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**Changes to legislation:** *Immigration and Asylum Act 1999, Part I is up to date with all changes known to be in force on or before 10 October 2018. 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)*

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## SCHEDULES

### SCHEDULE 5

#### THE IMMIGRATION SERVICES COMMISSIONER

##### PART I

##### REGULATORY FUNCTIONS

##### *The Commissioner's rules*

- 1 (1) The Commissioner may make rules regulating any aspect of the professional practice, conduct or discipline of—
- (a) registered persons, and
  - [<sup>F1</sup>(b) those acting on behalf of registered persons,]
- in connection with the provision of immigration advice or immigration services.
- (2) Before making or altering any rules, the Commissioner must consult such 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) In determining whether a registered person is competent or otherwise fit to provide immigration advice or immigration services, the Commissioner may take into account any breach of the rules by—
- (a) that person; and
  - [<sup>F2</sup>(b) any person acting on behalf of that person.]
- (4) The rules may, among other things, make provision requiring the keeping of accounts or the obtaining of indemnity insurance.

#### Annotations:

#### Amendments (Textual)

- F1** Sch. 5 para. 1(1)(b) substituted (1.10.2004) by  
[Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#)
- ,  
[ss. 37\(5\)\(a\)](#)
- ,  
[48\(3\)](#)
- ;  
[S.I. 2004/2523](#)
- ,  
[art. 2](#)
- ,  
[Sch.](#)

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- F2** Sch. 5 para. 1(3)(b) substituted (1.10.2004) by  
 Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)
- ,
  - ss. 37(5)(b)**
  - ,
  - 48(3)
  - ;
  - S.I. 2004/2523
  - ,
  - art. 2
  - ,
  - Sch.

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**Commencement Information**

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

- 2 (1) The Commissioner's rules must be made or altered by an instrument in writing.
- (2) Such an instrument must specify that it is made under this Schedule.
- (3) Immediately after such an instrument is made, it must be printed and made available to the public.
- (4) The Commissioner may charge a reasonable fee for providing a person with a copy of the instrument.
- (5) A person is not to be taken to have contravened a rule made by the Commissioner if he shows that at the time of the alleged contravention the instrument containing the rule had not been made available in accordance with this paragraph.
- (6) The production of a printed copy of an instrument purporting to be made by the Commissioner on which is endorsed a certificate signed by an officer of the Commissioner authorised by him for that purpose and stating—
- (a) that the instrument was made by the Commissioner,
  - (b) that the copy is a true copy of the instrument, and
  - (c) that on a specified date the instrument was made available to the public in accordance with this paragraph,
- is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.
- (7) A certificate purporting to be signed as mentioned in sub-paragraph (6) is to be treated as having been properly signed unless the contrary is shown.

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- (8) A person who wishes in any legal proceedings to rely on an instrument containing the Commissioner’s rules may require him to endorse a copy of the instrument with a certificate of the kind mentioned in sub-paragraph (6).

**Annotations:**

**Commencement Information**

- I2** Sch. 5 para. 2 wholly in force at 30.10.2000; Sch. 5 para. 2 not in force at Royal Assent see s. 170(4); Sch. 5 para. 2(1)-(4)(6)-(8) in force at 22.5.2000 by [S.I. 2000/1282](#)
- ,  
[art. 2](#)
- ,  
**Sch.**  
;Sch. 5 para. 2 in force so far as not already in force at 30.10.2000 by [S.I. 2000/1985](#)
- ,  
[art. 2](#)
- ,  
**Sch.2**

