STATUTORY INSTRUMENTS

1970 No. 794

COMMONWEALTH IMMIGRANTS

ALIENS

The Immigration Appeals (Procedure) Rules 1970

Made - - - -	21*st May* 1970
Laid before Parliament	28*th May* 1970
Coming into Operation	1*st July* 1970

ARRANGEMENT OF RULES

PART I

INTRODUCTION

Rule

1. Citation and commencement.
2. Interpretation.

PART II

APPEAL TO ADJUDICATOR OR TRIBUNAL AT FIRST INSTANCE

3. Application of Part II.
4. Time limit for appealing.
5. Notice of appeal.
6. Parties.
7. Explanatory statement by respondent.
8. Appeal against directions for removal on grounds of destination.
9. Supply of documents.
10. Determination of appeal without hearing.

PART III

APPEAL TO TRIBUNAL FROM ADJUDICATOR

11. Application of Part III.
12. Leave to appeal.
13. Time limit for appealing.
14. Notice of appeal and application for leave to appeal.
15. Parties.
16. Evidence.
17. Supply of documents.
18. Determination of appeal without hearing.

PART IV

GENERAL PROCEDURE

19. Application for bail.
20. Bail.
21. Notice of time and place of hearing.
22. Power to require particulars.
23. Representation.
24. Summoning of witnesses.
25. Conduct of proceedings at hearings.
26. Evidence.
27. Inspection of documentary evidence.
28. Burden of proof.
29. Exclusion of public.
30. Transfer of proceedings.
31. Hearing of appeal in absence of appellant.
32. Summary determination of appeals.
33. Miscellaneous powers.
34. Irregularities.
35. Recording of determinations and reasons therefor.
36. Record of proceedings.

PART V

MISCELLANEOUS

37. References by the Secretary of State.
38. Performance of functions of Tribunal.
39. Time.
40. Notices etc.
41. Variation of forms.

SCHEDULE

FORMS

Form 1—Notice of appeal to adjudicator or Tribunal at first instance.
Form 2—Notice of appeal or application for leave to appeal from adjudicator.
Form 3—Notice of application to appellate authority for bail.
Form 4—Recognizance of appellant.
Form 5—Recognizance of appellant's surety.
Form 6—Certificate of conditions of bail.
Form 7—Certificate that all recognizances taken.
Form 8—Summons to witness.

In exercise of the powers conferred upon me by section 11 of the Immigration Appeals Act 1969(a), both as enacted and as applied and modified by Article 12(1) of the Aliens (Appeals) Order 1970(b), and by section 7(2) of the said Act and Article 6(2) of the said Order, I hereby, make the following Rules:—

PART I

INTRODUCTION

Citation and commencement

1. These Rules may be cited as the Immigration Appeals (Procedure) Rules 1970 and shall come into operation on 1st July 1970.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires—

"the Act of 1962" means the Commonwealth Immigrants Act 1962(c);

"adjudicator" means an adjudicator appointed for the purposes of Part I of the Appeals Act;

"the Aliens Order" means the Aliens Order 1953(d) as amended (e);

"the Appeals Act" means the Immigration Appeals Act 1969 and, in relation to an appeal under Part II of the Appeals Order, means that Act as applied and modified by that Order;

"the Appeals Order" means the Aliens (Appeals) Order 1970;

"appeal" means an appeal under Part I of the Appeals Act or Part II of the Appeals Order, and "appellant" shall be construed accordingly;

"appellate authority" means an adjudicator or the Tribunal;

"chairman" means any member of the Tribunal appointed under paragraph 13 of Schedule 1 to the Appeals Act to act on behalf of the president;

"entry certificate officer" means a person having authority to grant an entry certificate on behalf of the Government of the United Kingdom;

"the president" means the president of the Tribunal;

"the Tribunal" means the Tribunal appointed for the purposes of Part I of the Appeals Act;

"visa officer" means a person having authority to grant a visa on behalf of the Government of the United Kingdom.

(2) In Part IV of these Rules any reference to an appellant in relation to an appeal to the Tribunal from the determination of an adjudicator under section 7 of the Appeals Act or Article 6 of the Appeals Order shall be construed as a reference to the person against whom the decision or action in question was taken, whether he is the appellant or the respondent in that appeal.

(3) Any reference in these Rules to a Rule is a reference to a Rule contained in these Rules.

(4) Any reference in these Rules to a form is a reference to a form set out in the Schedule to these Rules.

(5) Any reference in these Rules to any enactment is a reference thereto as amended, and includes a reference thereto as extended or applied by or under any other enactment.

(6) The Interpretation Act 1889(f) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(a) 1969 c. 21. (b) S.I. 1970/151 (1970 I, p.663). (c) 1962 c. 21. (d) S.I. 1953/1671 (1953 I, p. 94). (e) S.I. 1953/1671, 1957/597, 1960/2214, 1964/2034, 1967/1282, 1968/1649, 1970/151 (1953 I, p. 94; 1957 I, p. 142; 1960 I, p. 291; 1964 III, p. 5116; 1967 II, p. 3712; 1968 III, p. 4471; 1970 I, p. 663). (f) 1889 c. 63.

PART II

APPEAL TO ADJUDICATOR OR TRIBUNAL AT FIRST INSTANCE

Application of Part II

3. This Part applies to appeals to an adjudicator and, under Article 4(1)(*b*) of the Appeals Order, to the Tribunal, and references in this Part to an appeal an appellant or proceedings shall be construed accordingly.

