

NZ immigration consultants now being licensed

By Richard Howard

In response to concerns about the number of migrants being disadvantaged through poor immigration advice and fraudulent activities the New Zealand Government passed, in May 2007, the **Immigration Advisers Licensing Act 2007**.

This new legislation is intended to both protect new migrants and to support competent immigration advisers in the delivery of sound immigration advice and services.

Previously any person could establish themselves as an immigration adviser, and many people have done so, without having any relevant experience or expertise.

However, from May 2008, the immigration advice industry in NZ has become regulated bringing the country into line with the other major migrant destination countries of Australia, UK & Canada.

The **Immigration Advisers Authority (IAA)**, an independent Authority within the Department of Labour, is now responsible for licensing immigration advisers and for managing complaints against advisers.

Authority Registrar **Barry Smedts** says that licensing will protect migrants and Advisers alike, as well as enhancing New Zealand's reputation as a quality destination.

"Making Immigration Advisers a licensed, recognised profession benefits everyone.

"Migrants can be confident they are getting the correct and best information, whether they work with an Adviser or directly with Immigration New Zealand.

"Creating professional standards for Immigration Advisers will help protect them against poor advice or unprofessional behaviour.

Immigration Advisers who give their clients sound advice and professional service will also benefit, through new continuing professional development programmes and recognition of their work as a regulated profession. Under the new law, Advisers who provide poor or fraudulent advice can



Above: Richard Howard of Pathways to New Zealand receiving Licence from Barry Smedts, Registrar of Immigration Advisers Authority

also be prosecuted," says Mr Smedts

As at the end of December 2008 only 50 individual advisers have achieved the standard to be licensed. However this number will increase quickly over the coming months as any adviser wishing to provide immigration advice in NZ must be licensed by 4 May 2009, unless exempt, otherwise they will be unable to practise.

NZ registered lawyers are the most prominent group who are exempt from being licensed. The Act also requires all offshore based advisers who provide NZ immigration advice to be licensed by May 2010.

Under the Act, immigration advice is defined as "using, or purporting to use, knowledge of or experience in immigration to advise, direct, assist or represent another person in regard to an immigration matter relating to New Zealand, whether directly or indirectly and whether or not for gain or reward".

To become licensed an immigration adviser must first meet a wide range of competency standards which includes having - relevant qualifications, practical and proven experience and knowledge in immigration matters, professional business practices, good character, acceptable English and an ongoing commitment to professional development.

License applicants must

provide full copies of 4 completed client files showcasing various types of applications and the correspondence and administration of the application process and fee payments.

These same clients must provide a written authority and a reference in respect to the quality of the license applicant's work.

An open book questionnaire on immigration regulations and policies is part of the process together with a professional reference and a professional interview.

There are three classes of licence (*Full, Provisional & Limited*) and advisers must adhere to a professional Code of Conduct and apply to renew their license annually. The current licensing fee is NZ\$1995.

Licensing is an individual adviser requirement and organisations or companies cannot be "licensed" or promote themselves as being licensed, rather they must state they employ or use Licensed Immigration Advisers.

The licensing application process will prove professionally challenging for a number of people currently operating in the industry.

Smaller, part time advisers may elect not to apply for a licence, or they may not be able to achieve the licensing standard.

Advisers, for whom English is not their main language, may have difficulty attaining the required

English standard for licensing and the financial cost of the application licence, and of "maintaining" a licence, will impact on smaller, less financial, businesses and part time advisers.

The expectation therefore is that the industry will initially contract, numbers wise, during this transitional period.

However those Advisers who do become licensed will clearly be representative of those who are more competent and committed to their role and who have the capability and motivation to grow their businesses and act upon the greater opportunities which will result.

The Code of Conduct under which Licensed Immigration Advisers must operate is significant and provides reassurance to migrants using a Licensed Adviser. Among other things the Code requires that Advisers:

Provide clients with a copy of the Code

Enter into written agreements that confirm the services and terms to apply

Work only within their area of competence

Preserve confidentiality and maintain document security

Instigate specific and timely correspondence with clients

Establish a separate bank account for client funds

Set fees that are fair and reasonable

Provide clients with a formal complaints procedure

The Act has implications for people acting in recruitment and other roles associated with assisting prospective employees and migrants from overseas to relocate to NZ.

If any aspect of such assistance involves advice on any immigration matter such people will need to consider whether they should become licensed, limit the nature of their assistance, or rely on a licensed adviser.

An interesting adjunct to the new regulation has come about due to the Trans Tasman Mutual Recognition Arrangement (TTMRA).

Under this Arrangement registered migration agents

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in Australia can register (*ie: license*) to practise in New Zealand, and vice versa, without the need to undergo the formal competency testing regime. However, once "registered or licensed" an adviser must satisfy ongoing requirements to maintain their status and this is likely to prove a significant hurdle for most practitioners considering this option.

Making immigration advisers a recognised and regulated profession is an important and timely move forward and has been supported by the industry in NZ.

It will result in a more defined, professional and knowledgeable immigration advisory industry and provide migrants with confidence that they will now get correct, appropriate and timely advice from a licensed adviser and have an avenue for any redress through the Immigration Advisers Authority.

The details of all Licensed Advisers are publicly available, together with other information on the licensing regime, from the Authority website - www.iaa.govt.nz

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