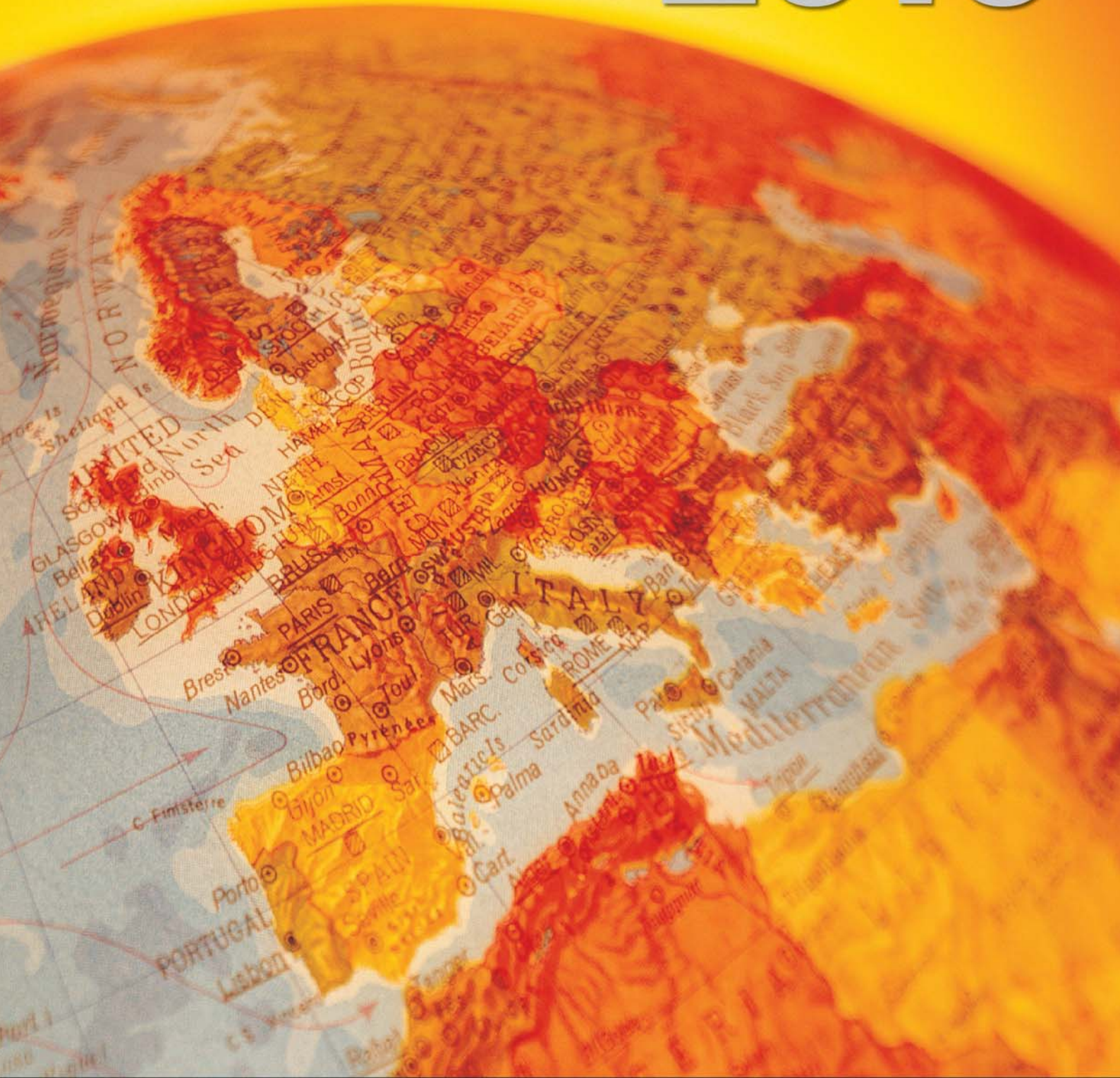


IMMIGRATION LAW 2010



specialist accreditation **assessment** guidelines



Important:

Solicitors interested in sitting the Immigration Law Specialist Accreditation program in 2010 will undertake a common assessment program run out of the Law Institute of Victoria.