Time limit for appealing

4.—(1) Notice of appeal—

(*a*) under section 2(1)(*a*) of the Appeals Act against a refusal to admit a person into the United Kingdom; or

(*b*) under Article 2(1)(*a*) of the Appeals Order against a refusal to grant a person leave to land in the United Kingdom,

may be given at any time before the ship or aircraft in which he is to be removed from the United Kingdom departs.

(2) Notice of appeal under section 2(1)(*b*) of the Appeals Act or Article 2(1)(*b*) of the Appeals Order against a prohibition on landing from a ship at a port may be given at any time before the ship departs.

(3) Notice of appeal—

(*a*) under section 2(1)(*c*) of the Appeals Act against a refusal of an application for the grant of an entry certificate; or

(*b*) under Article 2(1)(*c*) of the Appeals Order against a refusal of an application for the grant of a visa,

may be given not later than 3 months after the refusal.

(4) Notice of appeal under Article 2(1)(*d*) of the Appeals Order against a refusal by the Secretary of State to revoke an instruction which names a person who is to be refused leave to land may be given not later than 28 days after the refusal.

(5) Notice of appeal under section 3 of the Appeals Act or Article 3 of the Appeals Order (conditions of entry) against any decision may be given—

(*a*) in the case of an appeal under subsection (1)(*a*) of that section or paragraph (1)(*a*) of that Article (imposition of time conditions), not later than 24 hours after the taking of the decision;

(*b*) in any other case, not later than 14 days after the taking of the decision.

(6) Notice of appeal under section 4 of the Appeals Act or Article 4 of the Appeals Order (deportation) against any decision may be given—

(*a*) in the case of an appeal under subsection (1)(*b*) of that section or paragraph (1)(*a*)(ii) of that Article (refusal by the Secretary of State to revoke a deportation order), not later than 28 days after the taking of the decision;

(*b*) in any other case, not later than 14 days after the taking of the decision.

(7) Notice of appeal under section 5 of the Appeals Act or Article 5 of the Appeals Order against the giving of directions for the removal of a person from the United Kingdom may be given—

(*a*) in the case of an appeal under subsection (3) of that section or paragraph (3) of that Article in respect of directions given in consequence of a refusal of admission under section 2(1) of the Act of 1962 or a refusal o

leave to land under Article 1 of the Aliens Order, as the case may be, at any time before the ship or aircraft in which he is to be removed from the United Kingdom departs;

(*b*) in any other case, not later than 14 days after the giving of the directions.

(8) Where notice in writing of any decision or action is required by the Immigration Appeals (Notices) Regulations 1970**(a)** to be given and it is sent by post, the day on which it was so sent shall, for the purposes of this Rule, be deemed to be the day on which the decision or action was taken.

Notice of appeal

5.—(1) Notice of appeal shall be given by completing Part I of Form 1 and so much of Part II thereof as relates to the notice and serving it on the appropriate authority specified in paragraph (2) below:

Provided that notice of appeal under—

(*a*) section 2(1)(*a*) or (*b*) of the Appeals Act or Article 2(1)(*a*) or (*b*) of the Appeals Order (refusal of entry or prohibition on seaman landing); or

(*b*) section 5(3) of the Appeals Act or Article 5(3) of the Appeals Order against the giving of directions for removal in consequence of a refusal of admission under section 2(1) of the Act of 1962 or a refusal of leave to land under Article 1 of the Aliens Order,

may, if the appellant is in the United Kingdom, be given orally to any immigration officer (whether or not responsible for the decision or action in question) by him or by a person duly authorised by him in that behalf or, in the case of an appellant who is a minor or who is for any reason incapable of acting, by any person acting on his behalf.

(2) For the purposes of paragraph (1) above the appropriate authority is—

(*a*) in the case of an appeal under—

(i) section 2(1)(*a*) or (*b*) or 3(1)(*a*) of the Appeals Act (refusal of entry, prohibition on seaman landing or imposition of conditions of entry); or

(ii) Article 2(1)(*a*) or (*b*) or 3(1)(*a*) of the Appeals Order (refusal of entry, prohibition on seaman landing or imposition of conditions of entry); or

(iii) section 5(3) of the Appeals Act or Article 5(3) of the Appeals Order against the giving of directions for removal from the United Kingdom in consequence of a refusal of admission under section 2(1) of the Act of 1962 or a refusal of leave to land under Article 1 of the Aliens Order, as the case may be,

the immigration officer responsible for the decision or action in question;

(*b*) in the case of an appeal under section 2(1)(*c*) of the Appeals Act (refusal of entry certificate), the entry certificate officer responsible for the decision in question;

(*c*) in the case of an appeal under Article 2(1)(*c*) of the Appeals Order (refusal of visa), the visa officer responsible for the decision in question;

(*d*) in any other case, the Secretary of State.

(3) The grounds of an appeal set out in Form 1 may be varied or amplified at any time during the course of the appeal.

(a) S.I. 1970/793 (1970 II, p.2506).

(4) Form 1 shall be signed by the appellant or by a person duly authorised by him in that behalf or, in the case of an appellant who is a minor or who is for any reason incapable of acting, by any person acting on his behalf.

