judge authorised by the President to deal with such applications.
- (2) The immigration judge shall decide the application without a hearing, and by reference only to the applicant's written submissions and the documents filed with the application notice.
- (3) The immigration judge is not required to consider any grounds for ordering the Tribunal to reconsider its decision other than those set out in the application notice.
- (4) The application must be decided not later than 10 days after the Tribunal receives the application notice.
- (5) In deciding a section 103A application, the immigration judge may--
 - (a) in relation to an application for permission under section 103A(4)(b), either--
 - (i) permit the application to be made outside the period specified in section 103A(3); or
 - (ii) record that he does not propose to grant permission; and
 - (b) in relation to an application for an order under section 103A(1), either--

- (i) make an order for reconsideration; or
 - (ii) record that he does not propose to make such an order.
- (6) The immigration judge may make an order for reconsideration only if he thinks that--
- (a) the Tribunal may have made an error of law; and
 - (b) there is a real possibility that the Tribunal would decide the appeal differently on reconsideration.

27 Form and service of decision

- (1) Where an immigration judge decides[--
- (a) an application for permission under section 103A(4)(b); or
 - (b) an application for an order under section 103A(1)],

he must give written notice of his decision, including his reasons which may be in summary form.

- (2) Where an immigration judge makes an order for reconsideration--
- (a) his notice of decision must state the grounds on which the Tribunal is ordered to reconsider its decision on the appeal; and
 - (b) he may give directions for the reconsideration of the decision on the appeal which may--
 - (i) provide for any of the matters set out in rule 45(4) which he considers appropriate to such reconsideration; and
 - (ii) specify the number or class of members of the Tribunal to whom the reconsideration shall be allocated.

- (3) The Tribunal must, except in cases to which paragraph (5) applies--
- (a) serve a copy of the notice of decision and any directions on every party to the appeal to the Tribunal; and
 - (b) where the immigration judge makes an order for reconsideration, serve on the party to the appeal other than the party who made the section 103A application a copy of the application notice and any documents which were attached to it.

- (4) Paragraph (5) applies to reviews of appeals under section 82 of the 2002 Act where--
- (a) the appellant is in the United Kingdom; and
 - (b) the appeal relates, in whole or in part, to an asylum claim.

- (5) In cases to which this paragraph applies--
- (a) the Tribunal must send to the respondent to the appeal--
 - (i) the notice of decision,
 - (ii) any directions, and
 - (iii) the application notice and any documents which were attached to it (unless the respondent to the appeal made the application for reconsideration);
 - (b) the respondent must serve on the appellant--
 - (i) the notice of decision and any directions; and
 - (ii) the application notice and any documents which were attached to it (unless the appellant made the application for reconsideration),

not later than 28 days after receiving them from the Tribunal;

(c) the respondent 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 respondent does not give the Tribunal notification under sub-paragraph (c) within 29 days after the Tribunal serves the notice of decision on it, the Tribunal must serve the documents mentioned in sub-paragraph (b) on the appellant as soon as reasonably practicable thereafter.

NOTES

Amendment

Para (1): sub-paras (a), (b) substituted by SI 2006/2788, r 9.

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

28 Sending notice of decision to the appropriate court

The Tribunal must send to the appropriate court copies of--

(a) the notice of decision; and

(b) the application notice and any documents which were attached to it,

upon being requested to do so by the appropriate court.

[28A Orders for funding on section 103A applications]

[(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.

(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(3)], 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.]

NOTES

Amendment

Inserted by SI 2005/569, r 3.

Date in force: 4 April 2005: see SI 2005/569, r 1(1).

Para (3): in sub-para (b)(ii) reference to "103D(3)" in square brackets substituted by SI 2006/2788, r 10.

Date in force: this amendment came into force on 30 April 2007 (being the day on which the Immigration, Asylum and Nationality Act 2006, s 8 came into force): see SI 2007/1109, art 3 and SI 2006/2788, r 1(3).

SECTION 2

RECONSIDERATION OF APPEALS

29 Rules applicable on reconsideration of appeal

Rules 15 to 23, except for rule 23(2) and (3), and Part 5 of these Rules apply to the reconsideration of an appeal as they do to the initial determination of an appeal, and references in those rules to an appeal shall be interpreted as including proceedings for the reconsideration of an appeal.