Eligibility for Accreditation

- Membership of the Queensland Law Society
- A current practising certificate
- At least five years full time experience in practice
- Substantial involvement in this area of practice over the past three years
- Three references in support of the application
- Successful completion of the prescribed assessment program

Important : This list is a guide only. Details of the eligibility criteria are contained in the Specialist Accreditation Handbook available under the Specialist Accreditation section on the QLS website.

Assessment

The assessment program for specialist accreditation in Immigration Law is in three parts. To gain accreditation a candidate must obtain a satisfactory mark in each part of the program.

Part 1 Written Examination

Part 2 Simulated Interview

Part 3 Take-home Assignment

Candidates may apply in advance for an exemption from the written examination if they have recently studied subjects relating to Immigration Law in a postgraduate course at a tertiary institution. Any such exemption is entirely at the discretion of the Specialisation Board and will be assessed on a case by case basis.

Eligibility for the exemption is subject to the following conditions:

- The subjects must have been completed within the preceding five years of the date of application
- The subjects completed must assess knowledge that is equivalent in range to the knowledge assessed in the specialist accreditation exam
- The subjects completed must be at a level of complexity and standard of knowledge that is equivalent to that assessed in the specialist accreditation exam, and
- The subjects completed must contain knowledge that is of equivalent relevance to practice in the specialist accreditation exam.

Any application for an exemption should be made at the time of lodging the application form, which is to be lodged no later than 4.00pm Friday 30 April 2010.

Timetable

Friday 30 April 2010	Applications close (by 4pm)
Saturday 31 July 2010	Part 1 Written Examination Part 2 Mock file distributed at completion of examination
Monday 9 August 2010	Part 2 Mock file returned by candidates (by 4pm)
Tuesday 10 August 2010	Part 3 Simulated interview (by appointment)
November 2010	Candidates will be advised of results by mail

Examination Assessment Components

Part 1 - Written Examination

Date: 31st July 2010

Time: 9:30am

Venue: TBC

(3 hours 30 minutes including time for reading and planning) The paper will test knowledge of procedure and rules as well as the ability to apply relevant knowledge to situations encountered in practice.

The examination paper will be in three sections.

Section A - 15 questions worth 2 marks each.

Section B - 6 questions worth 5 marks each.

These sections will contain questions requiring brief answers. The questions will cover a wide range of migration and citizenship topics drawn from the list of topics for assessment. The emphasis in this section is on knowledge of fundamental legislation, regulations and procedures.

Section C - 2 questions worth 20 marks each.

This section will present candidates with more complex fact situations in which expert legal advice might be sought.

Examination conditions

The written examination is an open-book exam. Candidates may take into the examination room any books, notes or other written material. Portable computers may be used for reference purposes on a "read-only" basis so long as their use does not disturb other candidates. Portable computers must not be used for external communication during the examination. Mobile phones are not permitted.

- Answers must be written in the booklets provided.
- Answers must be numbered correctly.
- Handwriting must be legible.
- Examination numbers (not names) must be written on all answer books submitted.

Assessment criteria

Candidates will be assessed on their ability to:

- identify relevant issues
- demonstrate knowledge and understanding of the relevant law
- present clearly expressed practical advice that is both comprehensive and legally correct.

After the examination

Immediately following the conclusion of the written examination, candidates will receive:

1. Details of the time and place of their simulated interviews in Part 2 of the assessment program, and
2. The mock file for the purposes of completing Part 3 of the assessment program.

Part 2 - 'Take home' Assignment - Mock File

Distributed to candidates	Saturday 31 July 2010 at the completion of the written examination.
Returned by candidates	Monday 9 August 2010 by 4pm.

Candidates will be required to complete specific tasks on a mock file, including the preparation of legal advice and court documents. Candidates may use the resources of their offices in completing this exercise. However consultation with any other person in completing the exercise is not permitted. Candidates will be required to provide a signed statement to that effect.