(5)(*a*) An authority to whom notice of appeal has been given in accordance with these Rules shall, unless the appellant subsequently gives notice of the abandonment of his appeal, take such steps as are necessary to ensure that the notice of appeal is referred to an adjudicator or the Tribunal, as appropriate, together with such particulars relating to the nature and grounds of the appeal as have been given by the appellant.

(*b*) The steps required by sub-paragraph (*a*) above shall be taken, in the case of an immigration officer, as soon as practicable after the giving of the notice of appeal or, in any other case, as soon as practicable after the written statement of facts required by Rule 7 has been prepared.

(6) Where a written notice of appeal addressed to any immigration officer, entry certificate officer or visa officer has been sent or delivered in accordance with Rule 40 but that officer is for any reason unable to receive it, the notice shall be deemed to have been served on that officer; and in any such case the Secretary of State shall cause the steps required by paragraph (5) above to be taken by another officer in accordance with that paragraph.

Parties

6.—(1) In the case of an appeal against a decision or action taken by an immigration officer in the exercise of powers conferred on him as such, the appellant and the immigration officer shall be the parties to the appeal.

(2) In the case of an appeal—

(*a*) under section 2(1)(*c*) of the Appeals Act against a refusal of an application for the grant of an entry certificate; or

(*b*) under Article 2(1)(*c*) of the Appeals Order against a refusal of an application for the grant of a visa,

the appellant and the entry certificate officer or visa officer who refused the application shall be the parties to the appeal.

(3) In the case of an appeal against any decision or action other than one mentioned in paragraph (1) or (2) above, the appellant and the Secretary of State shall be the parties to the appeal.

(4) The Secretary of State shall be treated as a party to any appeal, where he would not otherwise be a party to it by virtue of this Rule, upon giving written notice to the appellate authority at any time during the course of the appeal stating that he desires to be so treated.

(5) If any party to an appeal is or claims to be a refugee within the competence of the United Nations High Commissioner for Refugees, the United Kingdom Representative of the High Commissioner shall be treated as a party to the appeal upon giving written notice to the appellate authority at any time during the course of the appeal stating that he desires to be so treated.

(6) If an officer is for any reason unable to take part in the proceedings in any appeal to which he would otherwise be a party by virtue of paragraph (1) or (2) above, the Secretary of State shall be treated as a party to the appeal in place of the officer; and thereupon any notice or other document sent or given by or to the officer for the purposes of the appeal shall be deemed to have been sent or given by or to the Secretary of State.

Explanatory statement by respondent

7.—(1) Subject to the provisions of paragraph (2) below, the respondent in an appeal shall, as soon as practicable after notice of the appeal is given, prepare a written statement of the facts relating to the decision or action in question and the reasons therefor and take such steps as are necessary to ensure that the statement is referred to an adjudicator or the Tribunal, as appropriate, and that a copy thereof is given to the appellant.

(2) It shall not be necessary for an immigration officer who is the respondent in an appeal to comply with the requirements of paragraph (1) above if he is of the opinion that it is not practicable to do so, having regard to the time available before the hearing of the appeal; but he shall then, as soon as practicable after notice of the appeal is given, give written notice to the appellate authority and the appellant that he is of that opinion and that a statement of the facts relating to the decision or action in question and the reasons therefor will be given orally at the hearing of the appeal.

(3) At the commencement of any hearing before an appellate authority, the authority shall give to the respondent an opportunity to amplify orally the written statement given in accordance with paragraph (1) above or, if no such written statement has been given, shall obtain from the respondent an oral statement of the facts relating to the decision or action in question and the reasons therefor.

(4) In this Rule "respondent" in relation to an appeal means the person, other than the appellant, who is a party to the appeal by virtue of Rule 6(1), (2), (3) or (6).

Appeal against directions for removal on grounds of destination

8. In the case of an appeal under section 5(3) of the Appeals Act or Article 5(3) of the Appeals Order (objection to removal to a particular country), the appellant shall submit with the notice of appeal a statement in writing of the matters put forward in support of the appeal.

Supply of documents

9. Subject to the provisions of section 9 of the Appeals Act and Article 8 of the Appeals Order (cases involving national security, etc. or forgery of documents), the appellate authority shall cause copies of all notices and other documents required for an appeal to be supplied to every party to the appeal.

Determination of appeal without hearing

10. An appellate authority may dispose of an appeal without a hearing if—

(*a*) no party to the appeal has requested a hearing; or

(*b*) the appellate authority has decided, after giving every other party to the appeal an opportunity of replying to any representations submitted in writing by or on behalf of the appellant, to allow the appeal; or

(*c*) the appellate authority is satisfied that the appellant is outside the United Kingdom and that no person is authorised to represent him at a hearing; or

(*d*) in the case of an appeal under section 5(3) of the Appeals Act or Article 5(3) of the Appeals Order (objection to removal to a particular country), the appellate authority is of opinion that the matters put forward in support of the appeal in pursuance of Rule 8 do not warrant a hearing.

PART III

APPEAL TO TRIBUNAL FROM ADJUDICATOR

Application of Part III

11. This Part applies to appeals to the Tribunal from the determination of an adjudicator under section 7 of the Appeals Act or Article 6 of the Appeals Order, and references in this Part to an appeal, an appellant or proceedings shall be construed accordingly.

