
Changes to legislation: *Immigration and Asylum Act 1999, Cross Heading: Determination of complaints is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 5

THE IMMIGRATION SERVICES COMMISSIONER

PART I

REGULATORY FUNCTIONS

Determination of complaints

- 8 (1) On determining a complaint under the complaints scheme, the Commissioner must give his decision in a written statement.
- (2) The statement must include the Commissioner’s reasons for his decision.
- (3) A copy of the statement must be given by the Commissioner to—
- (a) the person who made the complaint; and
 - (b) the person who is the subject of the complaint.
- 9 (1) On determining a complaint under the complaints scheme, the Commissioner may—
- ^{F1}(a) if the person to whom the complaint relates was at the time to which the complaint relates—
 - (i) a registered person, or
 - (ii) a person acting on behalf of a registered person,record the complaint and the decision on it to be considered in connection with the next relevant application;]
 - ^{F2}(b)
 - ^{F3}(c) refer the complaint and his decision on it to a relevant regulatory body;]
 - ^{F4}(d)
 - (e) lay before the ^{F5}First-tier Tribunal] a disciplinary charge against a relevant person.
- ^{F6}(1A) In sub-paragraph (1)(a) “relevant application” means—
- (a) if the registered person referred to in that sub-paragraph is still registered, an application by that person for continued registration, and
 - (b) otherwise, an application by that person for registration.]
- ^{F7}(1B) Sub-paragraph (1)(a) is subject to paragraph 4A(e) of Schedule 6 (duty of Commissioner to cancel registration of a person who is no longer competent or is otherwise unfit).]
- (2) Sub-paragraph (3) applies if—
- (a) the ^{F8}First-tier Tribunal] is considering a disciplinary charge against a relevant person; and

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- (b) the Commissioner asks it to exercise its powers under that sub-paragraph.
- (3) The [^{F9}First-tier Tribunal] may give directions (which are to have effect while it is dealing with the charge)—
- [^{F10}(a) imposing restrictions on the provision of immigration advice or immigration services by the relevant person or by a person acting on his behalf or under his supervision;]
- [^{F10}(b) prohibiting the provision of immigration advice or immigration services by the relevant person or a person acting on his behalf or under his supervision.]
- [^{F11}(4) Relevant person” means—
- (a) a person who, at the time to which the charge relates, was providing immigration advice or immigration services and was—
- (i) a registered person, or
- (ii) a person acting on behalf of a registered person;
- (b) a person providing immigration advice or immigration services who is—
- (i) a person to whom section 84(4)(d) applies, or
- (ii) a person employed by, or working under the supervision of, such a person.]

Textual Amendments

- F1** Sch. 5 para. 9(1)(a) substituted (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 7 para. 7(3)**; [S.I. 2014/2771](#), art. 5(c)
- F2** Sch. 5 para. 9(1)(b) omitted (17.11.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 7 para. 4(2)(a)**; [S.I. 2014/2771](#), art. 5(c)
- F3** Sch. 5 para. 9(1)(c) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 37(5)(i)**, 48(3); [S.I. 2004/2523](#), art. 2, Sch.
- F4** Sch. 5 para. 9(1)(d) omitted (17.11.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 7 para. 2(2)(f)**; [S.I. 2014/2771](#), art. 5(c)
- F5** Words in Sch. 5 para. 9(1)(e) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 40** (with Sch. 5)
- F6** Sch. 5 para. 9(1A) inserted (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 7 para. 7(4)**; [S.I. 2014/2771](#), art. 5(c)
- F7** Sch. 5 para. 9(1B) inserted (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 7 para. 4(2)(b)**; [S.I. 2014/2771](#), art. 5(c)
- F8** Words in Sch. 5 para. 9(2)(a) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 40** (with Sch. 5)
- F9** Words in Sch. 5 para. 9(3) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 40** (with Sch. 5)
- F10** Sch. 5 para. 9(3)(a)(b) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 37(5)(j)**, 48(3); [S.I. 2004/2523](#), art. 2, Sch.
- F11** Sch. 5 para. 9(4) substituted (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 7 para. 7(5)**; [S.I. 2014/2771](#), art. 5(c)

Modifications etc. (not altering text)

- C1** Sch. 5 para. 9(1)(a) modified (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), Sch. 9 paras. 68, 69; [S.I. 2014/2771](#), art. 5(d)
- C2** Sch. 5 para. 9(1A) modified (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), Sch. 9 paras. 68, 69; [S.I. 2014/2771](#), art. 5(d)

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C3 Sch. 5 para. 9(4)(a) modified (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 paras. 68, 69](#); [S.I. 2014/2771](#), art. 5(d)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 10(12) inserted by 2023 c. 37 s. 10(6)
- s. 40(1)-(1C) substituted for s. 40(1) by 2022 c. 36 s. 76(2)
- s. 40(4A)(4B) inserted by 2022 c. 36 s. 76(5)
- s. 72(10) repealed by 2004 c. 19 Sch. 4
- s. 94(2A)-(2C) inserted by 2016 c. 19 Sch. 11 para. 3(3)
- s. 94(2D) inserted by 2016 c. 19 Sch. 11 para. 7(4)
- s. 94(3)(3A) substituted for s. 94(3) by 2002 c. 41 s. 44(4) (This amendment is repealed (prosp.) by 2016 c. 19, Sch. 11 para. 41)
- s. 94(3A)-(3D) inserted by 2016 c. 19 Sch. 11 para. 3(5)
- s. 95A inserted by 2016 c. 19 Sch. 11 para. 9
- s. 96(1A) inserted by 2016 c. 19 Sch. 11 para. 10(3)
- s. 97(3A)(b)(iv) inserted by 2022 c. 36 s. 13(2)(c)(ii)
- s. 97(8)(9) inserted by 2016 c. 19 Sch. 11 para. 11(4)
- s. 98A inserted by 2016 c. 19 Sch. 11 para. 13
- s. 98A(5) inserted by 2022 c. 36 s. 13(4)
- s. 103(4)(a) words substituted by 2004 c. 19 s. 10(4)(b)
- s. 103(5)(b) word substituted by S.I. 2008/2833 Sch. 3 para. 183(ii)
- s. 103A(1) words substituted by 2004 c. 19 s. 10(5)
- s. 103A(1) heading words substituted by 2004 c. 19 s. 10(5)
- s. 103A(1) words substituted by S.I. 2008/2833 Sch. 3 para. 184
- s. 125(2)(ba) inserted by 2016 c. 19 Sch. 11 para. 22(3)(b)
- s. 146(2)(za) inserted by 2016 c. 19 s. 44(9)
- s. 166(5)(ca) substituted for word in s. 166(5)(c) by 2016 c. 19 Sch. 11 para. 24(2)
- s. 166(5A)(5B) inserted by 2016 c. 19 Sch. 11 para. 24(3)
- s. 166(6)(aa) substituted for word in s. 166(6)(a) by 2016 c. 19 Sch. 11 para. 24(4)
- Sch. 2 para. 21 modified by 2002 c. 41 s. 23(2)(a)
- Sch. 3 para. 2(5) modified by 2002 c. 41 s. 23(2)(b)