

**The following amendments to the Unified Contract Immigration Category Specific rules will come into force on xx date 2010**

Paragraph 11.2 'Controlled Work paid at Hourly Rates'

Delete paragraphs 11.2(d) and 11.2(e) and replace with:

- 11.2(d) Advice in relation to the merits of lodging an application for permission to appeal to the Upper Tribunal (where advice has not been received under Stage 2 of the Graduated Fee Scheme);
- 11.2(e) Controlled Legal Representation in relation to an application for permission to appeal and appeals before the Upper Tribunal;

Add:

- 11.2(l) Cases remitted from the Upper Tribunal to the First-tier Tribunal.

Paragraphs 11.54 to 11.64 will be deleted and replaced with:

***Application to appeal to the Upper Tribunal from a decision by the First-tier Tribunal***

11.54 Where an application for permission to appeal to the Upper Tribunal is:

- (a) being dealt with under the UKBA detained Fast Track processes: or
- (b) has been lodged by the UKBA.

You may claim reasonable costs for work associated with the application, irrespective of whether permission is granted or not.

11.55 Intentionally deleted.

11.56 In relation to all other cases not listed in 11.54, where an application for permission to appeal to the Upper Tribunal has been granted (either by the First tier Tribunal or the Upper Tribunal) then you may claim your reasonable costs for work associated with the application.

Where an application for permission to appeal to the Upper Tribunal has been refused then you may not claim your costs from us.

You will need to reconsider the relevant merits of the case at each stage of the proceedings.

11.57 Where an application in the circumstances of Paragraph 11.54 has been successful then the further reasonable costs for the preparation of, travel to, waiting and representation at the Upper Tribunal hearing (including any Counsel's fees and Disbursements) may be claimed. This is remunerated at the Hourly Rates set out in Table 8(a) of the Payment Annex.

### ***Controlled Work undertaken before the Upper Tribunal***

11.58 Where an application in the circumstances of Paragraph 11.56 has been successful and the Matter is to be heard before the Upper Tribunal then the further reasonable costs for the preparation of, travel to, waiting and representation at the Upper Tribunal hearing (including any Counsel's fees and Disbursements) may be claimed. In these cases the Hourly Rates set out in Table 8(b) of the Payment Annex apply.

11.59 Where an application in the circumstances of Paragraphs 11.54 or 11.56 has been successful and the Matter has been remitted to the First-tier tribunal then the Matter will be funded as set out at 11.2(l) of this Specification and remunerated at the Hourly Rates set out in Table 8(a) of the Payment Annex.

11.60 Intentionally deleted.

11.61 Intentionally deleted.

11.62 The costs of interpreters and experts instructed in connection with the preparation of an application for permission to appeal to the Upper Tribunal are claimable irrespective of whether permission is granted or not.

Transitional arrangements

Add:

11.63 Transitional provisions are contained in Schedule 4 of the Transfer of Functions of the Asylum and Immigration Tribunal Order 2009

11.64 Intentionally deleted.

11.108(b) amend as follows:

Under Controlled legal Representation you can provide representation for Clients before the AIT First tier Tribunal and Upper Tribunal of the Immigration and Asylum Chamber, and in connection with an application for ~~review to the High Court and a subsequent reconsideration by the AIT under section 103A of the NIA 2002.~~

Delete paragraph 11.114 and replace with

11.114 In relation to an application for permission to appeal to the Upper Tribunal against the decision of the First Tier tribunal you must inform the advocate where payment is conditional upon paragraph 11.56.

All other references in the specification to the Asylum and Immigration Tribunal (AIT) should be read as First- tier and Upper Tribunal of the Immigration and Asylum Chamber except in relation to 11.91 where reference to the 'AIT' should read as 'Upper Tribunal'.

All remaining references to “an application for a review under s.103A of the NIA 2002” should be read as “an application for permission to appeal from the First-tier Tribunal to the Upper Tribunal”.

The following amendments to the Funding Code will come into force on xx date 2010

## Funding Code Criteria

Amend Section 13.1 as follows:

### 13.1 Scope

This section applies to applications for Legal Representation for a client whose case is before the First tier Tribunal and Upper Tribunal of the Immigration and Asylum Chamber.

~~(i) the Asylum and Immigration Tribunal; or~~

~~(ii) the High Court, in relation to applications under section 103A of the Nationality, Immigration and Asylum Act 2002. However, this section does not apply to cases within the scope of section 7 (Judicial Review).~~