*Code of Standards*

- 3 (1) The Commissioner must prepare and issue a code setting standards of conduct which those to whom the code applies are expected to meet.
- (2) The code is to be known as the Code of Standards but is referred to in this Schedule as “the Code”.
- (3) The Code is to apply to any person providing immigration advice or immigration services other than—
- (a) a person who is authorised by a designated professional body to practise as a member of the profession whose members are regulated by that body;
  - [<sup>F3</sup>(aa) a person who is authorised by a designated qualifying regulator to provide immigration advice or immigration services;]
  - [<sup>F4</sup>(b) a person who is acting on behalf of a person who is within paragraph (a) [<sup>F5</sup>or (aa)] ;]
  - (c) a person mentioned in section 84(6).
- (4) It is the duty of any person to whom the Code applies to comply with its provisions in providing immigration advice or immigration services.
- (5) If the Commissioner alters the Code, he must re-issue it.
- (6) Before issuing the Code or altering it, the Commissioner must consult—
- (a) each of the designated professional bodies;
  - [<sup>F6</sup>(aa) each of the designated qualifying regulators;]
  - <sup>F7</sup>(b) .....
  - (c) the Lord President of the Court of Session;
  - (d) the Lord Chief Justice of Northern Ireland; and

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(e) 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.

(7) The Commissioner must publish the Code in such form and manner as the Secretary of State may direct.

**Annotations:**

**Amendments (Textual)**

- F3** Sch. 5 para. 3(3)(aa) inserted (1.4.2011) by  
 Legal Services Act 2007 (c. 29)
- ›
- s. 211(2)
- ›
- Sch. 18 para. 17(2)(a)**  
 (with  
 ss. 29
- ›
- 192
- ›
- 193
- );
- S.I. 2011/720
- ›
- art. 2(c)
- F4** Sch. 5 para. 3(3)(b) substituted (1.10.2004) by  
 Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)
- ›
- ss. 37(5)(c)**
- ›
- 48(3)
- ›
- S.I. 2004/2523
- ›
- art. 2
- ›
- Sch.
- F5** Words in Sch. 5 para. 3(3)(b) inserted (1.4.2011) by  
 Legal Services Act 2007 (c. 29)
- ›
- s. 211(2)
- ›
- Sch. 18 para. 17(2)(b)**  
 (with  
 ss. 29
- ›
- 192
- ›
- 193
- );
- S.I. 2011/720
- ›

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art. 2(c)  
**F6** Sch. 5 para. 3(6)(aa) inserted (1.4.2011) by  
Legal Services Act 2007 (c. 29)

,  
s. 211(2)

,  
**Sch. 18 para. 17(2)(c)**

(with  
ss. 29

,  
192

,  
193

);  
S.I. 2011/720

,  
art. 2(c)

**F7** Sch. 5 para. 3(6)(b) repealed (1.1.2010) by  
Legal Services Act 2007 (c. 29)

,  
s. 211(2)

,  
Sch. 18 para. 17(2)(d)

,  
**Sch. 23**

(with  
ss. 29

,  
192

,  
193

);  
S.I. 2009/3250

,  
art. 2(i)(xi)

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### Commencement Information

**I3** Sch. 5 para. 3 wholly in force at 30.10.2000; Sch. 5 para. 3 not in force at Royal Assent see s. 170(4);  
Sch. 5 para. 3(1)-(3)(5)-(7) in force at 22.5.2000 by  
S.I. 2000/1282

,  
art. 2

,  
**Sch.**

; Sch. 5 para. 3 in force so far as not already in force at 30.10.2000 by  
S.I. 2000/1985

,  
art. 2

,  
**Sch**

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*Extension of scope of the Code*

