

Status: Point in time view as at 01/10/2004.

Changes to legislation: Immigration and Asylum Act 1999, Cross Heading: Power to enter premises is up to date with all changes known to be in force on or before 14 September 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)

SCHEDULES

SCHEDULE 5

THE IMMIGRATION SERVICES COMMISSIONER

PART I

REGULATORY FUNCTIONS

Power to enter premises

- 7 (1) This paragraph applies if—
- (a) the Commissioner is investigating a complaint under the complaints scheme;
 - (b) the complaint falls within paragraph 5(3)(a), (b) [F1, (c)] or (d); and
 - (c) there are reasonable grounds for believing that particular premises are being used in connection with the provision of immigration advice or immigration services by a [F2registered or exempt person.]
- [F3(1A) This paragraph also applies if the Commissioner is investigating a matter under paragraph 5(5) and—
- (a) the matter is of a kind described in paragraph 5(3)(a), (b)[F4, (c)] or (d) (for which purpose a reference to an allegation shall be treated as a reference to a suspicion of the Commissioner), and
 - (b) there are reasonable grounds for believing that particular premises are being used in connection with the provision of immigration advice or immigration services by a [F5registered or exempt person.]]
- (2) The Commissioner, or a member of his staff authorised in writing by him, may enter the premises at reasonable hours.
- (3) Sub-paragraph (2) does not apply to premises to the extent to which they constitute a private residence.
- (4) A person exercising the power given by sub-paragraph (2) (“the investigating officer”) may—
- (a) take with him such equipment as appears to him to be necessary;
 - (b) require any person on the premises—
 - (i) to produce any document which he considers relates to any matter relevant to the investigation; and
 - (ii) if the document is produced, to provide an explanation of it;
 - (c) require any person to state, to the best of his knowledge and belief, where any such document is to be found;
 - (d) take copies of, or extracts from, any document which is produced;

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- (e) require any information which is held in a computer and is accessible from the premises and which the investigating officer considers relates to any matter relevant to the investigation, to be produced in a form—
 - (i) in which it can be taken away; and
 - (ii) in which it is visible and legible.
- (5) Instead of exercising the power under sub-paragraph (2), the Commissioner may require such person as he may determine (“his agent”) to make a report on the provision of immigration advice or immigration services from the premises.
- (6) If the Commissioner so determines, his agent may exercise the power conferred by sub-paragraph (2) as if he were a member of the Commissioner’s staff appropriately authorised.
- (7) If a registered person fails without reasonable excuse to allow access under sub-paragraph (2) or (6) to any premises under his occupation or control, the Commissioner may cancel his 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 on him 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 his from obstructing any person exercising such functions.
- [^{F6}(9) Sub-paragraphs (7) and (8) shall apply to an exempt person as they apply to a registered person, but with a reference to cancellation of registration being treated as a reference to withdrawal of exemption.
- (10) In this paragraph “exempt person” means a person certified by the Commissioner as exempt under section 84(4)(a).]

Textual Amendments

- F1** Word in Sch. 5 para. 7(1)(b) inserted (1.10.2004) by *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 38(2)(a)*, 48(3); S.I. 2004/2523, art. 2, Sch.
- F2** Words in Sch. 5 para. 7(1)(c) substituted (1.10.2004) by *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 38(2)(b)*, 48(3); S.I. 2004/2523, art. 2, Sch.
- F3** Sch. 5 para. 7(1A) inserted (8.1.2003) by *Nationality, Immigration and Asylum Act 2002 (c. 41), s. 140(1)* (with s. 159); S.I. 2002/2811, art. 2, Sch. (with art. 5)
- F4** Word in Sch. 5 para. 7(1A)(a) inserted (1.10.2004) by *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 38(2)(c)*, 48(3); S.I. 2004/2523, art. 2, Sch.
- F5** Words in Sch. 5 para. 7(1A)(b) substituted (1.10.2004) by *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 38(2)(d)*, 48(3); S.I. 2004/2523, art. 2, Sch.
- F6** Sch. 5 para. 7(9)(10) inserted (1.10.2004) by *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 38(2)(e)*, 48(3); S.I. 2004/2523, art. 2, Sch.

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