
Changes to legislation: *Immigration and Asylum Act 1999, Cross Heading: Investigation of complaints is up to date with all changes known to be in force on or before 24 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

Investigation of complaints

- 5 (1) The Commissioner must establish a scheme (“the complaints scheme”) for the investigation by him of relevant complaints made to him in accordance with the provisions of the scheme.
- (2) Before establishing the scheme or altering it, the Commissioner must consult—
- (a) each of the designated professional bodies; and
 - (b) such other persons appearing to him to represent the views of persons engaged in the provision of immigration advice or immigration services as he considers appropriate.
- (3) A complaint is a relevant complaint if it relates to—
- No commentary item could be found for this reference key-**
- 6f4735e60d721aa948a36dfcc**^[F1](za)
- (a) the competence or fitness of ^[F2]any other person] to provide immigration advice or immigration services,
 - ^[F3](aa) the competence or fitness of a person who, at the time to which the complaint relates, was acting on behalf of a registered person,]
 - (b) the competence or fitness of ^[F4]any other person]^[F5]acting on behalf of] a person providing immigration advice or immigration services,
 - (c) an alleged breach of the Code,
 - (d) an alleged breach of one or more of the Commissioner’s rules by ^[F6]a person who, at the time to which the complaint relates, was a registered person or a person acting on behalf of a registered person] , or
 - ^[F7](e) an alleged breach of a rule of a relevant regulatory body,]

Changes to legislation: Immigration and Asylum Act 1999, Cross Heading: Investigation of complaints is up to date with all changes known to be in force on or before 24 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

[^{F8}but not if the complaint is excluded by sub-paragraph (3A).]

[^{F9}(3A) A complaint is excluded if—

- (a) it relates to a person who is excluded from the application of subsection (1) of section 84 by subsection (6) of that section, or
 - (b) it relates to a person within section 84(2)(ba).]
- (4) The Commissioner may, on his own initiative, investigate any matter which he would have power to investigate on a complaint made under the complaints scheme.
- (5) In investigating any such matter on his own initiative, the Commissioner must proceed as if his investigation were being conducted in response to a complaint made under the scheme.

Textual Amendments

- F1** Sch. 5 para. 5(3)(za) inserted (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 7 para. 7(2)(a)**; [S.I. 2014/2771](#), art. 5(c)
- F2** Words in Sch. 5 para. 5(3)(a) substituted (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 7 para. 7(2)(b)**; [S.I. 2014/2771](#), art. 5(c)
- F3** Sch. 5 para. 5(3)(aa) inserted (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 7 para. 7(2)(c)**; [S.I. 2014/2771](#), art. 5(c)
- F4** Words in Sch. 5 para. 5(3)(b) substituted (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 7 para. 7(2)(d)**; [S.I. 2014/2771](#), art. 5(c)
- F5** Words in Sch. 5 para. 5(3)(b) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 37(5)(e)**, 48(3); [S.I. 2004/2523](#), art. 2, Sch.
- F6** Words in Sch. 5 para. 5(3)(d) substituted (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 7 para. 7(2)(e)**; [S.I. 2014/2771](#), art. 5(c)
- F7** Sch. 5 para. 5(3)(e) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 37(5)(f)**, 48(3); [S.I. 2004/2523](#), art. 2, Sch.
- F8** Words in Sch. 5 para. 5(3) substituted (1.4.2011) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 18 para. 17(4)(a)** (with [ss. 29, 192, 193](#)); [S.I. 2011/720](#), art. 2(c)
- F9** Sch. 5 para. 5(3A) inserted (1.4.2011) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 18 para. 17(4)(b)** (with [ss. 29, 192, 193](#)); [S.I. 2011/720](#), art. 2(c)

Modifications etc. (not altering text)

- C1** Sch. 5 para. 5(3)(za) 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. 5(3)(aa) 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)
- C3** Sch. 5 para. 5(3)(d) modified (17.11.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 68**; [S.I. 2014/2771](#), art. 5(d)

Commencement Information

- I1** Sch. 5 para. 5 wholly in force at 30.10.2000; Sch. 5 para. 5 not in force at Royal Assent see s. 170(4); Sch. 5 para. 5(1)-(3) in force at 22.5.2000 by [S.I. 2000/1282](#), art. 2, **Sch.**; Sch. 5 para. 5 in force so far as not already in force at 30.10.2000 by [S.I. 2000/1985](#), art. 2, **Sch.**

- 6 (1) The complaints scheme must provide for a person who is the subject of an investigation under the scheme to be given a reasonable opportunity to make representations to the Commissioner.
- (2) Any person who is the subject of an investigation under the scheme must—

Changes to legislation: *Immigration and Asylum Act 1999, Cross Heading: Investigation of complaints is up to date with all changes known to be in force on or before 24 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*

- (a) take such steps as are reasonably required to assist the Commissioner in his investigation; and
 - (b) comply with any reasonable requirement imposed on him by the Commissioner.
- (3) If a person fails to comply with sub-paragraph (2)(a) or with a requirement imposed under sub-paragraph (2)(b) the Commissioner may—
- (a) in the case of a registered person, cancel his registration;
 - ^{F10}(b)
 - [^{F11}(c) in any other case, refer the matter to any relevant regulatory body.]

Textual Amendments

- F10** Sch. 5 para. 6(3)(b) 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)
- F11** Sch. 5 para. 6(3)(c) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 37\(5\)\(g\)](#), 48(3); S.I. 2004/2523, art. 2, Sch.

Commencement Information

- I2** Sch. 5 para. 6 wholly in force at 30.10.2000; Sch. 5 para. 6 not in force at Royal Assent see s. 170(4); Sch. 5 para. 6(1) in force at 22.5.2000 by S.I. 2000/1282, art. 2, [Sch.](#); Sch. 5 para. 6 in force at 30.10.2000 by S.I. 2000/1985, art. 2, [Sch.](#)

Changes to legislation:

Immigration and Asylum Act 1999, Cross Heading: Investigation of complaints is up to date with all changes known to be in force on or before 24 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.

[View outstanding changes](#)

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)