



**Policies and Procedures for Licensed  
Immigration Advisers Manual  
Part A: Licensing**



## Contents

|  |    |
|--|----|
| Purpose.....   | 3  |
| Who needs an immigration adviser licence.....                        | 4  |
| Not-for- Profit.....   | 7  |
| The Licensing Process.....   | 10 |
| Fitness Policy....   | 14 |
| English Language Policy .....  | 17 |
| Full and Limited Licence Policy .....                                | 19 |
| Provisional Licence and Supervisor Policy .....                      | 26 |
| Trans-Tasman Mutual Recognition Policy .....                         | 34 |
| Upgrade Policy.....  | 36 |
| Renewal and Fast-Track Renewal Policy.....                           | 45 |
| Register of Licensed Immigration Advisers.....                       | 53 |
| Cancelled, Suspended, Voluntary Surrender and Expired Licences ..... | 54 |

## Purpose

The Immigration Advisers Authority (Authority) has a duty to ensure that all licensed immigration advisers meet the requirements of the Licensed Immigration Advisers Code of Conduct 2010.

This part of the *Policy and Procedures Manual for Licensed Immigration Advisers* provides guidance on the licensing requirements for licensed immigration advisers and those seeking to apply for an immigration adviser licence.

The Immigration Advisers Authority updated this section on 1 May 2012.

## Who needs an immigration adviser licence?

### Purpose

This policy outlines:

- the definitions of immigration advice matters,
- what immigration advice excludes
- who is exempt from requiring an immigration adviser licence.

### Definition of immigration advice

The Immigration Advisers Licensing Act 2007 (the Act) regulates individuals who provide New Zealand immigration advice both within New Zealand and offshore.

Any individual providing immigration advice must be licensed unless explicitly exempt under the Act.

Section 7 of the Act states that immigration advice 'means 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'.

Section 7 has three key elements, which define immigration advice:

- the person is using or purporting to use knowledge of or experience in immigration
- that knowledge or experience is used to advise, direct, assist or represent another person
- the advice, direction, assistance or representation is provided in regard to an immigration matter relating to New Zealand.

### Definition of immigration matter

Section 5 of the Act defines immigration matter means any matter arising under or concerning the application of the [Immigration Act 2009](#) (including any regulations or instructions made under that Act); and includes:

- an application or potential application for a residence class visa, temporary entry class visa, or transit visa
- a request or potential request for a special direction
- a claim for recognition as a refugee or a protected person, and any related appeal or matter
- a matter relating to immigration sponsorship
- a matter relating to an immigration obligation
- an appeal in relation to an immigration matter.

### Immigration advice excludes

The definition of immigration advice in section 7 of the Act specifically excludes the following:

- providing information that is publically available or that is prepared by the Department of Labour
- directing a person to the Minister of Immigration, or to an immigration officer or a refugee and protection officer (within the meaning of the Immigration Act 2009), or to a list of licensed immigration advisers
- carrying out clerical work, translation or interpreting services or settlement services.

Providing information from a publicly available source is not immigration advice. Examples of a publically available source include the Immigration New Zealand website or the Immigration New Zealand Operations Manual.

**Providing information becomes giving immigration advice when you tailor it to the particular circumstances of an individual or gives guidance or assistance to the individual.**

Clerical work relates to the provision of services in relation to an immigration matter, or to matters concerning sponsors, employers, and education providers, in which the main tasks involve all or any combination of the following.

- The recording, organising, storing, or retrieving of information.
- Computer or data entry.
- Recording information on any form, application, request, or claim on behalf and under the direction of another person.

Providing translation or interpreting services is not giving immigration advice.

Settlement services mean all or any of a range of targeted support services provided for migrants, refugees, protected persons, and their families to settle into the community, learn the language and to find out how to access essential community services. For example, this may include assisting migrants to find housing, schools for their children or information on public transport.

### **People exempt from licensing**

Section 11 of the Act defines the classes of people who are exempt from the requirement to have an immigration adviser licence, who are:

- persons who provide immigration advice in an informal or family context only, so long as the advice is not provided systematically or for a fee
- Members of Parliament, and members of their staff who provide immigration advice within the scope of their employment agreement
- foreign diplomats and consular staff accorded protection as such under the Diplomatic Privileges and Immunities Act 1968 or the Consular Privileges and Immunities Act 1971
- Employers of the public service who provide immigration advice within the scope of their employment agreement
- lawyers
- persons employed by or working as volunteers for community law centres (as defined in section 6 of the Lawyers and Conveyancers Act 2006), where at least 1 lawyer:
  - is on the employing body of the community law centre
  - is employed by or working as a volunteer for the community law centre in a supervisory capacity.
- persons employed by or working as volunteers for citizens advice bureaux
- persons who provide—
  - immigration advice offshore
  - advice only in respect of applications made under the Immigration Act 2009 for a temporary entry class visa—temporary visa—student visa.
- persons exempted by regulations made under section 12 of the Act.

**Employees of the public service**

Public service employees are exempt as per Schedule 1 of the State Services Act 1988.

**Lawyers**

For the purpose of section 11(e) of the Act, a lawyer is a person who holds a current practising certificate issued by the New Zealand Law Society as a Barrister sole or as a Barrister and Solicitor.

Lawyers are the only class of exempt persons who are also prohibited from applying for a licence under section 12 (6) of the Act.

Employees of a lawyer or a law firm who provide immigration advice in context of their employment agreement also fall within this exemption on the basis that the employee cannot give advice on their own account.

The exempt lawyer employing this person is responsible for the advice given to the client, not the person employed.

The Authority will not accept licence applications from either lawyers or non-lawyer employees of law firms.

**Offshore student exemption**

Section 11(h) of the Act exempt advisers who are offshore and provide advice in relation to student visa applications only. It does not allow an adviser to provide advice to secondary or related applicants on any other visa type such as work, visitor or guardian visas. If an offshore adviser wishes to provide advice on student and other visa types, they must apply for a licence.

**Persons exempted by regulations**

There are currently no persons exempted by regulations made under section 12 of the Act.

## Not-for-profit policy

### Purpose

To outline the circumstances in which an adviser can apply to have a not-for-profit status.

### Not-for-profit provisions

Under the Immigration Advisers Licensing Regulations 2008, no licence application fee or immigration adviser's levy is payable by advisers who either:

- act on a not-for-profit basis
- who are employees of or volunteers working for organisations operating on a not-for-profit basis.

### Individuals who work or volunteer for a not-for-profit organisation

A not-for-profit organisation is:

- an organisation in its own right
- one that does not return profits to those who own or control it
- one that does not charge more than a nominal fee for services provided
- one that was established for and guided by charitable and non-commercial goals and is charitable and non-commercial in nature
- institutionally separate from government
- self-governing
- one that has voluntary membership and participation .

Applicants who work or volunteer for a not-for-profit organisation may contact the Immigration Advisers Authority (the Authority) to request recognition of their not-for-profit status. Alternatively, their not-for-profit status may be assessed when they apply for a licence.

The following information assists the Authority in assessing if an applicant works or volunteer for a not-for-profit organisation:

- a summary of the context in which the applicant provides immigration advice for the organisation. This includes a description of the organisation they represent and their role and responsibilities within the organisation
- a statement confirming whether and to what extent the organisation the applicant works or volunteers for meets the criteria listed above
- a letter signed by an official, on the letterhead of the organisation the applicant works or volunteers for, dated within the last month, confirming that the applicant intends to provide immigration advice on a not-for-profit basis (if licensed) and confirming the applicant's role and responsibilities within the organisation
- a copy of the Memorandum and Articles of Association, Constitution or other founding documents of the organisation
- a copy of the certificate of incorporation for the organisation (if applicable)
- a copy of the last annual report or financial accounts for the organisation.
- the name and contact details of an authorised officer of the organisation they represent who can verify the information provided by the applicant
- authorisation to contact the person detailed above

- a statutory declaration confirming that the information provided to the Authority is true and accurate to the best of the applicant's knowledge and belief.

The Authority will assess all the information provided by the applicant.

The Authority will contact the applicant to inform them whether it is satisfied that they provide services on a not-for-profit basis. If satisfied, the Authority will send a not-for-profit confirmation letter.

The applicant must submit the not-for-profit confirmation letter with their application for an immigration adviser licence in order for the Authority to lodge the application without the licence application fee or the immigration advisers levy. See the Licensing Process chapter for more information.

The Authority will assess the licence application in the same manner and standards as a fee-paying applicant.

Alternatively, an applicant may request recognition of their not-for-profit status at the time they submit an application. The above information should be provided to allow the Authority to assess whether the applicant is providing services on a not-for-profit basis and is entitled to a waiver of the licensing fee and levy.

### **Individuals seeking not-for-profit status**

Not-for-profit applicants who wish to act as immigration advisers outside of an employment or contractual business relationship must meet the following criteria:

- the adviser must not profit financially from the immigration advice activity
- the adviser must not charge more than nominal fees for services provided
- the adviser must provide immigration advice on a charitable and non-commercial basis.

Individual applicants may contact the Authority to request recognition of their not-for-profit status. Alternatively, the not-for-profit status may be assessed at the time of their licence application.

The following would assist the Authority in assessing whether individual applicants are providing services on a not-for-profit basis:

- a summary of the context in which they wish to provide immigration advice
- a statement confirming that the applicant will not profit financially from the immigration advice activity, will not charge more than nominal fees for services provided and will provide immigration advice on a charitable and non-commercial basis
- the name and contact details of a person who can verify the information provided by the applicant.
- authorisation to contact the above person
- a statutory declaration confirming that the information provided to the Authority is true and accurate to the best of the applicant's knowledge and belief.

The Authority will contact the applicant to inform them whether it is satisfied that they provide services on a not-for-profit basis. If satisfied, the Authority will send a not-for-profit confirmation letter.

The applicant must submit the not-for-profit confirmation letter with their application for an immigration adviser licence in order for the Authority to lodge the application without the licence application fee or the immigration advisers levy. See the Licensing Process chapter for more information.

The Authority will assess the licence application in the same manner and standards as a fee-paying applicant.

### **Renewal of not-for-profit status**

Not-for-profit advisers who work or volunteer for the same not-for-profit organisation should provide the following evidence when renewing their licence:

- a statement confirming that their role and responsibilities within the organisation have not changed, or if they have, describing in what way they have
- confirmation that the organisation continues to meet the criteria in this policy
- a letter signed by an official, on the letterhead of the organisation the applicant works or volunteers for, dated within the last month, confirming that the applicant provides immigration advice on a not-for-profit basis and confirming the applicant's role and responsibilities within the organisation
- the name and contact details of an authorised officer of the organisation they represent who can be contacted to verify the information provided by the applicant
- authorisation to contact the person detailed above
- a statutory declaration confirming that the information provided to the Authority is true and accurate to the best of the applicant's knowledge and belief.

Not-for-profit advisers who continue to work or volunteer in an individual capacity should provide the following evidence when renewing their licence:

- a statement confirming that the context in which they provide immigration advice has not changed, or if it has, describing in what way it has
- a statement confirming that the applicant will not profit financially from the immigration advice activity, will not charge more than nominal fees for services provided and will provide immigration advice on a charitable and non-commercial basis
- the name and contact details of a person who can verify the information provided by the applicant
- authorisation to contact the above person
- a statutory declaration confirming that the information provided to the Authority is true and accurate to the best of the applicant's knowledge and belief.

