

*Status: Point in time view as at 18/01/2010.*

*Changes to legislation: Immigration and Asylum Act 1999, Cross Heading: Determination of complaints is up to date with all changes known to be in force on or before 07 July 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

##### *Determination of complaints*

- 8 (1) On determining a complaint under the complaints scheme, the Commissioner must give his decision in a written statement.
- (2) The statement must include the Commissioner's reasons for his decision.
- (3) A copy of the statement must be given by the Commissioner to—
- (a) the person who made the complaint; and
  - (b) the person who is the subject of the complaint.
- 9 (1) On determining a complaint under the complaints scheme, the Commissioner may—
- (a) if the person to whom the complaint relates is a registered person [<sup>F1</sup>or is acting on behalf of] a registered person, record the complaint and the decision on it for consideration when that registered person next applies for his registration to be continued;
  - (b) if the person to whom the complaint relates is a registered person [<sup>F2</sup>or is acting on behalf of] a registered person and the Commissioner considers the matter sufficiently serious to require immediate action, require that registered person to apply for continued registration without delay;
  - [<sup>F3</sup>(c) refer the complaint and his decision on it to a relevant regulatory body;]
  - (d) if the person to whom the complaint relates is certified by the Commissioner as exempt under section 84(4)(a) or is employed by, or working under the supervision of, such a person, consider whether to withdraw that person's exemption;
  - (e) lay before the [<sup>F4</sup>First-tier Tribunal] a disciplinary charge against a relevant person.
- (2) Sub-paragraph (3) applies if—
- (a) the [<sup>F5</sup>First-tier Tribunal] is considering a disciplinary charge against a relevant person; and
  - (b) the Commissioner asks it to exercise its powers under that sub-paragraph.
- (3) The [<sup>F6</sup>First-tier Tribunal] may give directions (which are to have effect while it is dealing with the charge)—

*Status: Point in time view as at 18/01/2010.*

*Changes to legislation: Immigration and Asylum Act 1999, Cross Heading: Determination of complaints is up to date with all changes known to be in force on or before 07 July 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)*

- [<sup>F7</sup>(a) imposing restrictions on the provision of immigration advice or immigration services by the relevant person or by a person acting on his behalf or under his supervision;]
  - [<sup>F7</sup>(b) prohibiting the provision of immigration advice or immigration services by the relevant person or a person acting on his behalf or under his supervision.]
- (4) “Relevant person” means a person providing immigration advice or immigration services who is—
- (a) a registered person;
  - [<sup>F8</sup>(b) a person acting on behalf of a registered person;]
  - (e) a person certified by the Commissioner as exempt under section 84(4)(a);
  - (f) a person to whom section 84(4)(d) applies; or
  - (g) a person employed by, or working under the supervision of, a person to whom paragraph (e) or (f) applies.

#### **Textual Amendments**

- F1** Words in Sch. 5 para. 9(1)(a) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), ss. 37\(5\)\(h\)](#), 48(3); S.I. 2004/2523, art. 2, Sch.
- F2** Words in Sch. 5 para. 9(1)(b) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), ss. 37\(5\)\(h\)](#), 48(3); S.I. 2004/2523, art. 2, Sch.
- F3** Sch. 5 para. 9(1)(c) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), ss. 37\(5\)\(i\)](#), 48(3); S.I. 2004/2523, art. 2, Sch.
- F4** Words in Sch. 5 para. 9(1)(e) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 40** (with Sch. 5)
- F5** Words in Sch. 5 para. 9(2)(a) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 40** (with Sch. 5)
- F6** Words in Sch. 5 para. 9(3) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 40** (with Sch. 5)
- F7** Sch. 5 para. 9(3)(a)(b) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), ss. 37\(5\)\(j\)](#), 48(3); S.I. 2004/2523, art. 2, Sch.
- F8** Sch. 5 para. 9(4)(b) substituted for Sch. 5 para. 9(4)(b)-(d) (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), ss. 37\(5\)\(k\)](#), 48(3); S.I. 2004/2523, art. 2, Sch.

**Status:**

Point in time view as at 18/01/2010.

**Changes to legislation:**

Immigration and Asylum Act 1999, Cross Heading: Determination of complaints is up to date with all changes known to be in force on or before 07 July 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.