Leave to appeal

12.—(1) An appeal shall lie only with the leave of the adjudicator or the Tribunal in every case except—

(*a*) where the determination relates to an appeal under section 3(1)(*b*) of the Appeals Act or Article 3(1)(*b*) of the Appeals Order against the variation of a condition of admission or landing condition imposed on a person otherwise than in consequence of an application made by him for such a variation; and

(*b*) in the circumstances mentioned in section 7(2)(*a*) of the Appeals Act and Article 6(2)(*a*) of the Appeals Order (certificate by Secretary of State as to public interest that case should be decided by Tribunal).

(2) In addition to the circumstances in which leave to appeal must, by virtue of section 7(2)(*b*) of the Appeals Act and Article 6(2)(*b*) of the Appeals Order (existence of entry certificate or visa), be granted, an appellate authority to whom application for leave to appeal as aforesaid is duly made shall grant it—

(*a*) if the authority is satisfied that the determination of the appeal turns upon an arguable point of law; or

(*b*) where an adjudicator has dismissed an appeal by a person who is in the United Kingdom, if the authority is satisfied that the country or territory to which he is to be removed is one to which he is unwilling to go owing to fear of being persecuted there for reasons of race, religion, nationality, membership of a particular social group or political opinion.

(3) In this Rule "landing condition" has the same meaning as in Article 3(1)(*b*) of the Appeals Order.

Time limit for appealing

13.—(1) Application to an adjudicator for leave to appeal shall be made forthwith after the making of the determination in question.

(2) Application to the Tribunal for leave to appeal or notice of appeal may be made or given not later than 7 days after the making of the determination in question.

(3) Where the applicant or the appellant, as the case may be, is the person against whom the decision or action in question was taken and he is not in the United Kingdom, the Isle of Man, the Channel Islands or the Republic of Ireland, paragraph (2) above shall have effect as if for the words "7 days" there were substituted the words "28 days".

Notice of appeal and application for leave to appeal

14.—(1) Subject to the provisions of paragraph (2) below, notice of appeal or an application for leave to appeal shall be given or made by completing Part I of Form 2 and so much of Part II thereof as relates to the notice and serving it on an adjudicator or the Tribunal, as appropriate.

(2) Notwithstanding the provisions of paragraph (1) above, an application to an adjudicator for leave to appeal may be made orally by the applicant or by a person duly authorised by him in that behalf or, in the case of an applicant who is a minor or who is for any reason incapable of acting, by any person acting on his behalf; but in that event the requirements of paragraph (1) above shall be complied with as soon as practicable thereafter.

(3) The grounds of an appeal or application set out in Form 2 may be varied or amplified at any time during the course of the appeal or application.

(4) Form 2 shall be signed by the appellant or applicant, as the case may be, or by a person duly authorised by him in that behalf or, in the case of an appellant or applicant who is a minor or who is for any reason incapable of acting, by any person acting on his behalf.

(5) Where leave to appeal is not required or is given, a notice of application for leave to appeal shall be treated as a notice of appeal; and where such an appeal lies with the leave of an adjudicator or the Tribunal or with the leave of the Tribunal only and notice of appeal is served on the Tribunal, the notice of appeal shall be treated also as an application for leave to appeal.

Parties

15.—(1) On any appeal against the determination of an adjudicator, the persons who were the parties to the appeal before the adjudicator shall be the parties to the appeal before the Tribunal.

(2) The Secretary of State shall be treated as a party to any appeal, where he would not otherwise be a party to it by virtue of paragraph (1) above, upon giving written notice to the Tribunal at any time during the course of the appeal stating that he desires to be so treated.

(3) If any party to an appeal is or claims to be a refugee within the competence of the United Nations High Commissioner for Refugees, the United Kingdom Representative of the High Commissioner shall be treated as a party to the appeal, where he would not otherwise be a party to it by virtue of paragraph (1) above, upon giving written notice to the Tribunal at any time during the course of the appeal stating that he desires to be so treated.

(4) If an officer is for any reason unable to take part in the proceedings in any appeal to which he would otherwise be a party by virtue of paragraph (1) above, the Secretary of State shall be treated as a party to the appeal in place of the officer; and thereupon any notice or other document sent or given by or to the officer for the purpose of the appeal shall be deemed to have been sent or given by or to the Secretary of State.

Evidence

16.—(1) If any party to an appeal wishes to adduce evidence before the Tribunal further to that which was adduced before the adjudicator in the course of the proceedings to which the appeal relates, he shall give notice in writing to that effect to the Tribunal indicating the nature of the evidence; and any such notice shall—

(*a*) in the case of the appellant, be given with the notice of appeal or as soon as practicable after notice of appeal is given;

(*b*) in the case of any other party, as soon as practicable after a copy of the notice of appeal has been received by him.

(2) In any proceedings on an appeal—

(*a*) the Tribunal may, in its discretion, receive or decline to receive further evidence of which notice has been given in accordance with paragraph (1) above, and if any such further evidence is received as aforesaid it shall, if the Tribunal so directs, be given in writing in such manner and at such time as the Tribunal may require;

(*b*) if it appears to the Tribunal that further evidence of which notice has been given as aforesaid should be received or that the evidence before it is insufficient to enable it to arrive at a proper determination of the appeal, it may remit the appeal to the same or another adjudicator for such further evidence as the Tribunal may require to be obtained; and

(*c*) the summary or record taken or kept in accordance with Rule 36 of any evidence received by the adjudicator in the course of the proceedings to which the appeal relates or by an adjudicator to whom the appeal is remitted as aforesaid shall be received as evidence by the Tribunal.