### **Changes to not-for-profit status**

If an adviser's circumstances change, they must contact the Authority in immediately in writing as per section 26 of the Immigration Advisers Licensing Act 2007. Advisers who do not maintain their not-for-profit status must immediately pay the licence application fee that would otherwise have been payable and the immigration adviser's levy that is in proportion to the unexpired portion of the term of the licence the adviser currently holds.

## The licensing process

### Purpose

This policy sets out the process to apply for a full, limited and provisional New Zealand immigration adviser licence.

### Overview

The Registrar of Immigration Advisers (the Registrar) will grant an immigration adviser licence if satisfied that the applicant meets the minimum standards of competence, is not prohibited from holding a licence and is not subject to the fitness provisions as set out under the Act. See the Fitness policy for more information.

The Registrar may grant either a full, limited or a provisional licence depending on the knowledge and experience of the applicant.

**Australian registered migration agents may apply for an immigration adviser licence. See the Trans-Tasman Mutual Recognition policy for more information.**

All licences are valid for 12 months, from the date the Registrar grants it. A licensed adviser must renew their licence yearly, prior to the expiry date, or their licence will expire.

### Types of immigration adviser licences available

| Full licence   | Limited licence   | Provisional licence  |
|--|---|--|
| <p>A full licence allows an adviser to provide immigration advice relating to all immigration matters.</p> <p>The Registrar will grant a granted a full licence, if the applicant proves that they can competently provide advice in relation to both temporary and residence immigration matters and they have overall competence in all other immigration matters.</p> | <p>A limited licence authorises an adviser to provide immigration advice, without supervision, on specified immigration matters only.</p> <p>The Registrar must be satisfied that the immigration adviser has the competence to provide immigration in only those specified matters.</p> <p>A list of these matters is in the New Zealand Immigration Advisers Licence Application.</p> | <p>A provisional licence allows an immigration adviser to provide immigration advice, but only under the direct supervision of a licensed immigration adviser with a full licence.</p> |

### Licensing process

There are three phases to the process of applying for a licence, lodgement, assessment and decision.

## Lodgement

Lodgement is the process of the Authority receiving a completed initial, renewal or upgrade application form from an applicant and processing it to be ready for assessment.

The Authority will not assess an application where an applicant has not used the correct form.

The Authority will not lodge applications that have not met lodgement requirements. If an application does not contain all required information (this depends on the type of licence application), the Authority will not lodge it.

The Authority may contact the applicant and request missing and required information. If the applicant does not provide the requested information, the Authority will most likely return it.

The Authority will only accept licence applications received by the following ways:

- mail delivered by a recognised postal service
- freight paid courier
- over the counter at the office of the Authority, during normal business hours.

Once the Authority lodges the application it will acknowledge the application and provide a receipt for the fee.

## Fitness Assessment

Following lodgement, an applicant will be subject to a fitness assessment if they fall within any of the provisions of sections 15, 16 or 17 of the Act. See the Fitness policy for more information.

## Competency Assessment

If the applicant is found fit, the next step is assessment of the application.

The Authority assesses each application against the relevant competency standards for the licence type.

| Full licence   | Limited licence   | Provisional licence   |
|--|---|---|
| <p>Applicants must demonstrate, to the satisfaction of the Registrar, the following seven competencies set out in Part 1 of the competency standards.</p> <ul style="list-style-type: none"> <li>• Relevant qualification.</li> <li>• Demonstrate knowledge of the immigration advisers licensing scheme.</li> <li>• Apply knowledge of immigration law and immigration and operational instructions relating to New Zealand.</li> </ul> | <p>The applicant must demonstrate, to the satisfaction of the Registrar, the following competencies.</p> <ul style="list-style-type: none"> <li>• Relevant qualification.</li> <li>• Demonstrate knowledge of the immigration advisers licensing scheme.</li> <li>• Apply communication techniques to the immigration process in the English language.</li> <li>• Conduct business professionally, ethically and</li> </ul> | <p>The applicant must demonstrate, to the satisfaction of the Registrar, the following seven competencies set out in Part 2 of the competency standards.</p> <ul style="list-style-type: none"> <li>• Relevant qualification.</li> <li>• Demonstrate knowledge of the immigration advisers licensing scheme.</li> <li>• Understand immigration law and immigration and operational</li> </ul> |

|  |  |  |
|--|--|--|
| <ul style="list-style-type: none"> <li>• Prepare, lodge and administer immigration applications, appeals, requests, claims and other representation.</li> <li>• Apply communication techniques to the immigration process in the English language.</li> <li>• Conduct business professionally, ethically and responsibly.</li> <li>• Maintain skills and knowledge through participation in relevant professional development activities.</li> </ul> | <p>responsibly.</p> <ul style="list-style-type: none"> <li>• Maintain skills and knowledge through participation in relevant professional development activities.</li> </ul> <p>The applicant must demonstrate competencies 3 and 4 in relation to the limited specified matters they are applying to provide advice in:</p> <ul style="list-style-type: none"> <li>• Apply knowledge of immigration law and immigration and operational instructions relating to New Zealand.</li> <li>• Prepare, lodge and administer immigration applications, appeals, requests, claims and other representation.</li> </ul> | <p>instructions relating to New Zealand.</p> <ul style="list-style-type: none"> <li>• Demonstrate knowledge of the immigration application process.</li> <li>• Apply communication techniques in the English language.</li> <li>• Conduct business professionally ethically and responsibly.</li> <li>• Develop skills and knowledge through participation in relevant professional development activities.</li> </ul> |
|--|--|--|

In assessing the application, the assessor will assess whether the application meets the minimum standards of competency.

The assessor will contact the applicant if they require further information. The assessor will not begin to assess the application until they have all the relevant documentation and information.

The assessor completes an initial assessment checklist, notes any gaps in the information relating to the competency of the applicant, and prepares questions to ask the applicant.

The assessor will then organise a telephone interview with the applicant. This interview provides the opportunity for verification and clarification of the application, as well as testing the applicant's knowledge, skills and experience. The interview allows the assessor to discuss the application process, expand on the applicant's written answers and to decide whether the applicant meets the requirements of the competency standards.

The telephone interview is an immediate way of dealing with any errors, omissions and process requirements. The assessor writes up the interview and a report to assist the Registrar in making his decision.

### **Application decision**

After assessment, the Registrar will decide whether the application meets licensing requirements.

The Registrar decides, in accordance with section 19 of the Immigration Advisers Licensing Act 2007 (the Act), if the applicant is eligible for a licence and what type to grant.

The Registrar will grant a licence if they are satisfied, the applicant meets the following:

- is not prohibited from licensing
- is fit to be licensed as an immigration adviser
- meets the minimum standards of competence
- has properly completed an application in accordance with the Act
- has paid the immigration adviser's levy (the levy).

If the Registrar approves the application, the Authority will send a conditional approval letter to the applicant's service address given on the application.

The applicant has 20 working days to pay the levy from the date of issue of the letter. If an applicant is offshore, they have 30 working days to pay the levy.

If the applicant does not pay the levy before the due date, the Authority will withdraw the licence approval.

Once the levy is paid, the Authority will send a licence certificate, a wallet card and licensed immigration adviser information to the service address given on the application. The Authority will update the register with the adviser's details.

#### **Refusal to grant a licence**

The Registrar may refuse to grant an immigration licence if the application does not reach the minimum competency standards or fitness requirements.

The Registrar will notify the applicant of the decision not to grant a licence, in writing, within 10 working days of the date of the decision, setting out reasons for refusal.

Under section 81 of the Act, an applicant has the right to appeal to the District Court against the Registrar's decision to refuse to grant a licence.

The Authority will list the name of all applications on the register who have been refused an immigration advisers licence, unless that decision is reversed.

#### **Fee and levy**

For applicants ordinarily resident in New Zealand the initial Application Processing Fee is NZ\$909.78 and the Immigration Advisers Levy is NZ\$1129.55.

A person is ordinarily resident in New Zealand if they have spent more than 183 days in New Zealand in the immediately preceding 12-month period. They must not be unlawfully in New Zealand.

For applicants not ordinarily resident in New Zealand the initial Application Processing Fee is NZ\$791.11 and the Immigration Advisers Levy is NZ\$982.22.

## **Fitness policy**

### **Purpose**

This policy sets out the fitness standards an applicant must meet and the fitness assessment process that the Authority uses when it processes an application for an immigration adviser licence.

### **Fitness requirements**

The Registrar under section 15 of the Act must be satisfied that an applicant is not prohibited from licensing and is fit to be licensed under sections 16 and 17 of the Act..

Information from the applicant, a police certificate from the New Zealand Ministry of Justice or an equivalent international agency and any other relevant information is the basis of the Registrar's decision.

### **Prohibited from licensing (section 15)**

Section 15 of the Act identifies persons prohibited from being granted a licence.

Section 15 (1) states that an applicant is prohibited from licensing if they are:

- an undischarged bankrupt.
- prohibited or disqualified under any of the provisions of sections 382, 383, or 385 of the Companies Act 1993 (or any corresponding provision of the Companies Act 1955) from managing a company
- has been convicted of an offence against the Immigration Act 2009, the Immigration Act 1987 or the Immigration Act 1964
- has been removed or deported from New Zealand under the Immigration Act 2009, the Immigration Act 1987 or the Immigration Act 1964
- is unlawfully in New Zealand.

Section 15 (2) states that 'persons who hold or have held any of the following offices or employment are prohibited from being licensed while holding the office or employment or at any time within 12 months after leaving the office or employment'.

- Ministers of Immigration and Associate Ministers of Immigration in the New Zealand Government
- any immigration officer, visa officer, or refugee status officer (as defined in the Immigration Act 2009)
- any immigration officer or refugee and protection officer (as defined in the Immigration Act 2009).

The Registrar has no discretion to licence a person prohibited from licensing.

### **Restricted from licensing (section 16)**

Section 16 of the Act identifies persons who are restricted from licensing and establishes a presumption against licensing.

The Registrar can overturn this restriction if satisfied that the nature of the offence or matter that brings about the restriction is unlikely to affect adversely the applicant's fitness to provide immigration advice.

The following persons are subject to a restriction on licensing:

- persons who have been convicted, whether in New Zealand or in another country, of a crime involving dishonesty, an offence resulting in a term of imprisonment, or an offence against the Fair Trading Act 1986 (or any equivalent law of another country)
- persons, who under the law of another country:
  - are an undischarged bankrupt
  - have been prohibited or disqualified from managing a company
  - have been convicted of an immigration offence
  - have been removed or deported from the country
- a person to whom Section 15(1)(a) or (b) has applied in the past.

#### **Other matters relevant to fitness for licensing (section 17)**

Section 17 of the Act sets out other matters that the Registrar may consider when considering the fitness of an applicant:

- any conviction, whether in New Zealand or in another country, for an offence of a kind other than those referred to in sections 15 and 16
- any disciplinary proceedings, whether in New Zealand or in another country, and whether in relation to the provision of immigration advice or in relation to the conduct of any other occupation or profession, taken or being taken against the person (including any past cancellation or suspension of a licence under this Act, or any non-compliance with any sanction imposed under this Act)
- whether or not the person is related by employment or association with a person to whom a licence would be refused under sections 15, 16 or 17.

