Australian Government

Office of the Migration Agents Registration Authority

Code of Conduct

for registered migration agents

Current from 1 JANUARY 2012

Ethical profession | Empowered consumers | Engaged stakeholders

SCHEDULE 2: CODE OF CONDUCT

(regulation 8)

Migration Act 1958, subsection 314(1)

THIS CODE OF CONDUCT SHOULD BE DISPLAYED PROMINENTLY IN THE REGISTERED MIGRATION AGENT'S OFFICE.

If a client believes that a registered migration agent has acted in breach of this Code of Conduct, a complaint can be made in writing to:

Migration Agents Registration Authority
PO BOX Q1551
QVB NSW 1230

Contact the Office of the MARA

For more information, contact the Office of the MARA in any of the following ways:

- Website: www.mara.gov.au
- Email: info@mara.gov.au
- Phone: 1300 226 272 or +61 2 9078 3552
- Fax: +61 2 9078 3591
- Street address: Level 8, 22 Market Street
  Sydney NSW Australia
- Postal address: PO Box Q1551
  QVB NSW 1230

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The Code of Conduct for migration agents is authorised by the requirements of the *Migration Agents Regulations 1998* No. 53, Schedule 2, Regulation 8 and the *Migration Act 1958* Subsection 314(1).

PART 1

INTRODUCTION

1.1 This Code of Conduct (the ***Code***) is intended to regulate the conduct of registered migration agents.

1.2 The Migration Agents Registration Authority (the ***Authority***) is responsible for administering the Code.

1.3 A person who wants to operate as a registered migration agent must register with the Authority.

1.4 The Code applies to an individual who is listed in the Register of Migration Agents kept by the Authority under section 287 of the *Migration Act 1958* (the ***Migration Act***).

1.5 To ensure compliance with the Code, the Authority may impose an administrative sanction if a breach of the Code is found to have occurred.

1.6 An administrative sanction may range from a caution through to suspension of registration or the ultimate sanction of cancellation of registration.

1.7 Accordingly, the Code does not impose criminal sanctions.

1.8 However, there are a number of offences under the Migration Act and the *Migration Regulations 1994* (the ***Migration Regulations***) that also deal with the kind of activity covered by the Code. These activities include misleading statements and advertising, practising when unregistered and misrepresenting a matter. Provisions of the *Crimes Act 1914*, the *Criminal Code Act 1995* and the *Trade Practices Act 1974* may also apply to these activities.

1.9 The Code is not intended to displace any duty or liability that a registered migration agent may have under the common law, or the statute law of the Commonwealth, a State or a Territory, in relation to a matter covered by the Code. The provisions of the Code should be read in the light of this principle.

1.10 The aims of the Code are:

(a) to establish a proper standard for the conduct of a registered migration agent;

(b) to set out the minimum attributes and abilities that a person must demonstrate to perform as a registered migration agent under the Code, including:

(i) being a fit and proper person to give immigration assistance;

(ia) being a person of integrity and good character;

(ii) knowing the provisions of the Migration Act and Migration Regulations, and other legislation relating to migration procedure, in sufficient depth to offer sound and comprehensive advice to a client,

including advice on completing and lodging application forms;

(iii) completing continuing professional development as required by the *Migration Agents Regulations 1998*;

(iv) being able to perform diligently and honestly;

(v) being able and willing to deal fairly with clients;

(vi) having enough knowledge of business procedure to conduct business as a registered migration agent, including record keeping and file management;

(vii) properly managing and maintaining client records;

(c) to set out the duties of a registered migration agent to a client, an employee of the agent, and the Commonwealth and its agencies;

(d) to set out requirements for relations between registered migration agents;

(e) to establish procedures for setting and charging fees by registered migration agents;

(f) to establish a standard for a prudent system of office administration;

(g) to require a registered migration agent to be accountable to the client;

(h) to help resolve disputes between a registered migration agent and a client.

1.11 The Code does not list exhaustively the acts and omissions that may fall short of what is expected of a competent and responsible registered migration agent.

1.12 However, the Code imposes on a registered migration agent the overriding duty to act at all times in the lawful interests of the agent's client. Any conduct falling short of that requirement may make the agent liable to cancellation of registration.