30 Reply

(1) When the other party to the appeal is served with an order for reconsideration, he must, if he contends that the Tribunal should uphold the initial determination for reasons different from or additional to those given in the determination, file with the Tribunal and serve on the applicant a reply setting out his case.

(2) The other party to the appeal must file and serve any reply not later than 5 days before the earliest date appointed for any hearing of or in relation to the reconsideration of the appeal.

(3) In this rule, "other party to the appeal" means the party other than the party on whose application the order for reconsideration was made.

31 Procedure for reconsideration of appeal

(1) Where an order for reconsideration has been made, the Tribunal must reconsider an appeal as soon as reasonably practicable after that order has been served on both parties to the appeal.

(2) Where the reconsideration is pursuant to an order under section 103A--

(a) the Tribunal carrying out the reconsideration must first decide whether the original Tribunal made a material error of law; and

(b) if it decides that the original Tribunal did not make a material error of law, the Tribunal must order that the original determination of the appeal shall stand.

(3) Subject to paragraph (2), the Tribunal must substitute a fresh decision to allow or dismiss the appeal.

(4) In carrying out the reconsideration, the Tribunal--

(a) may limit submissions or evidence to one or more specified issues; and

(b) must have regard to any directions given by the immigration judge or court which ordered the reconsideration.

(5) In this rule, a "material error of law" means an error of law which affected the Tribunal's decision upon the appeal.

32 Evidence on reconsideration of appeal

(1) The Tribunal may consider as evidence any note or record made by the Tribunal of any previous hearing at which the appeal was considered.

(2) If a party wishes to ask the Tribunal to consider evidence which was not submitted on any previous occasion when the appeal was considered, he must file with the Tribunal and serve on the other party written notice to that effect, which must--

- (a) indicate the nature of the evidence; and
- (b) explain why it was not submitted on any previous occasion.

(3) A notice under paragraph (2) must be filed and served as soon as practicable after the parties have been served with the order for reconsideration.

(4) If the Tribunal decides to admit additional evidence, it may give directions as to--

- (a) the manner in which; and
- (b) the time by which,

the evidence is to be given or filed.

33 Orders for funding on reconsideration

(1) This rule applies where--

- (a) the Tribunal has reconsidered an appeal following a section 103A application made by the appellant in relation to an appeal decided in England, Wales or Northern Ireland; and
- (b) the appellant's representative has specified that he seeks an order under section 103D of the 2002 Act for his costs to be paid out of the relevant fund.

[(2) The Tribunal must make a separate determination ("the funding determination") stating whether it orders payment out of the relevant fund of the appellant's costs--

- (a) in respect of the application for reconsideration;
- (b) in respect of the preparation for reconsideration; and
- (c) in respect of the reconsideration.]

(3) The Tribunal must send the funding determination to--

- (a) the appellant's representative; and
- (b) if the Tribunal has made an order under section 103D, the relevant funding body.

(4) Where the determination of the reconsidered appeal ("the principal determination") is served in accordance with rule 23, the Tribunal must not send the funding determination to the appellant's representative until--

- (a) the respondent has notified the Tribunal under rule 23(5)(b) that it has served the principal determination on the appellant; or
- (b) the Tribunal has served the principal determination on the appellant under rule 23(6).

[(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.]

(5) In this Rule--

- (a) "relevant fund" means--
- (i) in relation to an appeal decided in England or Wales, the Community Legal Service Fund established under section 5 of the Access to Justice Act 1999;
 - (ii) in relation to an appeal decided in Northern Ireland, the fund established under paragraph 4(2)(a) of Schedule 3 to the Access to Justice (Northern Ireland) Order 2003; and
- (b) "relevant funding body" means--
- (i) in relation to an appeal decided in England or Wales, the Legal Services Commission;
 - (ii) in relation to an appeal decided in Northern Ireland, the Northern Ireland Legal Services Commission.

NOTES

Amendment

Para (2): substituted by SI 2006/2788, r 11.

