



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART V

IMMIGRATION ADVISERS AND IMMIGRATION SERVICE PROVIDERS

[^{F1}Appeals to the First-tier Tribunal]

Textual Amendments

F1 S. 87 crossheading substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 34](#) (with Sch. 5)

87 *[^{F2}Appeals to the First-tier Tribunal.]*

^{F3}(1)

(2) Any person aggrieved by a relevant decision of the Commissioner may appeal to the *[^{F4}First-tier Tribunal]* against the decision.

(3) “Relevant decision” means a decision—

- (a) to refuse an application for registration made under paragraph 1 of Schedule 6;
- (b) to withdraw an exemption given under section 84(4)(a);
- (c) under paragraph 2(2) of that Schedule to register with limited effect;
- (d) to refuse an application for continued registration made under paragraph 3 of that Schedule;
- (e) to vary a registration on an application under paragraph 3 of that Schedule;

[^{F5}(ea) to vary a registration under paragraph 3A of that Schedule;] or

^{F6}(f)

[^{F7}(3A) A relevant decision of the Commissioner is not to have effect while the period within which an appeal may be brought against the decision is running.

Status: Point in time view as at 22/04/2014.

Changes to legislation: *Immigration and Asylum Act 1999, Cross Heading: Appeals to the First-tier Tribunal is up to date with all changes known to be in force on or before 31 May 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)*

- (3B) In the case of an appeal under this section, Tribunal Procedure Rules may include provision permitting the First-tier Tribunal to direct that while the appeal is being dealt with—
- (a) no effect is to be given to the decision appealed against; or
 - (b) only such limited effect is to be given to it as may be specified in the direction.
- (3C) If provision is made in Tribunal Procedure Rules by virtue of subsection (3B), the rules must also include provision requiring the First-tier Tribunal to consider applications by the Commissioner for the cancellation or variation of directions given by virtue of that subsection.]
- [^{F8}(4) For a further function of the First-tier Tribunal under this Part, see paragraph 9(1)(e) of Schedule 5 (disciplinary charges laid by the Commissioner).]
- ^{F9}(5)

Textual Amendments

- F2** S. 87 heading substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 35\(a\)](#) (with Sch. 5)
- F3** S. 87(1) omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 35\(b\)](#) (with Sch. 5)
- F4** Words in s. 87(2) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 35\(c\)](#) (with Sch. 5)
- F5** S. 87(3)(ea) inserted (8.1.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), s. 140(3) (with s. 159); [S.I. 2002/2811](#), art. 2, Sch. (with art. 5)
- F6** S. 87(3)(f) repealed (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 40, 48(3), [Sch. 4](#); [S.I. 2004/2523](#), art. 2, Sch.
- F7** S. 87(3A)-(3C) inserted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 35\(d\)](#) (with Sch. 5)
- F8** S. 87(4) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 35\(e\)](#) (with Sch. 5)
- F9** S. 87(5) omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 35\(b\)](#) (with Sch. 5)

Commencement Information

- I1** S. 87 wholly in force at 30.10.2000; s. 87 not in force at Royal Assent see s. 170(4); s. 87(5) in force for certain purposes at 1.8.2000 and s. 87 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](#))

88 Appeal upheld by the [^{F10}First-tier Tribunal].

- (1) This section applies if the [^{F11}First-tier Tribunal] allows an appeal under section 87.
- (2) If the [^{F12}First-tier Tribunal] considers it appropriate, it may direct the Commissioner—
 - (a) to register the applicant or to continue the applicant’s registration;
 - (b) to make or vary the applicant’s registration so as to have limited effect in any of the ways mentioned in paragraph 2(2) of Schedule 6;
 - (c) to restore an exemption granted under section 84(4)(a); or

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- (d) to quash a decision recorded under paragraph 9(1)(a) of Schedule 5 and the record of that decision.

Textual Amendments

- F10** Words in s. 88 heading substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), [art. 1\(1\)](#), [Sch. 2 para. 36](#) (with [Sch. 5](#))
- F11** Words in s. 88(1) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), [art. 1\(1\)](#), [Sch. 2 para. 36](#) (with [Sch. 5](#))
- F12** Words in s. 88(2) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), [art. 1\(1\)](#), [Sch. 2 para. 36](#) (with [Sch. 5](#))

89 Disciplinary charge upheld by the ^{F13}First-tier Tribunal].

- (1) This section applies if the ^{F14}First-tier Tribunal] upholds a disciplinary charge laid by the Commissioner under paragraph 9(1)(e) of Schedule 5 against a person (“the person charged”).