1.13 If a registered migration agent has a contract in force with a client that complies with this Code, but the Code is amended in a way that relates to the content of the contract:

(a) the agent is not in breach of this Code solely because the contract does not comply with the amended Code; but

(b) the agent must do everything practicable to vary the contract to ensure that it complies with the amended Code.

PART 2

STANDARDS OF PROFESSIONAL CONDUCT

2.1 A registered migration agent must always:

(a) act in accordance with the law (including, for an agent operating as an agent in a country other than Australia, the law of that country) and the legitimate interests of his or her client; and

(b) deal with his or her client competently, diligently and fairly.

However, a registered migration agent operating as an agent in a country other than Australia will not be taken to have failed to comply with the Code if the law of that country prevents the agent from operating in compliance with the Code.

2.1A A registered 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) [*omitted by SLI 2006, 249 with effect from 1/10/2006*];

(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 registered 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 registered migration agent; and

(d) cease to deal with the client in the agent's capacity as registered migration agent.

2.1C Part 10 of the Code then applies as if the client had terminated the registered migration agent's instructions.

2.1D A registered 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.

2.2 If a registered migration agent:

(a) gives advice of a non-migration nature to a client in the course of giving immigration assistance; and

(b) could receive a financial benefit because of the advice;

the agent must tell the client in writing, at the time the advice is requested or given, that the agent may receive a financial benefit.

2.3 A registered migration agent's professionalism must be reflected in a sound working knowledge of the Migration Act and Migration Regulations, and other legislation relating to migration procedure, and a capacity to provide accurate and timely advice.

2.3A A registered migration agent's professionalism must be reflected in the making of adequate arrangements to avoid financial loss to a client, including the holding of professional indemnity insurance mentioned in the regulation 6B for the period of the migration agent's registration.

2.4 A registered migration agent must have due regard to a client's dependence on the agent's knowledge and experience.

2.5 A registered migration agent must:

(a) take appropriate steps to maintain and improve his or her knowledge of the current versions of:

(i) the *Migration Act 1958*; and

(ii) the *Migration Regulations 1994*; and

(iii) other legislation relating to migration procedure; and

(iv) portfolio policies and procedures; and

(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.

Note 1: A comprehensive list of the materials mentioned in subparagraphs (a) (iii) and (iv) may be obtained from the Professional Library page of the Authority's web site (www.mara.gov.au).

Note 2: A registered migration agent must satisfy the requirements for continuing professional development set out in Schedule 1.

2.6 To the extent that a registered migration agent must take account of objective criteria to make an application under the Migration Act or Migration Regulations, he or she must be frank and candid about the prospects of success when assessing a client's request for assistance in preparing a case or making an application under the Migration Act or Migration Regulations.

2.7 A registered migration agent who is asked by a client to give his or her opinion about the probability of a successful outcome for the client's application:

(a) must give the advice, in writing, within a reasonable time; and

(b) may also give the advice orally to the extent that the oral advice is the same as the written advice; and

(c) must not hold out unsubstantiated or unjustified prospects of success when advising clients (orally or in writing) on applications under the Migration Act or Migration Regulations.

2.8 A registered migration agent must:

(a) within a reasonable time after agreeing to represent a client, confirm the client's instructions in writing to the client; and

(b) act in accordance with the client's instructions; and

(c) keep the client fully informed in writing of the progress of each case or application that the agent undertakes for the client; and

(d) within a reasonable time after the case or application is decided, tell the client in writing of the outcome of the client's case or application.

2.9 A registered migration agent must not make statements in support of an application under the Migration Act or Migration Regulations, or encourage the making of statements, which he or she knows or believes to be misleading or inaccurate.

2.9A In communicating with, or otherwise providing information to, the Authority, a registered migration agent must not mislead or deceive the Authority, whether directly or by withholding relevant information.

2.10 A registered migration agent must not engage in false or misleading advertising, including advertising in relation to:

(a) the agent's registration as a registered migration agent; or

(b) the implications of Government policy for the successful outcome of an application under the Migration Act or Migration Regulations; or

(c) guaranteeing the success of an application.

Note: Advertising includes advertising on the Internet.

