

2022 No. 235

IMMIGRATION

**The Immigration and Asylum Act 1999 (Part 5 Exemption:
Licensed Sponsors) Order 2022**

| | |
|-------------------------------|------------------------|
| <i>Made</i> - - - - | <i>7th March 2022</i> |
| <i>Laid before Parliament</i> | <i>10th March 2022</i> |
| <i>Coming into force</i> - - | <i>11th April 2022</i> |

The Secretary of State makes this Order in exercise of the powers conferred by sections 84(4)(d) and 166(3)(a) and (b) of the Immigration and Asylum Act 1999(a).

Citation, commencement and extent

1.—(1) This Order may be cited as the Immigration and Asylum Act 1999 (Part 5 Exemption: Licensed Sponsors) Order 2022.

(2) This Order comes into force on 11th April 2022.

(3) This Order extends to England and Wales, Scotland and Northern Ireland.

Exemption of licensed sponsors from prohibition on providing immigration advice or services

2.—(1) For the purposes of section 84(4) of the Immigration and Asylum Act 1999(b), a licensed sponsor is a specified category of person in respect of the provision of immigration advice or immigration services in the situations described in paragraphs (2) and (3) (and accordingly the prohibition in section 84(1) of that Act does not apply to a person who is a licensed sponsor providing such advice or services in those situations).

(2) The first situation is where—

- (a) the immigration advice or immigration services are provided in relation to an individual by the licensed sponsor free of charge,
- (b) the advice or services are provided by the licensed sponsor in connection with an application by that individual for entry clearance or leave to enter or remain in the United Kingdom under the immigration rules for the purposes of work or study in the United Kingdom, and
- (c) the licensed sponsor is that individual's sponsor, pursuant to those rules, in relation to the work or course of study in question.

(3) The second situation is where—

(a) 1999 c. 33; section 84(4)(d) was amended by paragraph 2(1)(b) of Schedule 7 to the Immigration Act 2014 (c. 22).
(b) Section 84(4) was amended by paragraph 2(1) of Schedule 7 to the Immigration Act 2014.

- (a) the immigration advice or immigration services are provided in relation to an individual (“the individual”) by the licensed sponsor free of charge,
 - (b) the advice or services are provided by the licensed sponsor in connection with an application by the individual for entry clearance or leave to enter or remain in the United Kingdom under the immigration rules,
 - (c) the licensed sponsor reasonably believes that the application will be or was made by the individual as an eligible family member of another individual (“the main applicant”) and that, under the immigration rules, the individual’s application is or was dependent on, or on the outcome of—
 - (i) an application which the main applicant is proposing to make for entry clearance or leave to enter or remain in the United Kingdom under those rules for the purposes of work or study in the United Kingdom,
 - (ii) an application which the main applicant has made, but which has not yet been determined, for entry clearance or leave to enter or remain in the United Kingdom under those rules for the purposes of work or study in the United Kingdom, or
 - (iii) an application made by the main applicant for entry clearance or leave to enter or remain in the United Kingdom under those rules for the purposes of work or study in the United Kingdom which resulted in such clearance or leave being granted to the main applicant, and
 - (d) the licensed sponsor is the main applicant’s sponsor, pursuant to the immigration rules, in relation to—
 - (i) the work or course of study referred to in sub-paragraph (c)(i), (ii) or (iii), as the case may be (whether or not paragraph (4) applies), or
 - (ii) where paragraph (4) applies, any work or course of study referred to in sub-paragraph (c) of that paragraph.
- (4) This paragraph applies where—
- (a) the individual’s application is an application which has been determined,
 - (b) the licensed sponsor reasonably believes that, under the immigration rules, that application was dependent on, or on the outcome of, an application made by the main applicant for entry clearance or leave to enter or remain in the United Kingdom under those rules for the purposes of work or study in the United Kingdom which resulted in such clearance or leave being granted to the main applicant, and
 - (c) the main applicant—
 - (i) has entry clearance or leave to enter or remain in the United Kingdom under the immigration rules for the purposes of work or study in the United Kingdom as a result of a subsequent application for entry clearance or leave to enter or remain in the United Kingdom under those rules,
 - (ii) is proposing to make an application for entry clearance or leave to enter or remain in the United Kingdom under those rules for the purposes of work or study in the United Kingdom, or
 - (iii) has made an application under those rules, which has not yet been determined, for entry clearance or leave to enter or remain in the United Kingdom under those rules for the purposes of work or study in the United Kingdom.

(5) In this article—

“the immigration rules” means rules made under section 3(2) of the Immigration Act 1971(a);
 “licensed sponsor” means a person listed as a licensed sponsor in either of the following registers maintained by the Home Office in connection with the immigration rules—

(a) 1971 c. 77. The current United Kingdom immigration rules are those which were laid before Parliament on 23rd May 1994 (HC 395), as subsequently amended.

- (a) the register of licensed sponsors: students^(a);
 - (b) the register of licensed sponsors: workers^(b);
- “work” includes engaging in business.

(6) For the purposes of paragraph (3)(c) an application by an individual (“the individual”) is made by the individual as an eligible family member of another individual (“the main applicant”) where the individual’s entitlement under the immigration rules to make the application depends on the existence of a particular relationship or other connection between the individual and the main applicant.

(7) References in this article to entry clearance or leave to enter or remain in the United Kingdom include references to the variation of such clearance or leave.

Revocation

3. The Immigration and Asylum Act 1999 (Part V Exemption: Licensed Sponsors Tiers 2 and 4) Order 2009(c) is revoked.

7th March 2022

Kevin Foster
Parliamentary Under Secretary of State
Home Office

EXPLANATORY NOTE

(This note is not part of the Order)

This Order replaces the Immigration and Asylum Act 1999 (Part V Exemption: Licensed Sponsors Tiers 2 and 4) Order 2009, which it revokes.

Section 84(1) of the Immigration and Asylum Act 1999 (“the Act”) prohibits the provision of immigration advice or immigration services by any person other than a qualified person. “Immigration advice” and “immigration services” are defined in section 82(1), and section 84(2) defines “qualified person”.

Section 84(4)(d) of the Act enables categories of person to be specified by order with the result that persons falling within a specified category are exempt from the prohibition in section 84(1). Article 2 of this Order specifies “licensed sponsors” for this purpose, when providing immigration advice or immigration services in specific situations described in article 2(2) and (3). Licensed sponsors are persons licensed by the Secretary of State who, in accordance with the United Kingdom immigration rules, sponsor individuals from abroad to do particular work or attend particular courses of study in the United Kingdom. Two registers of licensed sponsors are maintained by the Home Office, and article 2(5) of this Order defines “licensed sponsor” as a person listed in either of those registers. The registers are accessible online via links set out in the footnotes to the definition of “licensed sponsor”. Alternatively, for those without internet access, information about these registers may be obtained by phoning UK Visas and Immigration on 0300 790 6268.

An impact assessment has not been produced for this Order because no, or no significant, impact on the private, voluntary or public sector is foreseen.

(a) The register of licensed sponsors: students is accessible via this link: <https://www.gov.uk/government/publications/register-of-licensed-sponsors-students>.

(b) The register of licensed sponsors: workers is accessible via this link: <https://www.gov.uk/government/publications/register-of-licensed-sponsors-workers>.

(c) S.I. 2009/506, amended by S.I. 2020/966, 2020/1147, 2021/1035.

© Crown copyright 2022

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James,
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.90

<http://www.legislation.gov.uk/id/uksi/2022/235>

ISBN 978-0-34-823282-0



9 780348 232820