

SCHEDULES

SCHEDULE 18

IMMIGRATION ADVICE AND IMMIGRATION SERVICES

PART 2

AMENDMENTS OF THE IMMIGRATION AND ASYLUM ACT 1999 (C. 33)

- 9 The Immigration and Asylum Act 1999 is amended in accordance with this Part of this Schedule.
- 10 In section 82(1) (interpretation of Part 5), after the definition of “designated professional body” insert—
- ““designated qualifying regulator” has the meaning given by section 86A;”.
- 11 In section 83 (the Immigration Services Commissioner), after subsection (6) insert—
- “(6A) The duties imposed on the Commissioner by subsections (3) and (5) apply in relation to persons within section 84(2)(ba) only to the extent that those duties have effect in relation to the Commissioner’s functions under section 92 or 92A.”
- 12 (1) Section 84 (provision of immigration services) is amended as follows.
- (2) In subsection (2)—
- (a) after paragraph (b) insert—
- “(ba) a person authorised to provide immigration advice or immigration services by a designated qualifying regulator,”
- and
- (b) in paragraph (c)(ii) after “(b)” insert “or (ba)”.
- (3) After subsection (3) insert—
- “(3A) A person’s entitlement to provide immigration advice or immigration services by virtue of subsection (2)(ba)—
- (a) is subject to any limitation on that person’s authorisation imposed by the regulatory arrangements of the designated qualifying regulator in question, and
- (b) does not extend to the provision of such advice or services by the person other than in England and Wales (regardless of whether the persons to whom they are provided are in England and Wales or elsewhere).
- (3B) In subsection (3A) “regulatory arrangements” has the same meaning as in the Legal Services Act 2007 (see section 21 of that Act).”

Status: This is the original version (as it was originally enacted).

- 13 (1) Section 86 (designated professional bodies) is amended as follows.
- (2) Omit subsections (1)(a), (d) and (e) and (4)(b).
- (3) In subsection (5)(a) omit “England and Wales or”.
- (4) In subsection (6)—
- (a) omit paragraph (a), and
- (b) in paragraph (b) for “it” substitute “the order”.
- (5) In subsection (8) after “that a body” insert “(other than a body in England and Wales)”.
- 14 After section 86 insert—

“86A Designated qualifying regulators

- (1) “Designated qualifying regulator” means a body which is a qualifying regulator and is listed in subsection (2).
- (2) The listed bodies are—
- (a) the Law Society;
- (b) the Institute of Legal Executives;
- (c) the General Council of the Bar.
- (3) The Secretary of State may by order remove a body from the list in subsection (2) if the Secretary of State considers that the body has failed to provide effective regulation of relevant authorised persons in their provision of immigration advice or immigration services.
- (4) If a designated qualifying regulator asks the Secretary of State to amend subsection (2) so as to remove its name, the Secretary of State may by order do so.
- (5) Where, at a time when a body is listed in subsection (2), the body ceases to be a qualifying regulator by virtue of paragraph 8(1)(a) of Schedule 18 to the Legal Services Act 2007 (loss of approved regulator status), the Secretary of State must, by order, remove it from the list.
- (6) If the Secretary of State considers that a body which—
- (a) is a qualifying regulator,
- (b) is not a designated qualifying regulator, and
- (c) is capable of providing effective regulation of relevant authorised persons in their provision of immigration advice or immigration services,
- ought to be designated, the Secretary of State may, by order, amend the list in subsection (2) to include the name of that body.
- (7) If the Secretary of State is proposing to act under subsection (3) or (6), the Secretary of State must, before doing so, consult the Commissioner.
- (8) If the Secretary of State is proposing to act under subsection (3), the Secretary of State must, before doing so, also —
- (a) notify the body concerned of the proposal and give it a reasonable period within which to make representations, and

Status: This is the original version (as it was originally enacted).

- (b) consider any representations duly made.
- (9) An order under subsection (3) or (6) requires the approval of the Lord Chancellor.
- (10) If the Legal Services Board considers that a designated qualifying regulator is failing to provide effective regulation of relevant authorised persons in their provision of immigration advice or immigration services, the Legal Services Board must make a report to this effect to—
- (a) the Secretary of State, and
 - (b) the Lord Chancellor.
- (11) In this section—
- “qualifying regulator” means a body which is a qualifying regulator for the purposes of this Part of this Act by virtue of Part 1 of Schedule 18 to the Legal Services Act 2007 (approved regulators approved by the Legal Services Board in relation to immigration matters);
- “relevant authorised persons”, in relation to a designated qualifying regulator, means persons who are authorised by the designated qualifying regulator to provide immigration advice or immigration services.”
- 15 (1) Section 90 (orders by disciplinary bodies) is amended as follows.
- (2) In subsection (2), for paragraph (a) substitute—
- “(a) appearing to the Secretary of State to be established for the purpose of hearing disciplinary charges against—
 - (i) members of a designated professional body, or
 - (ii) persons regulated by designated qualifying regulators; and”.
- (3) In subsection (3) after “body” insert “or designated qualifying regulator”.
- (4) In subsection (5)—
- (a) after “means” insert “—
 - (a)”,
 - and
 - (b) after “that body” insert “, or
 - (b) a person who is authorised by the designated qualifying regulator concerned to provide immigration advice or immigration services.”
- 16 In section 166(4) (orders requiring approval by Parliament), after paragraph (d) insert—
- “(da) section 86A(3).”.
- 17 (1) Schedule 5 (the Immigration Services Commissioner) is amended as follows.
- (2) In paragraph 3 (code of standards)—
- (a) after sub-paragraph (3)(a) insert—
 - “(aa) a person who is authorised by a designated qualifying regulator to provide immigration advice or immigration services;”,
 - (b) in sub-paragraph (3)(b) after “paragraph (a)” insert “or (aa)”,

Status: This is the original version (as it was originally enacted).

- (c) after sub-paragraph (6)(a) insert—
 - “(aa) each of the designated qualifying regulators;”, and
 - (d) omit sub-paragraph (6)(b).
- (3) In paragraph 4 (extension of scope of the code)—
- (a) omit sub-paragraph (2)(b),
 - (b) in sub-paragraph (3)(a) omit “England and Wales or”, and
 - (c) omit sub-paragraph (4)(a).
- (4) In paragraph 5 (investigation of complaints)—
- (a) in sub-paragraph (3), for the words from “but” to the end substitute—
 - “but not if the complaint is excluded by sub-paragraph (3A).”,
 - (b) after that sub-paragraph insert—
 - “(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).”