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# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART V

#### IMMIGRATION ADVISERS AND IMMIGRATION SERVICE PROVIDERS

VALID FROM 22/05/2000

#### *The general prohibition*

VALID FROM 30/10/2000

#### **84 Provision of immigration services.**

- (1) No person may provide immigration advice or immigration services unless he is a qualified person.
- (2) A person is a qualified person if—
  - (a) he is registered with the Commissioner or is employed by, or works under the supervision of, such a person;
  - (b) he is a member or employee of a body which is a registered person, or works under the supervision of such a member or employee;
  - (c) he is authorised by a designated professional body to practise as a member of the profession whose members are regulated by that body, or works under the supervision of such a person;
  - (d) he is registered with, or authorised by, a person in another EEA State responsible for regulating the provision in that EEA State of advice or services corresponding to immigration advice or immigration services or would be required to be so registered or authorised were he not exempt from such a requirement;

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- (e) he is authorised by a body regulating the legal profession, or any branch of it, in another EEA State to practise as a member of that profession or branch; or
  - (f) he is employed by a person who falls within paragraph (d) or (e) or works under the supervision of such a person or of an employee of such a person.
- (3) If a registered person’s registration has limited effect (by virtue of paragraph 2(2) of Schedule 6), neither paragraph (a) nor (b) of subsection (2) authorises the provision of advice or services falling outside the scope of that registration.
- (4) Subsection (1) does not apply to a person who—
- (a) is certified by the Commissioner as exempt (“an exempt person”);
  - (b) is employed by an exempt person;
  - (c) works under the supervision of an exempt person or an employee of an exempt person; or
  - (d) who falls within a category of person specified in an order made by the Secretary of State for the purposes of this subsection.
- (5) A certificate under subsection (4)(a) may relate only to a specified description of immigration advice or immigration services.
- (6) Subsection (1) does not apply to a person—
- (a) holding an office under the Crown, when acting in that capacity;
  - (b) employed by, or for the purposes of, a government department, when acting in that capacity;
  - (c) acting under the control of a government department; or
  - (d) otherwise exercising functions on behalf of the Crown.
- (7) An exemption given under subsection (4) may be withdrawn by the Commissioner.

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

- C1** S. 84(1) excluded (temp. from 30.4.2001 to the end of January 2002) by [S.I. 2001/1393](#), [arts. 1, 3, 4](#)
- S. 84(1) excluded (30.4.2001) by [S.I. 2001/1403](#), [arts. 2-4](#), [Schs. 1-3](#)
- S. 84(1) excluded (temp. from 1.2.2002 to 31.12.2002) by [The Immigration and Asylum Act 1999 \(Part V Exemption: Relevant Employers\) Order 2002 \(S.I. 2002/9\)](#), [arts. 1, 3](#)
- S. 84(1) excluded (temp. from 1.1.2003 to 31.12.2003) by [The Immigration and Asylum Act 1999 \(Part V Exemption: Relevant Employers\) Order 2002 \(S.I. 2002/3025\)](#), [arts. 1, 3](#)

#### **Commencement Information**

- II** S. 84 wholly in force at 30.4.2001; s. 84 not in force at Royal Assent see [s. 170\(4\)](#); [s. 84\(5\)\(7\)](#) wholly in force and [s. 84\(2\)\(a\)\(b\)\(4\)\(a\)\(d\)](#) in force for certain purposes at 30.10.2000 by [S.I. 2000/1985](#), [art. 2](#), [Sch.](#) (with transitional provisions in [art. 3](#)); [s. 84](#) in force so far as not already in force at 30.4.2001 by [S.I. 2001/1394](#), [art. 2](#), [Sch.](#)

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VALID FROM 01/08/2000

## **85 Registration and exemption by the Commissioner.**

- (1) The Commissioner must prepare and maintain a register for the purposes of section 84(2)(a) and (b).
- (2) The Commissioner must keep a record of the persons to whom he has issued a certificate of exemption under section 84(4)(a).
- (3) Schedule 6 makes further provision with respect to registration.

