



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

Appeal Number: OA/12511/2012

THE IMMIGRATION ACTS

**Heard at Glasgow
on 3 July 2013**

**Determination
promulgated
On 4 July 2013**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

SEINAB AHMED YAHYE

Appellant

and

ENTRY CLEARANCE OFFICER, SOMALIA

Respondent

For the Appellant: Mr A Devlin, Advocate, instructed by Neil Barnes, Solicitor
For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

- 1) The appellant appeals against a determination by First-tier Tribunal Judge Wallace, promulgated on 6 February 2013, dismissing her appeal against the respondent's decision to refuse her entry clearance to join her son, who is a refugee in the UK.

- 2) The appeal failed under the Rules because the judge thought there was insufficient evidence that adequate accommodation would be available, without overcrowding. The ground of appeal dispute that issue, and secondly complain that the judge failed to determine the case under Article 8 of the ECHR.
- 3) Mr Devlin developed his argument under reference to paragraph 319V(iv) of the Rules; the definitions in paragraph 6 of the Rules; the Housing (Scotland) Act 1987 Part VII, sections 135-137; the Immigration Directorate Instructions of March 2013 Annex F, Chapter 8, 6.3 Guidance on Overcrowding; and the evidence before the First-tier Tribunal, which made a positive finding of credibility regarding the sponsor. It is not necessary to rehearse his analysis in full detail, because Mr Matthews (fairly and correctly) acknowledged that it is accurate. In brief, Glasgow City Council provided and would continue to provide accommodation complying with statutory requirements, and such accommodation is sufficient not only for the sponsor's existing household but for the household with the addition of the appellant. The evidence showed that accommodation would be available which did not involve overcrowding and which did not involve additional recourse to public funds.
- 4) The decision of the First-tier Tribunal is **set aside**. The following decision is substituted: the appeal, as originally brought to the First-tier Tribunal, is **allowed under the Immigration Rules**.



4 July 2013
Judge of the Upper Tribunal