

WORKFORCE (IMMIGRATION NEW ZEALAND)
INTERNAL ADMINISTRATION CIRCULAR NO: 09-04

To: All Workforce/Immigration New Zealand (INZ) staff

Date: 29 June 2008

Status of non-lawyer employees of law firms under the Immigration Advisers Licensing Act 2007 (IAL Act)

Please **READ** this information and ensure that all staff members who may be affected are aware of what is required of them.

Purpose

1. The purpose of this Internal Administration Circular (IAC) is to advise staff of a change of practice by the Immigration Advisers Authority whereby non-lawyer employees of lawyer employers (law firms or sole practitioner lawyers) will no longer be required to hold a licence.

Background

2. The IAL Act prohibits a lawyer from applying for a licence on the basis that the Lawyers and Conveyancers Act 2006 (LCA) provides sufficient consumer protection for the clients of lawyers and that additional regulation through the IAL Act would duplicate existing procedures. Lawyers are therefore exempt from the licensing requirements under the IAL Act.

Non-lawyer employees

3. The Immigration Advisers Authority (IAA) have advised that in respect of the work undertaken as an employee of a lawyer employer, non-lawyer employees of law firms are now included under the IAL Act 'lawyers' exemption and are prohibited from holding a licence. In effect, they are working under the direct supervision of their lawyer employer.
4. This means the IAA will no longer be licensing non-lawyer employees of lawyer employers. This decision has been made on the basis that it is the lawyer employer who is responsible for the advice given to the client by their employees, and it recognises that in terms of the LCA:
 - non-lawyer employees of law firms cannot give advice to clients on their own account, and
 - it is the lawyer employer who is actually responsible for providing the advice to the client, not the non-lawyer employee.
5. Only direct employees of law firms or sole practitioner lawyers are covered by the exemption. Employees in any other organisation who are supervised by a lawyer with a practising certificate are NOT covered.

Immigration New Zealand application processing

6. Immigration New Zealand application forms should still be signed by the lawyer (not the non-lawyer employee). If the non-lawyer employee signs the application form

and ticks they are a lawyer, then the employee should be loaded into AMS as a lawyer and it would then be a matter for the New Zealand Law Society to consider any disciplinary action.

7. Non-lawyer employees do not require an Authority to Act to communicate with Immigration New Zealand about a client represented by their lawyer employer, although all written correspondence should still be signed by the lawyer employer.
8. Attached are some questions and answers supplied by the IAA.

THE ADVICE IN THIS INTERNAL ADMINISTRATION CIRCULAR IS NO LONGER CURRENT

Q: I am an employee of a law firm (but I'm not a lawyer). I've been told by the IAA that I'm now exempt from licensing. What box do I tick under *P4 Exempt from licensing* on the immigration application form?

A: The immigration application form must still be signed by the lawyer (your employer), as stated in all the existing forms. This means that the lawyer employer will tick the box "I am a lawyer and I hold a practising certificate as a barrister or as a barrister and solicitor of the High Court of New Zealand".

Q: I am an employee of a law firm (but I'm not a lawyer). I've been told by the IAA that I'm now exempt from licensing, but that my employer must still sign the immigration application form. Can I still be the primary contact for Immigration New Zealand regarding this client?

A: Yes. If you are an employee of the lawyer or law firm representing the client, you can communicate with INZ regarding the client.

Q: My supervisor is a lawyer but I don't work for a law firm and I don't have an immigration adviser licence. Can I lodge an immigration application with INZ?

A: Only lawyers who hold a practising certificate as a barrister or as a barrister and solicitor of the High Court of New Zealand can lodge applications with INZ (unless they are licensed or otherwise exempt).

Q: My supervisor is a lawyer but I don't work for a law firm and I don't have an immigration adviser licence. Do I need a licence to provide immigration advice?

A: All questions regarding whether or not you are exempt from licensing should be directed to the Immigration Advisers Authority.

Q: I know of a lawyer who is signing immigration application forms for an unlicensed adviser (who is not their employee) but doesn't have anything to do with the adviser or his or her business. What can I do about it?

A: All questions regarding the appropriate conduct of a lawyer should be directed to the New Zealand Law Society.

THE ADVICE IN THIS INTERVIEW IS NOT TO BE USED FOR ANY OTHER PURPOSE