2.11 A registered migration agent must, when advertising:

(a) include in the advertisement the words "Migration Agents Registration Number" or "MARN", followed by the agent's individual registration number; and

(b) if the agent is advertising in a language other than English — include in the advertisement words in that other language equivalent to "Migration Agents Registration Number" or "MARN", followed by the agent's individual registration number.

Note 1: Advertising includes advertising on the Internet.

Note 2: Clause 2.12, which relates to implying a relationship with the Department or the Authority, also applies to the registered migration agent's advertising mentioned in clause 2.11.

2.12 A registered migration agent must not, when advertising, imply the existence of a relationship with the Department or the Authority, for example by using terms such as:

(a) Australian Government registered; or

(b) Migration Agents Registration Authority registered; or

(c) Department registered.

Note: Advertising includes advertising on the Internet.

2.14 A registered migration agent must not portray registration as involving a special

or privileged relationship with the Minister, officers of the Department or the Authority, for example to obtain priority processing, or to imply that the agent undertakes part or full processing for the Department.

2.14A A registered migration agent must not represent that he or she can procure a particular decision for a client under the Migration Act or the Migration Regulations.

2.15 A registered migration agent must not intimidate or coerce any person for the benefit of the agent or otherwise. For example, a registered migration agent must not engage in any of the following:

(a) undue pressure;

(b) physical threats;

(c) manipulation of cultural or ethnic anxieties;

(d) threats to family members in Australia or overseas;

(e) untruthful claims of Departmental sanctions;

(f) discrimination on the grounds of religion, nationality, race, ethnicity, politics or gender.

2.16 A registered migration agent with operations overseas may indicate that he or she is registered in Australia, but must not create an impression that registration involves accreditation by the Commonwealth Government for work overseas for the Commonwealth or for a client.

2.17 If an application under the Migration Act or the Migration Regulations is vexatious or grossly unfounded (for example, an application that has no hope of success) a registered migration agent:

(a) must not encourage the client to lodge the application; and

(b) must advise the client in writing that, in the agent's opinion, the application is vexatious or grossly unfounded; and

(c) if the client still wishes to lodge the application - must obtain written acknowledgment from the client of the advice given under paragraph (b).

Note: Under section 306AC of the Act, the Minister may refer a registered migration agent to the Authority for disciplinary action if the agent has a high visa refusal rate in relation to a visa of a particular class.

2.18 A registered migration agent must act in a timely manner if the client has provided all the necessary information and documentation in time for statutory deadlines. For example, in most circumstances an application under the Migration Act or Migration Regulations must be submitted before a person's visa ceases to be in effect.

2.19 Subject to a client's instructions, a registered migration agent has a duty to provide sufficient relevant information to the Department or a review authority to allow a full assessment of all the facts against the relevant criteria. For example, a registered migration agent must avoid the submission of applications under the Migration Act or Migration Regulations in a form that does not fully reflect the circumstances of the individual and prejudices the prospect of approval.

2.20 A registered migration agent must:

(a) find out the correct amount of any visa application charge and all other fees or charges required to be paid for a client's visa application under the Migration Act or the Migration Regulations; and

(b) give the client written advice of the amount of each fee and charge; and

(c) if the agent is to pay an amount for the client - give the client written advice of the date by which the amount must be given to the agent so that the interests of the client are not prejudiced; and

(d) give the client a written notice of each amount paid by the agent for the client.

2.21 A registered migration agent must not submit an application under the Migration Act or Migration Regulations without the specified accompanying documentation. For example, in a marriage case, threshold documentation would include a marriage certificate and evidence that the sponsor is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen, without which assessment of the case could not proceed (unless the agent has a reasonable excuse or the client has requested the agent to act despite incomplete documentation).

2.22A A registered migration agent must, when providing translating or interpreting services, include on a prominent part of the translated document the following sequence:

(a) the name of the migration agent;

(b) followed by the words 'Migration Agent's Registration Number';

(c) followed by the agent's registration number.

2.22B A registered migration agent must:

(a) notify the Authority, in writing, of any changes to the registration details of the agent in relation to any of the following matters:

(i) the agent's full name;

(ii) any business names of the agent or the agent's employer;

(iii) the business address for the agent;

(iv) the telephone number for contacting the agent;

(v) any of the matters mentioned in paragraphs 3V (a) to (da) of these Regulations; and

(b) notify the Authority:

(i) in advance; or

(ii) not later than 14 days after the change or changes if advance notice would be unreasonable in the circumstances.