The completed exercise must be lodged in person at the Queensland Law Society by 4:00pm 9th August or sent by registered post postmarked no later than 4.00 pm on 9th August 2010.

Assessment criteria

Candidates will be assessed on their:

- ability to identify relevant issues from the materials
- knowledge of relevant law, including significant recent decisions
- knowledge of relevant procedural rules and principles
- ability to provide practical, clear and comprehensive advice.

Part 3 - Simulated Interview

(60 minutes including time for completing the file notes)

Date: 10th August 2010

Time: By appointment.

Venue: TBC

Candidates will be asked to conduct a simulated first interview with a person acting in the role of a client. The interview will take up to 50 minutes and will be videotaped for assessment by the examiners.

At the conclusion of the interview, candidates will be given 10 minutes to prepare a brief file note which records in point form the steps to be taken following the interview. This file note will be assessed by the examiners in conjunction with the videotaped interview.

The time allocated for the interview and writing up of the file notes will be strictly enforced.

The location and timetable for the simulated interview will be announced closer to the date of the assessment program.

Assessment criteria

This exercise will assess a wide range of performance standards, including those relating to interaction between the solicitor and client, taking instructions and giving advice, assessing facts and legal options, canvassing options with the client and developing the initial plan.

In particular, candidates will be assessed on their ability to:

- elicit relevant information and facts from the client
- obtain and clarify instructions
- identify relevant issues
- communicate clearly with the client
- assess facts and legal options
- indicate procedural steps and timelines for responses
- develop an initial plan.

MARA Continuing Professional Development

Migration Agents who undertake the Immigration Law Accreditation assessment program conducted by an Australian Law Institute or Society will be awarded 10 CPD points by the Migration Agents Registration Authority (MARA). For further information in this regard, please contact MARA.

Immigration Law Specialist Accreditation 2010 Performance Standards

These notes should be read in conjunction with the Application Guidelines.

They will assist practitioners interested in becoming accredited in Immigration Law to understand and to prepare for the assessment process.

Included are:

- the performance standards which are the benchmarks for competent practice in this area and form the basis of the assessment, and
- a list of the knowledge which underpins the performance standards.

Candidates will be assessed on the law up to and as at 15th July 2010.

Knowledge Component

Please note the following knowledge which underpins the performance of the specified tasks.

Any of the matters listed here could be addressed in the assessment program.

Reference has not been made to any specific cases or all specific legislative provisions but practitioners are expected to have working knowledge of leading cases in these areas of law.

1. Fundamental Principles

- constitutional basis for migration law
- legislative framework: Act, Regulations, Policy (PAMS & MSIs); implications of a codified system of entry, policy including directions under s.499
- basic principles of administrative law including:
 - rules of procedural fairness and natural justice
 - concepts of jurisdictional error, and
 - concept of broad ultra vires.
- changes in the law and determining what law applies at a particular time
- transitional arrangements
- definitions contained in the Migration Act and Regulations and other relevant laws and conventions (including international law).
- registration of migration agents
- relevant merits and judicial review decisions.

2. Requirements relevant to more than one class of visa

2.1 General requirements

- classes and subclasses of visas
- schedules 1- 9
- resident return visas, authority to return and return endorsements
- conditions of visas
- criteria at time of application and decision
- requirements of a valid application and decision
- codes of procedure for dealing with visa applications including time limits
- lodgement of applications (different venues) and internet applications
- exclusion periods
- evidencing of visas
- period of validity of visas
- Health changes
- English language changes
- settlement criteria
- sponsorship
 - limitations on sponsorship
 - family related
 - guardian of a child
 - business sponsorship
- assurance of support and bond
- capping
- time limits for lodgement of primary applications and review application
- relevant merits and judicial review decisions

2.2 Public interest criteria schedule 4 /schedule 5

- health criteria
 - applicability of waiver
 - role of the Medical Officer of the Commonwealth
 - scope of the review authority of MOC's opinion
- character requirement

