

IMMIGRATION ACT 2014

EXPLANATORY NOTES

BACKGROUND

Part 5: Oversight

31. The OISC was established in May 2000 under the 1999 Act to regulate providers of immigration advice. The Commissioner is responsible for ensuring that those who give immigration advice are fit and competent, act in the best interests of their clients, comply with a statutory Code of Conduct and, where relevant, rules made under the 1999 Act. Generally advisers must register with the Commissioner or face prosecution (unless they are covered by an exemption under the 1999 Act). The Act imposes a duty on the OISC to immediately cancel the registration of unfit or defunct organisations. It provides a power for the OISC to apply to the Tribunal to suspend the activities of an adviser charged with criminal offences until the matter has been resolved. It provides the OISC with a revised power of entry (which requires a warrant) that will apply in respect of the exercise of their audit and inspection duties and to entry to businesses operating from private premises. Finally, it amends the 1999 Act to create a single category of regulated adviser by removing one of the main exemptions which permitted certain advisers to operate without registering with OISC (with the Commissioner's consent). This will simplify the regulatory scheme and changes are being made to the arrangements for fees for registration to enable them to be waived in cases where organisations did not previously have to apply for registration.
32. The Act will also bring greater oversight of Home Office immigration enforcement. Since February 2008 the Independent Police Complaints Commission has provided oversight of investigations into serious complaints, conduct matters and incidents involving immigration officers and officials of the Secretary of State exercising immigration and asylum enforcement powers in England and Wales. This remit was extended to officials exercising general customs and customs revenue functions in 2009. In Scotland, the Crown Office and Procurator Fiscal Service and the Police Investigations & Review Commissioner have the power to provide equivalent independent oversight. However, there is no independent oversight of enforcement activity involving immigration officers and designated customs officials in Northern Ireland. The Act remedies this, placing the exercise of enforcement powers by such Home Office officials under the oversight of the Police Ombudsman for Northern Ireland ("PONI").