Supply of documents

17. Subject to the provisions of section 9 of the Appeals Act and Article 8 of the Appeals Order (cases involving national security, etc. or forgery of documents), the Tribunal shall cause copies of all notices and other documents required for an appeal, other than those already supplied in accordance with Rule 9, to be supplied to every party to the appeal.

Determination of appeal without hearing

18. The Tribunal may dispose of an appeal without a hearing if—

(*a*) no party to the appeal has requested a hearing; or

(*b*) where the appellant is the person against whom the decision or action in question was taken, the Tribunal is satisfied that he is not in the United Kingdom and that no other person is authorised to represent him at a hearing.

PART IV

GENERAL PROCEDURE

Application for bail

19. An application by an appellant to be released on bail shall—

(*a*) if to an immigration officer or police officer, be made orally; or

(*b*) if to an appellate authority, be made either orally or in Form 3.

Bail

20.—(1) The recognizance of an appellant shall be in Form 4 and that of a surety in Form 5.

(2) Where an appellate authority directs the release of an appellant on bail and the taking of the recognizance is postponed under paragraph 6 of Schedule 3 to the Appeals Act, the authority shall issue a certificate in Form 6 showing the conditions to be endorsed on the recognizance with a view to the recognizance being taken subsequently and the amounts in which the appellant and any sureties are to be bound.

(3) The person having custody of an appellant shall—

(*a*) on receipt of a certificate in Form 7 signed by the secretary of the Tribunal or by the adjudicator stating that the recognizances of any sureties required have been taken, or on being otherwise satisfied that all such recognizances have been taken; and

(*b*) on being satisfied that the appellant has entered into his recognizance, release the appellant.

(4) Paragraphs (1) and (2) above shall not apply to Scotland, and in their application to Scotland paragraph (3) above and Form 7 shall have effect as if for the references to recognizances of sureties having been taken there were substituted references to bail having been taken and for the references to a recognizance there were substituted references to a bail bond.

Notice of time and place of hearing

21.—(1) Subject to the provisions of paragraph (2) below, as soon as practicable after notice of appeal has been given the appellate authority shall, if there is to be a hearing, give notice in writing to every party to the appeal stating the time and place of the hearing.

(2) Where an appellant is detained under paragraph 4 of Schedule 1 to the Act of 1962 or Article 8 of the Aliens Order (detention pending further examination or removal), the appellate authority may, instead of giving notice in writing as aforesaid, cause any immigration officer to be notified orally as to the time and place of the hearing; and thereupon that officer shall take such steps as are necessary to ensure that every party to the appeal is notified accordingly and that the appellant is produced at the hearing.

Power to require particulars

22. An appellate authority may at any time request any party to the appeal to furnish any particulars which appear to be requisite for the determination of the appeal, and thereupon that party shall send the particulars to the appellate authority.

Representation

23.—(1) In any proceedings on an appeal, a party to the appeal may act in person or be represented—

(*a*) in the case of the appellant, by counsel or a solicitor, a consular officer or a person performing functions corresponding to those of a consular officer, a person appointed in that behalf by any voluntary organisation for the time being in receipt of a grant under section 15 of the Appeals Act or, with the leave of the appellate authority, by any other person appearing to the authority to be acting on behalf of the appellant;

(*b*) in the case of the Secretary of State or any officer, by counsel or a solicitor or any officer of the Home Department;

(*c*) in the case of the United Kingdom Representative of the United Nations High Commissioner for Refugees, by a person appointed by him in that behalf.

(2) A person representing a party to an appeal in accordance with paragraph (1) above may take all such steps and do all such things relating to the proceedings as the person whom he represents is by these Rules required or authorised to take or do.

Summoning of witnesses

24.—(1) An appellate authority may, for the purpose of any appeal, b summons require any person in the United Kingdom to attend as a witness a a hearing of the appeal at such time and place as may be specified in the summor and, subject to the provisions of Rule 26(2), at the hearing to answer an questions or produce any documents in his custody or under his control whic relate to any matter in question in the appeal:

Provided that no person shall be required, in obedience to such a summons, t go more than 10 miles from his place of residence unless the necessary expens of his attendance are paid or tendered to him.

(2) Any such summons shall be in Form 8.

Conduct of proceedings at hearings

25. Subject to the provisions of Rules 16 and 31, at any hearing by a appellate authority—

(*a*) the appellate authority shall give each party to the appeal an opportuni to address the authority, to give evidence and to call witnesses, and an party to the appeal may put questions to any person giving evidenc before the authority;

(*b*) after any evidence has been taken the appellate authority shall giv each party to the appeal an opportunity of making representations o the evidence and on the subject matter of the appeal generally,

but, save as aforesaid and after complying where appropriate with the provisio of Rule 7(3), the appellate authority shall conduct the proceedings in suc manner as it considers appropriate in the circumstances for ascertaining th matters in dispute and determining the appeal.

Evidence

26.—(1) An appellate authority may receive oral, documentary or oth evidence of any fact which appears to the authority to be relevant to the appea notwithstanding that such evidence would be inadmissible in a court of law

(2) In any proceedings before an appellate authority, no person shall b compelled to give any evidence or produce any document which he could not b compelled to give or produce on the trial of an action in that part of the Unite Kingdom in which the proceedings are conducted.