- settlement criteria
- debts due to the Commonwealth
 - migration related debts (removal/detention)
 - other debts
 - applicability of the Financial Management and Accountability Act 1997 (provision for waiving debts)
- risk factor profiles
- national interest consideration
- exclusion periods & waiver requirements
- relevant merits and judicial review decisions
- Australian values statement

2.3 Points tests and skills determination

- general points test and sections 92-96
- application of transitional arrangements
- schedule 6, 6A and 6B, allocation of points, definitions, pass and pool marks, nominated occupation, role of "relevant assessing authorities"
- assessment of applicable criteria at time of application and decision
- regulations 2.26 to 2.29K, allocation of points, applications including publications relevant to skills assessment: ASCO Dictionary, PAMS, NOOSR Country Education Profiles
- publications, guidelines of "relevant assessing authorities"
- business skills points test, regulation 2.29 and Schedule 7
- Migration Occupations in Demand List, Critical Skills List
- relevant merits and judicial review decisions
- Skilled Occupation List (SOL)

3. Migrant entry

- family: partner, child, parent, contributory parent, orphan relative, last remaining relative, adoption, carer, other family
- skilled categories,
 - independent
 - family sponsored
 - state sponsored
 - students
 - skilled graduate and skilled recognised graduate

- Employer Nomination Scheme (ENS) and Regional Sponsored Migration Scheme (RSMS) - approved appointments Regulation 5.19
- labour agreement
- business skills and post settlement business surveys
- distinguished talent
- NZ citizens
- Special categories including:
 - former citizen
 - former resident
- quotas, capping and priorities
- relevant merits and judicial review decisions
- worker/protection
- sponsorship obligations and employer sanctions

4. Temporary entry

- visitors
- students
- temporary residents, including 457s
- Skilled temporary Visas
- New Zealand citizens – pre and post 26 February 2001; post 1 April 2004
- business skills
- miscellaneous temporary entry categories eg. Medical treatment, transit occupational trainee, dependent child
- relevant merits and judicial review decisions

5. Change of status

- General issues
 - effect of choice of class where subclasses overlap
 - limitation on applications eg (schedules 3, 4, 5 and 8, ss 41, 48, 48A, 48B)
 - substantive visa requirement
 - assurances of support
 - "old" legislation/regulation and policy
 - family violence, death of partner, parenting arrangements and other exemption provisions
- Partner (Temporary & Residence & DV & other exemption provisions) including Reg 2.12 prescription of certain Partner Visa applications for the purposes of s.48 and consequential policy amendment in relation to Schedule 3 criteria

- permanent visas (based on) family relationships
- occupational and business grounds
- refugee and humanitarian “Temporary Protection & Humanitarian visa holders – applications for other visas (Reg.2.07 AO)” and abolition of Temporary Protection Visa / introduction of Subclass 851 - Resolution of Status Visa
- statutory visas including:
 - absorbed person
 - special purpose
 - criminal justice
 - Ex-citizen visa
 - enforcement visas
- employer nomination
- business skills
- temporary visas
 - temporary resident
 - student
 - visitor
 - medical treatment
- unlawful non-citizens
 - schedule 3 criteria
- processing of applications
 - bridging visas
 - change of conditions
 - evidence required
- effect of certain visa conditions
- no further stay conditions and provisions for waiver
- relevant merits and judicial review decisions

6. Refugee and humanitarian entry

- General
 - U.N. Convention
 - definition of “refugee” as modified by legislation and judicial interpretation
 - stateless persons
- Offshore

- offshore entry persons and transitory persons
- refugee subclass 200
- special humanitarian programs subclass 201-204
- special assistance categories
- Onshore
 - protection visas
 - temporary humanitarian
 - temporary safe haven
- relevant merits and judicial review decisions

7. Detention, Cancellation and Compliance

- powers of entry, search and examination
- mandatory detention of unlawful non-citizens
 - release from detention, bridging visas, wrongful detention
 - questioning detention
- mandatory removal of unlawful non citizens
 - costs of detention, removal and deportation, recovery
- offences under the Migration Act
 - people trafficking
 - contrived relationships
 - offences relating to work
- powers and procedures of cancellation: Division 3, subdivisions C-H, Migration Act;
 - incorrect information s109
 - general s116, s128
 - business visas s134
 - student visas s137J
 - regional sponsorship employment visas s137Q
 - consequential cancellation power s140
- character s501, 501A, 501B and s502
 - refusals (including refusals by the Minister personally)
 - cancellations (including refusals by the Minister personally)
 - review by the AAT
- Departmental revocation of automatic cancellation of student visas under s137K
- criminal deportation