Date in force: this amendment came into force on 30 April 2007 (being the day on which the Immigration, Asylum and Nationality Act 2006, s 8 came into force): see SI 2007/1109, art 3 and SI 2006/2788, r 1(3).

Para (4A): inserted by SI 2005/569, r 4.

Date in force: 4 April 2005: see SI 2005/569, r 1(1).

Section 3

Applications for Permission to Appeal to the Appropriate Appellate Court

34 Applying for permission to appeal

- (1) An application to the Tribunal under this Section must be made by filing with the Tribunal an application notice for permission to appeal.
- (2) The application notice for permission to appeal must--
- (a) be [made on a form approved for the purpose by the President];
 - (b) state the grounds of appeal; and
 - (c) be signed by the applicant or his representative, and dated.
- (3) If the application notice is signed by the applicant's representative, the representative must certify in the application notice that he has completed the application notice in accordance with the applicant's instructions.
- (4) As soon as practicable after an application notice for permission to appeal is filed, the Tribunal must notify the other party to the appeal to the Tribunal that it has been filed.

NOTES

Amendment

Para (2): in sub-para (a) words "made on a form approved for the purpose by the President" in square brackets substituted by SI 2006/2788, r 12.

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

35 Time limit for application

- (1) In application notice for permission to appeal must be filed in accordance with rule 34--
 - (a) if the applicant is in detention under the Immigration Acts when he is served with the Tribunal's determination, not later than 5 days after he is served with that determination;
 - (b) in any other case, not later than 10 days after he is served with the Tribunal's determination.
- (2) The Tribunal may not extend the time limits in paragraph (1).

36 Determining the application

- (1) An application for permission to appeal must be determined by a senior immigration judge without a hearing.
- (2) The Tribunal may either grant or refuse permission to appeal.
- (3) Where the Tribunal intends to grant permission to appeal it may, if it thinks that the Tribunal has made an administrative error in relation to the proceedings, instead set aside the Tribunal's determination and direct that the proceedings be reheard by the Tribunal.
- (4) The Tribunal must serve on every party written notice of its decision, including its reasons, which may be in summary form.

PART 4

BAIL

37 Scope of this Part and interpretation

- (1) This Part applies to applications under the Immigration Acts to the Tribunal, by persons detained under those Acts, to be released on bail.
- (2) In this Part, "applicant" means a person applying to the Tribunal to be released on bail.
- (3) The parties to a bail application are the applicant and the Secretary of State.

38 Applications for bail

- (1) An application to be released on bail must be made by filing with the Tribunal an application notice in [a form approved for the purpose by the President].
- (2) The application notice must contain the following details--
 - (a) the applicant's--
 - (i) full name;
 - (ii) date of birth; and
 - (iii) date of arrival in the United Kingdom;
 - (b) the address of the place where the applicant is detained;
 - (c) whether an appeal by the applicant to the Tribunal is pending;
 - (d) the address where the applicant will reside if his application for bail is granted, or, if he is unable to give such an address, the reason why an address is not given;
 - (e) where the applicant is aged 18 or over, whether he will, if required, agree as a condition of bail to co-operate with electronic monitoring under section 36 of the 2004 Act;
 - (f) the amount of the recognizance in which he will agree to be bound;

- (g) the full names, addresses, occupations and dates of birth of any persons who have agreed to act as sureties for the applicant if bail is granted, and the amounts of the recognizances in which they will agree to be bound;
- (h) the grounds on which the application is made and, where a previous application has been refused, full details of any change in circumstances which has occurred since the refusal; and
- (i) whether an interpreter will be required at the hearing, and in respect of what language or dialect.

(3) The application must be signed by the applicant or his representative or, in the case of an applicant who is a child or is for any other reason incapable of acting, by a person acting on his behalf.

NOTES

Amendment

Para (1): words "a form approved for the purpose by the President" in square brackets substituted by SI 2006/2788, r 13.