(3) An appellate authority may require any witness to give evidence on oat or affirmation, and for that purpose an oath or affirmation in due form may b administered.

Inspection of documentary evidence

27. Subject to the provisions of section 9 of the Appeals Act and Article 8 o the Appeals Order (cases involving national security, etc. or forgery of doc ments), when an appellate authority takes into consideration documenta evidence the authority shall give every party to the appeal an opportunity o inspecting that evidence and taking copies thereof.

Burden of proof

28.—(1) If in any proceedings before an appellate authority a party there asserts that a decision or action taken against him under any provisions of th Act of 1962, Part II of the Appeals Act or the Aliens Order ought not to ha

been taken on the grounds that he is not a person to whom those provisions apply, it shall lie on him to prove that he is not such a person.

(2) If in any proceedings before an appellate authority a party thereto asserts any fact of such a kind that, if the assertion were made to the Secretary of State or any officer for the purposes of any of the provisions of the Act of 1962 or any immigration rules, it would by virtue of those provisions or rules be for him to satisfy the Secretary of State or officer of the truth thereof, it shall lie on that party to prove that the assertion is true.

(3) In paragraph (2) above "immigration rules" means immigration rules as defined in section 24(2) of the Appeals Act or immigration rules as defined in Article 13(1) of the Appeals Order.

Exclusion of public

29.—(1) Subject to the provisions of paragraph (2) below, an appellate authority may—

(*a*) at the request of a party, exclude any member of the public or members of the public generally from any hearing by the authority; or

(*b*) whether or not at the request of a party, exclude any member of the public who, in the opinion of the authority, is behaving in a manner likely to interfere with the proper conduct of the proceedings,

but save as aforesaid any hearing of an appeal shall take place in public.

(2) Nothing in this Rule shall prevent a member of the Council on Tribunals or of its Scottish Committee from attending a hearing in his capacity as such, except where the Secretary of State has given a certificate under the provisions of section 9(3)(*a*) of the Appeals Act or Article 8(3)(*a*) of the Appeals Order (cases involving national security) and the hearing takes place in the absence of a party to the appeal and his representatives accordingly.

Transfer of proceedings

30.—(1) Where any proceedings before an adjudicator have not been disposed of by the adjudicator and the chief adjudicator, or any person for the time being carrying out the functions of the chief adjudicator, is of the opinion that it is not practicable without undue delay for the proceedings to be completed by that adjudicator, he shall make arrangements for them to be dealt with by another adjudicator; and any adjudicator to whom any proceedings are transferred as aforesaid shall have power to deal with them as if they had been commenced before him.

(2) In the case of an appeal to an adjudicator under section 2(1)(*a*) of the Appeals Act or Article 2(1)(*a*) of the Appeals Order (refusal of entry), if the adjudicator considers that it is expedient for the appeal to be dealt with by another adjudicator—

(*a*) at a place elsewhere by reason of the existence there of facilities for the medical examination or further medical examination of the appellant; or

(*b*) by reason of the first-mentioned adjudicator's personal connection with or interest in the circumstances of the appeal,

the first-mentioned adjudicator may make arrangements for it to be dealt with by that other adjudicator; and any adjudicator to whom an appeal is transferred as aforesaid shall have power to deal with it as if it had been commenced before him.

(3) Where any proceedings are transferred to an adjudicator in accordanc with paragraph (1) or (2) above or referred to the Tribunal in accordance wit directions given under section 9(1) of the Appeals Act or Article 8(1)(*a*) of th Appeals Order (cases involving national security, etc.), any notice or othe document sent or given by or to the adjudicator from whom the proceedin were transferred or referred shall be deemed to have been sent or given by c to the first-mentioned adjudicator or the Tribunal, as the case may be.

Hearing of appeal in absence of appellant

31. An appellate authority may hear an appeal in the absence of the appellar if satisfied that he is not in the United Kingdom.

Summary determination of appeals

32.—(1) Subject to the provisions of paragraph (2) below, where it appears t an appellate authority that the issues raised on an appeal have been determined-

(*a*) in the case of an appeal before an adjudicator, by the same or anoth adjudicator or by the Tribunal, or

(*b*) in the case of an appeal before the Tribunal, by the Tribunal,

in previous proceedings under Part I of the Appeals Act or Part II of the Appea Order to which the appellant was a party on the basis of facts which did n materially differ from those to which the appeal relates, the authority may fortl with determine the appeal without a hearing.

(2) Before an appellate authority determines an appeal without a hearing accordance with paragraph (1) above, the authority shall give the parties a opportunity of making representations to the effect that the appeal ought n to be so determined.

(3) Where an appeal is determined without a hearing in accordance wi paragraph (1) above, the appellate authority shall give written notice to tl parties that the appeal has been so determined, and any such notice shall conta a statement of the issues raised on the appeal and specify the previous proceedin in which those issues were determined.

Miscellaneous powers

33. An appellate authority may—

(*a*) postpone the time fixed for the hearing of an appeal;

(*b*) give directions on any matter arising in connection with an appeal any party who requests them;

(*c*) if notice of the abandonment of an appeal is given, dismiss the appe

(*d*) if the parties to an appeal agree in writing upon the terms of a det mination to be made by the appellate authority, determine the appe accordingly;

(*e*) adjourn the hearing of any evidence or representations or the consider tion of an appeal to such date as the authority may determine; and

(*f*) subject to the provisions of the Appeals Act, the Appeals Order a these Rules, regulate its own procedure.

