



Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

2004 CHAPTER 19

Immigration services

39 Offence of advertising services

After section 92A of the Immigration and Asylum Act 1999 (c. 33) (inserted by section 38 above) insert—

“92B Advertising

- (1) A person commits an offence if—
 - (a) he offers to provide immigration advice or immigration services, and
 - (b) provision by him of the advice or services would constitute an offence under section 91.
- (2) For the purpose of subsection (1) a person offers to provide advice or services if he—
 - (a) makes an offer to a particular person or class of person,
 - (b) makes arrangements for an advertisement in which he offers to provide advice or services, or
 - (c) makes arrangements for an advertisement in which he is described or presented as competent to provide advice or services.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) Subsections (3) to (7) of section 91 shall have effect for the purposes of this section as they have effect for the purposes of that section.
- (5) An information relating to an offence under this section may in England and Wales be tried by a magistrates' court if—

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- (a) it is laid within the period of six months beginning with the date (or first date) on which the offence is alleged to have been committed, or
 - (b) it is laid—
 - (i) within the period of two years beginning with that date, and
 - (ii) within the period of six months beginning with a date certified by the Immigration Services Commissioner as the date on which the commission of the offence came to his notice.
- (6) In Scotland, proceedings for an offence under this section may be commenced—
- (a) at any time within the period of six months beginning with the date (or first date) on which the offence is alleged to have been committed, or
 - (b) at any time within both—
 - (i) the period of two years beginning with that date, and
 - (ii) the period of six months beginning with a date specified, in a certificate signed by or on behalf of the procurator fiscal, as the date on which evidence sufficient in his opinion to warrant such proceedings came to his knowledge,
 and any such certificate purporting to be so signed shall be deemed so signed unless the contrary is proved and be conclusive as to the facts stated in it.
- (7) Subsection (3) of section 136 of the Criminal Procedure (Scotland) Act 1995 (c. 46) (date on which proceedings are deemed commenced) has effect to the purposes of subsection (6) as it has effect for the purposes of that section.
- (8) A complaint charging the commission of an offence under this section may in Northern Ireland be heard and determined by a magistrates' court if—
- (a) it is made within the period of six months beginning with the date (or first date) on which the offence is alleged to have been committed, or
 - (b) it is made—
 - (i) within the period of two years beginning with that date, and
 - (ii) within the period of six months beginning with a date certified by the Immigration Services Commissioner as the date on which the commission of the offence came to his notice.”

Commencement Information

II S. 39 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

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

- Act excluded by [2024 c. 8 s. 2\(5\)\(a\)5](#)

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

- s. 8(1A)(1B) inserted by [2022 c. 36 s. 19\(2\)](#)
- s. 8(3A)(3B) inserted by [2022 c. 36 s. 19\(3\)](#)
- s. 8(6A)(6B) inserted by [2022 c. 36 s. 19\(4\)](#)
- s. 8(9A)(a) word inserted by [2022 c. 36 Sch. 3 para. 7\(b\)](#)
- s. 8(9A)(b) and word inserted by [2022 c. 36 Sch. 3 para. 7\(c\)](#)
- s. 8(9B) inserted by [2022 c. 36 s. 19\(6\)](#)
- Sch. 3 para. 3(3) inserted by [2023 c. 37 s. 10\(9\)\(a\)](#)
- Sch. 3 para. 8(3) inserted by [2023 c. 37 s. 10\(9\)\(b\)](#)
- Sch. 3 para. 13(3) inserted by [2023 c. 37 s. 10\(9\)\(c\)](#)