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

39 Bail hearing

- (1) Where an application for bail is filed, the Tribunal must--
 - (a) as soon as reasonably practicable, serve a copy of the application on the Secretary of State; and
 - (b) fix a hearing.
- (2) If the Secretary of State wishes to contest the application, he must file with the Tribunal and serve on the applicant a written statement of his reasons for doing so--
 - (a) not later than 2.00 pm on the business day before the hearing; or
 - (b) if he was served with notice of the hearing less than 24 hours before that time, as soon as reasonably practicable.
- (3) The Tribunal must serve written notice of its decision on--
 - (a) the parties; and
 - (b) the person having custody of the applicant.
- (4) Where bail is granted, the notice must include--
 - (a) the conditions of bail; and
 - (b) the amount in which the applicant and any sureties are to be bound.
- (5) Where bail is refused, the notice must include reasons for the refusal.

40 Recognizances

- (1) The recognizance of an applicant or a surety must be in writing and must state--
 - (a) the amount in which he agrees to be bound; and
 - (b) that he has read and understood the bail decision and that he agrees to pay that amount of money if the applicant fails to comply with the conditions set out in the bail decision.
- (2) The recognizance must be--

- (a) signed by the applicant or surety; and
- (b) filed with the Tribunal.

41 Release of applicant

The person having custody of the applicant must release him upon--

- (a) being served with a copy of the decision to grant bail; and
- (b) being satisfied that any recognizances required as a condition of that decision have been entered into.

42 Application of this Part to Scotland

This Part applies to Scotland with the following modifications--

- (a) in rule 38, for paragraph (2)(f) and (g) substitute--
 - "(f) the amount, if any, to be deposited if bail is granted;
 - (g) the full names, addresses and occupations of any persons offering to act as cautioners if the application for bail is granted;"
- (b) in rule 39, for paragraph (4)(b) substitute--
 - "(b) the amount (if any) to be deposited by the applicant and any cautioners.";
- (c) rule 40 does not apply; and
- (d) in rule 41, for sub-paragraph (b) substitute--
 - "(b) being satisfied that the amount to be deposited, if any, has been deposited.".

PART 5

GENERAL PROVISIONS

43 Conduct of appeals and applications

- (1) The Tribunal may, subject to these Rules, decide the procedure to be followed in relation to any appeal or application.
- (2) 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.

44 Constitution of the Tribunal

- (1) The Tribunal shall be under no duty to consider any representations by a party about the number or class of members of the Tribunal which should exercise the jurisdiction of the Tribunal.
- (2) Where the President directs that the Tribunal's jurisdiction shall be exercised by more than one member, unless the President's direction specifies otherwise a single immigration judge may--
 - (a) conduct a case management review hearing;
 - (b) give directions to the parties; and
 - (c) deal with any other matter preliminary or incidental to the hearing of an appeal or application.

45 Directions

- (1) The Tribunal may give directions to the parties relating to the conduct of any appeal or application.
- (2) The power to give directions is to be exercised subject to any specific provision of these Rules.
- (3) Directions must be given orally or in writing to every party.
- (4) Directions of the Tribunal may, in particular--
 - (a) relate to any matter concerning the preparation for a hearing;
 - (b) specify the length of time allowed for anything to be done;
 - (c) vary any time limit in these Rules or in directions previously given by the Tribunal for anything to be done by a party;
 - (d) provide for--
 - (i) a particular matter to be dealt with as a preliminary issue;
 - (ii) a case management review hearing to be held;
 - (iii) a party to provide further details of his case, or any other information which appears to be necessary for the determination of the appeal;
 - (iv) the witnesses, if any, to be heard;
 - (v) the manner in which any evidence is to be given (for example, by directing that witness statements are to stand as evidence in chief);
 - (e) require any party to file and serve--
 - (i) statements of the evidence which will be called at the hearing;
 - (ii) a paginated and indexed bundle of all the documents which will be relied on at the hearing;
 - (iii) a skeleton argument which summarises succinctly the submissions which will be made at the hearing and cites all the authorities which will be relied on, identifying any particular passages to be relied on;
 - (iv) a time estimate for the hearing;
 - (v) a list of witnesses whom any party wishes to call to give evidence;
 - (vi) a chronology of events; and
 - (vii) details of whether an interpreter will be required at the hearing, and in respect of what language and dialect;
 - (f) limit--
 - (i) the number or length of documents upon which a party may rely at a hearing;
 - (ii) the length of oral submissions;
 - (iii) the time allowed for the examination and cross-examination of witnesses; and
 - (iv) the issues which are to be addressed at a hearing; and
 - (g) require the parties to take any steps to enable two or more appeals to be heard together under rule 20.
 - (h) provide for a hearing to be conducted or evidence given or representations made by video link or by other electronic means; and
 - (i) make provision to secure the anonymity of a party or a witness.