#### **Fitness for licensing for an initial application for an immigration adviser licence**

Section 8 of the New Zealand Immigration Advisers Licence Application Booklet requires the applicant to answer questions about their fitness for licensing and in some circumstances provide further information:

- questions 1 to 6 requires a declaration whether the applicant meets any of the criteria for prohibition in the Act. An applicant is prohibited from applying for a licence if they answer yes to any of the questions
- questions 7-9 require a declaration whether the applicant meets any of the criteria for restriction under the Act. The Registrar requires applicants to provide full details of the circumstances surrounding the relevant offence or matter
- questions 10, 11, 12 and 13 requires a declaration whether the applicant meets any of the criteria under section 17 of the Act. Applicants are required to provide full details of the circumstances surrounding the relevant offence or matter.

If the applicant has ticked yes to any of questions 7-13, the Authority will carry out a fitness assessment on the application.

As part of this assessment, the Authority will consider information supplied with the application and if necessary seek further information directly from the applicant or consent from the applicant to seek information from third parties.

In the event there are any concerns arising from information supplied, the Authority will inform the applicant of these concerns and provide them with an opportunity to comment.

The application may be refused in the event the applicant does not pass the fitness assessment.

**Fitness for licensing for a renewal or upgrade of an immigration adviser licence**

Part B of the Standard Application Form for Renewal of an Immigration Adviser Licence and the Application Form for Upgrade of an Immigration Adviser Licence requires the applicant to answer questions about their fitness for licensing and in some circumstances provide further information:

- questions 1 to 7 requires a declaration whether the applicant meets any of the criteria for prohibition in the Act. An applicant is prohibited from applying for a licence if they answer yes to any of the questions
- questions 8-14 require a declaration whether the applicant meets any of the criteria for restriction under the Act. The Registrar requires applicants to provide full details of the circumstances surrounding the relevant offence or matter.

If the applicant has ticked yes to any of questions 8-14, the Authority will carry out a fitness assessment on the application.

As part of this assessment, the Authority will consider information supplied with the application and if necessary seek further information directly from the applicant or consent from the applicant to seek information from third parties.

In the event there are any concerns arising from information supplied, the Authority will inform the applicant of these concerns and provide them with an opportunity to comment.

The application may be refused in the event the applicant does not pass the fitness assessment.

## English language policy

### Purpose

This policy sets out the Authority's English language standard to become a licensed immigration adviser.

### Competency standard 5: English language

Competency Standard 5 of the Immigration Advisers Competency Standards 2010 relates to English language.

To meet the minimum standard of competency a person must demonstrate to the satisfaction of the Registrar that they can "competently complete documentation in the English language to a high standard" and "competently conduct oral communications in the English language to a high standard".

### Evidence required by the Registrar

Applicants may demonstrate their English language skills in the following ways:

- an International English Language Testing System (IELTS) test
- evidence of primary schooling and at least three years secondary schooling or equivalent where the education was conducted in the English language
- evidence of five years secondary schooling in schools where the education was conducted in the English language.

### IELTS evidential requirements

Applicants can provide evidence of competency by completing the International English Language Testing System (IELTS) test with minimum academic scores of reading 6.5; listening 6.5; speaking 6.5; and writing 6.5 with a minimum overall IELTS academic band score of 7.0 or over:

The Authority will accept the following conditions for IELTS test results only:

- the test report form must be either the original or a certified copy
- the test was taken by the applicant in the five years preceding the date on which the Authority receives an application
- the test was taken by the applicant more than five years before the date on which the Authority receives an application but is accompanied by evidence that they have lived and worked in an English speaking country since taking the test.

The Authority accepts evidence of IELTS test scores achieved in more than one sitting if the applicant has:

- taken the second and any subsequent IELTS tests within 12 calendar months of taking the first
- achieved a minimum academic overall band score of 7.0 in each test.

### Evidential requirements for primary and secondary schooling

Applicants may also demonstrate the minimum requirements of competency by one of the following:

- completion of primary schooling (or equivalent) and at least three years secondary schooling (or equivalent) in schools where the education was conducted in the English Language
- completion of at least five years secondary schooling (or equivalent) in schools where the education was conducted in the English Language.

The Registrar will accept attendance at a primary school equivalent or at a secondary school equivalent:

- where all the school tuition was conducted in the English language
- where the applicant either has provided copies of school records or if school records are not available has signed the statutory declaration on page 19 of the application booklet.

In the absence of schooling records, the Registrar may accept a statutory declaration submitted with an application for a licence.

The Authority may prosecute any applicant who knowingly provides false or misleading information about schooling records. This offence could result in a fine, imprisonment or the cancellation of their licence.

### **Evidence of tertiary study not accepted**

The Registrar will not accept evidence of the completion of a tertiary qualification, as proof of English language skills.

The Registrar does not consider evidence of the completion of a tertiary qualification as valid or sufficient evidence on its own that an applicant meets the English language competency standard. There is considerable variance between tertiary courses in course length, minimum contact time, course structure, assessment and teaching methods.

This means that even when the tuition is in English, it is possible for a student to obtain a tertiary qualification with minimal exposure to an English-speaking environment.

### **Verification of evidence during assessment process**

As part of the assessment process, the Authority will assess all documentation provided by the applicant.

An assessor will conduct a telephone interview with the applicant to verify their oral English language ability.

The Registrar has the discretion in all cases to require an applicant to sit an IELTS test to confirm that they meet the minimum level of competence.

## **Initial full and limited licence application policy**

### **Purpose**

This policy sets out the requirements to apply for a full or limited New Zealand immigration adviser licence.

### **Information required in the application process**

The requirements to apply for an immigration adviser licence are set out in the New Zealand Immigration Advisers Licence Application Booklet (the application booklet).

### **Application for an immigration adviser licence (Part A)**

Part A of the application booklet requires the following information:

- personal and contact details
- the type of licence the applicant is applying for
- qualifications or relevant work experience
- examples of continuing professional development
- evidence of the applicant's English language and communication ability
- fitness for licensing
- proof of identity and a verified passport size photograph
- police certificate
- fee
- authorisation and statutory declaration.

### **Personal and contact details (Sections 1-3)**

The personal details section requires the applicant to give:

- their full legal name, which will appear on the register of immigration advisers (register)
- their preferred name, if applicable, which will be indicated on the register
- any other names they may be known by.

The place of residence section requires the applicant to state if they have been in New Zealand for more than 183 days in the last 12 months.

The contact details section requires the applicant to provide:

- their current employment status; for example, if they are a director or volunteer
- the following addresses:
  - business address, which is the primary location where the applicant conducts their business
  - physical address for the service of documents
  - postal address (if different from the business address).

All addresses must be in the same country. Under section 77(2)(a) of the Act, the purpose of the register is to enable members of the public to know how to contact a licensed immigration adviser and to facilitate the compliance, audit and other supporting and administrative functions of the Registrar. The register must show a business, service and postal address for where the adviser is located.

**Type of licence (Section 4)**

Applicant's must either tick the full licence box or indicate which three immigration matters they wish to practise in for a limited licence.

**Qualifications (Section 5)**

If applicable, the applicant is required to list, what qualifications they have, relevant study, or work experience.

The Authority is currently establishing an immigration licence qualification that will be available from July 2012.

In the meantime, the Registrar recognises the applicant's experience in providing immigration advice, demonstrated by their work history.

The Register recognises the Graduate Certificate in Australian Migration Law and Practice or the Massey University paper 155.222 Immigration Law and Practice. It is important to attach a certified copy of the academic transcript.

The applicant must list any other educational qualifications, such as secondary schooling, or trade or tertiary qualifications.

It is important for the applicant to advise whether they are or have been licensed or registered, or hold a similar recognition with an overseas organisation that has a similar role to the Authority.

**Continuing professional development (Section 6)**

The applicant must list the relevant continuing professional development activities that they have undertaken within the 12-month period prior to applying for the licence.

These activities must relate to the provision of immigration advice and can include:

- reading materials relevant to the provision of immigration advice provided by the Registrar or another organisation
- receiving formal instruction, education or training relevant to the provision of immigration advice
- attending information sessions, seminars, courses or conferences relevant to the provision of immigration advice
- participating in the structured supervision or mentoring of another immigration adviser
- active participation in a relevant professional body, organisation or association
- self-directed learning on topics relevant to the provision of immigration advice.

**English language (Section 7)**

See the English Language Policy for more information.

**Fitness for licensing (Section 8)**

See the Fitness Policy for more information.

### **Proof of identity (Section 9)**

The applicant is required to attach:

- one certified copy of their driver licence, or birth certificate or a certified copy of the page of their current passport that shows the photograph and personal details. A person who is authorised to witness a statutory declaration must certify this document
- two identical passport-sized and passport quality photographs that were taken in the last six months. A person who has known the applicant for more than 12 months and is not a family member or living at the same address must verify the photograph as a true likeness of the applicant.

### **New Zealand police certificates (Section 10)**

Applicants are required to provide a New Zealand police certificate, obtained within the last six months if they have lived in New Zealand for more than 12 months in the last 10 years.

To apply for a New Zealand police certificate, the applicant must download the application form (Priv/F2) form issued by the Ministry of Justice and signed by the Authority from the Authority's website, [www.iaa.govt.nz](http://www.iaa.govt.nz).

Applicants must complete and send it to Privacy Unit, Ministry of Justice, National Office, PO Box 6140, Wellington. Applicants must sign the form with a copy of certified identification included.

The Ministry of Justice sends a copy of the certificate to the Authority and a duplicate to the applicant. Applicants must send in this duplicate copy with their application.

### **Overseas police certificates (Section 10)**

Applicants are required to provide police certificates, obtained within the last six months, from each country that they have lived in for 12 months or more over the last 10 years.

Applicants must contact the relevant authorities in the particular country or countries to find out the cost and the timeframe for delivery.

Do not apply for a licence until the Authority has received the overseas police certificate. The applicant is required to email the Authority [info@iaa.govt.nz](mailto:info@iaa.govt.nz) that they intend to apply for a licence and have sought the police certificate/s. The Authority will contact the applicant by return email when it has received the certificate/s, after which they can apply for the licence.

If the applicant cannot get a police certificate because they are not available or are difficult to obtain, they will need to provide a statutory declaration in English and their own language.

This declaration needs to detail the applicant's attempts to obtain a police certificate and whether they have been convicted or charged with any offences in each country that they have lived in for 12 months or more over the last 10 years. The applicant needs to include information confirming their good character.

### **Fee and Levy (Section 11)**

The applicant must pay the licence application fee when applying for the licence.

The immigration advisers levy is payable only if the Registrar approves the application. If the application is successful, the Authority will contact the successful applicant to request the levy.

The Authority only accepts payments in New Zealand dollars. Payment methods are located in the application booklet.

### **Authorisation and statutory declaration (Section 12)**

Applicants must statutory declare that the information provided is correct by making the declaration in front of a person authorised to witness a statutory declaration:

The following persons may witness a statutory declaration made in New Zealand

- an enrolled barrister and solicitor of the High Court of New Zealand
- a Justice of the Peace
- a notary public
- a Registrar or Deputy Registrar of the District Court, High Court, Court of Appeal or Supreme Court.

The following persons are authorised to witness a statutory declaration made outside of New Zealand:

- in a Commonwealth country other than New Zealand; a Judge, Commissioner of Oaths, a notary public, a Justice of the Peace, or any person authorised by the law of that country to administer an oath there for the purpose of a judicial proceeding, a Commonwealth representative, or a solicitor of the High Court of New Zealand
- in a country other than a Commonwealth — a Commonwealth representative, a Judge, a notary public, or a solicitor of the High Court of New Zealand.

### **Supplementary information (Part B)**

Applicants must provide the following supplementary documentation, as set out in Part B of the application booklet.

- adviser immigration work history
- Immigration New Zealand Activity Record or an Adviser Activity Record
- client files
- client file evidence checklist
- client file summary sheet
- completed questionnaires
- references.

