

Key changes and updated definitions in the 1 March 2022 Code of Conduct for Registered Migration Agents (RMAs)

Clause #	Theme	New Requirement	Comparison to original Code
Definitions			
7	'employee'	Regulation 6B of the <i>Migration Agents Regulations 1998</i> (the Regulations), dealing with professional indemnity insurance has been amended to include consultants, independent contractors, and persons engaged as volunteers in the definition of 'employee'. This amendment clarifies that RMAs working under these arrangements may be covered by their employer's professional indemnity insurance. The new Code uses this expanded definition.	Clarified definition
11	'related by employment'	<p>The new Code is developed to reflect current and varied business practices, including in relation to the supervision of employees.</p> <p>The definition of when an individual is 'related by employment' to another individual for the purposes of Part 3 (Migration agents and immigration assistance) of the Act, has been more clearly defined and includes volunteers.</p>	New definition
12	'responsible migration agent'	The introduction of the term 'responsible migration agent' is intended to better outline that in relation to a service agreement to provide immigration assistance to a client, the term applies to each RMA who gives, or has given, immigration assistance under the agreement. If no immigration assistance has yet been given, then the term applies to each RMA who signs the agreement.	New definition
Key changes			
20 - 21	Duty to avoid providing false or misleading information to government officials and responsibility to correct any such statements	<p>The new Code expands on an RMA's duty to take reasonable steps to verify a statement or document before providing it to a government official in connection with an application.</p> <p>If an RMA becomes aware that their client has provided false or misleading statements, or has concealed relevant information in relation to an immigration matter, they are required to discuss with the client how the matter may be</p>	Strengthened provision

Clause #	Theme	New Requirement	Comparison to original Code
		<p>corrected. Once the client has been informed about any potential consequences, and they agree to the matter being corrected, the client is obliged to take all <i>reasonable steps</i> to correct the matter. Reasonable steps may involve working with the RMA (in accordance with the RMA's advice) to correct the matter. The RMA must not give immigration assistance to the client unless the client agrees to the matter being corrected.</p> <p>Relevant information is any information which is material to the consideration of the visa, nomination, sponsorship or other application or permission request (including expressions of interest). This may include for example, a previously undeclared criminal conviction or a relationship breakdown during a partner visa application process.</p>	
22	Knowledge requirements	The new Code has simplified an RMA's obligation to maintain relevant skills and knowledge. The prescriptive list of legislation that RMAs were required to be familiar with in the original Code has now been replaced with a simple obligation to maintain sufficient knowledge to give immigration assistance competently and to have access to a professional online library.	Simplified provision
25	Misuse of MARN	The new Code requires RMAs to notify the OMARA within 14 days after becoming aware that the RMA's Migration Agent Registration Number (MARN) is being or has been used by another person.	New provision
29 - 30	Duty to notify clients if registration suspended or expected to lapse	The new Code requires an RMA to notify their client of a change to their registration status within 14 days of receiving notification of a decision to suspend their registration, or when the RMA decides to cease their registration.	New provisions
34	Conflict of interest	The new Code includes strengthened conflict of interest protections for clients. An RMA is now required to disclose to the client in writing, the details of all benefits received by the RMA, pecuniary or otherwise, including the nature of the	Strengthened provisions

Clause #	Theme	New Requirement	Comparison to original Code
		<p>benefit, the amount, and the reason the benefit is being, or has been, provided.</p> <p>There is also clarity provided around certain substantial conflicts, where the RMA cannot provide immigration assistance to the client.</p>	
36	Duty to know clients (dealing with intermediaries)	<p>The new Code requires an RMA to deal with a client through an intermediary only after they have taken</p> <p>a) reasonable steps to verify the identity of the third person, and</p> <p>b) are reasonably satisfied of the identity of the intermediary and that the client has agreed to the intermediary dealing with the RMA on their behalf.</p>	New provision
38	Requirement to inform clients about consumer guide	The provisions have been streamlined into a single provision requiring RMAs to ensure that they do not give immigration assistance to a client unless a copy of the consumer guide has been provided to them.	Simplified provision
43	Service agreements not required for initial consultations	The new Code clarifies that an RMA can provide immigration assistance in an initial consultation without requiring a service agreement. All other obligations relevant to the provision of immigration assistance still apply.	New provision
50	Removal of naming convention requirement for client accounts	The new Code has removed the requirement to include the words 'clients' account' in the name of the account meant for client funds.	New provision
52	Refunds	The new Code includes provisions to clarify that RMAs are required to reimburse clients for disbursements that have been refunded by the Department, for example: for invalid applications or incorrect payment.	New provision
56	Client files	The new Code more clearly articulates the obligations RMAs have towards maintaining client files, including in situations where the RMA stops practising or for the purposes of succession planning.	Strengthened provisions

Clause #	Theme	New Requirement	Comparison to original Code
----------	-------	-----------------	-----------------------------

58	Duty to forward correspondence relating to former client	The new Code requires an RMA to forward all correspondence received from the Department or review authority intended for a former client (for cases under process) to the client or their new RMA. However this obligation ceases 28 days after the RMA gives written notice to the Department (or review authority where relevant) that they no longer act for the client.	New provision
----	--	---	---------------

Other obligations

N/A	Review authority obligations	The Department has clarified the language around an RMA's obligations when dealing with, or representing clients, at a review authority.	Strengthened provisions
-----	------------------------------	--	-------------------------

N/A	Relations between migration agents	The 'relations (business etiquette) between migration agents' section from the original Code has been removed in new Code.	Removed provisions
-----	------------------------------------	--	--------------------

N/A	Obligation to employees	The new Code combines broader employee centric obligations into fewer, more focused provisions.	Simplified provisions
-----	-------------------------	---	-----------------------

N/A	Mediation	The new Code has removed this requirement.	Removed provision
-----	-----------	--	-------------------