



# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART V **U.K.**

#### IMMIGRATION ADVISERS AND IMMIGRATION SERVICE PROVIDERS

##### *The general prohibition*

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

(1) No person may provide immigration advice or immigration services unless he is a qualified person.

[<sup>F1</sup>(2) A person is a qualified person if he is—

- (a) a registered person,
- (b) authorised by a designated professional body to practise as a member of the profession whose members the body regulates,

[<sup>F2</sup>(ba) a person authorised to provide immigration advice or immigration services by a designated qualifying regulator,]

- (c) the equivalent in an EEA State of—
  - (i) a registered person, or
  - (ii) a person within paragraph (b) [<sup>F3</sup>or (ba)] ,
- (d) a person permitted, by virtue of exemption from a prohibition, to provide in an EEA State advice or services equivalent to immigration advice or services, or
- (e) acting on behalf of, and under the supervision of, a person within any of paragraphs (a) to (d) (whether or not under a contract of employment).]

[<sup>F1</sup>(3) Subsection (2)(a) and (e) are subject to any limitation on the effect of a person's registration imposed under paragraph 2(2) of Schedule 6.]

[<sup>F4</sup>(3A) A person's entitlement to provide immigration advice or immigration services by virtue of subsection (2)(ba)—

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- (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).]
- (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.

#### Textual Amendments

- F1** S. 84(2)(3) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), ss. 37\(1\), 48\(3\); S.I. 2004/2523, art. 2, Sch.](#)
- F2** S. 84(2)(ba) inserted (1.4.2011) by [Legal Services Act 2007 \(c. 29\), s. 211\(2\), Sch. 18 para. 12\(2\)\(a\)](#) (with ss. 29, 192, 193); S.I. 2011/720, art. 2(c)
- F3** Words in s. 84(2)(c)(ii) inserted (1.4.2011) by [Legal Services Act 2007 \(c. 29\), s. 211\(2\), Sch. 18 para. 12\(2\)\(b\)](#) (with ss. 29, 192, 193); S.I. 2011/720, art. 2(c)
- F4** S. 84(3A)(3B) inserted (1.4.2011) by [Legal Services Act 2007 \(c. 29\), s. 211\(2\), Sch. 18 para. 12\(3\)](#) (with ss. 29, 192, 193); S.I. 2011/720, art. 2(c)

#### 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](#)
- C2** S. 84(4)(d) extended (1.1.2004) by [Immigration and Asylum Act 1999 \(Part V Exemption; Relevant Employers\) Order 2003 \(S.I. 2003/3214\), arts. 1, 3](#)

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#### Commencement Information

- I1** 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.](#)

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

- (1) The Commissioner must prepare and maintain a register for the purposes of section 84(2)(a) <sup>F5</sup>....
- (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.

#### Textual Amendments

- F5** Words in s. 85(1) repealed (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), ss. 37\(2\), 48\(3\), Sch. 4; S.I. 2004/2523, art. 2, Sch.](#)

#### 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. **U.K.**

- (1) “Designated professional body” means—
  - <sup>F6</sup>(a) .....
  - (b) The Law Society of Scotland;
  - (c) The Law Society of Northern Ireland;
  - <sup>F6</sup>(d) .....
  - <sup>F6</sup>(e) .....
  - (f) The Faculty of Advocates; or
  - (g) The General Council of the Bar of Northern Ireland.
- [<sup>F7</sup>(2) The Secretary of State may by order remove a body from the list in subsection (1) if he considers that the body—
  - (a) has failed to provide effective regulation of its members in their provision of immigration advice or immigration services, or
  - (b) has failed to comply with a request of the Commissioner for the provision of information (whether general or in relation to a particular case or matter).]
  - (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;

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- (b) consult the Legal Services Ombudsman, if the proposed order would affect a designated professional body in England and Wales;
  - (c) consult the [<sup>F8</sup>Scottish Legal Complaints Commission], 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
  - (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 <sup>F9</sup>... 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—
- <sup>F10</sup>(a) .....
  - (b) the Lord Chief Justice of Northern Ireland, if [<sup>F11</sup>the order] 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 [<sup>F12</sup>(other than a body in England and Wales)] 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
  - <sup>F13</sup>(b) report to the Secretary of State if the Commissioner considers that a designated professional body—
    - (i) is failing to provide effective regulation of its members in their provision of immigration advice or immigration services, or
    - (ii) has failed to comply with a request of the Commissioner for the provision of information (whether general or in relation to a particular case or matter).]
- <sup>F14</sup>(9A) A designated professional body shall comply with a request of the Commissioner for the provision of information (whether general or in relation to a specified case or matter).]
- (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

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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.

#### Textual Amendments

- F6** S. 86(1)(a)(d)(e) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 18 para. 13\(2\)](#), [Sch. 23](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), art. 2(i)(xi)
- F7** S. 86(2) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 41\(2\)](#), [48\(3\)](#); [S.I. 2004/2523](#), art. 2, [Sch.](#)
- F8** Words in s. 86(4)(c) substituted (1.10.2008) by [Legal Services Act 2007 \(c. 29\)](#), [ss. 196\(2\)\(a\)](#), [211\(2\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2008/1436](#), art. 3(a)
- F9** Words in s. 86(5)(a) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 18 para. 13\(3\)](#), [Sch. 23](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), art. 2(i)(xi)
- F10** S. 86(6)(a) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 18 para. 13\(4\)\(a\)](#), [Sch. 23](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), art. 2(i)(xi)
- F11** Words in s. 86(6)(b) substituted (1.4.2011) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 18 para. 13\(4\)\(b\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2011/720](#), art. 2(c)
- F12** Words in s. 86(8) inserted (1.4.2011) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 18 para. 13\(5\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2011/720](#), art. 2(c)
- F13** S. 86(9)(b) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 41\(3\)](#), [48\(3\)](#); [S.I. 2004/2523](#), art. 2, [Sch.](#)
- F14** S. 86(9A) inserted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 41\(4\)](#), [48\(3\)](#); [S.I. 2004/2523](#), art. 2, [Sch.](#)

#### 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.](#)

#### Marginal Citations

- M1** [S.I. 1976/582 \(N.I. 12\)](#).

### [<sup>F15</sup>86A Designated qualifying regulators **U.K.**

- (1) “Designated qualifying regulator” means a body which is a qualifying regulator and is listed in subsection (2).
- (2) The listed bodies are—
- the Law Society;
  - the Institute of Legal Executives;
  - 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.

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- (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
  - (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.]

#### **Textual Amendments**

**F15** S. 86A inserted (1.4.2011) by [Legal Services Act 2007 \(c. 29\), s. 211\(2\)](#), [Sch. 18 para. 14](#) (with [ss. 29, 192, 193](#)); [S.I. 2011/720, art. 2\(c\)](#)

**Status:**

Point in time view as at 01/04/2011.

**Changes to legislation:**

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