### **Adviser immigration work history**

The applicant must summarise details of their work experience that is relevant to the provision of immigration advice.

Its purpose is to illustrate the immigration matters that the applicant has advised on and the range of tasks and responsibilities that they have undertaken.

### **Immigration New Zealand activity record**

The applicant is required to provide a Immigration New Zealand (INZ) activity record (activity record) that lists details of the applications that the applicant has tendered to INZ that have been decided in the last two years.

Applicants will require the client identification code; a unique code for the organisation that they work for, this is obtainable from INZ.

Applicants are required to email [IAA-Agent-activity@dol.govt.nz](mailto:IAA-Agent-activity@dol.govt.nz) with details of their client identification code and contact details in order to request an activity record.

Applicants should receive the activity record within two working days by return email. Applicants must compare their records to the activity to check for discrepancies. Once checked, the applicant needs to attach the record to the application form.

If the applicant has been an employee, INZ may not be able to supply a personalised activity record. The applicant's employer can ask for an activity record for their organisation and transfer the details of the decided applications the applicant has tendered to INZ in the previous two years to the activity record in the application booklet.

If the applicant has not tendered applications to INZ in the last two years, they are not required to provide an INZ activity record.

### Client files

A client file is a file that records the applicant's work on behalf of a client in relation to a particular immigration matter. It should trace the applicant's work on the client's behalf, from the first contact with the client through to the resolution of the immigration matter.

| Full licence  | Limited licence   |
|---|---|
| <ul style="list-style-type: none"> <li>• Applicants must include four client files completed by themselves in the last two years: two must be residence application and the other two must be temporary entry applications.</li> <li>• Applicants need to specify on the individual client file summary sheet whether the client file is a temporary or residence matter.</li> <li>• Applicants need to attach a copy of the client file summary and the client references sheets for each of the four client files.</li> </ul> | <ul style="list-style-type: none"> <li>• Applicants must include three client files completed by themselves in the last two years.</li> <li>• Applicants need to specify on the individual client file summary sheet whether the client file is a temporary or residence matter.</li> <li>• Applicants need to attach a copy of the client file summary and the client references sheets for each of the four client files.</li> <li>• All client files must be applications relating to the specified immigration matters that the licence applicant wishes to specialise in.</li> </ul> |

The Authority will accept client files, which are still in process with INZ as long as the applicant submits at least two client files, which show a full end-to-end process and INZ decision.

If the applicant provides any client files where INZ has not made a decision, the Authority expects to see an acknowledgement from INZ that the case is in progress.

### Expectations for client files

The Authority has the following expectations:

- they must be in English and should be copies only. The Authority allows applicants to translate client files from the first language into English; however translations must be legible and information may be returned if readability is at issue
- they should include copies of all applications and documentation relating to the immigration matter

- are files in which revenue was generated or fees charged
- relate to a separate client or set of clients. For example, applicants may not submit two client files from one family
- include a completed client file evidence checklist
- include a completed client file summary sheet
- include a client reference for each of the client files submitted
- evidence of how client eligibility was assessed, such as a checklist, assessment form or consultation notes
- the written agreement entered into with the client
- all invoices provided to the client
- a complete copy of the signed application form tendered to INZ
- all correspondence with the client and file notes of any material conversations
- all correspondence with INZ
- evidence of the decision, including a copy of the visa label and the final decision letter from INZ if applicable
- evidence of the safe return of the client's original documents.

#### **Professional references**

One professional reference is required for full and limited licence applications.

A professional person is one that the applicant deals with in the course of their work.

Professional referees may not be related to the applicant or be an employee of the applicant.

#### **Questionnaires**

Applicants must complete the following questionnaires in the application booklet:

- client file questionnaire
- the immigration advisers licensing scheme questionnaire
- immigration law and instructions questionnaire
- business processes questionnaire.

#### **Alternative evidence**

The Registrar has some discretion to determine what evidence is required to demonstrate competency. In some cases, the Registrar may waive the requirement of the applicant to provide client files where acceptable alternative evidence is available.

In order for the Registrar to accept alternative evidence, the applicant must have significant immigration-related experience. The Registrar regards this as meaning a minimum of 12 months direct immigration experience in the last three years. Examples of direct immigration experience may include:

- working on immigration cases in a Member of Parliament's office
- working on immigration cases in a lawyer's office.

The Registrar will determine alternative evidence to client files at their discretion on a case-by-case basis. There is no automatic right of entry via alternative

evidence. Applicants wishing to submit alternative evidence to client files should discuss their application with the Authority before submitting it.

Applicants who are declined entry to apply via this route may also wish to consider applying for a provisional licence. See the Provisional Licence and Supervision policy for more information.

### **Fees and Levy**

For applicants who are ordinarily resident in New Zealand the initial Application Processing Fee is NZ\$909.78 and the Immigration Advisers Levy is NZ\$1129.55.

A person is an ordinarily resident in New Zealand if they have spent more than 183 days in New Zealand in the immediately preceding 12-month period and are not unlawfully in New Zealand.

For applicants who are not ordinarily resident in New Zealand the Application Processing Fee is NZ\$791.11 and the Immigration Advisers Levy is NZ\$982.22.

## Provisional licence and supervisor policy

### Purpose

This policy sets out the requirements for initial provisional licence applicants and provisional licence supervisors.

### Provisional licences

A provisional licence allows a person to provide immigration advice in all immigration matters while working under the direct supervision of an immigration adviser with a full licence.

The provisional licence provides a pathway for new entrants to the industry who have some knowledge of immigration matters but little or no experience and people who do not qualify for a full licence but are otherwise sufficiently competent to provide advice under supervision.

The purpose of a provisional licence is to establish a robust supervision arrangement:

- that gives a provisional licence holder's clients access to the same standard of full, accurate, competent and ethical advice that would be received by a full licence holder's clients
- that facilitates the education and professional development of provisional licence holders so that they may develop the skills and competencies required for a full licence
- that facilitates the education and professional development of supervisors by providing them with the opportunity to develop leadership and training skills in their areas of expertise.

### Application process

The requirements to apply for an immigration adviser licence are set out in the New Zealand Immigration Advisers Licence Application Booklet (the application booklet).

### Application for an immigration adviser licence (Part A)

For Part A of the application booklet the following information is required.

- personal and contact details
- the type of licence that the applicant is applying for
- qualifications or relevant work experience
- examples of continuing professional development
- evidence of the applicant's English language and communication ability
- fitness for licensing
- proof of identity and two verified passport size photographs
- police certificate
- fee and levy
- authorisation and statutory declaration
- case studies
- application for approval of supervision arrangement.

### **Personal and contact details (Sections 1-3)**

The personal details section requires the applicant to give:

- their full legal name, which will appear on the register of licensed immigration advisers (register)
- their preferred name (if applicable), which will be indicated on the register
- any other names they may be known by.

The place of residence section requires the applicant to state if they have been in New Zealand for more than 183 days in the last 12 months

The contact details section requires the applicant to provide.

- their current employment status
- the following addresses:
  - business address, which is the primary location where the applicant conducts their business
  - physical address for the service of documents
  - postal address (if different from the business address).

All addresses must be in the same country. Under section 77(2)(a) of the Act, the purpose of the register is to enable members of the public to know how to contact a licensed immigration adviser and to facilitate the compliance, audit and other supporting and administrative functions of the Registrar. The register must show a business, service and postal address for where the adviser is located.

### **Type of licence (Section 4)**

When applying for a provisional licence, applicants must tick the provisional licence box.

### **Qualifications (Section 5)**

If applicable, the applicant is required to list, what qualifications they have, relevant study, or work experience.

The Authority is currently establishing an immigration licence qualification that will be available from July 2012.

In the meantime, the Registrar recognises the applicant's experience in providing immigration advice, demonstrated by their work history.

The Register recognises the Graduate Certificate in Australian Migration Law and Practice or the Massey University paper 155.222 Immigration Law and Practice. It is important to attach a certified copy of the academic transcript.

The applicant must list any other educational qualifications, such as secondary schooling, or trade or tertiary qualifications.

It is important for the applicant to advise whether they are or have been licensed or registered, or hold a similar recognition with an overseas organisation that has a similar role to the Authority.

### **Continuing professional development (Section 6)**

The applicant must list the relevant development activities that they have undertaken within the 12-month period prior to applying for the licence. Continuing professional development (CPD) activities must total at least 20 hours per year.

These activities must relate to the provision of immigration advice and can include:

- reading materials relevant to the provision of immigration advice provided by the Registrar or another organisation
- receiving formal instruction, education or training relevant to the provision of immigration advice
- attending information sessions, seminars, courses or conferences relevant to the provision of immigration advice
- participating in the structured supervision or mentoring of another immigration adviser
- active participation in a relevant professional body, organisation or association
- self-directed learning on topics relevant to the provision of immigration advice.

### **English language (Section 7)**

See the English Language Policy for more information.

### **Fitness for licensing (Section 8)**

See the Fitness Policy for more information.

### **Proof of identity (Section 9)**

The applicant is required to attach the following:

- one certified copy of their driver licence, or birth certificate or a certified copy of the page of your current passport that shows the photograph and personal details. A person who is authorised to witness a statutory declaration must certify this document
- two identical passport-sized and passport quality photographs that were taken in the last six months. A person who has known the applicant for more than 12 months and is not a family member or living at the same address must verify the photograph as a true likeness of the applicant.

### **New Zealand police certificates (Section 10)**

Applicants are required to provide a New Zealand police certificate, obtained within the last six months if they have lived in New Zealand for more than 12 months in the last 10 years.

To apply for a New Zealand police certificate, the applicant must download the application form (Priv/F2) form issued by the Ministry of Justice and signed by the Authority from the Authority's website, [www.iaa.govt.nz](http://www.iaa.govt.nz).

Applicants must complete and send it to Privacy Unit, Ministry of Justice, National Office, PO Box 6140, Wellington. Applicants must sign the form with a copy of certified identification included.

The Ministry of Justice sends a copy of the certificate to the Authority and a duplicate to the applicant. Applicants must send in this duplicate copy with the application.

### **Overseas police certificates (Section 10)**

Applicants are required to provide police certificates, obtained within the last six months, from each country that they have lived in for 12 months or more over the last 10 years.

Applicants must contact the relevant authorities in the particular country or countries to find out the cost and the timeframe for delivery.

Do not apply for a licence until the Authority has received the overseas police certificate. The applicant is required to email the Authority [info@iaa.govt.nz](mailto:info@iaa.govt.nz) that they intend to apply for a licence and have sought the police certificate/s. The Authority will contact the applicant by return email when it has received the certificate/s, after which they can apply for the licence.

If the applicant cannot get a police certificate because they are not available or are difficult to obtain, they will need to provide a statutory declaration in English and their own language.

This declaration needs to detail the applicant's attempts to obtain a police certificate and whether they have been convicted or charged with any offences in each country that they have lived in for 12 months or more over the last 10 years. The applicant needs to include information confirming their good character.

### **Alternative evidence**

The Registrar has some discretion to determine what evidence is required to demonstrate competency. In some cases, the Registrar may waive the requirement of the applicant to provide client files where acceptable alternative evidence is available.

In order for the Registrar to accept alternative evidence, the applicant must have significant immigration-related experience. The Registrar regards this as meaning a minimum of 12 months direct immigration experience in the last three years. Examples of direct immigration experience may include:

- working on immigration cases in a Member of Parliament's office
- working on immigration cases in a lawyer's office.

