Draft Order laid before Parliament under sections 5(9) and 8(4) of the Special Immigration Appeals Commission Act 1997, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

IMMIGRATION

The Special Immigration Appeals Commission (Procedure) (Amendment) Rules 2013

Made - - - - ***

Coming into force in accordance with rule 1

The Lord Chancellor, in exercise of the powers conferred by sections 5(**1**) and 8 of the Special Immigration Appeals Commission Act 1997(**2**), makes the following Rules.

In accordance with sections 5(9) and 8(4) of that Act, a draft of these Rules has been laid before and approved by resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These rules may be cited as the Special Immigration Appeals Commission (Procedure) (Amendment) Rules 2013 and come into force on the day after the day on which they are made.

(2) In these Rules, a reference to a rule by number alone means the rule so numbered in the Special Immigration Appeals Commission (Procedure) Rules 2003(**3**).

Amendments to the Special Immigration Appeals Commission (Procedure) Rules 2003

2. In rule 2(1)—

(a) in the definition of "appellant"(**4**), after "the Commission", insert—

(**1**) Section 5 was extended by section 6A of the Justice and Security Act 2013 (c.18) to apply to reviews under section 2C or 2D of the Special Immigration Appeals Commission Act 1997 (c.68) as it applies to appeals under section 2 or 2B of that Act.

(**2**) 1997 c.68. Section 5 was amended by section 82(2) of, and schedule 5 to, the Regulation of Investigatory Powers Act 2000 (c.23), section 9(1) of, and paragraph 28 of Schedule 2 to, the Race Relations (Amendment) Act 2000 (c.34), sections 4(3), 114(3) and 161 of, and paragraph 23 of Schedule 7 and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002 (c.41) and article 5(1) of, and paragraphs 14 and 15 of Schedule 1 to, S.I. 2010/21 and was extended by section 6A of the Special Immigration Appeals Commission Act 1997, as inserted by section 19 of, and paragraph 9 of Schedule 2 to, the Justice and Security Act 2013 (c.18), and by section 97A(2K) of the Nationality, Immigration and Asylum Act 2002 (c.41), as inserted by section 54 of the Crime and Courts Act 2013 (c.22) (section 97A was inserted by section 7(1) of the Immigration, Asylum and Nationality Act 2006 (c.13)).

(**3**) S.I. 2003/1034, as amended by S.I. 2007/1285, 2007/3370.

(**4**) As amended by S.I. 2007/1285.

"or, as the case may be, making an application to the Commission for review under section 2C or section 2D of the 1997 Act"(**5**);

(b) after the definition of "appellant", insert—

""application to the Commission for review under section 2C or section 2D of the 1997 Act" means an application to the Commission under subsection 2C(2) of the 1997 Act to set aside a direction to which that subsection applies, or an application to the Commission under subsection 2D(2) of the 1997 Act to set aside a decision to which that subsection applies, and, unless the contrary intention appears, "applying for review" and "application for review" are to be read accordingly;".

3. In rule 3(**6**), after paragraph (a) insert—

"(aa) applications to the Commission for review under section 2C or section 2D of the 1997 Act;".

4. In rule 5(1)(**7**)—

(a) in sub-paragraph (a), after "appealing" insert "or applying for review";

(b) in sub-paragraph (b), after "appeal" insert "or review".

5. For the heading of Part 2, substitute "**Appeals to and reviews by the Commission under the 1997 Act**".

6. For rule 6(**8**), substitute—

"**Scope of this Part**

6. This Part applies to—

(a) appeals to the Commission under section 2 or 2B of the 1997 Act and section 97A(3) of the 2002 Act; and

(b) applications to the Commission for review under section 2C or 2D of the 1997 Act.".

7. In the heading of rule 7, after "**appeal**" insert "**or application for review**".

8. In rule 7(**9**)—

(a) after paragraph (1), insert—

"(1A) An application to the Commission for review under the 1997 Act must be made by giving notice of application in accordance with these Rules.";

(b) in paragraph (2), after "appeal" insert "or notice of application for review";

(c) in paragraph (3), after "appeal" insert "or notice of application for review";

(d) in paragraph (4), after "appeal" insert "or notice of application for review";

(e) in paragraph (5), after "appeal" insert "or notice of application for review".

9. In the heading of rule 8, after "**appealing**" insert "**or for applying for review**".

10. In rule 8(**10**)—

(**5**) Sections 2C and 2D were inserted by section 15 of the Justice and Security Act 2013 (c.18).
(**6**) As amended by S.I. 2007/1285.
(**7**) As amended by S.I. 2007/1285.
(**8**) As amended by S.I. 2007/1285.
(**9**) As amended by S.I. 2007/1285.
(**10**) As amended by S.I. 2007/1285.

(a) in paragraph (1), after "the 2002 Act" insert "or a notice of application for review under the 1997 Act";

(b) in sub-paragraph (1)(a) after "appeal" insert "or direction or decision in respect of which he wishes to apply for review";

(c) in sub-paragraph (1)(b) after "appeal" insert "or direction or decision in respect of which he wishes to apply for review";

(d) after paragraph (4), insert—

"(4A) Where a person is served with notice of certification under section 2C(1)(a) or section 2D(1)(b) of the 1997 Act, the date from which the time limit for giving a notice of application for review under paragraph (1) begins is the later of the following—

(a) the date he is served with that notice of certification; or

(b) the date on which this paragraph came into force.".

11. In the heading of rule 9, after "**appeal**" insert "**or notice of application for review**".

12. In rule 9—

(a) after paragraph (1), insert—

"(1A) The notice of application for review must—

(a) specify, by reference to the principles which would be applied in an application for judicial review, the grounds for applying for a review;

(b) give reasons in support of those grounds; and

(c) specify the order or relief sought.";

(b) in paragraph (2), after "appeal" insert "or application for review";

(c) in paragraph (3), after "appeal" insert "or application for review";

(d) in paragraph (4), after "appeal" at each place, insert "or application for review";

(e) in paragraph (5), after "appeal" insert "or application for review".

13. In rule 9A(**11**)—

(a) in paragraph (1), after "appeal" insert "or notice of application for review";

(b) in sub-paragraph (3)(c), after "appeal" insert "or application for review".

14. In the heading of rule 10, after "**reply**" insert "**to an appeal**".

15. In rule 10(**12**), before paragraph (1) insert—

"(A1) This rule does not apply to an application to the Commission for review under section 2C or 2D of the 1997 Act.".

16. In the heading of rule 10A, after "**material**" insert "**in relation to an appeal**".

17. In rule 10A(**13**), before paragraph (1) insert—

"(A1) This rule does not apply to an application to the Commission for review under section 2C or 2D of the 1997 Act.".

18. After rule 10A, insert—

(**11**) Inserted by S.I. 2007/1285.
(**12**) As amended by S.I. 2007/1285.
(**13**) Inserted by S.I. 2007/1285.