



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: OA/13776/2014

THE IMMIGRATION ACTS

**Heard at Glasgow
on 11 December 2015**

**Determination issued
on 7 January 2016**

Before

**Mr C M G OCKELTON, VICE PRESIDENT
& UPPER TRIBUNAL JUDGE MACLEMAN**

Between

IRUM AMAN

Appellant

and

ENTRY CLEARANCE OFFICER, Islamabad

Respondent

Representation:

For the Appellant: Mr D Brown, of Drummond Miller, Solicitors

For the Respondent: Mr M Dinwycz, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant appeals against a determination by First-tier Tribunal Judge Handley, dismissing her appeal against refusal of entry clearance as a spouse under Appendix FM of the Immigration Rules.
2. The appellant failed to produce all the required documents with her application. It is common ground that she tendered documents at the hearing which, if produced to the ECO, would have enabled her application

to be allowed. The judge had some sympathy but thought that he could not consider the documents, and so dismissed the appeal.

3. It was conceded before us that the judge was entitled to consider the evidence, for the reasons which follow, and that the outcome therefore fell to be reversed.
4. The combined effect of The Immigration Act 2014 (Commencement No. 3, Transitional and Saving Provisions) Order 2014 (SI 2014/2771) and The Immigration Act 2014 (Commencement No. 4, Transitional and Saving Provisions and Amendment) Order 2015 (SI 2015/371) is that sections 85 and 85A, being in part 5 of the 2002 Act, remain in force in form unamended by the 2014 Act in relation to this appeal because this appeal was pending on 6 April 2015.
5. The introduction of the new subsections (5) and (6) of section 85, and the repeal of section 85A would, however, have made no difference, because the new evidence is a “matter” within section 85(4) but not a “new matter” as defined by section 85(6), so the amended section 85(5) would not enable its exclusion.
6. The determination of the First-tier Tribunal is **set aside**, and the following decision is substituted: the appeal, as originally brought to the First-tier Tribunal, is **allowed under the Immigration Rules**.
7. No anonymity direction has been requested or made.



Upper Tribunal Judge Macleman

18 December 2015