^{F15}(2) If the person charged is a registered person or acts on behalf of a registered person, the ^{F14}First-tier Tribunal] may—

- (a) direct the Commissioner to record the charge and the ^{F14}First-tier Tribunal]’s decision for consideration in connection with the registered person’s next application for continued registration;
- (b) direct the registered person to apply for continued registration as soon as is reasonably practicable.]
- (4) If the person charged is certified by the Commissioner as exempt under section 84(4) (a), the ^{F14}First-tier Tribunal] may direct the Commissioner to consider whether to withdraw his exemption.
- (5) If the person charged is found to have charged unreasonable fees for immigration advice or immigration services, the ^{F14}First-tier Tribunal] may direct him to repay to the clients concerned such portion of those fees as it may determine.
- (6) The ^{F14}First-tier Tribunal] may direct the person charged to pay a penalty to the Commissioner of such sum as it considers appropriate.
- (7) A direction given by the ^{F14}First-tier Tribunal] under subsection (5) (or under subsection (6)) may be enforced by the clients concerned (or by the Commissioner)—
- (a) as if it were an order of a county court ^{F16}in Northern Ireland or the county court in England and Wales] ; or
- (b) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (8) The ^{F14}First-tier Tribunal] may direct that the person charged or any person ^{F17}acting on his behalf or] under his supervision is to be—
- (a) subject to such restrictions on the provision of immigration advice or immigration services as the ^{F14}First-tier Tribunal] considers appropriate;
- (b) suspended from providing immigration advice or immigration services for such period as the ^{F14}First-tier Tribunal] may determine; or
- (c) prohibited from providing immigration advice or immigration services indefinitely.

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- (9) The Commissioner must keep a record of the persons against whom there is in force a direction given by the [F14First-tier Tribunal] under subsection (8).

Textual Amendments

- F13** Words in s. 89 heading substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), [art. 1\(1\)](#), [Sch. 2 para. 37](#) (with [Sch. 5](#))
- F14** Words in s. 89(1)-(9) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), [art. 1\(1\)](#), [Sch. 2 para. 37](#) (with [Sch. 5](#))
- F15** S. 89(2) substituted for s. 89(2)(3) (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 37\(3\)\(a\)](#), 48(3); S.I. 2004/2523, [art. 2](#), [Sch.](#)
- F16** Words in s. 89(7) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(3\)](#), [Sch. 9 para. 90\(c\)](#); S.I. 2014/954, [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, [arts. 3-11](#))
- F17** Words in s. 89(8) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 37\(3\)\(b\)](#), 48(3); S.I. 2004/2523, [art. 2](#), [Sch.](#)

90 Orders by disciplinary bodies.

- (1) A disciplinary body may make an order directing that a person subject to its jurisdiction is to be—
- (a) subject to such restrictions on the provision of immigration advice or immigration services as the body considers appropriate;
 - (b) suspended from providing immigration advice or immigration services for such period as the body may determine; or
 - (c) prohibited from providing immigration advice or immigration services indefinitely.
- (2) “Disciplinary body” means any body—
- [F18(a) appearing to the Secretary of State to be established for the purpose of hearing disciplinary charges against—
 - (i) members of a designated professional body, or
 - (ii) persons regulated by designated qualifying regulators; and]
 - (b) specified in an order made by the Secretary of State.
- (3) The Secretary of State must consult the designated professional body [F19or designated qualifying regulator] concerned before making an order under subsection (2)(b).
- (4) For the purposes of this section, a person is subject to the jurisdiction of a disciplinary body if he is an authorised person or [F20is acting on behalf of] an authorised person.
- (5) “Authorised person” means [F21—
- (a) a person who is authorised by the designated professional body concerned to practise as a member of the profession whose members are regulated by that body[F22, or
 - (b) a person who is authorised by the designated qualifying regulator concerned to provide immigration advice or immigration services.]

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Textual Amendments

- F18** S. 90(2)(a) substituted (1.4.2011) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 18 para. 15(2)** (with [ss. 29, 192, 193](#)); [S.I. 2011/720](#), art. 2(c)
- F19** Words in s. 90(3) inserted (1.4.2011) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 18 para. 15(3)** (with [ss. 29, 192, 193](#)); [S.I. 2011/720](#), art. 2(c)
- F20** Words in s. 90(4) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 37(4), 48(3)**; [S.I. 2004/2523](#), art. 2, Sch.
- F21** Words in s. 90(5) inserted (1.4.2011) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 18 para. 15(4)(a)** (with [ss. 29, 192, 193](#)); [S.I. 2011/720](#), art. 2(c)
- F22** Words in s. 90(5) inserted (1.4.2011) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 18 para. 15(4)(b)** (with [ss. 29, 192, 193](#)); [S.I. 2011/720](#), art. 2(c)

Commencement Information

- I2** S. 90 wholly in force at 30.4.2001; s. 90 not in force at Royal Assent see s. 170(4); s. 90 in force for certain purposes at 1.8.2000 by [S.I. 2000/1985](#), art. 2, **Sch.** (with transitional provisions in [art. 3](#)); S. 90 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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