



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

HU/12424/2019 (P)

THE IMMIGRATION ACTS

Decided under rule 34

Decision and Reasons
Promulgated
On 7 September 2020

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

SHAZIA SHABNAM

Appellant

and

ENTRY CLERARNC E OFFICER

Respondent

DETERMINATION AND REASONS (P)

1. This determination is to be read with:
 - (i) The ECO's decision, dated 3 July 2019.
 - (ii) The appellant's grounds of appeal to the First-tier Tribunal.
 - (iii) The decision of FtT Judge Skehan, promulgated on 9 March 2020.
 - (iv) The appellant's grounds of appeal to the UT, stated in the application for permission to appeal, filed on 6 April 2020.
 - (v) The grant of permission by the FtT, dated 28 April 2020.
 - (vi) The UT's directions, issued on 18 June 2020.
 - (vii) The response for the ECO, dated 25 June 2020, conceding that the FtT erred in law, and that its decision should be set aside.

- (viii) The appellant's response, dated 9 July 2020.
2. The FtT erred by treating the provision in paragraph 320(11) of the immigration rules that applications "*should normally be refused*" as a mandatory requirement.
 3. The decision of the FtT is set aside, and stands only as a record of what was said at the hearing.
 4. It is appropriate under section 12 of the 2007 Act, and under Practice Statement 7.2, to remit to the FtT for a fresh hearing. The member(s) of the FtT chosen to consider the case are not to include Judge Skehan.
 5. No anonymity direction has been requested or made.
 6. The date of this determination is to be taken as the date it is issued to parties.

Hugh Macleman

UT Judge Macleman Date: 28 August 2020

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
 2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
 3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
 4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.

