

**2001 No. 4014 (L.31)**

**IMMIGRATION**

**The Immigration and Asylum Appeals (Procedure)  
(Amendment) Rules 2001**

*Made* - - - - - *15th December 2001*

*Laid before Parliament* *17th December 2001*

*Coming into force* - - *7th January 2002*

The Lord Chancellor, in exercise of the powers conferred upon him by sections 58(2) and 166(3) of, and paragraphs 3 and 4 of Schedule 4 to, the Immigration and Asylum Act 1999<sup>(a)</sup>, after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992<sup>(b)</sup>, makes the following Rules:

**Citation, commencement and interpretation**

1.—(1) These Rules may be cited as the Immigration and Asylum Appeals (Procedure) (Amendment) Rules 2001 and shall come into force on 7th January 2002.

(2) In these Rules a reference to a rule by number alone means the rule so numbered in the Immigration and Asylum Appeals (Procedure) Rules 2000<sup>(c)</sup>.

**Amendments to the Immigration and Asylum Appeals (Procedure) Rules 2000**

2. In rule 2(1) after the definition of “family visitor appeal” insert—  
““immigration decision” means any decision concerning a person’s removal from, or entitlement to enter or remain in, the United Kingdom, in respect of which there is a right of appeal to an adjudicator;”.
3. Omit rule 7(2).
4. For rule 15 substitute—  
“15.—(1) Except where paragraph (2) applies, written notice of the adjudicator’s determination shall be sent to the parties and the appellant’s representative (if he has one).  
(2) Where a determination is, in whole or in part, in relation to a claim for asylum and
  - (a) the claim has been certified by the Secretary of State under paragraph 9(1) of Schedule 4 to the 1999 Act,
  - (b) the adjudicator has agreed under paragraph 9(2) of Schedule 4 to the 1999 Act, that it is a claim to which paragraph 9 of that Schedule applies, and
  - (c) the adjudicator has dismissed the appeal,written notice of the adjudicator’s determination shall be sent to the Secretary of State who shall arrange for it to be sent to, or served personally on, the other parties and the appellant’s representative (if he has one).

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(a) 1999 c. 33.  
(b) 1992 c. 53.  
(c) S.I. 2000/2333.

(3) Where paragraph (2) applies, the Secretary of State shall notify the adjudicator whether the written notice was sent to, or personally served on, the appellant and the date on which this was done.”.

5. In rule 16—

- (a) in paragraph (2)(a) for “party” substitute “appellant”;
- (b) in paragraph (3) after “sent to the parties” insert “in accordance with rule 15(1) or to the Secretary of State in accordance with rule 15(2)”;
- (c) for paragraph (5) substitute—

“(5) Where the Chief Adjudicator confirms the determination, written notice shall be sent—

- (a) in the case of a determination to which rule 15(1) applies, to the parties and the appellant’s representative (if he has one), or
- (b) in the case of a determination to which rule 15(2) applies, to the Secretary of State who shall arrange for it to be sent to, or served personally on, the other parties and the appellant’s representative (if he has one).”;
- (d) in paragraph (6) after “written notice shall” insert “, notwithstanding rule 15,”.

6. In rule 18—

- (a) in paragraph (9)—
  - (i) after “decided” insert “then, except where paragraph (9A) applies”; and
  - (ii) after “parties” insert “and the appellant’s representative (if he has one)”;
- (b) after paragraph (9) insert—

“(9A) Where an application for leave to appeal relates, in whole or in part, to a claim for asylum and

- (a) the appellant is not the Secretary of State, and
- (b) the Tribunal has refused the application,

written notice of the Tribunal’s decision on the application shall be sent to the Secretary of State who shall arrange for it to be sent to, or served personally on, the other parties and the appellant’s representative (if he has one).

(9B) Where paragraph (9A) applies, the Secretary of State shall notify the Tribunal whether the written notice was sent to, or personally served on, the appellant and the date on which this was done.”; and

- (c) in paragraph (10) after “(9)” insert “and (9A)”.

7. In rule 19—

- (a) in paragraph (3) for “to the appellant the notice of the decision” substitute “notice of its decision to the appellant in accordance with rule 18(9) or to the Secretary of State in accordance with rule 18(9A)”;
- (b) for paragraph (6) substitute—

“(6) Written notice of the Tribunal’s decision, which shall contain, in summary form, the reasons for the decision, shall be sent—

- (a) in the case of a decision to which rule 18(9) applies, to the parties and the appellant’s representative (if he has one), or
- (b) in the case of a decision to which rule 18(9A) applies, to the Secretary of State who shall arrange for it to be sent to, or served personally on, the other parties and the appellant’s representative (if he has one).”.

8. In rule 22(4) for “rule 38” substitute “paragraph 6 of Schedule 4 to the 1999 Act”.

9. In rule 33(1) for the words from “and the appellate authority” to the end of that paragraph substitute—

“the appellate authority shall dispose of the appeal in accordance with paragraph (2) if, after considering all the circumstances, including the extent of the failure and any reasons for it, it is desirable to do so to give effect to the overriding objective in rule 30(2).”.

*Irvine of Lairg, C.*

15th December 2001

## EXPLANATORY NOTE

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

These Rules amend the Immigration and Asylum Appeals (Procedure) Rules 2000 (S.I. 2000/2333). The main amendments are to provide that it is the Secretary of State who arranges for documents to be sent to the parties in two particular circumstances.

Firstly, amendments are made to rule 15 to provide that the Secretary of State arranges for the service of the adjudicator's determination where,

- the determination is in relation to a claim for asylum,
- the claim has been certified by the Secretary of State under paragraph 9(1) of Schedule 4 to the Immigration and Asylum Act 1999,
- the adjudicator has agreed, under paragraph 9(2) of Schedule 4, that it is a claim to which paragraph 9 applies, and
- the adjudicator has dismissed the appeal.

In relation to this amendment, consequential amendments have been made to rule 16.

Secondly, rule 18 is amended to provide that the Secretary of State arranges for the service of a decision of the Tribunal to refuse leave to appeal where,

- the application for leave to appeal relates to a claim for asylum, and
- the appellant is not the Secretary of State.

In relation to this amendment, consequential amendments have been made to rule 19.

In addition these Rules make amendments to correct and clarify rules 2, 7, 22 and 33.

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