Irregularities

34. Any irregularity resulting from failure to comply with these Rules befc an appellate authority has reached its decision shall not of itself render t proceedings void, but the appellate authority may, and shall if it considers th

any person may have been prejudiced, take such steps as it thinks fit before reaching its decision to cure the irregularity, whether by amendment of any document, the giving of any notice or otherwise.

Recording of determinations and reasons therefor

35.—(1) The determination on any appeal shall be recorded by the appellate authority in a document signed by the adjudicator or, as the case may be, the president or presiding chairman and the reasons for the determination shall be set out therein.

(2) The appellate authority shall, as soon as practicable, cause a copy of the document referred to in paragraph (1) above to be sent to every party to the appeal.

Record of proceedings

36. The appellate authority shall cause a summary of the proceedings before it to be taken, except insofar as a record of them is kept by means of shorthand notes or by mechanical means.

PART V

MISCELLANEOUS

References by the Secretary of State

37. An appellate authority shall consider any matter referred to it by the Secretary of State for further consideration under section 10 of the Appeals Act or Article 9 of the Appeals Order in whatever manner it thinks appropriate.

Performance of functions of Tribunal

38. Any function conferred on the Tribunal by Schedule 3 to the Appeals Act or Rule 24 and any function of the Tribunal in relation to applications for leave to appeal may be performed by the president or a chairman acting alone.

Time

39.—(1) Where the time provided by these Rules for doing any act expires on a Sunday or public holiday and by reason thereof the act cannot be done on that day, the act shall be in time if done on the next working day.

(2) Where, under these Rules, an act is to be done not later than a specified period after any event, the period shall be calculated from the expiry of the day on which the event occurred.

Notices etc.

40.—(1) Any notice or other document required or authorised by these Rules to be sent or given to any person or authority may be sent by post in a registered letter or by the recorded delivery service or delivered—

(*a*) in the case of a document directed to the Tribunal, to the secretary of the Tribunal;

(*b*) in the case of a document directed to an adjudicator, to any person employed as his clerk;

(*c*) in the case of a document directed to the Secretary of State, to the Under Secretary of State, Home Office, Immigration and Nationality Department (Appeals Section), Princeton House, 271-277 High Holborn, London, W.C.1;

(*d*) in the case of a document directed to an immigration officer, entry certificate officer or visa officer, to the address specified in the statement issued in relation to the decision or action in question under Regulation 4(1)(*c*) of the Immigration Appeals (Notices) Regulations 1970 or, if no such statement has been issued, to the address specified in sub-paragraph (*c*) above;

(*e*) in the case of a document directed to any other person, to his address for service specified in any notice given under these Rules, or to his last known or usual place of abode,

and, if sent or given to a person representing a party to an appeal in accordance with Rule 23(1), shall be deemed to have been sent or given to that party.

(2) A party to an appeal may at any time by notice to the appellate authority change his address for service under these Rules.

Variation of forms

41. The forms set out in the Schedule to these Rules or forms substantially to the like effect may be used with such variations as the circumstances may require.

James Callaghan,
One of Her Majesty's Principal Secretaries of State.

Home Office,
Whitehall.
21st May 1970.

Rules 2(4) and 41

SCHEDULE

FORMS

Rule 5

Form 1

IMMIGRATION APPEALS ACT 1969

Notice of appeal to adjudicator or Tribunal at first instance

To the *Adjudicator/*Tribunal

PART I

Particulars of appellant:

	Forenames	Surname	Date of birth
Full name: (Block letters)			
Nationality:			
Address: (If detained give address where detained)			

Particulars of decision or action appealed against:—

The grounds of appeal are as follows:—

A hearing of the appeal *is/*is not requested

PART II

*The appellant is applying for bail (*see* Note (*a*) below)

*The appellant objects to removal to the country/territory to which he is to be removed, namely.....
on the grounds set out in the attached statement (*see* Note (*b*) below)

A copy of the notice of the decision or action appealed against is annexed hereto.

Signed.....
(Appellant or authorised representative)

Date.....

*Delete words which are inapplicable.

Notes (a) An application for bail should normally be supported by the appropriate form, but may be made orally. Such an application may be made subsequently.

(b) An objection to removal to a particular country or territory must be accompanied by a written statement as to the grounds for the objection.

Form 2 Rule 14

IMMIGRATION APPEALS ACT 1969

Notice of appeal or application for leave to appeal from adjudicator

To the *Adjudicator/*Tribunal

PART I

Particulars of appellant:

	Forenames	Surname	Date of birth
Full name: (Block letters)			
Nationality:			
Address: (if detained give address where detained)			

Particulars of determination of the adjudicator appealed against:—

The grounds of appeal are as follows:—

A hearing of the appeal *is/*is not requested

PART II

The appellant is applying for

*Leave to appeal to the Tribunal

*Bail (*see* Note (*a*) below)

*The appellant objects to removal to the country/territory to which he is to be re moved, namely.....
on the grounds set out in the attached statement (*see* Note (*b*) below)

*The appellant wishes to adduce further evidence before the Tribunal as follows:–

A copy of the notice of the determination of the adjudicator appealed against is annexe hereto.