The Registrar will determine alternative evidence to client files at their discretion on a case-by-case basis. Applicants wishing to submit alternative evidence to client files should discuss their application with the Authority before submitting it.

### **Fee and Levy (Section 11)**

The applicant must pay the licence application fee when applying for the licence.

The immigration advisers levy is payable only if the Registrar approves the application. If the application is successful, the Authority will contact the successful applicant to request the levy.

The Authority only accepts payments in New Zealand dollars. Payment methods are located in the application booklet.

### **Authorisation and statutory declaration (Section 12)**

Applicants must statutory declare that the information provided is correct by making the declaration in front of a person authorised to witness a statutory declaration.

The following persons may witness a statutory declaration made in New Zealand:

- an enrolled barrister and solicitor of the High Court of New Zealand
- a Justice of the Peace
- a notary public
- a Registrar or Deputy Registrar of the District Court, High Court, Court of Appeal or Supreme Court.

The following persons are authorised to witness a statutory declaration made outside of New Zealand:

- in a Commonwealth country other than New Zealand — a Judge, Commissioner of Oaths, a notary public, a Justice of the Peace, or any

person authorised by the law of that country to administer an oath there for the purpose of a judicial proceeding, a Commonwealth representative, or a solicitor of the High Court of New Zealand

- in a country other than a Commonwealth — a Commonwealth representative, a Judge, a notary public, or a solicitor of the High Court of New Zealand.

### **Supplementary documentation (Part B)**

Applicants must supply the following supplementary documentation, as set out in Part B of the application booklet.

#### **Case studies**

Applicants must complete the three immigration-related case studies in the application booklet.

Each case study outlines a specific set of circumstances and asks a series of questions that requires detailed answers.

Applicants need to demonstrate in their responses how they would handle these scenarios, rather than actual practical experience.

#### **Questionnaires**

Provisional licence applicants must complete the following three questionnaires in the application booklet:

- the immigration advisers licensing scheme questionnaire
- immigration law and instructions questionnaire
- business processes questionnaire.

#### **References**

Applicants must supply two professional references.

A professional reference can include the applicant's supervisor or manager, or a previous employer or manager.

#### **Supervision (Part C of the application booklet)**

Section 19(5) of the Act requires that a person who holds a provisional licence must work under the direct supervision of an immigration adviser with a full licence.

A supervisor can only supervise two provisional licensed advisers. When looking for a supervisor, an applicant must make sure that, the possible supervisor is not already supervising two advisers. The Authority will not make any exemption to this policy.

The applicant must complete the Application for Approval of Supervision Arrangement.

Direct supervision includes the supervisor monitoring all formal documentation and correspondence from the provisional licence holder to clients, Immigration New Zealand and tribunals. This monitoring may take the form of checking all correspondence.

The supervisor and the provisional licence holder must also meet regularly. These meetings should:

- discuss client cases and immigration law and policy
- ensure the provisional licence holder is working within the scope of their knowledge and skills.

- ensure that the documentation is being monitored by the supervisor
- identify the provisional licence holder's learning needs
- develop and monitor the provisional licence holder's professional development plan.

Direct supervision must continue when the primary supervisor is away or unavailable. The supervision agreement may include provision for an alternative full licence holder to act in the supervision role in the absence of the primary supervisor.

#### **What must be included in a supervision agreement?**

The Registrar has developed a model supervision agreement, located at <http://iaa.govt.nz/licensed-advisers/more-information.html>.

All supervision agreements must contain the following:

- the names and details of each party to the agreement
- the purpose of the agreement
- details of the supervision arrangement, including details of how direct supervision will take place
- the agreement of the employer of the provisional licence holder and/or the supervisor, where either of the parties are not the employer
- who will bear the costs of the supervision arrangement
- a professional development plan for the provisional licence holder
- the roles and responsibilities of the provisional licence holder and the supervisor
- agreement that both parties abide by the Provisional Licence and Supervisor Policy and the code of conduct
- any conflicts of interest either party may have and how they will address these
- agreement on how disputes will be resolved
- agreement to keep records relating to the supervision arrangement for inspection by the Authority
- the date and signatures of both parties and the provisional licence holder's employer (if this is not the supervisor) and the supervisor's employer (if applicable).

#### **Roles and responsibilities of the provisional licence holder**

The provisional licence holder must:

- hold a provisional immigration advisers licence in accordance with the Act
- provide to the Registrar a copy of their signed and dated supervision agreement
- advise all clients that they hold a provisional licence and that they are formally supervised
- obtain the client's consent to disclose their personal information to the supervisor; unless this consent has been previously obtained due to the employment relationship between the adviser and supervisor
- retain responsibility for their own professional practice
- safeguard the commercial and professional interests of their organisation

- work within their competence
- provide the relevant documentation to the supervisor for monitoring purposes
- implement actions and strategies agreed with their supervisor aimed at enhancing their immigration advice services
- inform the Registrar if there is a change in supervisor and seek approval for a new supervision agreement.

### **Roles and responsibilities of the supervisor**

The supervisor must:

- hold a full immigration advisers licence in accordance with the Act
- have the ability to provide direct supervision on the basis that they have supervision, leadership or management experience
- provide direct supervision for the provisional licence holder
- provide direct supervision only within the scope of their skills and knowledge as set out in the competency standards
- provide support to the provisional licence holder to develop their skills and competencies that are required for a full licence
- must accept responsibility for the quality of the provisional licence holder's work
- ensure that the provisional licence holder is operating within the scope of their knowledge and skills
- monitor all documentation and correspondence sent by the adviser
- maintain oversight of the provisional licence holder's handling of immigration matters.

### **Licensed Immigration Advisers Code of Conduct 2010**

Both parties agree to comply with the Licensed Immigration Advisers Code of Conduct 2010 (code of conduct).

All breaches of the code of conduct must be reported to the Authority as a complaint under section 44 of the Act.

Matters not covered by the code of conduct or the Act must be referred to the appropriate authorities.

### **Conflicts of interest**

Both parties must identify any conflicts of interest, including the commercial and professional interests of both parties, and must agree on how to manage these.

### **Keeping records**

Both parties must keep records relating to the supervision arrangement. The provisional licence holders and their supervisor are encouraged to develop template documents to record the supervision. Records should include:

- the supervision agreement
- minutes of supervision meetings
- a list of client files in which the supervisor is providing direct supervision
- the provisional licence holder's professional development goals, plan and results
- details of any training attended by the provisional licence holder.

In accordance with section 57 of the Act, the Registrar may inspect these records.

### **The role of the Registrar of Immigration Advisers**

The Registrar will assess each supervision arrangement as part of the application for a provisional licence.

Under section 57 of the Act, the Register may inspect supervision records to verify whether a provisional licence holder is receiving direct supervision and whether the supervisor and the provisional licence holder are acting in accordance with this policy.

The Registrar will not intervene in a dispute between the provisional licence holder and the supervisor unless they have received a complaint under section 44 of the Act.

The Registrar recognises direct supervision by the supervisor as an activity for the purpose of their continuing professional development.

### **Fees and Levy**

For applicants who are ordinarily resident in New Zealand the initial Application Processing Fee is NZ\$909.78 and the Immigration Advisers Levy is NZ\$1129.55.

A person is ordinarily resident in New Zealand if they have spent more than 183 days in New Zealand in the immediately preceding 12-month period and are not unlawfully in New Zealand.

For applicants who are not ordinarily resident in New Zealand the Application Processing Fee is NZ\$791.11 and the Immigration Advisers Levy is NZ\$982.22.

## Trans-Tasman mutual recognition policy

### Purpose

This policy sets out how the Trans-Tasman Mutual Recognition Act 1997 (TTMR Act) allows Australian registered migration agents to become New Zealand licensed immigration advisers.

### What is the TTMR Act?

The TTMR Act provides for the mutual recognition of equivalent registered occupations between Australia and New Zealand.

Under the TTMR Act, a migration agent who is registered with the Australian Office of the Migration Agents Registration Authority (OMARA) can apply to become a licensed immigration adviser in New Zealand.

### The TTMR Act application process

An applicant must complete all sections of the TTMR Act Application Form and include:

- a certified copy of their OMARA Registration Certificate and wallet card
- two passport photographs that have been verified as a true likeness of the applicant
- proof of identification such as a certified copy of either the applicant's driver licence, birth certificate or photo page of current passport
- payment of the fee and levy.

Applicants should renew their registration with OMARA prior to applying under the TTMR Act because the Authority needs to see that the applicant's certificate is current, and not expiring shortly.

As part of the application process, the Authority will contact OMARA to determine whether the applicant has any complaints, investigations or disciplinary proceedings pending against them.

The Authority will not test an applicant on their understanding of New Zealand immigration matters before granting them a licence. However, the Authority does expect the applicant to be familiar with the following:

- The Immigration Act 2009
- The Immigration Advisers Licensing Act 2007
- The Immigration Advisers Competency Standards 2010
- The Licensed Immigration Advisers Code of Conduct 2010.

The Registrar will determine the application within one month of receiving a complete application.

If the Registrar approves the application, the applicant will receive a full New Zealand immigration advisers licence valid for one year. The Registrar will also add their name to the register.

The Authority will send a licence certificate, a wallet card and information about being a licensed immigration adviser in New Zealand to the service address given on the application.

The Registrar may postpone or refuse registration if:

- any of the information the applicant provides is false or misleading
- circumstances have changed

- the applicant has failed to provide all the required information
- the prescribed fees have not been paid.

If the Registrar refuses or postpones an application, the applicant has the right of appeal to the Trans-Tasman Occupations Tribunal established by the Ministry of Justice to hear appeals under the TTMR Act.

All advisers licensed under the TTMR Act must comply with the Licensed Immigration Advisers Code of Conduct 2010.

### **Certifying supporting documentation**

The following persons may witness a statutory declaration made in New Zealand:

- an enrolled barrister and solicitor of the High Court of New Zealand
- a Justice of the Peace
- a notary public
- a Registrar or Deputy Registrar of the District Court, High Court, Court of Appeal or Supreme Court.

The following persons are authorised to witness a statutory declaration made outside New Zealand:

- in Australia or another Commonwealth country other than New Zealand— a Judge, a Commissioner of Oaths, a notary public, a Justice of the Peace, or any person authorised by the law of that country to administer an oath there for the purpose of judicial proceeding; a Commonwealth representative; or solicitor of the High Court of New Zealand
- in a country other than a Commonwealth country— a Commonwealth representative, a Judge, a notary public, or a solicitor of the High Court of New Zealand.

### **Renewal**

If eligible, an adviser granted a New Zealand immigration advisers licence under the TTMR Act may apply to renew their licence through the TTMR Act by completing the relevant sections of the TTMR Act application form.

To be eligible to renew their licence through the TTMR Act, the applicant must be currently registered as an Australian Migration Agent with the OMARA.

In addition, an applicant's current OMARA registration must not have been granted through Australia's equivalent trans-Tasman mutual recognition process. This means that the applicant must have completed either a standard initial OMARA registration or a standard repeat OMARA registration **before** applying to renew their New Zealand immigration advisers licence through the TTMR Act.

### **Fee and Levy**

For applicants who are ordinarily resident in New Zealand the initial Application Processing Fee is NZ\$909.78 and the Immigration Advisers Levy is NZ\$1129.55.

A person is ordinarily resident in New Zealand if they have spent more than 183 days in New Zealand in the immediately preceding 12-month period and are not unlawfully in New Zealand.

