
STATUTORY INSTRUMENTS

2005 No. 561 (L. 13)

IMMIGRATION

The Asylum and Immigration (Fast Track Time Limits) Order 2005

<i>Made</i>	- - - -	<i>7th March 2005</i>
<i>Laid before Parliament</i>		<i>10th March 2005</i>
<i>Coming into force</i>	- -	<i>4th April 2005</i>

The Lord Chancellor, in exercise of the powers conferred upon him by sections 26(8) and (9) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004⁽¹⁾, after consulting in accordance with section 26(10) of that Act, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Asylum and Immigration (Fast Track Time Limits) Order 2005 and shall come into force on 4th April 2005.

Interpretation

2.—(1) In this Order—

- (a) “the 2002 Act” means the Nationality, Immigration and Asylum Act 2002⁽²⁾;
- (b) “the 2004 Act” means the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004;
- (c) “the Fast Track Procedure Rules” means the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005⁽³⁾;
- (d) “the Tribunal” means the Asylum and Immigration Tribunal.

(2) Rule 3(5) of the Fast Track Procedure Rules applies for the purpose of articles 3 and 4 of this Order as it applies for the purpose of rules 5 and 15 of those Rules.

⁽¹⁾ 2004 c. 19.

⁽²⁾ 2002 c. 41. Section 106 was amended by paragraph 21 of Schedule 2 to the 2004 Act.

⁽³⁾ S.I.2005/560 (L. 12).

Time limit for making review application

3.—(1) This article applies in relation to an application under section 103A(1) of the 2002 Act for a review of the Tribunal’s decision on an appeal where—

- (a) Part 2 of the Fast Track Procedure Rules applied at all times to the appeal to the Tribunal; and
- (b) the appellant has been continuously in detention under the Immigration Acts at a place or places specified in Schedule 2 to the Fast Track Procedure Rules since being served with notice of the immigration decision against which he is appealing.

(2) The period of time within which the application must be made in the cases specified in section 103A(3)(a) and (c) of the 2002 Act shall be 2 days beginning with the date on which the applicant is treated in accordance with rules under section 106 of the 2002 Act as receiving notice of the Tribunal’s decision.

Time limit for notifying appropriate court following review by Tribunal member

4.—(1) This article applies in relation to an application under section 103A of the 2002 Act for a review of the Tribunal’s decision on an appeal where—

- (a) Section 1 of Part 3 of the Fast Track Procedure Rules applied at all times to the consideration of the application by a member of the Tribunal under paragraph 30(2) of Schedule 2 to the 2004 Act; and
- (b) the appellant has been continuously in detention under the Immigration Acts at a place or places specified in Schedule 2 to the Fast Track Procedure Rules since being served with notice of the immigration decision against which he is appealing.

(2) The period of time within which the applicant must give notification to the appropriate court under paragraph 30(5)(b) of Schedule 2 to the 2004 Act shall be 2 days beginning with the date on which the applicant is treated in accordance with rules under section 106 of the 2002 Act as receiving notice under paragraph 30(4)(b) of that Schedule.

7th March 2005

Falconer of Thoroton, C.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order shortens the time limits for review applications made by parties to “fast track” appeals to the Asylum and Immigration Tribunal. It comes into force on 4th April 2005.

The Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005 (“the Fast Track Procedure Rules”) set out a fast track procedure for appeals to the Asylum and Immigration Tribunal, where the appellant is in detention under the Immigration Acts at locations specified in those Rules.

Section 103A of the Nationality, Immigration and Asylum Act 2002 provides that a party to an appeal to the Tribunal may apply to the High Court or Court of Session for an order requiring the Tribunal to reconsider its decision on the appeal. Section 103A(3) specifies the time limits for making such an application.

Paragraph 30 of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (“the filter provision”) provides that, for a transitional period, section 103A applications will initially be considered by a member of the Tribunal. If the Tribunal member does not make an order for reconsideration or grant permission for the application to be made out of time, the applicant may notify the High Court or Court of Session that he wishes the court to consider the application. Paragraph 30(5)(b) specifies the time limit for the applicant to notify the court.

Section 26(8) of the 2004 Act provides that the Lord Chancellor may vary these periods of time by order. This order varies the time limits in cases where the Fast Track Procedure Rules apply, so long as the appellant remains in detention when the application is made or notification is given. Article 3 reduces the time for either party to the appeal to make a section 103A application from 5 days to 2 days. This shorter time limit applies in all fast track cases, regardless of whether the filter provision is in force. Article 4 is only relevant while the filter provision has effect, and reduces the time for notifying the court under paragraph 30(5) from 5 days to 2 days.

The calculation of these periods of time is governed by the Civil Procedure Rules which apply to section 103A applications.