STATUTORY RULES OF NORTHERN IRELAND

2005 No. 146

SUPREME COURT, NORTHERN IRELAND ASYLUM

The Rules of the Supreme Court (Northern Ireland) (Amendment) 2005

Made - - - -	*21st March 2005*
To be laid before Parliament	
Coming into operation	*18th April 2005*

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 55 of the Judicature (Northern Ireland) Act 1978(**1**), section 103A of the Nationality, Immigration and Asylum Act 2002(**2**) and paragraph 30(6) of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(**3**) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise those powers as follows: –

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment) 2005 and shall come into operation on 18th April 2005.

(2) In these Rules, "the principal rules" means the Rules of the Supreme Court (Northern Ireland) 1980(**4**) and an Order referred to by number or an Appendix referred to by letter means the Order so numbered or the Appendix so lettered in the principal Rules.

Arrangement of Orders

2. The Arrangement of Orders at the beginning of the principal rules shall be amended –

(a) by adding after the entry relating to Order 53, the following new entry –

"**53A.** Applications for statutory review under section 103A of the Nationality, Immigration and Asylum Act 2002(**5**)

(**1**) 1978 c. 23
(**2**) 2002 c. 41
(**3**) 2004 c. 19
(**4**) S.R. 1980 No. 346 to which the most recent relevant amendments were made by S.R. 2004 No. 108
(**5**) 2002 c. 41

(b) by adding after the entry relating to Order 60, the following new entry –

"**60A.** Referral to the Court of Appeal from the High Court under section 103C of the Nationality, Immigration and Asylum Act 2002."

Amendment to the principal Rules

3. Order 1, rule 11 shall be amended by adding after paragraph (i), the following new paragraph –

"(j) applications under section 103A of the Nationality, Immigration and Asylum Act 2002(**6**)."

4. The principal rules shall be amended by inserting –

(a) after Order 53, the new Order set out in Schedule 1 to these Rules; and

(b) after Order 60, the new Order set out in Schedule 2 to these Rules.

5. Order 61 shall be amended as follows –

(a) for rule 11 there shall be substituted the following new rule –

"**Application for leave to appeal to the Court of Appeal from the Tribunal established under section 81 of the Nationality, Immigration and Asylum Act 2002**

11.—(1) In this rule and rule 12 –

"the Act" means the Nationality, Immigration and Asylum Act 2002(**6**); and

"the Tribunal" means the Tribunal established under section 81 of the Act.

(2) An application for leave to appeal to the Court of Appeal under sections 103B or 103E of the Act shall be made within 14 days after the appellant is served with written notice of the Tribunal's decision to refuse leave to appeal.

(3) Such an application shall be made ex parte by lodging the following documents in the Central Office, namely –

(a) a certified copy of the Tribunal's decision to refuse leave to appeal; and

(b) a statement of the grounds of the application.

(4) The proper officer shall notify the parties of the determination of the Court of Appeal.

(5) Where leave to appeal has been granted, the applicant shall notify the President of the Tribunal."

(b) for rule 12, there shall be substituted the following new rule –

"**Appeal from the Tribunal**

12.—(1) Where leave to appeal to the Court of Appeal under sections 103B or 103E of the Act has been granted by the Tribunal or by the Court of Appeal, the time limit specified in rule 1(2)(a) for lodging the requisition to state a case shall be calculated from the date leave was so granted.

(2) On entering an appeal for hearing a copy of the order granting leave to appeal by the Tribunal or the Court of Appeal must be lodged in the Central Office together with the case stated and the requisition for hearing."

(**6**) 2002 c. 41

(**6**) 2002 c. 41

6. Order 94, rule 2(1) shall be amended by substituting for paragraph (xi), the following new paragraph –

"(xi) sections 103B and 103E of the Nationality, Asylum and Immigration Act 2002(**6**) (appeals from the Asylum and Immigration Tribunal)."

7. Appendix A shall be amended by inserting after Form No. 11, the new Forms 11A and 11B set out in Schedule 3 to these Rules.