- 4 (1) The Secretary of State may by order provide for the provisions of the Code, or such provisions of the Code as may be specified by the order, to apply to—
- (a) persons authorised by any designated professional body to practise as a member of the profession whose members are regulated by that body; and
  - [<sup>F8</sup>(b) persons acting on behalf of persons who are within paragraph (a).]
- (2) If the Secretary of State is proposing to act under sub-paragraph (1) he must, before doing so, consult—
- (a) the Commissioner;
  - [<sup>F9</sup>(b) .....
  - (c) the [<sup>F10</sup>Scottish Legal Complaints Commission], if the proposed order would affect a designated professional body in Scotland;
  - (d) the lay observers appointed under Article 42 of the <sup>M1</sup>Solicitors (Northern Ireland) Order 1976, if the proposed order would affect a designated professional body in Northern Ireland.
- (3) An order under sub-paragraph (1) requires the approval of—
- (a) the [<sup>F11</sup>Department of Justice in Northern Ireland] , if it affects a designated professional body in <sup>F12</sup>... Northern Ireland;
  - (b) the Scottish Ministers, if it affects a designated professional body in Scotland.
- [<sup>F13</sup>(4) Before deciding whether or not to give its approval under sub-paragraph (3)(a), the Department of Justice in Northern Ireland must consult the Lord Chief Justice of Northern Ireland.]
- (5) Before deciding whether or not to give their approval under sub-paragraph (3)(b), the Scottish Ministers must consult the Lord President of the Court of Session.

**Annotations:**

**Amendments (Textual)**

- F8** Sch. 5 para. 4(1)(b) substituted (1.10.2004) by  
[Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#)  
 ,  
[ss. 37\(5\)\(d\)](#)  
 ,  
[48\(3\)](#)  
 ;  
[S.I. 2004/2523](#)  
 ,  
[art. 2](#)  
 ,  
[Sch.](#)
- F9** Sch. 5 para. 4(2)(b) repealed (1.1.2010) by  
[Legal Services Act 2007 \(c. 29\)](#)  
 ,  
[s. 211\(2\)](#)  
 ,  
[Sch. 18 para. 17\(3\)\(a\)](#)

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- ,  
**Sch. 23**  
(with  
ss. 29  
,  
192  
,  
193  
);  
S.I. 2009/3250  
,  
art. 2(i)(xi)
- F10** Words in Sch. 5 para. 4(2)(c) substituted (1.10.2008) by  
Legal Services Act 2007 (c. 29)
- ,  
**ss. 196(2)(b)**  
,  
211(2)  
(with  
ss. 29  
,  
192  
,  
193  
);  
S.I. 2008/1436  
,  
art. 3(a)
- F11** Words in Sch. 5 para. 4(3)(a) substituted (18.10.2012) by  
The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I.  
2012/2595)
- ,  
arts. 1(2)  
,  
**9(5)(a)**  
(with  
arts. 24-28  
)
- F12** Words in Sch. 5 para. 4(3)(a) repealed (1.1.2010) by  
Legal Services Act 2007 (c. 29)
- ,  
s. 211(2)  
,  
Sch. 18 para. 17(3)(b)  
,  
**Sch. 23**  
(with  
ss. 29  
,  
192  
,  
193  
);

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S.I. 2009/3250

,  
 art. 2(i)(xi)

**F13** Sch. 5 para. 4(4) substituted (18.10.2012) by  
 The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595)

,  
 arts. 1(2)

,  
**9(5)(b)**

(with  
 arts. 24-28  
 )

#### Marginal Citations

**M1** S.I. 1976/582 (N.I. 12)

### *f<sup>F14</sup> Inspections*

#### Annotations:

#### Amendments (Textual)

**F14** Sch. 5 para. 4A and cross-heading inserted (28.7.2014) by  
 Immigration Act 2014 (c. 22)

,  
 s. 75(3)

,  
**Sch. 7 para. 6**

;  
 S.I. 2014/1820

,  
 art. 3(aa)

4A The Commissioner may carry out inspections of the activities and businesses of registered persons.]

### *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—



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**No commentary item could be found for this reference key-** the competence or fitness to provide immigration advice or immigration services of a person who, at the time to which the complaint relates, was a registered person,]

5f4735e60d721aa948a36dfcc<sup>F15</sup>(za)

- (a) the competence or fitness of [<sup>F16</sup>any other person] to provide immigration advice or immigration services,
- [<sup>F17</sup>(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 [<sup>F18</sup>any other person][<sup>F19</sup>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 [<sup>F20</sup>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
- [<sup>F21</sup>(e) an alleged breach of a rule of a relevant regulatory body,]
- [<sup>F22</sup>but not if the complaint is excluded by sub-paragraph (3A).]

