



Office of the Migration Agents Registration Authority
Practice guide for registered migration agents

Practice management duties of registered migration agents

A Registered Migration Agent (RMA) has specific duties to ensure that all immigration assistance, as defined in Section 276 of *the Migration Act 1958* (the Act), is provided only by an RMA (unless the assistance is permitted under section 280 of the Act).

Section 23 of the *Migration (Migration Agents Code of Conduct) Regulations 2021* (the Code) requires an RMA to take reasonable steps to ensure that no member of the agent's business contravenes Division 2 of Part 3 of the Act. Division 2 of Part 3 of the Act provides that only RMAs may, within limited exemptions:

- give immigration assistance (section 280)
- charge fees for immigration assistance (section 281)
- charge fees for making immigration representations (section 282)
- represent themselves as being an RMA (section 283)
- advertise themselves as a registered migration agent (section 284).

Registered migration agents have an obligation under subsection 24(1) of the Code to ensure the quality, accuracy and timeliness of any work or services performed by another person for the purpose of assisting the agent to give immigration assistance or under the Service Agreement. This means that an RMA must take reasonable steps to supervise the work undertaken by other people (whether employees or other persons) assisting the RMA, such as clerical or administrative work. The duty does not extend to supervision of work carried out by another registered migration agent.

These Code obligations apply to all RMAs regardless of whether their office premises are onshore or offshore, as well as in relation to staff employed in onshore and offshore businesses.

The duty to ensure the quality, accuracy and timeliness of any work or services performed for the purpose of assisting the RMA to give immigration assistance may include, but is not limited to:

- all client contact is recorded on the client file
- records are kept in a secure and confidential manner for the periods set out in the Code
- effective control of client accounts is maintained, to ensure that unauthorised staff do not have access to client monies
- receipts are issued to all clients for all payments made
- an agent's Migration Agents Registration Number (MARN) is not improperly used by employees to lodge visa applications through ImmiAccount.

Where an RMA's business employs staff, RMAs must have suitable supervisory arrangements in place, which may include:

- ensuring staff clearly explain their role during client consultations (e.g. making clear if they are not an RMA and are not providing immigration assistance)
- reviewing visa applications before they are lodged with the Department of Home Affairs

- maintaining records of internal discussions with staff regarding client visa applications
- conducting regular training on Code requirements.

Duties relating to MARNs

An RMA must meet professional standards, follow the Code and maintain up-to-date knowledge of migration law and procedure. A MARN is a unique identifier that informs consumers that a person is registered as a migration agent. RMAs have duties relating to the use of their MARN. These are outlined in section 25 of the Code, and include:

- ensuring that the MARN appears on the agent's correspondence and business cards
- taking all reasonable steps to ensure that the MARN of at least one member of the agent's business appears on the business's website and social media, as well as in any advertisement relating to giving immigration assistance
- taking all reasonable steps to ensure that the agent's MARN is not used by someone who is purporting to be the RMA either with the RMAs consent (e.g. for commission) or without their consent.

Where an RMA becomes aware that their MARN has been misused by another person, they must give written notice to the Office of the Migration Agents Registration Authority (OMARA) within 14 days of becoming aware.

Duty to hold professional indemnity insurance

Section 27 of the Code requires that an RMA must hold professional indemnity insurance or be a director, employee or member of an organisation that holds professional indemnity insurance. The requirement to hold the prescribed insurance is also a registration requirement – section 292B of the Act prevents an applicant for registration as a migration agent from being registered unless they hold the prescribed insurance.

Regulation 6B of the *Migration Agents Regulations 1998*, prescribes that professional indemnity insurance for at least \$250,000 must be held by an individual or organisation of which the individual is a director, employee or member.