2.23 A registered migration agent must take all reasonable steps to maintain the reputation and integrity of the migration advice profession.

2.24 This Code is a responsive document that will change from time to time to meet the needs of clients and to ensure the delivery of relevant, up to date advice.

PART 3

OBLIGATIONS TO CLIENTS

3.1 A registered migration agent has a duty to preserve the confidentiality of his or her clients.

3.2 A registered migration agent must not disclose, or allow to be disclosed, confidential information about a client or a client's business without the client's written consent, unless required by law.

3.2A Once a registered migration agent had agreed to work for a client, but before commencing that work, the 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 profession, the functions of the Authority, the legislation regulating the profession, what a client can reasonably expect from a registered migration agent, and complaint procedures.

3.3 A registered migration agent must inform clients that they are entitled to receive copies of the application under the Migration Act or Migration Regulations and any related documents if they want copies. The agent may charge a reasonable amount for any copies provided.

3.4 A registered migration agent must have an address and telephone number where the agent can be contacted during normal business hours.

3.5 If a registered migration agent changes his or her address, telephone number or any other details that are recorded on the Register of Migration Agents, the agent must give a written notice to the Department, the Authority, any review authority and all current clients of the agent:

(a) in advance; or

(b) not later than 14 days after the change or changes if advance notice would be unreasonable in the circumstances.

3.6 A registered migration agent must ensure that clients have access to an interpreter if necessary.

PART 4

RELATIONS BETWEEN REGISTERED MIGRATION AGENTS

4.1 Before accepting immigration work, a registered migration agent must consider whether he or she is qualified to give the advice sought by the client. If the agent is unsure, he or she must seek the appropriate advice or assistance, or refer the matter to another registered migration agent.

4.2 A referral may be made, for example, if a registered migration agent is asked for advice on matters for which he or she does not regularly provide immigration assistance.

4.3 A registered migration agent must not encourage another agent's client to use the first agent's services, for example by denigrating other agents or offering services that the first agent cannot, or does not intend to, provide.

4.4 A registered migration agent must not take over work from another registered migration agent unless he or she receives from the client a copy of written notice by the client to the other agent that the other agent's services are no longer needed.

4.5 A registered migration agent must act with fairness, honesty and courtesy when dealing with other registered migration agents.

4.6 A registered migration agent who gives a written undertaking to another registered migration agent must make sure the undertaking is performed within a reasonable time, if possible.

PART 5

FEES AND CHARGES

5.1 There is no statutory scale of fees. However, a registered migration agent must set and charge a fee that is reasonable in the circumstances of the case.

5.2 A registered migration agent must:

(a) before starting work for a client, give the client:

(i) an estimate of charges in the form of fees for each hour or each service to be performed, and disbursements that the agent is likely to incur as part of the services to be performed; and

(ii) an estimate of the time likely to be taken in performing the services; and

(b) as soon as possible after receiving instructions, obtain written acceptance by the client, if possible, of:

(i) the estimate of fees; and

(ii) the estimate of the time likely to be taken in performing the services; and

(c) give the client written confirmation (an ***Agreement for Services and Fees***) of:

(i) the services to be performed; and

(ii) the fees for the services; and

(iii) the disbursements that the agent is likely to incur as part pf the services; and

d) give the client written notice of any material change to the estimated cost of providing a service, and the total likely cost because of the change, as soon as the agent becomes aware of the likelihood of a change occurring.

5.3 A registered migration agent:

(a) must not carry out work in a manner that unnecessarily increases the cost to the client; and

(b) must, if outside expertise is to be engaged and the client agrees, fully inform the client of the likely extra cost; and

(c) must, especially if a solicitor or barrister, warn clients of possible delays and likely cost involved in pursuing a particular course of action before tribunals and in the courts, for example:

(i) any need to engage and pay expert witnesses;

(ii) the need to meet legal costs if a case were lost;

(iii) the need to pay Departmental fees and charges;

(iv) the need to pay translation and interpreter fees and charges.

5.4 A registered migration agent must give clients written advice of the method of payment of fees and charges, including Departmental fees and charges.