### **Commencement Information**

- I2** [S. 85](#) wholly in force at 30.10.2000; [s. 85](#) not in force at Royal Assent see [s. 170\(4\)](#); [s. 85\(3\)](#) in force for certain purposes at 1.8.2000 and [s. 85](#) in force at 30.10.2000 insofar as not already in force by [S.I. 2000/1985](#), [art. 2](#), [Sch.](#) (with transitional provisions in [art. 3](#))

## **86 Designated professional bodies.**

- (1) “Designated professional body” means—
  - (a) The Law Society;
  - (b) The Law Society of Scotland;
  - (c) The Law Society of Northern Ireland;
  - (d) The Institute of Legal Executives;
  - (e) The General Council of the Bar;
  - (f) The Faculty of Advocates; or
  - (g) The General Council of the Bar of Northern Ireland.
- (2) If the Secretary of State considers that a designated professional body has consistently failed to provide effective regulation of its members in their provision of immigration advice or immigration services, he may by order amend subsection (1) to remove the name of that body.
- (3) If a designated professional body asks the Secretary of State to amend subsection (1) so as to remove its name, the Secretary of State may by order do so.
- (4) If the Secretary of State is proposing to act under subsection (2) he must, before doing so—
  - (a) consult the Commissioner;
  - (b) consult the Legal Services Ombudsman, if the proposed order would affect a designated professional body in England and Wales;
  - (c) consult the Scottish Legal Services Ombudsman, if the proposed order would affect a designated professional body in Scotland;
  - (d) consult 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;
  - (e) notify the body concerned of his proposal and give it a reasonable period within which to make representations; and

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- (f) consider any representations so made.
- (5) An order under subsection (2) requires the approval of—
- (a) the Lord Chancellor, if it affects a designated professional body in England and Wales or Northern Ireland;
  - (b) the Scottish Ministers, if it affects a designated professional body in Scotland.
- (6) Before deciding whether or not to give his approval under subsection (5)(a), the Lord Chancellor must consult—
- (a) the designated judges, if the order affects a designated professional body in England and Wales;
  - (b) the Lord Chief Justice of Northern Ireland, if it affects a designated professional body in Northern Ireland.
- (7) Before deciding whether or not to give their approval under subsection (5)(b), the Scottish Ministers must consult the Lord President of the Court of Session.
- (8) If the Secretary of State considers that a body which—
- (a) is concerned (whether wholly or in part) with regulating the legal profession, or a branch of it, in an EEA State,
  - (b) is not a designated professional body, and
  - (c) is capable of providing effective regulation of its members in their provision of immigration advice or immigration services,
- ought to be designated, he may by order amend subsection (1) to include the name of that body.
- (9) The Commissioner must—
- (a) keep under review the list of designated professional bodies set out in subsection (1); and
  - (b) report to the Secretary of State if he considers that a designated professional body is failing to provide effective regulation of its members in their provision of immigration advice or immigration services.
- (10) For the purpose of meeting the costs incurred by the Commissioner in discharging his functions under this Part, each designated professional body must pay to the Commissioner, in each year and on such date as may be specified, such fee as may be specified.
- (11) Any unpaid fee for which a designated professional body is liable under subsection (10) may be recovered from that body as a debt due to the Commissioner.
- (12) “Specified” means specified by an order made by the Secretary of State.

#### **Commencement Information**

**I3** S. 86 wholly in force at 30.4.2001; s. 86 not in force at Royal Assent see s. 170(4); s. 86(1)-(9) in force at 22.5.2000 by S.I. 2000/1282, art. 2, Sch.; s. 86(10)-(12) in force for certain purposes at 30.10.2000 by S.I. 2000/1985, art. 2, Sch. (with transitional provisions in art. 3); S. 86 in force so far as not already in force at 30.4.2001 by S.I. 2001/1394, art. 2, Sch.

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#### **Marginal Citations**

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

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