

Factsheet for Employers:

WHAT TO DO WHEN YOUR EMPLOYEE NEEDS IMMIGRATION ADVICE

Providing immigration advice is a licensed, recognised profession. Anyone providing advice about New Zealand immigration matters must be licensed, unless exempt.

If you are not licensed or exempt and you provide immigration advice, you could face a fine of up to NZ\$100,000 and/or up to seven years' imprisonment, even if you do not charge a fee for that advice.

What is 'immigration advice'?

Immigration advice is defined in the [Immigration Advisers Licensing Act 2007](#) (the Act) as:

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

The Act confirms that 'immigration advice' does not include:

- › providing information that is **publicly available, or that is prepared or made available** by the Ministry of Business, Innovation & Employment, for example printing and providing information from the [Immigration New Zealand \(INZ\) website](#)
- › directing a person to:
 - the Minister of Immigration
 - the Ministry of Business, Innovation & Employment (which includes INZ)
 - an immigration officer, or a refugee and protection officer
 - [a list of licensed immigration advisers](#)

- › carrying out clerical work, settlement services or translation or interpreting services.

Clerical work is defined in the Act and is limited to matters where the main task involves recording, organising, storing or retrieving information, computing or data entry, or recording information on any form on behalf and under the direction of another person.

Therefore you can fill out an immigration application if you are only recording information given to you by an employee or prospective employee.

However, if you use your knowledge of, or personal experience in immigration matters to advise, assist, direct or represent the person, you will be providing 'immigration advice'. This could include, for example:

- › advising a person what visa they qualify for
- › advising a person how best to answer a question in the application form, or what additional information might best be included with the application
- › writing a covering letter to accompany the application
- › acting as their representative.

If you have concerns that you may be providing 'immigration advice' without a licence, you should seek independent legal advice or consider obtaining a licence.

Being an accredited employer with INZ does not mean that you can provide 'immigration advice' without a licence.

As an employer, we understand there will be times when your employees, or prospective employees, may require 'immigration advice'. In this instance, there are three options:

▶ info@iaa.govt.nz ▶ iaa.govt.nz ▶ 0508 422 422 ▶ +64 9 925 3838 (from overseas)



IMMIGRATION ADVISERS AUTHORITY

1. You or one of your staff can become a licensed immigration adviser

For further details about [how to become a licensed immigration adviser](#), visit our website or contact us.

Immigration Advisers Authority

Contact us:

NZ freephone 0508 422 422

Outside NZ +64 9 925 3838

Email info@iaa.govt.nz

Visit www.iaa.govt.nz

2. You or your employee can engage an adviser who is licensed or exempt

The following people can assist your employee with any immigration advice they may require:

- › a licensed immigration adviser – a [public register of licensed immigration advisers](#) is available on the Immigration Advisers Authority website
- › a person exempt from the requirement to hold a licence, such as a lawyer who holds a current New Zealand practising certificate – find a lawyer on the [New Zealand Law Society website](#).

See the Immigration Advisers Authority website for a [Guide to Licensed Immigration Advisers](#) and to see [exempt groups](#).

3. Advise your employee that they can prepare their own application with free assistance from INZ

From the [INZ website](#) your employee can:

- › [explore options](#)
- › [apply for a visa](#)
- › [ask a question](#)
- › [contact INZ](#).

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