(5) The Tribunal must not direct an unrepresented party to do something unless it is satisfied that he is able to comply with the direction.

(6) The President may direct that, in individual cases or in such classes of case as he shall specify, any time period in these Rules for the Tribunal to do anything shall be extended by such period as he shall specify.

46 Notification of hearings

(1) When the Tribunal fixes a hearing it must serve notice of the date, time and place of the hearing on every party.

(2) The Tribunal may vary the date of a hearing, but must serve notice of the new date, time and place of the hearing on every party.

47 Adjournment

Subject to any provision of these Rules, the Tribunal may adjourn any hearing.

48 Representation

(1) An appellant or applicant for bail may act in person or be represented by any person not prohibited from representing him by section 84 of the Immigration and Asylum Act 1999.

(2) A respondent to an appeal, the Secretary of State or the United Kingdom Representative may be represented by any person authorised to act on his behalf.

(3) If a party to whom paragraph (1) applies is represented by a person not permitted by that paragraph to represent him, any determination given or other step taken by the Tribunal in the proceedings shall nevertheless be valid.

(4) Where a representative begins to act for a party, he must immediately notify the Tribunal and the other party of that fact.

[4A) Where a notice of appeal, or an application for bail under rule 38, is signed by a representative, the representative will be deemed to have notified the Tribunal and the other party that he is acting for a party in accordance with paragraph (4).

[4B) Where a notice of appeal, or an application for bail under rule 38, is not signed by a representative, the representative must file a separate notice with the Tribunal and serve it on the other party to comply with his obligations under paragraph (4).]

(5) Where a representative is acting for a party, he may on behalf of that party do anything that these Rules require or permit that party to do.

(6) Where a representative is acting for an appellant, the appellant is under a duty--

- (a) to maintain contact with his representative until the appeal is finally determined; and
- (b) to notify the representative of any change of address.

(7) Where a representative ceases to act for a party, the representative and the party must immediately notify the Tribunal and the other party [in writing] of that fact, and of the name and address of any new representative (if known).

(8) Notification under paragraph (4) . . .--

- (a) [where a representative is appointed to act for a party on the day of a hearing,] may be given orally at [that] hearing to the Tribunal and to any other party present at that hearing; but
- (b) must otherwise be given in writing.

(9) Until the Tribunal is notified that a representative has ceased to act for a party, any document served on that representative shall be deemed to be properly served on the party he was representing.

NOTES

Amendment

Paras (4A), (4B): inserted by SI 2006/2788, r 14(a).

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

Para (7): words "in writing" in square brackets inserted by SI 2006/2788, r 14(b).

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

Para (8): words omitted revoked by SI 2006/2788, r 14(c)(i).

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

Para (8): in sub-para (a) words "where a representative is appointed to act for a party on the day of a hearing," in square brackets inserted by SI 2006/2788, r 14(c)(ii).

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

Para (8): in sub-para (a) word "that" in square brackets substituted by SI 2006/2788, r 14(c)(iii).

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

49 United Kingdom Representative

(1) The United Kingdom Representative may give notice to the Tribunal that he wishes to participate in any proceedings where the appellant has made an asylum claim.

(2) Where the United Kingdom Representative has given notice under paragraph (1)--

(a) rules 54(6) and 55(7) shall apply; and

(b) the Tribunal must permit him to make representations in the proceedings if he wishes to do so, and may give directions for that purpose.

50 Summoning of witnesses

(1) The Tribunal may, by issuing a summons ("a witness summons"), require any person in the United Kingdom--

(a) to attend as a witness at the hearing of an appeal; and

(b) subject to rule 51(2), at the hearing to answer any questions or produce any documents in his custody or under his control which relate to any matter in issue in the appeal.