- relevant merits and judicial review decisions

8. Review of migration decisions

8.1 Choice of remedy – Avenues of Appeal and Review

8.1.1 Merits review

- definition of reviewable decision
- role and powers of the MRT and RRT
- review powers and jurisdiction of the AAT
- time limits
 - detainees
 - non detainees
- ministerial discretion
 - requests to the Minister seeking his personal intervention under sections 345, 351, 391, 417, 454
 - ministerial override of character decision by delegate or AAT under ss 501A, 501B and 501C
- relevant merits and judicial review decisions

8.1.2 Judicial review

- definition of judicially reviewable decision
- the privative clause
- grounds for judicial review
- time limits
- powers of the Federal Court and Federal Magistrates Court
- role of High Court
- relevant merits and judicial review decisions
- Migration Litigation Reform Act 2005

9. Citizenship - Citizenship Act 2007

- Australian Declaratory Visa (ADV)
- Australian Citizenship
- Status at birth
- Automatic acquisition of Australian citizenship
 - Persons born in Australia
 - Citizenship by adoption
 - Citizenship for abandoned children
 - Citizenship by incorporation of Territory

- Citizenship by Descent
- Citizenship by Adoption under the Hague Convention on Inter country Adoption
- Citizenship by Conferral
 - Normal requirements
 - Exemptions from the normal requirements
 - Residence requirements and exemptions for conferral
 - English language requirements and Australian values
 - Citizenship test
 - Personal identifiers
- Persons of national security or character concern
- Cancellation or deferral of approval
- Cessation of Citizenship
 - Renunciation
 - Revocation
 - Service in enemy armed forces
 - Children of parents who lose their Australian citizenship
- Resumption of citizenship
- Dual citizenship
- Review of decisions
- Transitional arrangements

10. Client Contact

- professional Conduct and Practice Rules
- assisting in completing applications
- solicitor's responsibilities for bona fides of applications
- issues of privilege
- solicitors lien on documents
- use of solicitor's trust account
- relevant merits and judicial review decisions

11. Responsibilities of a Lawyer

- Legal Profession Legislation
- Trust Accounting
- Insurance
- Ethics

12. Regulation of Migration Agents

- MARA's powers
- Appeal Rights
- Migration Agent Regulations - Code of Conduct
- IRMAP

13. Other issues

- freedom of information
- legal aid and Pro Bono Scheme
- alternative avenues of redress
 - HREOC
 - Ombudsman
 - MPs
 - UNHCR
- Privacy Commissioner
- relevant merits and judicial review decisions

14. Suggested Reading and References

14.1 Materials

Candidates may find it useful to refer to the following texts:

Bollard, P, Sudrishti, R, et al. *The Immigration Kit*, 8th Edition (Sydney: the Federation Press, 2008)

Bagaric, M; Boyd, K, Dimopoulos, P, Tongue, S, Vrachnas, J, *Migration and refugee law in Australia: cases and commentary*, (Port Melbourne, Cambridge University Press, 2007).

Crock M, Saul B, Dastyari A, *Refugees and Irregular Migration in Australia* (Sydney: Federation Press 2006).

Crock M, Saul B, *Future Seekers Refugees in Australia* (Sydney: Federation Press 2002)

Foster, M *International Refugee Law and Socio-economic Rights: Refugee From Deprivation*

Germov R, Motta A, *Refugee Law in Australia* (Melbourne: OUP 2003)

Glass, A, Goddard, J et al. *Australian Immigration Law* (loose leaf service). Sydney. Butterworths

Goodwin-Gill, G *The Refugee in International Law* 2nd ed (London: Clarendon Press, 1996).

