



2002B00353

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Migration Agents Amendment Regulations 2002 (No. 2)¹

Statutory Rules 2002 No. ²

346

I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Migration Act 1958*.

Dated 19 DEC 2002 2002

PETER HOLLINGWORTH
Governor-General

By His Excellency's Command

GARY HARDGRAVE
Minister for Citizenship and Multicultural Affairs

1 Name of Regulations

These Regulations are the *Migration Agents Amendment Regulations 2002 (No. /)*.

2

2 Commencement

These Regulations commence on 1 March 2003.

3 Amendment of *Migration Agents Regulations 1998*

Schedule 1 amends the *Migration Agents Regulations 1998*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 3, after definition of *electronic communication*

insert

financial institution means a body corporate that, as part of its normal activities:

- (a) takes money on deposit and makes advances of money; and
- (b) does so under a regulatory regime, governed by the central bank (or its equivalent) of the country in which it operates, that the Minister is satisfied provides effective prudential assurance.

Information on the Regulation of the Migration Advice Profession means the current version of the document produced for regulation 9A.

[2] Regulation 9

after

any person

insert

or body

[3] Paragraph 9 (e)

substitute

- (e) a parliamentarian;
- (f) a tribunal or court;
- (g) a community organisation;
- (h) the Department.

[4] After regulation 9

insert

9A Information booklet

The Authority must arrange for a document to be produced, with the title ***Information on the Regulation of the Migration Advice Profession***, that the Authority is satisfied will adequately inform potential clients of a migration agent about:

- (a) the migration advice industry; and
- (b) the functions of the Authority and the legislation regulating the industry; and
- (c) what a client can reasonably expect from a migration agent; and
- (d) complaint procedures.

[5] Schedule 2, clause 2.1*substitute*

- 2.1 A migration agent must always:
- (a) act in accordance with the law and the legitimate interests of his or her client; and
 - (b) deal with his or her client competently, diligently and fairly.
- 2.1A A migration agent must not accept a person as a client if the agent would have any of the following conflicts of interest:
- (a) the agent has had previous dealings with the person, or intends to assist the person, in the agent's capacity as a marriage celebrant;
 - (b) the agent is, or intends to be, the employer, sponsor or nominator of the person in a visa application or cancellation review application;
 - (c) the agent is, or intends to be, involved with the person in a business activity that is relevant to the assessment of a visa application or cancellation review application;
 - (d) there is any other interest of the agent that would affect the legitimate interests of the client.
- 2.1B If it becomes apparent that a migration agent has a conflict of interest mentioned in clause 2.1A in relation to a client, the agent must, as soon as practicable taking into account the needs of the client, but in any case within 14 days:
- (a) tell the client about the conflict of interest; and
 - (b) advise the client that, under the Code, the agent can no longer act for the client; and
 - (c) advise the client about appointing another migration agent; and
 - (d) cease to deal with the client in the agent's capacity as migration agent.
- 2.1C Part 10 of the Code then applies as if the client had terminated the migration agent's instructions.

2.1D A migration agent who has ceased to act for a client in accordance with paragraph 2.1B (d), must, as soon as practicable, but in any case within 14 days, inform the Department that he or she is no longer acting for the client.

[6] Schedule 2, paragraph 2.5 (b)

substitute

(b) either:

- (i) maintain a professional library that includes those materials; or
- (ii) if the agent's employer, or the business in which he or she works, maintains a professional library that includes those materials — take responsibility for ensuring that he or she has access to the library.

[7] Schedule 2, after clause 3.2

insert

3.2A Before starting to work for a client, a migration agent must:

- (a) provide the client with a copy of *Information on the Regulation of the Migration Advice Profession*; and
- (b) make a record that the copy has been provided.

Note *Information on the Regulation of the Migration Advice Profession* is a document produced by the Authority with information about the migration advice industry, the functions of the Authority, the legislation regulating the industry, what a client can reasonably expect from a migration agent, and complaint procedures.

[8] Schedule 2, clause 7.1

after

separate accounts

insert

with a financial institution

Notes

1. These Regulations amend Statutory Rules 1998 No. 53, as amended by 1999 No. 69; 2000 Nos. 64 and 309; 2001 No. 143; 2002 No. 229.
2. Notified in the *Commonwealth of Australia Gazette* on / 2002. 20 December