(2) A person is not required to attend a hearing in obedience to a witness summons unless--

(a) the summons is served on him; and

(b) the necessary expenses of his attendance are paid or tendered to him.

(3) If a witness summons is issued at the request of a party, that party must pay or tender the expenses referred to in paragraph (2)(b).

51 Evidence

(1) The Tribunal may allow oral, documentary or other evidence to be given of any fact which appears to be relevant to an appeal or an application for bail, even if that evidence would be inadmissible in a court of law.

(2) The Tribunal may not compel a party or witness to give any evidence or produce any document which he could not be compelled to give or produce at the trial of a civil claim in the part of the United Kingdom in which the hearing is taking place.

- (3) The Tribunal may require the oral evidence of a witness to be given on oath or affirmation.
- (4) Where the Tribunal has given directions setting time limits for the filing and serving of written evidence, it must not consider any written evidence which is not filed or served in accordance with those directions unless satisfied that there are good reasons to do so.
- (5) Where a party seeks to rely upon a copy of a document as evidence, the Tribunal may require the original document to be produced.
- (6) In an appeal to which section 85(5) of the 2002 Act applies, the Tribunal must only consider evidence relating to matters which it is not prevented by that section from considering.
- (7) Subject to section 108 of the 2002 Act, the Tribunal must not take account of any evidence that has not been made available to all the parties.

52 Language of documents

- (1) Subject to paragraph (2)--
 - (a) any notice of appeal or application notice filed with the Tribunal must be completed in English; and
 - (b) any other document filed with the Tribunal must be in English, or accompanied by a translation into English signed by the translator to certify that the translation is accurate.
- (2) In proceedings in or having a connection with Wales, a document may be filed with the Tribunal in Welsh.
- (3) The Tribunal shall be under no duty to consider a document which is not in English (or, where paragraph (2) applies, in Welsh), or accompanied by a certified translation.

53 Burden of proof

- (1) If an appellant asserts that a relevant decision ought not to have been taken against him on the ground that the statutory provision under which that decision was taken does not apply to him, it is for that party to prove that the provision does not apply to him.
- (2) If--
 - (a) an appellant asserts any fact; and
 - (b) by virtue of an Act, statutory instrument or immigration rules, if he had made such an assertion to the Secretary of State, an immigration officer or an entry clearance officer, it would have been for him to satisfy the Secretary of State or officer that the assertion was true,

it is for the appellant to prove that the fact asserted is true.

54 Admission of public to hearings

- (1) Subject to the following provisions of this rule, every hearing before the Tribunal must be held in public.
- (2) Where the Tribunal is considering an allegation referred to in section 108 of the 2002 Act--
 - (a) all members of the public must be excluded from the hearing, and
 - (b) any party or representative of a party may be excluded from the hearing.
- (3) The Tribunal may exclude any or all members of the public from any hearing or part of a hearing if it is necessary--
 - (a) in the interests of public order or national security; or
 - (b) to protect the private life of a party or the interests of a minor.

(4) The Tribunal may also, in exceptional circumstances, exclude any or all members of the public from any hearing or part of a hearing to ensure that publicity does not prejudice the interests of justice, but only if and to the extent that it is strictly necessary to do so.

(5) A member of the Council on Tribunals or of its Scottish Committee acting in that capacity is entitled to attend any hearing and may not be excluded pursuant to paragraph (2), (3) or (4) of this rule.

(6) The United Kingdom Representative, where he has given notice to the Tribunal under rule 49, is entitled to attend any hearing except where paragraph (2) applies, and may not be excluded pursuant to paragraph (3) or (4) of this rule.

55 Filing and service of documents

(1) Any document which is required or permitted by these Rules or by a direction of the Tribunal to be filed with the Tribunal, or served on any person may 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; or
- (d) sent by e-mail to an e-mail address,

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

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

(3) Where a person has notified the Tribunal that he is acting as the representative of an appellant and has given an address for service, if a document is served on the appellant, a copy must also at the same time be sent to the appellant's representative.