5.5 A registered migration agent must be aware of the effect of section 313 of the Act, and act on the basis that:

(a) the agent is not entitled to be paid a fee or other reward for giving immigration assistance to a client unless the agent gives the client a statement of services that is consistent with the services, fees and disbursements in the Agreement for Services and Fees mentioned in clause 5.2.

Note: The statement of services may be an itemised invoice or account. See clause 7.2 and 7.4; and

(b) a statement of services must set out:

(i) particulars of each service performed; and

(ii) the charge made in respect of each such service; and

(c) a client is entitled by the Act to recover the amount of a payment as a debt due to him or her if he or she:

(i) made the payment to the agent for giving immigration assistance; and

(ii) did not receive a statement of services before making the payment; and

(iii) does not receive a statement of services within 28 days after a final decision is made about the visa application, cancellation review application, nomination or sponsorship to which the immigration assistance related.

PART 6

RECORD KEEPING AND MANAGEMENT

6.1 A registered migration agent must maintain proper records that can be made available for inspection on request by the Authority, including files containing:

(a) a copy of each client's application; and

(b) copies of each written communication between:

(i) the client and the agent; and

(ii) the agent and any relevant statutory authority; and

(iii) the agent and the Department regarding the client; and

(c) file notes of every substantive or material oral communication between:

(i) the client and the agent; and

(ii) the agent and an official of any relevant statutory authority; and

(iii) the agent and the Department regarding the client.

6.1A A registered migration agent must keep the records mentioned in clause 6.1 for a period of 7 years after the date of the last action on the file for the client.

6.2 A registered migration agent must keep all documents to which a client is entitled securely and in a way that will ensure confidentiality while the agent is giving services to the client and until the earlier of:

(a) 7 years after the date of the last action on the file for the client; or

(b) when the documents are given to the client or dealt with in accordance with the client's written instructions.

Note: On the completion or termination of services, all documents to which a client is entitled are to be dealt with in accordance with Part 10.

6.2A For clause 6.2, the documents to which a client is entitled include (but are not limited to) documents that are:

(a) provided by, or on behalf of, the client; and

(b) paid for by, or on behalf of, the client; such as passports, birth certificates, qualifications, photographs and other personal documents.

6.3 A registered migration agent must respond to a request for information from the Authority within a reasonable time specified by the Authority.

6.4 A registered migration agent must act on the basis that the agent's electronic communications are part of the agent's records and documents.

PART 7

FINANCIAL DUTIES

7.1 Subject to clause 7.1B, a registered migration agent must keep separate accounts with a financial institution for:

(a) the agent's operating expenses (the ***operating account***); and

(b) money paid by clients to the agent for fees and disbursements (the ***clients' account***).

7.1A The words 'clients' account' must be included in the name of the financial institution account mentioned in paragraph 7.1(b).

7.1B If a registered migration agent is operating as an agent in a country other than Australia that does not allow, under its law, the use of a clients' account as described in paragraph 7.1(b):

(a) the agent is not required to keep a separate account of that name; but

(b) the agent must:

(i) keep an account for money paid by clients to the agent for fees and disbursements in a way that is as similar as practicable to the requirements in this Part; and

(ii) comply with this Part as far as practicable in relation to keeping records of the account and making the records available for inspection.

7.2 A registered migration agent must hold, in the clients' account, an amount of money paid by a client for an agreed block of work until:

(a) the agent has completed the services that comprise the block of work; and

(b) an invoice has been issued to the client for the services performed in accordance with the Agreement of Services and Fees mentioned in clause 5.2, showing:

(i) each service performed; and

(ii) the fee for each service.

7.3 The registered migration agent may, at any time, withdraw money from the clients' account for disbursements that are required to be paid to the Department, or any other agency, for the client.

7.4 A registered migration agent must keep records of the clients' account, including:

(a) the date and amount of each deposit made to the clients' account, including an indication of the purpose of the deposit and the client on whose behalf the deposit is made; and

(b) the date and amount of each withdrawal made in relation to an individual

client, and the name of each recipient of money that was withdrawn; and

(c) receipts for any payments made by the client to the agent; and

(d) statement of services; and

(e) copies of invoices or accounts rendered in relation to the account.

7.5 A registered migration agent must make available for inspection on request by the Authority:

(a) records of the clients' account; and

(b) records of each account into which money paid by a client to the agent for fees and disbursements has been deposited.