Signed.....
(Appellant or authorised representative)

Date.....

*Delete words which are inapplicable.

Notes (a) An application for bail should normally be supported by the appropriate form but may be made orally. Such an application may be made subsequently.

(b) An objection to removal to a particular country or territory must be accompanie by a written statement as to the grounds for the objection.

Rule 19

Form 3

IMMIGRATION APPEALS ACT 1969

Application to appellate authority for bail

To the *Adjudicator/*Tribunal

Particulars of appellant:

	Forenames	Surname
Full name: (Block letters)		

Address where detained:

Give the appellant's address if bail were granted, and the amount of the recognizanc in which he would agree to be bound.
Address if granted bail
Amount of recognizance offered £.....

Give the names, addresses and occupations of two persons who might act as sureties i bail were granted and the amounts of the recognizances in which they might agree t be bound.

1st Surety:
Name, address, occupation
Amount of recognizance offered £.....

2nd Surety:
Name, address,occupation
Amount of recognizance offered £.....

*If bail has been granted by an adjudicator in the course of the appeal state:—
Amount of recognizances:

Appellant	Sureties	
£.....	£.....	£.....

Were the sureties the persons named above?

What, if any, special conditions were imposed?

The appellant applies for bail on the following grounds:-

Signed.....
(Appellant or authorised representative)

Date.....

*Delete words which are inapplicable.

Form 4 Rule 20(1)

IMMIGRATION APPEALS ACT 1969

Recognizance of appellant

I, ...(hereinafter called the appellant) acknowledge that I owe to Her Majesty The Queen the sum of £....., payment thereof to be enforced against me by due process of law if I fail to comply with the condition[s] endorsed hereon.

Signed.....

Address at which appellant proposes to reside pending appeal .....

Taken before me the.....day of....., 19....., at.....

Signed.....

Office.....

(*Endorsement*)

Condition[s]

The condition[s] of this recognizance is [are] that if the appellant appears before .....(appellate authority) at..... (time and place) unless the appellate authority otherwise orders, then this recognizance shall be void, but otherwise shall remain in full force(1).

(1) Conditions appearing to the appellate authority to be likely to result in the appellant's appearance at the time and place required may be added.

Form 5 Rule 20(1)

IMMIGRATION APPEALS ACT 1969

Recognizance of appellant's surety

I,.....acknowledge that I owe to Her Majesty the Queen the sum of....., payment thereof to be enforced against me by due process of law if..... detained in.....fails to comply with the condition endorsed hereon.

Signed .....

Address .....

Taken before me the.....day of ....., 19.....,
at.....
Signed.....
Office.....

(*Endorsement*)

Condition

The condition of the recognizance is that if the said.....
appears before.....(appellate authority) at.....
.....(time and place) unless the appellate authority otherwise orders, then this recognizance shall be void, but otherwise shall remain in full force.

Rule 20(2) Form 6

IMMIGRATION APPEALS ACT 1969

Certificate of conditions of bail

I hereby certify that.....(appellat authority) has granted bail and has fixed the amount of the recognizance to be entere into by.....
.....
detained in.....at the sur of.....and.....surety in..... [each] conditioned for the appearance of the said..... ..... before .....(appellat authority) at.....(time and place unless the appellate authority otherwise orders.*

Signed.....

Date .....

*Add, in the case of the appellant, any other conditions specified by the appellat authority.

Rule 20(3) and (4) Form 7

IMMIGRATION APPEALS ACT 1969

Certificate that all recognizances taken

I hereby certify that the recognizances of the sureties of.....
.....detained in .....have been taken.

Signed.....
(Secretary of the Tribunal/Adjudicato

Date .....

Form 8 Rule 24

IMMIGRATION APPEALS ACT 1969

Summons to witness

To ..... (name)

of .....(address)

An appeal has been lodged by.....

against the* { decision / action / determination } of .....

to the effect that:—

..... { State shortly the particulars of the decision, action or determination appealed against

.....

.....

And I, the undersigned, am satisfied that you are likely to be able to [give material evidence] [and] [produce the undermentioned document[s] likely to be material evidence] therein.

You are therefore summoned to attend as a witness at the hearing of the appeal at ..... (time and place) and at the hearing to [answer any questions] [and] [produce the following document[s]]:—

Signed.....

(President/Chairman of the Tribunal/Adjudicator)

Date.....

*Delete words which are inapplicable.

Note Failure to comply with this summons without reasonable excuse is an offence carrying a maximum fine of £100 (s. 11(3), Immigration Appeals Act 1969).

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules (which have been prepared in consultation with the Council on Tribunals) set out the procedure to be followed in bringing appeals under Part I of the Immigration Appeals Act 1969 and the Aliens (Appeals) Order 1970 and in proceedings before the Tribunal and adjudicators established for that purpose.

Part II of the Rules relates to appeals to the adjudicators and the Tribunal at first instance, Part III to appeals to the Tribunal from determinations of the adjudicators and Part IV to the general procedure applicable in either case. Provisions are included for limiting the time within which appeals at first instance (Rule 4) and from the determinations of the adjudicators (Rule 13) are to be brought; for the release of appellants on bail (Rules 19 and 20); and for the summoning of witnesses before the Tribunal and adjudicators (Rule 24).

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