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

(5) Subject to paragraph (6), any document that is served on a person in accordance with this rule shall, unless the contrary is proved, be deemed to be served--

- (a) where the document is sent by post or document exchange from and to a place within the United Kingdom, on the second day after it was sent;
- (b) where the document is sent by post or document exchange from or to a place outside the United Kingdom, on the twenty-eighth day after it was sent; and
- (c) in any other case, on the day on which the document was sent or delivered to, or left with, that person.

(6) Any notice of appeal which is served on a person under rule 6(3)(b) or 6(4)(b) shall be treated as being served on the day on which it is received by that person.

(7) Where the United Kingdom Representative has given notice to the Tribunal under rule 49 in relation to any proceedings, any document which is required by these Rules or by a direction of the Tribunal to be served on a party in those proceedings must also be served on the United Kingdom Representative.

56 Address for service

(1) Every party, and any person representing a party, must notify the Tribunal in writing of a postal address at which documents may be served on him and of any changes to that address.

(2) Until a party or representative notifies the Tribunal of a change of address, any document served on him at the most recent address which he has notified to the Tribunal shall be deemed to have been properly served on him.

57 Calculation of time

(1) Where a period of time for doing any act is specified by these Rules or by a direction of the Tribunal, that period is to be calculated--

- (a) excluding the day on which the period begins; and
- (b) where the period is 10 days or less, excluding any day which is not a business day (unless the period is expressed as a period of calendar days).

(2) Where the time specified by these Rules or by a direction of the Tribunal for doing any act ends on a day which is not a business day, that act is done in time if it is done on the next business day.

58 Signature of documents

Any requirement in these Rules for a document to be signed by a party or his representative shall be satisfied, in the case of a document which is filed or served electronically in accordance with these rules, by the person who is required to sign the document typing his name or producing it by computer or other mechanical means.

59 Errors of procedure

(1) Where, before the Tribunal has determined an appeal or application, there has been an error of procedure such as a failure to comply with a rule –

- (a) subject to these Rules, the error does not invalidate any step taken in the proceedings, unless the Tribunal so orders; and
- (b) the Tribunal may make any order, or take any other step, that it considers appropriate to remedy the error.

(2) In particular, any determination made in an appeal or application under these Rules shall be valid notwithstanding that--

- (a) a hearing did not take place; or
- (b) the determination was not made or served,

within a time period specified in these Rules.

60 Correction of orders and determinations

(1) The Tribunal may at any time amend an order, notice of decision or determination to correct a clerical error or other accidental slip or omission.

[(1A) The President may, either of his own motion or on application, review any order, notice of decision or determination made by the Tribunal and, after consulting all the parties to the appeal, may set it aside and direct that the relevant proceedings be dealt with again by the Tribunal, on the ground that it was wrongly made as the result of an administrative error on the part of the Tribunal or its staff.

(1B) An application under paragraph (1A) must be filed--

- (a) if the party making the application is in the United Kingdom, within 10 days; or
- (b) if the party making the application is outside the United Kingdom, within 28 days,

of the date on which the party is served with the order, notice of decision or determination.

(1C) At the same time as filing an application under paragraph (1A), the party making the application must serve a copy on the other party to the appeal.

(1D) The President may delegate his power under paragraph (1A) to a Deputy President or a senior immigration judge.]

(2) Where an order, notice of decision or determination is amended under this rule--

(a) the Tribunal must serve an amended version on the party or parties on whom it served the original; and

(b) if rule 10(8) and (9), rule 23(5) and (6) or rule 27(5)(b)-(d) applied in relation to the service of the original, it shall also apply in relation to the service of the amended version.

(3) The time within which a party may apply for permission to appeal against, or for a review of, an amended determination runs from the date on which the party is served with the amended determination.

NOTES

Amendment

Paras (1A)-(1D): inserted by SI 2006/2788, r 15.

Date in force: 13 November 2006: see SI 2006/2788, r 1(2).

PART 6

REVOCATION AND TRANSITIONAL PROVISIONS

61 Revocation

The Immigration and Asylum Appeals (Procedure) Rules 2003 are revoked.

62 Transitional provisions

(1) Subject to the following paragraphs of this rule, these Rules apply to any appeal or application to an adjudicator or the Immigration Appeal Tribunal which was pending immediately before 4th April 2005, and which continues on or after that date as if it had been made to the Tribunal by virtue of a transitional provisions order.