7.6 If a registered migration agent provides a service to a client on the basis of a conditional refund policy, a 'no win, no fee' policy or an undertaking to similar effect:

(a) the agent must have sufficient funds available to be able to cover any amount that the agent may become liable to pay to the client under the policy or undertaking; and

(b) the agent must meet that obligation by:

(i) keeping funds in the clients' account; or

(ii) keeping a security bond; or

(iii) maintaining adequate insurance.

7.7 Nothing in clause 7.1, 7.1A, 7.2, 7.3, 7.4 or 7.6 affects the duty of a registered migration agent, who is also a legal practitioner and who acts in that capacity, to deal with clients' funds in accordance with the relevant law relating to legal practitioners.

PART 8

DUTIES OF REGISTERED MIGRATION AGENTS TO EMPLOYEES

8.1 A registered migration agent has a duty to exercise effective control of his or her office for the purpose of giving immigration advice and assistance.

8.2 A registered migration agent must properly supervise the work carried out by staff for the agent.

8.3 All immigration assistance must be given by a registered migration agent unless the assistance is permitted under section 280 of the Migration Act.

8.4 A registered migration agent must make all employees, including those not involved in giving immigration assistance (for example receptionists and typists), familiar with the Code, for example by:

(a) displaying the Code prominently in the agent's office;

(b) establishing procedures to ensure that employees become familiar with the Code including supplying employees with copies of the Code.

8.5 A registered migration agent must ensure that his or her employees are of good character and act consistently with the Code in the course of their employment.

PART 9

COMPLAINTS

9.1 A registered migration agent must respond properly to a complaint by a person (whether or not the person is a client) about the work or services carried out by the agent or the agent's employee.

9.2 A registered migration agent must submit to the procedures for mediation as recommended by the Authority about handling and resolving complaints by the client against the agent.

9.3 If the Authority gives a registered migration agent details of a complaint made to the Authority about:

(a) the work or services carried out by the agent or the agent's employees; or

(b) any other matter relating to the agent's compliance with this Code —

the agent must respond properly to the Authority, within a reasonable time specified by the Authority when it gives the details to the agent.

PART 10

TERMINATION OF SERVICES

10.1 A registered migration agent must complete services as instructed by a client unless:

(a) the agent and client agree otherwise; or

(b) the client terminates the agent's instructions; or

(c) the agent terminates the contract and gives reasonable written notice to the client.

10.1A For paragraph 10.1(c), a written notice must state:

(a) that the agent ceases to act for the client; and

(b) the date from which the agent ceases to act; and

(c) the terms of any arrangements made in respect of appointing another registered migration agent.

10.1B Within 7 days of giving the written notice, the agent must:

(a) update the client's file to reflect the current status of each case or application undertaken by the agent for the client; and

(b) deliver all documents to which the client is entitled to the client or to the appointed registered migration agent; and

(c) ensure that all financial matters have been dealt with as specified in the contract.

10.2 A client is entitled to ask a registered migration agent (orally or in writing) to return any document that belongs to the client. The agent must return the document within 7 days after being asked.

10.3 Australian passports, and most foreign passports, are the property of the issuing Government and must not be withheld.

10.4 A registered migration agent must not withhold a document that belongs to a client, as part of a claim that the agent has a right to withhold a document by a lien over it, unless the agent holds a current legal practising certificate issued by an Australian body authorised by law to issue it.

10.5 On completion of services, a registered migration agent must, if asked by the client, give to the client all the documents:

(a) given to the agent by the client; or

(b) for which the client has paid.

10.6 If the client terminates the instructions, a registered migration agent must take all reasonable steps to deliver all documents quickly to the client or any other person nominated by the client in writing. If the agent claims a lien on any documents, the agent must take action to quantify the amount claimed and tell the client in a timely manner.

Note 1: Only registered migration agents who hold a current legal practising certificate issued by an Australian body authorised by law to issue it are able to claim a lien on any client documents.

Note 2: A ***document*** includes an application, nomination, sponsorship, statement, declaration, affidavit, certificate or certified copy. See *Acts Interpretation Act 1901* s25, Migration Regulations regulation 5.01.