[<sup>F23</sup>(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.

#### Annotations:

##### Amendments (Textual)

- F15** 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)
- F16** Words in Sch. 5 para. 5(3)(a) substituted (17.11.2014) by  
[Immigration Act 2014 \(c. 22\)](#)

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- ›  
s. 75(3)
- ›  
**Sch. 7 para. 7(2)(b)**
- ›  
S.I. 2014/2771
- ›  
art. 5(c)
- F17** 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)
- F18** 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)
- F19** 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.
- F20** 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)
- F21** Sch. 5 para. 5(3)(e) substituted (1.10.2004) by  
Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)
- ›

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**ss. 37(5)(f)**

,  
48(3)  
;  
S.I. 2004/2523

,  
art. 2

,  
Sch.

**F22** 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)

**F23** 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)

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**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

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,  
 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)

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#### **Commencement Information**

**I4** 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—
- (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;

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<sup>F24</sup>(b) .....

[<sup>F25</sup>(c) in any other case, refer the matter to any relevant regulatory body.]

**Annotations:**

**Amendments (Textual)**

**F24** 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\(c\)](#)

**F25** 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**

**I5** 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.**

*F26*  
...

**Annotations:**

**Amendments (Textual)**

**F26** Sch. 5 para. 7 and cross-heading omitted (17.11.2014) by virtue of

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Immigration Act 2014 (c. 22)  
,  
s. 75(3)  
,  
**Sch. 7 para. 8(1)**  
;  
S.I. 2014/2771  
,  
art. 5(c)

7 .....  
.....

*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—
  - [<sup>F27</sup>(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;]
  - [<sup>F28</sup>(b) .....]
  - [<sup>F29</sup>(c) refer the complaint and his decision on it to a relevant regulatory body;]
  - [<sup>F30</sup>(d) .....]
  - (e) lay before the [<sup>F31</sup>First-tier Tribunal] a disciplinary charge against a relevant person.

- [<sup>F32</sup>(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.]

- [<sup>F33</sup>(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 [<sup>F34</sup>First-tier Tribunal] is considering a disciplinary charge against a relevant person; and
  - (b) the Commissioner asks it to exercise its powers under that sub-paragraph.
- (3) The [<sup>F35</sup>First-tier Tribunal] may give directions (which are to have effect while it is dealing with the charge)—

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- [<sup>F36</sup>(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;]
- [<sup>F36</sup>(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.]
- [<sup>F37</sup>(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.]

**Annotations:**

**Amendments (Textual)**

- F27** 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)
- F28** 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)
- F29** 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.
- F30** Sch. 5 para. 9(1)(d) omitted (17.11.2014) by virtue of

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Immigration Act 2014 (c. 22)

,  
s. 75(3)

,  
**Sch. 7 para. 2(2)(f)**

;  
S.I. 2014/2771

,  
art. 5(c)

**F31** 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  
)

**F32** 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)

**F33** 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)

**F34** 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  
)

**F35** 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**



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(with  
Sch. 5  
)

**F36** 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.

**F37** 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)

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**Modifications etc. (not altering text)**

**C4** 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)

**C5** 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)

**C6** Sch. 5 para. 9(4)(a) modified (17.11.2014) by  
Immigration Act 2014 (c. 22)

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,  
 s. 75(3)  
 ,  
 Sch. 9 paras. 68  
 ,  
**69**  
 ;  
 S.I. 2014/2771  
 ,  
 art. 5(d)

*Complaints referred to designated professional bodies*

- 10 (1) This paragraph applies if the Commissioner refers a complaint to a designated professional body under paragraph 9(1)(c).
- (2) The Commissioner may give directions setting a timetable to be followed by the designated professional body—
- (a) in considering the complaint; and
  - (b) if appropriate, in taking disciplinary proceedings in connection with the complaint.
- (3) In making his annual report to the Secretary of State under paragraph 21, the Commissioner must take into account any failure of a designated professional body to comply (whether wholly or in part) with directions given to it under this paragraph.
- (4) Sub-paragraph (5) applies if the Commissioner or the Secretary of State considers that a designated professional body has persistently failed to comply with directions given to it under this paragraph.
- (5) The Commissioner must take the failure into account in determining whether to make a report under section 86(9)(b) and the Secretary of State must take it into account in determining whether to make an order under section 86(2).

