



# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART V

#### IMMIGRATION ADVISERS AND IMMIGRATION SERVICE PROVIDERS

##### *The Immigration Services Tribunal*

#### **87 The Tribunal**

- (1) There is to be a tribunal known as the Immigration Services Tribunal (referred to in this Part as “the Tribunal”).
- (2) Any person aggrieved by a relevant decision of the Commissioner may appeal to the Tribunal against the decision.
- (3) “Relevant decision” means a decision—
  - (a) to refuse an application for registration made under paragraph 1 of Schedule 6;
  - (b) to withdraw an exemption given under section 84(4)(a);
  - (c) under paragraph 2(2) of that Schedule to register with limited effect;
  - (d) to refuse an application for continued registration made under paragraph 3 of that Schedule;
  - (e) to vary a registration on an application under paragraph 3 of that Schedule; or
  - (f) which is recorded under paragraph 9(1)(a) of Schedule 5.
- (4) The Tribunal is also to have the function of hearing disciplinary charges laid by the Commissioner under paragraph 9(1)(e) of Schedule 5.
- (5) Schedule 7 makes further provision with respect to the Tribunal and its constitution and functions.

#### **88 Appeal upheld by the Tribunal**

- (1) This section applies if the Tribunal allows an appeal under section 87.

- (2) If the Tribunal considers it appropriate, it may direct the Commissioner—
- (a) to register the applicant or to continue the applicant’s registration;
  - (b) to make or vary the applicant’s registration so as to have limited effect in any of the ways mentioned in paragraph 2(2) of Schedule 6;
  - (c) to restore an exemption granted under section 84(4)(a); or
  - (d) to quash a decision recorded under paragraph 9(1)(a) of Schedule 5 and the record of that decision.

## **89 Disciplinary charge upheld by the Tribunal**

- (1) This section applies if the Tribunal upholds a disciplinary charge laid by the Commissioner under paragraph 9(1)(e) of Schedule 5 against a person (“the person charged”).
- (2) Subsection (3) applies if the person charged is—
- (a) a registered person;
  - (b) a person employed by, or working under the supervision of, a registered person;
  - (c) a member or employee of a body which is a registered person; or
  - (d) a person working under the supervision of such a member or employee.
- (3) The Tribunal may—
- (a) direct the Commissioner to record the charge and the Tribunal’s decision on it for consideration when the registered person next applies for continued registration; or
  - (b) direct the registered person to apply to the Commissioner for continued registration without delay.
- (4) If the person charged is certified by the Commissioner as exempt under section 84(4)(a), the Tribunal may direct the Commissioner to consider whether to withdraw his exemption.
- (5) If the person charged is found to have charged unreasonable fees for immigration advice or immigration services, the Tribunal may direct him to repay to the clients concerned such portion of those fees as it may determine.
- (6) The Tribunal may direct the person charged to pay a penalty to the Commissioner of such sum as it considers appropriate.
- (7) A direction given by the Tribunal under subsection (5) (or under subsection (6)) may be enforced by the clients concerned (or by the Commissioner)—
- (a) as if it were an order of a county court; or
  - (b) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (8) The Tribunal may direct that the person charged or any person employed by him or working under his supervision is to be—
- (a) subject to such restrictions on the provision of immigration advice or immigration services as the Tribunal considers appropriate;
  - (b) suspended from providing immigration advice or immigration services for such period as the Tribunal may determine; or

- (c) prohibited from providing immigration advice or immigration services indefinitely.
- (9) The Commissioner must keep a record of the persons against whom there is in force a direction given by the Tribunal under subsection (8).

## **90 Orders by disciplinary bodies**

- (1) A disciplinary body may make an order directing that a person subject to its jurisdiction is to be—
- (a) subject to such restrictions on the provision of immigration advice or immigration services as the body considers appropriate;
  - (b) suspended from providing immigration advice or immigration services for such period as the body may determine; or
  - (c) prohibited from providing immigration advice or immigration services indefinitely.
- (2) “Disciplinary body” means any body—
- (a) appearing to the Secretary of State to be established for the purpose of hearing disciplinary charges against members of a designated professional body; and
  - (b) specified in an order made by the Secretary of State.
- (3) The Secretary of State must consult the designated professional body concerned before making an order under subsection (2)(b).
- (4) For the purposes of this section, a person is subject to the jurisdiction of a disciplinary body if he is an authorised person or works under the supervision of an authorised person.
- (5) “Authorised person” means a person who is authorised by the designated professional body concerned to practise as a member of the profession whose members are regulated by that body.