PART 11

CLIENT AWARENESS OF THE CODE

11.1 A registered migration agent must ensure that at least 1 copy of the Code is displayed prominently in:

(a) any waiting room or waiting area that is:

(i) at the agent's place of business; and

(ii) used by clients; and

(b) any office or room in which the agent conducts business with clients.

11.2 A registered migration agent must ensure that a client who asks to see the Code can be supplied immediately with 1 copy for the client to keep.

11.3 Each contract made between a registered migration agent and a client must:

(a) include a statement about the existence and purpose of the Code; and

(b) guarantee that the client can obtain a copy of the Code, on request, from the agent.

11.4 A registered migration agent who has an Internet web site must provide a link to the copy of the Code that is displayed on the Authority's web site.

Notes to the *Migration Agents Regulations 1998*

Note 1

The *Migration Agents Regulations 1998* (in force under the *Migration Act 1958*) as shown in this reprint comprise Statutory Rules 1998 No.53 amended as indicated in the Tables below.

Table of Statutory Rules

Year and number	Date registered in *Gazette*/FRLI	Date of commencement	Application, saving or transitional provisions
1998 No. 53	1 Apr 1998	R. 6 and Schedule 1: 21 Jan 1999 Remainder: 1 April 1998	
1999 No. 69	7 May 1999	1 July 1999	
2000 No. 64	4 May 2000	1 July 2000	
2000 No. 309	23 Nov 2000	23 Nov 2000	
2001 No. 143	20 June 2001	1 July 2001	
2002 No. 229	26 Sept 2002	1 Nov 2002	
2002 No. 346	20 Dec 2002	1 Mar 2003	
2003 No. 92	22 May 2003	1 July 2003	
2004 No. 129	18 June 2004	1 July 2004 (*see* r. 2 and *Gazette* 2004, No. GN23)	
2004 No. 391	23 Dec 2004	Rr. 1-3 and Schedule 1: 2 Apr 2005 Remainder: 1 July 2005	
2005 No. 131	20 June 2005 (*see* F2005L01500) ^	Rr. 1-4 and Schedule 1: 1 July 2005 Remainder: 1 July 2006	R. 4 [*see* Table A] *
2006 No. 158	26 June 2006 (*see* F2006L01877) ^	1 July 2006	
2006 No. 249	25 Sept 2006 (*see* F2006L03044) ^	1 Oct 2006	

^ Denotes the date of registration on the Federal Register of Legislative Instruments (FRLI)

* Refer to the Commonwealth Consolidate Regulations on the AustLII website (http://austlii.edu.au) for more information

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Schedule 2	am. 1999 No. 69
Schedule 2	am. 2000 No. 64 & 309
Schedule 2	am. 2001 No. 143
Schedule 2	am. 2002 No. 346
Schedule 2	am. 2004 No. 129 and 391
Schedule 2	am. 2005 No. 131
Schedule 2	am. 2006 No. 249

Clients of Registered Migration Agents should be aware of the following provisions of the *Migration Act 1958*.

Section 313 Persons charged for services to be given detailed statement of services.

(1) A registered migration agent is not entitled to be paid a fee or other reward for giving immigration assistance to another person (the assisted person) unless the agent gives the person a statement of services.

(2) A statement of services must set out:

(a) particulars of each service performed; and

(b) the charge made in respect of each such service.

(3) An assisted person may recover the amount of a payment as a debt due to him or her if he or she:

(a) made the payment to a registered migration agent for giving immigration assistance; and

(b) did not receive a statement of services before making the payment; and

(c) does not receive a statement of services within the period worked out in accordance with the regulations.

(4) This section does not apply to the giving of immigration legal assistance by a lawyer.

Section 314 Code of Conduct for migration agents

(1) The regulations may prescribe a Code of Conduct for migration agents.

(2) A registered migration agent must conduct himself or herself in accordance with the prescribed Code of Conduct.

Regulation 7I of the *Migration Agents Regulations 1998*

For paragraph 313 (3)(c) of the Act, the period is 28 days after the decision, in relation to the immigration assistance, is made about:

(a) a visa application; or

(b) a cancellation review application ; or

(c) a nomination or sponsorship application; or

(d) a request to the Minister to exercise his or her power under section 351, 391, 417 or 454 of the Act.