(2) Where a notice of a relevant decision has been served before 4th April 2005 and the recipient gives notice of appeal against the decision on or after 4th April 2005--

(a) rules 6-8, 12 and 13 of these Rules shall not apply; and

(b) rules 6-9 of the 2003 Rules shall continue to apply as if those Rules had not been revoked, but subject to the modifications in paragraph (4).

(3) Where a notice of appeal to an adjudicator has been given before 4th April 2005, but the respondent has not filed the notice of appeal with the appellate authority in accordance with rule 9 of the 2003 Rules--

(a) rules 12 and 13 of these Rules shall not apply; and

(b) rule 9 of the 2003 Rules shall continue to apply as if it had not been revoked, but subject to the modifications in paragraph (4).

(4) The modifications referred to in paragraphs (2)(b) and (3)(b) are that--

(a) references to an adjudicator or the appellate authority shall be treated as referring to the Tribunal;

(b) in rule 9(1) of the 2003 Rules--

- (i) the words "Subject to rule 10" shall be omitted; and
 - (ii) for "together with" there shall be substituted "and must also when directed by the Asylum and Immigration Tribunal file"; and
- (c) for rule 9(2) of the 2003 Rules there shall be substituted--
- "(2) The respondent must, as soon as practicable after filing the notice of appeal, serve on the appellant--
- (a) a copy of all the documents listed in paragraph (1), except for documents which the respondent has already sent to the appellant; and
 - (b) notice of the date on which the notice of appeal was filed."
- (5) Where, pursuant to a transitional provisions order, the Tribunal considers a section 103A application for a review of an adjudicator's determination of an appeal, Section 1 of Part 3 of these Rules shall apply subject to the modifications that--
- (a) in rules 26(3) and 27(2), the references to "its decision" shall be interpreted as referring to the adjudicator's decision; and
 - (b) in rules 26(6)(a) and 27(3)(a), the references to "the Tribunal" shall be interpreted as referring to the adjudicator.
- (6) Where, pursuant to a transitional provisions order, the Tribunal reconsiders an appeal which was originally determined by an adjudicator, Section 2 of Part 3 shall apply to the reconsideration, subject to paragraph (7).
- (7) Where--
- (a) a party has been granted permission to appeal to the Immigration Appeal Tribunal against an adjudicator's determination before 4th April 2005, but the appeal has not been determined by that date; and
 - (b) by virtue of a transitional provisions order the grant of permission to appeal is treated as an order for the Tribunal to reconsider the adjudicator's determination,
- the reconsideration shall be limited to the grounds upon which the Immigration Appeal Tribunal granted permission to appeal[, unless the Tribunal directs otherwise].
- (8) Any time limit in these Rules for the Tribunal to do anything shall not apply in relation to proceedings to which these Rules apply by virtue of paragraph (1) of this rule.
- (9) In relation to proceedings which were pending immediately before 4th April 2005--
- (a) unless the Tribunal directs otherwise--
 - (i) anything done or any directions given before 4th April 2005 under the 2003 Rules (including anything which, pursuant to rule 61(3) of those Rules, was treated as if done or given under those Rules) shall continue to have effect on and after that date;
 - (ii) anything done or any directions given by the appellate authority shall be treated as if done or given by the Tribunal; and
 - (iii) any document served on the appellate authority shall be treated as if served on the Tribunal;
 - (b) unless the context requires otherwise, any reference in a document to an adjudicator, the Immigration Appeal Tribunal or the appellate authority shall, insofar as it relates to an event on or after 4th April 2005, be treated as a reference to the Tribunal.
- (10) In this rule--

- (a) "the 2003 Rules" means the Immigration and Asylum Appeals (Procedure) Rules 2003;
- (b) "adjudicator" and "appellate authority" have the same meaning as in the 2003 Rules; and
- (c) "a transitional provisions order" means an order under section 48(3)(a) of the 2004 Act containing transitional provisions.

NOTES

Amendment

Para (7): words ", unless the Tribunal directs otherwise" in square brackets inserted by SI 2007/835, r 3.
Date in force: 10 April 2007: see SI 2007/835, r 1(2).