Transitional provisions

8.—(1) In this Rule –

"the 2002 Act" means the Nationality, Immigration and Asylum Act 2002; and

"adjudicator" means an adjudicator appointed or treated as if appointed under section 81 of the 2002 Act.

(2) This Rule applies where, by virtue of transitional provisions contained in an order made under section 48(3)(a) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 –

(a) an application to the Immigration Appeal Tribunal for permission to appeal against an adjudicator's decision on an appeal, which was pending immediately before 4th April 2005, continues on or after 4th April 2005 as an application under section 103A of the 2002 Act; or

(b) an application is made under section 103A of the 2002 Act on or after 4th April 2005 for an order requiring the Asylum and Immigration Tribunal to reconsider an adjudicator's decision on an appeal.

(3) Order 53A shall apply to the application, subject to the modifications set out in paragraphs (4) to (8).

(4) Rules 3(5) and 5(3) shall not apply.

(5) In rule 1(1), in the definitions of 'appeal', 'appellant' and 'Tribunal' and in rules 3(3), 3(4)(c) to (e), 6 and 7(2), references to the Tribunal shall be construed as references to the adjudicator who decided the appeal.

(6) In rules 3(4)(a), 3(5)(a) and 8(1), references to the appeal shall be construed as references to the appeal to the adjudicator.

(7) In rule 6, the reference to a decision of the Tribunal shall be construed as a reference to a decision of the adjudicator.

(8) In rules 3(4)(b), 8(3)(a) and 8(5), references to the appellant shall be construed as references to the appellant in the appeal to the adjudicator.

Brian Kerr
J. M. Nicholson
Anthony Campbell
Paul Girvan
Patrick Coghlin
Mark Horner
Bernard McCloskey
Tony Caher
Caroline A. McGonagle

Dated 14th March 2005

(**6**) 2002 c. 41

Signed by the authority of the Lord Chancellor
I concur

Baroness Ashton of Upholland
Parliamentary Under-Secretary of State,
Department for Constitutional Affairs

Dated 21st March 2005

SCHEDULE 1 Rule 4

"ORDER 53A

APPLICATIONS FOR STATUTORY REVIEW UNDER SECTION 103A OF THE NATIONALITY, IMMIGRATION AND ASYLUM ACT 2002

Interpretation

1.—(1) In this Order –

"the 2002 Act" means the Nationality, Immigration and Asylum Act 2002(**7**) and a section referred to by number means the section so numbered in the Act;

"the 2004 Act" means the Asylum and Immigration (Treatment of Claimants etc.) Act 2004(**8**);

"appeal" means appeal to the Asylum and Immigration Tribunal under section 82 or 83 of the 2002 Act or section 40A of the British Nationality Act 1981(**9**);

"appellant" means the appellant in the appeal to the Asylum and Immigration Tribunal;

"applicant" means the person applying to the High Court for an order for reconsideration under section 103A;

expressions used in this Order which are used in the 2002 Act have the same meaning in this Order as in the 2002 Act;

"filter provision" means paragraph 30 of Schedule 2 to the 2004 Act;

"order for reconsideration" means an order under section 103A(1) requiring the Asylum and Immigration Tribunal to reconsider its decision on an appeal; and

"Tribunal" means the Asylum and Immigration Tribunal established under section 81.

(2) Any reference in this Order to a period of time specified in –

(a) section 103A(3) for making an application for an order for reconsideration; or

(b) paragraph 30(5)(b) of Schedule 2 to the 2004 Act for giving notice under that paragraph,

includes a reference to that period as varied by any order under section 26(8) of the 2004 Act.

(3) Order 3, rule 2 applies to the calculation of periods of time specified in –

(a) section 103A(3); and

(b) paragraph 30(5)(b) of Schedule 2 to the 2004 Act.

(4) Except as provided otherwise, the provisions of this Order apply to an application for an order for reconsideration regardless of whether the filter provision has effect in relation to that application.

Disapplication of certain rules to this Order

2.—(1) Order 8, rule 3(1) shall not apply to applications by originating motion under this Order.

(**7**) 2002 c. 41
(**8**) 2004 c. 19
(**9**) 1981 c. 61