For applicants who are not ordinarily resident in New Zealand the Application Processing Fee is NZ\$791.11 and the Immigration Advisers Levy is NZ\$982.22.

## Licence upgrade policy

### Purpose

This policy sets out the requirements to upgrade a limited or provisional immigration adviser licence.

### Upgrade Requirements

A limited or provisional licence holder may apply to the Registrar to upgrade their licence at any time.

A limited licence holder may apply to upgrade to a full licence.

A provisional licence holder may apply to upgrade to a full or limited licence.

An upgrade of a licence takes effect from either the date of expiry of the previous licence or the date on which the upgrade is granted, whichever occurs first.

### Upgrade application process

The Authority will contact all limited and provisional licence holders before the expiry of their licences to determine whether the adviser wishes to renew or upgrade their licence.

To upgrade the licence, the applicant must complete and submit the Application Form for the Upgrade of an Immigration Adviser Licence (application), together with the required fee and supporting documentation.

The Authority must receive the licence application using one of the following ways:

- by mail delivered by a recognised postal service
- by freight paid courier
- over the counter at the office of the Authority, during normal business hours.

The Authority will return all licence applications not received by one of the above means.

Once lodged, the Authority will acknowledge the application and provide a receipt for the fee.

### Information required in the upgrade application process

The application requires the following information.

| Information required                                | Limited licence holders to a full licence | Provisional licence holders to a limited or full licence |
|---|---|--|
| Personal and contact details                        | √   | √  |
| Type of licence that the applicant is applying for  | √   | √  |
| Fitness for licensing                               | √   | √  |
| Continuing professional development                 | √   | √  |
| Business activity                                   | √   | √  |
| Copy of the adviser's internal complaints procedure | √   | √  |
| Evidence of managing client funds                   | If applicable                             | If applicable  |
| Code of conduct                                     | √   | √  |
| Other matters relating to competency                | √   | √  |

|                                      |                |   |
|--------------------------------------|----------------|---|
| Client files                         | √              | √ |
| Supervisor declaration and reference | Not applicable | √ |
| Business process questionnaire       | Not applicable | √ |
| Fee and Levy                         | √              | √ |
| Photograph                           | √              | √ |
| Statutory declaration                | √              | √ |
| Fee information                      | √              | √ |

### **Personal and contact details (Part A of the upgrade application)**

The personal details section requires the applicant to provide

- their full legal name, which will appear on the register
- their preferred name, if applicable, which will be indicated on the register
- any other names they may be known by
- their employment status.

The contact details section also requires the applicant to provide the following addresses:

- business address, which is the primary location where the applicant conducts their business
- physical address for the service of documents
- postal address (if it is different from the business address).

All addresses must be in the same country. Under section 77(2)(a) of the Act, the purpose of the register is to enable members of the public to know how to contact a licensed immigration adviser and to facilitate the compliance, audit and other supporting and administrative functions of the Registrar. The register must show a business, service and postal address for where the adviser is located.

The applicant must choose whether they are upgrading to a full or limited licence. If upgrading to a limited licence, the applicant may only choose up to three immigration matters to advise in.

### **Fitness for licensing (Part B of the upgrade application)**

See the Fitness Policy for more information.

### **Competency Standards and the Code of Conduct (Part C of the upgrade application)**

Part C is divided into sections that require the applicant to provide information regarding continuing professional development (CPD), business activity, code of conduct, matters relating to competency, client files and the business process questionnaire.

#### **Continuing professional development (section 1)**

The applicant must list the CPD activities that they have undertaken in the 12-month period before applying for the licence. These activities must relate to the provision of immigration advice and can include:

- reading materials relevant to the provision of immigration advice provided by the Registrar or another organisation
- receiving formal instruction, education or training relevant to the provision of immigration advice
- attending information sessions, seminars, courses or conferences relevant to the provision of immigration advice

- participating in the structured supervision or mentoring of another immigration adviser
- active participation in a relevant professional body, organisation or association
- self-directed learning on topics relevant to the provision of immigration advice.

### **Business activity (section 2)**

The applicant must indicate the type and numbers of applications or requests that they have had approved or declined by Immigration New Zealand since their current licence was granted.

### **Licensed Immigration Advisers Code of Conduct 2010 (section 3)**

For assessment purposes, the applicant must provide a copy of their internal complaints procedure.

If the applicant manages client funds through taking money (fees and/or disbursements including INZ fees) in advance they must attach copies of:

- bank statements for the applicant's client account for the last three months
- client tracking records relating to the bank statements provided. The records provided must be in consecutive date order with no gaps for the three months covered and include the date of the transaction, amount of the transaction, purpose of the transaction, type of transaction, client name and related invoice number.

This section also asks whether applicants provide clients with a copy of the code of conduct, how they explain the code of conduct to clients; and if they display the code of conduct in a prominent place in their business at all times.

### **Other matters relating to competency (section 4)**

Section 4 requires the applicant to answer the following:

- if the Authority requested the applicant to provide evidence of change in business practice at the renewal of their current licence, and if so, how have they addressed this
- if there are any matters relevant to the assessment of the competency that the Registrar should be aware of.

### **Client files (section 5)**

Depending on the application type, applicants must provide the following client files.

| <b>Provisional to limited</b>  | <b>Provisional to full</b>   | <b>Limited to full</b>  |
|--|--|---|
| <ul style="list-style-type: none"> <li>• Provide three files in the areas that they wish to specialise in.</li> <li>• At least two of the files must have been completed during the period of the applicant's current licence.</li> <li>• At least two of the files</li> </ul> | <ul style="list-style-type: none"> <li>• Provide four files, two applications for temporary entry applications and two residence applications.</li> <li>• At least two of the files must have been started and at least substantially complete (only awaiting the</li> </ul> | <ul style="list-style-type: none"> <li>• Provide a completed client file that was during the period of the applicant's current licence or, if that is not possible, a file that is substantially complete (only awaiting the final decision from INZ).</li> </ul> |

|   |   |  |
|---|---|--|
| must have been started and at least substantially complete (only awaiting the final decision from INZ) during the current licence period. | final decision from INZ) during the current licence period. |  |
|---|---|--|

The client files may relate to any immigration matter, but they should reflect the applicant's competence and their business processes and practices.

Submitted client files must be ones in which revenue was generated or fees charged.

All client files must be in English and should be copies only. The Authority allows applicants to translate client files from the first language into English; however, translations must be legible and information may be returned if readability is at issue.

A client file starts on the date of the signing of the service agreement between the client and the adviser.

A client file is substantially complete when INZ issues an approval in principle letter or notice and the application is only awaiting final decision.

The applicant must submit a client authorisation and declaration with each client file.

The Registrar would expect to see the following on a complete client file (this list is not exhaustive):

- evidence of how client eligibility was assessed, such as a checklist, assessment form or consultation notes
- the written agreement entered into with the client
- all invoices provided to the client
- a complete copy of the signed application form tendered to INZ
- all correspondence with the client and file notes of any material conversations
- relate to a separate client or set of clients. For example, applicants may not submit two client files from one family
- all correspondence with INZ
- evidence of the decision, including a copy of the visa label and the final decision letter from INZ if applicable
- evidence of the safe return of the client's original documents.

The client file summary asks the applicant to comment on the following:

- the nature and complexity of the immigration matter and any aspects that they found challenging
- whether a provisional licence holder completed the entire file under supervision or if there were parts that they did not complete.

All provisional licence holders seeking to upgrade must provide client files completed under the direct supervision of the supervisor. The supervisor must sign the supervisor reference to verify this.

### Competency standards assessment for limited licence holders

Limited licence holders have already demonstrated standards 1, 2, 5 and 6 during their initial licence assessment. They have also demonstrated standards 3 and 4 in the areas they currently practise.

The upgrade assessment for limited licence holders will focus on competency standards 3 and 4 in relation to the new areas of work they will be licensed to practise in, and competency standard 7 (professional development) since the initial grant of the licence.

### Competency standards assessment for provisional licence holders

Provisional licence holders have already demonstrated competency standards 1, 2 and 5.

Assessment for provisional licence holders will focus on the adviser's application of competency standards 3 and 4. It will also assess competency standards 6 and 7 since the grant of their initial licence.

### Performance indicators for client files and case studies

The Authority considers the following performance indicators against the client files and case studies submitted when assessing the competency standards for limited and provisional licence holders.

If the evidence provided in an application raises concerns if an adviser is meeting the competency standards or indicates non-compliance with the code of conduct, the Authority will consider these when assessing the application. The Authority may choose to put these concerns to the adviser or seek additional information.

The information below is a guide only.

| Competency | Performance Indicator   | Assessment expectations   |
|------------|---|---|
| 3.2        | Ability to access, interpret and apply knowledge of immigration instructions and procedures.  | Does the adviser have a good understanding of the relevant, current immigration law and immigration and operational instructions? Is the adviser familiar with the tools available, such as the INZ Operational Policy Manual, to help apply their knowledge? |
| 3.3        | Can the adviser identify the main criteria for providing advice in relation to applications, appeals, requests and claims across the full range of immigration matters? | Given a complex real-life scenario, can the adviser identify the most appropriate immigration option for the client?  |
| 3.4        | Can the adviser apply their knowledge of immigration matters to provide comprehensive advice?   | The advice provided by the adviser is comprehensive and reflects the given situation?   |

|     |  |   |
|-----|--|---|
| 4.1 | Developing and maintaining professional relationships with INZ and other relevant organisations. | Does the adviser have good professional relationships with INZ and other organisations, demonstrated by correspondence like letters or emails.  |
| 4.2 | Developing and maintaining professional relationships with clients.                              | Does the adviser provide advice and information before, during and after the immigration application process, demonstrated by correspondence such as letters or emails on file?   |
| 4.3 | Assess clients' immigration situations.  | Does the adviser work with clients to establish eligibility criteria, gather all appropriate information necessary to make an accurate assessment, conduct preliminary assessments, identify potential barriers to eligibility, evaluate the range of possible options for clients, provide correct advice and information to clients and provide reasons for advising on a course of action? |
| 4.4 | Agree on terms of appointment.   | Does the adviser agree on services to be provided and fees to apply, outline refund policy and any other key terms of agreement, establish performance expectations and enter into a formal agreement with clients?   |
| 4.5 | Arrange agreed services in a timely, complete and accurate manner.                               | Does the adviser plan the immigration process, issue clear and accurate instructions, coordinate the preparation of applications, lodge applications with supporting evidential documents, take all reasonable steps to ensure that clients submit accurate and genuine documentation, and satisfy all lodgement requirements?  |
| 4.6 | Administer the immigration application process.  | Does the adviser liaise with and administer the immigration process with INZ or other appropriate organisation, keep clients informed, complete the process following decision including the timely return of clients' documents, ensure that decisions are communicated to   |

|      |  |   |
|------|--|---|
|      |  | clients and the details and implications of outcomes are explained and advise clients of the procedures for handling complaints?  |
| 4.10 | Apply quality assurance techniques to the provision of immigration advice.   | Does the adviser use any of the following techniques: checklists, peer reviews, case reviews, supervisor reviews, team briefings?   |
| 6.1  | Demonstrate professional, ethical and socially responsible behaviour and practice                                  | Does the adviser provide honest advice, preserve client confidentiality, provide an internal complaint process and disclose financial or non-financial interests in goods or services recommended or supplied to clients? |
| 6.3  | Apply business management disciplines to immigration matters in accordance with New Zealand law and best practice. | How does the adviser manage the financial aspects of their business, record client transactions and advise applicants of interactions with Immigration New Zealand?   |

### Supervision

The supervisor of the provisional licence holder needs to complete the supervisor reference.