*<sup>F38</sup>Power of entry and inspection*

**Annotations:**

**Amendments (Textual)**

**F38** Sch. 5 para. 10A and cross-heading inserted (17.11.2014) by  
[Immigration Act 2014 \(c. 22\)](#)

,  
 s. 75(3)  
 ,  
**Sch. 7 para. 8(2)**  
 ;  
 S.I. 2014/2771  
 ,  
 art. 5(c)

- 10A (1) On an application made by the Commissioner a justice of the peace (or in Scotland, the sheriff) may issue a warrant authorising the Commissioner to enter premises.

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- (2) A justice of the peace or sheriff may issue a warrant in respect of premises if satisfied that there are reasonable grounds for believing that—
  - (a) the premises are being used, or have been used, in connection with the provision of immigration advice or immigration services by a registered person,
  - (b) entry to the premises is reasonably required for the exercise of any of the Commissioner's functions, and
  - (c) entry to the premises may be prevented or delayed unless a warrant is produced.
- (3) The Commissioner may enter premises by virtue of this paragraph only at a reasonable hour.
- (4) Where the Commissioner enters premises by virtue of this paragraph the Commissioner may—
  - (a) take onto the premises any equipment that appears to the Commissioner to be necessary;
  - (b) require any person on the premises to produce any relevant document and, if the document is produced, to provide any explanation of it;
  - (c) require any person on the premises to state, to the best of the person's knowledge and belief, where any relevant document is to be found;
  - (d) take copies of, or extracts from, any relevant document on the premises which is produced;
  - (e) require any relevant information which is held in a computer and is accessible from the premises to be produced in a form—
    - (i) in which it can be taken away; and
    - (ii) in which it is visible and legible.
- (5) For the purposes of sub-paragraph (4), a document or information is “relevant” if the document or information relates to any matter connected with the provision of immigration advice or immigration services.
- (6) The powers conferred on the Commissioner by sub-paragraphs (1) to (5) may also be exercised by—
  - (a) a member of the Commissioner's staff authorised by the Commissioner in writing, and
  - (b) if the Commissioner so determines, a person appointed by the Commissioner to make a report on the provision of immigration advice or immigration services from the premises in question.
- (7) If a registered person fails without reasonable excuse to allow access under this paragraph to any premises under the person's occupation or control, the Commissioner may cancel the person's registration.
- (8) The Commissioner may also cancel the registration of a registered person who—
  - (a) without reasonable excuse fails to comply with a requirement imposed under sub-paragraph (4);
  - (b) intentionally delays or obstructs any person exercising functions under this paragraph; or
  - (c) fails to take reasonable steps to prevent an employee of the registered person from obstructing any person exercising such functions.

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(9) In this paragraph “premises” includes premises used wholly or partly as a dwelling.]

**Annotations:**

**Modifications etc. (not altering text)**

C7 Sch. 5 para. 10A(2)(a) modified (17.11.2014) by  
[Immigration Act 2014 \(c. 22\)](#)

,

[Sch. 9 paras 69\(2\)](#)

;

[S.I. 2014/2771](#)

,

[art. 5\(d\)](#)

**Changes to legislation:**

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

- Act amendment to earlier affecting provision S.I. 1994/1405, art. 7 by  
S.I. 2007/3579  
art. 3(c)

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

- 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(8)(9) inserted by  
2016 c. 19  
Sch. 11  
para. 11(4)
- s. 98A inserted by  
2016 c. 19  
Sch. 11  
para. 13
- 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)