They must comment on how the applicant has developed the skills and knowledge necessary to apply for either a limited or a full licence in relation to competency standards 3, 4, 5 and 6.

### Business processes questionnaire (section 6)

Provisional licence holders must complete the business processes questionnaire, which examines:

- business administration
- quality assurance
- professional and ethical practice.

### Fee and levy (Part D of the upgrade application)

For applicants who are ordinarily resident in New Zealand the Licence Upgrade Fee is NZ\$546.89 and the Immigration Advisers Levy is NZ\$1129.55.

For applicants who are not ordinarily resident in New Zealand the Licence Upgrade Fee is NZ\$475.56 and the Immigration Advisers Levy is NZ\$982.22.

The applicant must submit the upgrade application fee with their application. The advisers levy is only payable if the Registrar determines that the applicant is eligible to have their licence upgraded.

The Authority will reduce the levy charged in proportion to the unexpired portion of the current licence to ensure that there is no double payment.

### **Photograph, authorisation and statutory declaration (Part E of the upgrade application)**

To verify their identity, the applicant must attach a passport-sized and quality photograph, taken within the last six months.

The person who witnesses the statutory declaration must verify the photograph as a true likeness of the applicant.

The authorisation and statutory declaration section requires the applicant to declare that the information that they have provided is correct. The declaration must be made in front of a person authorised to witness a statutory declaration.

The following persons may witness a statutory declaration made in New Zealand:

- an enrolled barrister and solicitor of the High Court of New Zealand
- a Justice of the Peace
- a notary public
- a Registrar or Deputy Registrar of the District Court, High Court, Court of Appeal or Supreme Court.

The following persons are authorised to witness a statutory declaration made outside of New Zealand:

- in a Commonwealth country other than New Zealand— a Judge, Commissioner of Oaths, a notary public, a Justice of the Peace, or any person authorised by the law of that country to administer an oath there for the purpose of a judicial proceeding, a Commonwealth representative, or a solicitor of the High Court of New Zealand
- in a country other than a Commonwealth— a Commonwealth representative, a Judge, a notary public, or a solicitor of the High Court of New Zealand.

### **Fee information**

All applicants must provide information about the fees that they charge for the provision of immigration advice. This does not form part of the upgrade assessment. The Authority gathers this information to publish the median and average fees on its website for public reference.

This information also helps the Registrar to form a view as to what fees are reasonable and fair for the purpose of section 8 of the code of conduct.

The Authority does not publish the fees charged by individual advisers.

### **Case studies**

Limited licence applicants applying for a full licence are required to complete two case studies in immigration advice areas that they did not specialise in with their limited licence.

Once the Authority lodges the application it will send the applicant the cases studies to complete. The case studies are sent to the service address given on the application.

The case studies include a scenario and questions regarding each part of the immigration process. These ask the applicant to demonstrate their knowledge in areas outside their current scope of practice.

The applicant is required to provide detailed answers, reference the relevant sections of the INZ Operational Manual and complete the case studies without the assistance of any other person.

The applicant is required to sign a declaration that confirms that they completed the case studies without any assistance, that they acknowledge that the case studies form part of the assessment to upgrade from a limited to full licence and that they are willing to be contacted by the Authority if required to discuss the case studies. The case studies are assessed using the same performance indicators used for client file assessment.

### **Assessment of licence upgrade applications**

The assessor will assess the application; including the forms and supporting evidence. The assessor will also contact the applicant to ask questions about the application.

The Registrar will assess whether the upgrade applicant meets the minimum standard of competence for a limited or full licence including compliance with the code of conduct.

The Registrar's assessment will be based on the evidence provided by the applicant and any other evidence that they deem relevant to the upgrade process.

The Registrar may:

- grant an upgraded (limited or full) licence if the applicant meets the upgrade criteria
- grant the same (provisional or limited) licence for another year if the applicant meets the criteria for a renewal only
- decline the upgrade application, and the current licence will continue in force until its expiry.

### **Grant of licence**

Once the Registrar has made a decision, the Authority will send a conditional approval letter to the applicant's service address given on the application. The applicant must pay the levy within 20 working days of the date the conditional letter being sent or the application will be declined. Offshore applicants are given 30 working days to pay the levy.

Once the levy is paid, the Authority will send a licence certificate, a wallet card and information about being a New Zealand licensed immigration adviser to the service address given on the application. The register of immigration advisers will be updated with the adviser's details.

## Renewal and Fast-Track Renewal Policy

### Purpose

This policy sets out how to apply to renew a full, limited, or provisional immigration adviser licence.

### Maintaining a current licence

It is the responsibility of advisers to make sure that their licence is valid. The Registrar has no discretion to accept renewal applications received after the expiry of an adviser's current licence.

Under section 24(1) of the Act, a licence renewal application must be lodged with the Authority on or before the date on which the licence expires.

Under section 24(3) of the Act, if the Authority has lodged a licence renewal application, but has not assessed it before the date on which the licence would otherwise expire, the licence continues in force until the assessment of the application is determined.

As provided in the Act, if no application for the renewal of a licence is made on or before the date on which the licence would otherwise expire, the Registrar must record the expiry of the licence in the register as soon as practicable after that date.

When the Authority receives a late submission it will be returned immediately.

If any adviser fails to maintain a current licence, the Registrar will record the expiry of the licence on the register and the adviser will no longer be able to give immigration advice and would need to apply for a new licence.

### Application streams

There are two renewal application streams: standard and fast track.

### Acceptance of applications

An adviser wishing to renew their licence must complete and submit the correct application form in hard copy, together with the required fee and supporting documentation.

A standard or fast-track renewal application must be submitted to the Authority in one of the following ways:

- by mail delivered by New Zealand Post
- by freight paid courier
- over the counter at the office of the Authority, during normal business hours.

The Authority will return all renewal applications not received by one of the above means.

The Authority will not accept applications for renewal received more than two months before the expiry of the current licence. This means the information provided with the renewal is current at the time of assessment.

The Authority will acknowledge the application and provide a receipt for the fee.

### Information required in the standard renewal process

The table below summarizes the information required for a standard renewal application.

| Information required                                     | Full licence holders | Limited licence holders | Provisional licence holders |
|--|----------------------|-------------------------|-----------------------------|
| Personal and contact details                             | √                    | √                       | √                           |
| Fitness for licensing                                    | √                    | √                       | √                           |
| Examples of continuing professional development          | √                    | √                       | √                           |
| Business activity  | √                    | √                       | √                           |
| Copy of the adviser's internal complaints procedure      | √                    | √                       | √                           |
| Evidence of managing client funds                        | If applicable        | If applicable           | If applicable               |
| Code of conduct  | √                    | √                       | √                           |
| Other matters relating to competency                     | √                    | √                       | √                           |
| Client file  | √                    | √                       | √                           |
| Fee and Levy   | √                    | √                       | √                           |
| Photograph   | √                    | √                       | √                           |
| Statutory declaration                                    | √                    | √                       | √                           |
| Fee information  | √                    | √                       | √                           |
| Application form for Approval of Supervision Arrangement | Not applicable       | Not applicable          | √                           |
| Proposed supervision arrangement                         | Not applicable       | Not applicable          | √                           |

### Personal and contact details (Part A)

The personal details section requires the applicant to give:

- their full legal name, which will appear on the register of licensed immigration advisers (register)
- their preferred name, if applicable, which will be indicated on the register
- any other names they may be known by
- their employment status; for example, if they are a director or volunteer.

The contact details section also requires the applicant to provide the following addresses.

- business address, which is the primary location where the applicant conducts their business
- physical address for the service of documents
- postal address (if it is different from the business address).

All addresses must be in the same country. Under section 77(2)(a) of the Act, the purpose of the register is to enable members of the public to know how to contact a licensed immigration adviser and to facilitate the compliance, audit and other supporting and administrative functions of the Registrar. The register must show a business, service and postal address for where the adviser is located.

### **Fitness for licensing (Part B)**

See the Fitness Policy for more information.

### **Competency standards and the Code of Conduct (Part C)**

Part C is divided into sections that require the applicant to provide information regarding continuing professional development (CPD), business activity, code of conduct, matters relating to competency and client files.

#### **Continuing professional development (section 1)**

The applicant must list the CPD activities that they have undertaken in the 12-month period before applying for the licence. These activities must relate to the provision of immigration advice and can include:

- reading materials relevant to the provision of immigration advice provided by the Registrar or another organisation
- receiving formal instruction, education or training relevant to the provision of immigration advice
- attending information sessions, seminars, courses or conferences relevant to the provision of immigration advice
- participating in the structured supervision or mentoring of another immigration adviser
- active participation in a relevant professional body, organisation or association
- self-directed learning on topics relevant to the provision of immigration advice.

The applicant must state on the application how each CPD activity they have undertaken is relevant to their own development needs and to their profession and explain how the activity relates to one or more of the competency standards 2,3,4,5 and 6.

#### **Business activity (section 2)**

The applicant must indicate the type and numbers of applications or requests that they have had approved or declined by Immigration New Zealand since their current licence was granted.

#### **Licensed Immigration Advisers Code of Conduct 2010 (section 3)**

The applicant must provide a copy of their internal complaints procedure.

If the applicant manages client funds through taking money (fees and/or disbursements including INZ fees) in advance as per clause 4 of the code of conduct they must attach copies of:

- bank statements for the applicant's client account for the last three months

- client tracking records relating to the bank statements provided. The records provided must be in consecutive date order with no gaps for the three months covered and include the date of the transaction, amount of the transaction, purpose of the transaction, type of transaction, client name and related invoice number.

This section also asks whether applicants provide clients with a copy of the code of conduct, how they explain the code of conduct to clients; and if they display the code of conduct in a prominent place in their business at all times.

#### **Other matters relating to competency (section 4)**

Section 4 requires the applicant to answer the following:

- if the Authority requested the applicant to provide evidence of change in business practice at the renewal of their current licence, and if so, how have they addressed this
- if there are any matters relevant to the assessment of the competency that the Registrar should be aware of.

#### **Client files (section 5)**

All applicants regardless of the type of licence they are renewing are required to submit one client file that tendered to INZ. The file must be one started during the current licensing period and should be finalised.

The client files may relate to any immigration matter, but they should reflect the applicant's competence and their business processes and practices.

Submitted client files must be ones in which revenue was generated or fees charged.

The applicant must submit a client authorisation and declaration with each client file.

The Registrar would expect to see the following on a complete client file (this list is not exhaustive):

- evidence of how client eligibility was assessed, such as a checklist, assessment form or consultation notes
- The written agreement entered into with the client
- all invoices provided to the client
- a complete copy of the signed application form tendered to INZ
- all correspondence with the client and file notes of any material conversations
- all correspondence with INZ
- evidence of the decision, including a copy of the visa label and the final decision letter from INZ if applicable
- evidence of the safe return of the client's original documents.

The client file summary asks the applicant to comment on:

- the nature and complexity of the immigration matter and any aspects that they found challenging
- whether they completed the entire file under supervision or if there were parts that they did not complete.

### Performance indicators for client files

The Authority will consider the following performance indicators against the client files and CPD submitted when assessing the competency standards for renewing a licence.

The information below is a guide only. The Authority notes that, in addition to the specific matters below, if the evidence provided in a renewal application raises any concerns about whether an adviser is meeting any of the competency standards or indicates any issues of non-compliance with the code of conduct, the Authority may consider these issues when assessing the renewal application.

| Performance indicators  | Assessment expectations  |
|---|--|
| Evidence of written agreements that fully describe the services that will be provided by the adviser. | <p>Is the agreement clear, concise, and easily understood in plain English?</p> <p>Does it provide a full description of the services that will be provided?</p> <p>Are significant issues that may affect the application documented?</p> <p>Are the terms and conditions for payment of fees and disbursements clearly set out?</p> <p>Are clients advised that they are entitled to seek independent legal advice?</p> <p>Are clients advised of the adviser's internal complaints procedures?</p> <p>Do clients acknowledge that they have been given the code of conduct and that this has been explained to them?</p> <p>Are changes to the terms of the agreement recorded and agreed in writing?</p> |
| Evidence that clients are invoiced correctly  | <p>Are invoices provided each time a payment is payable?</p> <p>Do invoices contain a full description of the services they relate to?</p> <p>Is GST being charged correctly?</p> <p>Do invoices reconcile with the terms of the written agreement?</p>  |
| Evidence of how client funds taken in advance are managed.  | <p>Only where client funds are paid in advance for fees and/or disbursements, are these maintained in a separate bank account?</p> <p>Are funds held in advance in the client account withdrawn only when payable for fees and/or disbursements are payable?</p> <p>Are client transactions recorded and tracked, and are complete records available</p>   |
| Evidence of professional business practices relating to records and documents.                        | <p>Is there a record that the client has been advised that their immigration application has been submitted to Immigration New Zealand?</p> <p>Are communications with clients timely?</p> <p>Is the file well documented? Does it tell a complete story?</p>  |

|   |  |
|---|--|
| Compliance with legislative and operating requirements. | <p>Are applications being lodged appropriately?</p> <p>Are applications made in a timely manner?</p> |
|---|--|

### **Fee and levy**

For applicants who are ordinarily resident in New Zealand the Licence Renewal Fee is NZ\$909.78 and the Immigration Advisers Levy is NZ\$1129.55.

For applicants who are not ordinarily resident in New Zealand the Licence Renewal Fee is NZ\$791.11 and the Immigration Advisers Levy is NZ\$982.22

The renewal fee and levy are the same for both the standard and fast track applications.

Payment methods include bank draft in New Zealand dollars, EFTPOS, New Zealand issued cheque and Visa or MasterCard.

### **Proof of identity**

The applicant must attach a passport-sized and quality photograph, taken within the last six months.

The photograph must be verified as a true likeness of the applicant by a person who witnesses the statutory declaration.

### **Authorisation and statutory declaration**

The authorisation and statutory declaration section requires the applicant to declare that the information that they have provided is correct. The declaration must be made in front of a person authorised to witness a statutory declaration.

The following persons may witness a statutory declaration made in New Zealand:

- an enrolled barrister and solicitor of the High Court of New Zealand
- a Justice of the Peace
- a notary public
- a Registrar or Deputy Registrar of the District Court, High Court, Court of Appeal or Supreme Court.

The following persons are authorised to witness a statutory declaration made outside of New Zealand:

- in a Commonwealth country other than New Zealand— a Judge, Commissioner of Oaths, a notary public, a Justice of the Peace, or any person authorised by the law of that country to administer an oath there for the purpose of a judicial proceeding, a Commonwealth representative, or a solicitor of the High Court of New Zealand
- in a country other than a Commonwealth— a Commonwealth representative, a Judge, a notary public, or a solicitor of the High Court of New Zealand.

### **Fee information**

All applicants must provide information about the fees that they charge for the provision of immigration advice. This does not form part of the renewal assessment. The Authority gathers this information to publish the median and average fees on its website for public reference.

This information also helps the Registrar to ascertain what fees are reasonable and fair for the purpose of section 8 of the code of conduct.

The Authority does not publish the fees charged by individual advisers.

### **Provisional licence supervision**

If a provisional licence holder wishes to renew their provisional licence, they must also submit an application to have the existing supervision arrangement re-approved (Application Form for Approval of Supervision Arrangement).

If the applicant wishes to enter into a new supervision agreement with a different supervisor then they are required to submit a copy of that proposed supervision arrangement.

### **Fast-track renewal process**

Once completing two standard renewals, an adviser is eligible to lodge a fast-track renewal application form.

Eligible advisers may lodge a fast-track renewal application for two consecutive years unless the following has occurred:

- since their most recent renewal, a complaint relating to the adviser has been made to the Authority that meets the criteria set out in section 44 of the Act, and the adviser has been informed of this
- since their most recent renewal, the primary company or organisation the adviser works for has changed
- the Authority has requested the adviser to provide evidence of a change in business practice at their next renewal
- the adviser is applying to renew a provisional licence.

An adviser who has had a complaint made against them and has subsequently had a renewal approved through the standard renewal process may go through the fast-track stream even if the Tribunal has not made a decision on the complaint before the adviser's next renewal.

After every two consecutive fast-track renewal applications, advisers are required to lodge one standard renewal application in the following year.

The fast-track application requires the applicant to provide:

- their personal and contact details
- their fitness for licensing
- a payment method to pay the licence application fee
- a verified passport-sized photograph
- a statutory declaration
- the fee information.

The fee and levy are the same for a fast-track application as they are for a standard renewal application.

By signing the statutory declaration the applicant is declaring that they meet the standards set out in the competency standards, they have completed at least 20 hours of continuing professional development since the granting of their current licence, and that all information provided in the application form is complete, correct and up to date.

### **Assessment of fast-track renewal applications**

If the evidence provided in a fast-track renewal application raises any concerns about whether an adviser is meeting any of the competency standards, or indicates issues of non-compliance with the code of conduct, the Registrar may investigate those issues in full.

Licensed immigration advisers eligible for fast-track should always be prepared to lodge a standard renewal form. If a complaint is made shortly before an adviser's renewal is due, the adviser will be required to lodge a standard renewal form. Advisers must be prepared to provide all the evidence required for a standard renewal.

#### **Grant of licence for all renewal applications**

Once the Registrar has made a decision, the Authority will send a conditional approval letter to the applicant's service address given on the application. The approval letter includes payment options for the immigration adviser levy. There are different requirements for the payment of the immigration adviser levy depending if the applicant is onshore or offshore:

- the Authority will give an onshore applicant 20 working days from the sending date of the approval letter or until the expiry date of their current licence; whatever one is later, to pay the immigration adviser levy
- the Authority will give an offshore applicant 30 working days from the sending date of the approval letter or until the expiry date of their current licence; whatever one is later, to pay the immigration adviser levy.

Once the levy is paid, the Authority will send a licence certificate, a wallet card and information about being a New Zealand licensed immigration adviser to the service address given on the application. The register of immigration advisers will be updated with the adviser's details.

## The register of licensed immigration advisers

### Purpose

This policy sets out what the register of licensed immigration advisers (the register) is.

### Legislative purposes

Section 77 of the Immigration Advisers Licensing Act 2007 (the Act) requires the Registrar of Immigration Advisers (the Registrar) to keep and maintain a register of licensed immigration advisers.

As per the Act, the Registrar keeps and maintains the register on the Immigration Advisers Authority's website: [IAA.govt.nz](http://IAA.govt.nz). The register is also available in hard copy on request.

The register is a searchable database that among other things lists all licensed immigration advisers and their business contact details.

The purpose of the register is to enable consumers to know:

- how to contact a licensed immigration adviser
- whether or not a person is licensed as an immigration adviser
- whether or not a person's licence has been cancelled or suspended, or whether a person's application for a licence has been refused.

### Contents of the register

The Act requires the register to include:

- the full name of every licensed immigration adviser
- their business address and service address
- details of their employer if applicable
- their licence number
- the date of each registration of their licence; for example, the yearly renewal
- the type of licence that they have; whether it is a full, limited or provisional licence
- any terms or conditions associated with the licence
- if applicable the date on which any cancellation, surrender or suspension of licence took place
- the name and details of anyone who has been refused a licence.

The Registrar updates the register every time a new immigration licence application is successful and if there is a change of details of an adviser; for example, the contact information, an upgrade of a licence or the expiry of a licence.

## Cancelled, suspended, voluntarily surrendered and expired licences

### Purpose

Set out below is the policy regarding cancelled, suspended, voluntarily surrendered and expired licences.

### Cancelled licences

Section 27(1) of the Immigration Advisers Licensing Act 2007 (the Act) requires the Registrar of Immigration Advisers (Registrar) to cancel the licence of an immigration adviser, if he or she is satisfied that the person:

- is a lawyer
- is a category 2 exemptee
- is an undischarged bankrupt
- is prohibited or disqualified under sections 382, 383 or 385 of the Companies Act 1993 from managing a company
- has been convicted of an offence under the Immigration Act
- has been removed or deported from New Zealand under the Immigration Act.
- is unlawfully in New Zealand
- is either currently holding the office or, or within the last 12 months held the office of, either the Minister or Associate Minister of Immigration in the New Zealand government
- is either currently employed with, or was employed within the last 12 months with, the office of either the Minister or Associate Minister of Immigration in the New Zealand government
- is either currently employed as, or was employed within the last 12 months as, an immigration officer, visa officer, or refugee status officer as defined in the Immigration Act
- has made a false or fraudulent representation or declaration, either orally or in writing, during the application process under which they were granted a licence
- has provided an application fee for either an initial licence or a renewal, that has been dishonoured
- has provided a payment for the immigration adviser's levy that has been dishonoured
- has died.

Section 27(2) of the Act also provides that a licence can be cancelled if the Immigration Advisers Complaints and Disciplinary Tribunal (the Tribunal) determines that this sanction will be imposed in accordance with section 51(1)(d) of the Act.

Section 30 of the Act sets out that the date of the cancellation of a licence takes effect:

- on the date specified by the Registrar
- on the date notified in the decision of the Tribunal
- section 32 of the Act also requires the Registrar to record the cancellation of a licence on the register of licensed immigration advisers.

### **Suspended licences**

Section 29 of the Act provides that a licence can be suspended if the Immigration Advisers Complaints and Disciplinary Tribunal (the Tribunal) determines one or both of the following:

- that this sanction will be imposed in accordance with section 51(1)(c) of the Act
- that it is necessary or desirable to suspend the licence under section 53, having regard to the interests of the public, pending the outcome of a complaint. Section 29(2) of the Act specifies that a person whose licence has been suspended, may not apply for a further licence during the period or duration of the suspension.

Section 30 of the Act sets out that the date of the cancellation of a licence takes effect on the date notified in the decision of the Tribunal.

Section 32 of the Act also requires the Registrar to record the suspension of a licence on the register of licensed immigration advisers.

### **Voluntary Surrender of a licence**

Section 31 of the Act confirms that a licensed immigration adviser may at any time, choose to surrender their licence to the Registrar by giving notice of this in writing.

Advisers who wish to surrender must ensure they are clear in the way they word the notification of the surrender to avoiding any ambiguity. The Authority cannot reverse a surrender of a licence if the adviser changes their mind.

A surrender takes effect on the date given in the notice, or if no date is given, on the day the notice is received by the Registrar.

When a licence is voluntarily surrendered, the Registrar may, as he or she thinks fit, refund all or part of the levy paid by an immigration adviser in respect of the licence.

Section 32 of the Act also requires the Registrar to record the surrender of a licence on the register of licensed immigration advisers.

### **Expiry of licence**

Section 33 of the Act requires the Registrar to record the expiry of a licence on the register of licensed immigration advisers, as soon as practicable after the date that the licence expires, if no application for the renewal of a licence is made on or before that date.