Hathaway, J.C. *The Law of Refugee Status*. (Toronto: Butterworths, 1991).

Hathaway, J.C. *The Rights of Refugees Under International Law* (Toronto: Butterworths, 2006).

Jockel, M, 457 visa law: addressing Australia's skilled labour shortage, (Pyrmont: Thomson Reuters, 2009)

Rodan, C, Rodan, E, *Migrating to Australia*, (Scottsdale, LifeSuccess Publishing, 2009).

Rubenstein K, *Australian Citizenship Law in Context* Law Book Company 2003

Rubenstein K, Guide to Citizenship DIAC website

Vrachnas J, Boyd, K, Bagaric, M and Dimopoulos, P *Migration and Refugee Law: Principles and Practice in Australia* (Melbourne: Cambridge University Press, 2008)

4.2 Other References:

Legend.com online service run by Department of immigration, available by subscription.

Department of Immigration and Citizenship

Australian Citizenship Instructions

The Procedures Advice Manual

Migration Series Instructions

Immigration Review, Butterworths

Immigration Advice and Rights Centre NSW Immigration News

The Migration Review Tribunal practice notes.

RRT Decision Bulletins and practice notes

All relevant cases

Australian Bureau of Statistics, Australian Standard Classification of Occupations (ASCO Dictionary) (2nd edition)

Australian Bureau of Statistics and Statistics New Zealand, Australian and New Zealand

Standard Classification of Occupations (ANZCO Dictionary) (1st Edition)

Useful websites: www.austlii.edu.au www.immi.gov.au www.comlaw.gov.au

All relevant NOOSR publications.

15. Legislation and Conventions

Candidates can expect the assessment program to draw upon knowledge of any of the following Acts and relevant regulations.

- *Migration Act 1958* (Cth) as amended to 15th September 2009
- *All Migration Regulations* from December 1989 to 15th September 2009
- *Migration Agents Regulations* (1998)
- *Migration Reform (Transitional Provisions) Regulations*
- *Australian Citizenship Act 2007*(Cth)), Australian Citizenship (*Transitionals and Consequentials Act 2007* and Regulations
- *Migration (Visa Application) Charge Act 1997* (Cth)
- *Administrative Decisions (Judicial Review) Act 1977* (Cth) and Regulations
- *Federal Court of Australia Act 1976*(Cth) and Rules
- *Federal Magistrates Court Act 1999* (Cth) and Rules

- *Freedom of Information Act 1982*(Cth)
- *Australian Human Rights Commission Act 1986* (Cth)
- *Judiciary Act 1901* (Cth)
- *Ombudsman Act 1976* (Cth)
- *Australian Passports Act 2005 and Regulations*
- *Education Services for Overseas Students Act 2007* (Cth) as amended
- *Education Services for Overseas Students National Code of Practice*
- *Convention Relating to the Status of Refugees 1951* as amended by the Protocol.
- *Convention on the Rights of the Child. United Nations 1989*
- *International Covenant on Civil and Political Rights, United Nations 1966*
- Commonwealth Gazette Notices
- Other relevant International Instruments
- See also associated legislation in Butterworths Australian Immigration Law. (looseleaf)
- *Convention against torture*
- *Administration Appeals Tribunal Act*
- *The Worker Protection Act 2008*
- ASCO Dictionary
- ANZSCO Dictionary
- *Fair Work Act 2008*
- Migration Amendment (Complementary Protection) Bill

Performance Standards

Practitioners wishing to be accredited should be able to:

- display knowledge of the law, ethics and procedure which underpins the performance of tasks in this area of practice
- perform the following tasks in the described manner.

1. Take instruction and gives initial advice by:

1.1 Developing relationship with the client

Through a broad knowledge of other cultures, world affairs and human experiences the specialist immigration lawyer demonstrates an understanding of the issues and concerns particular to immigration clients. The lawyer adopts a non discriminatory, empathetic and ethical approach to encourage the client to give full instructions. The lawyer communicates with the client in plain language using interpreters effectively.

1.2 Taking instructions

The specialist immigration lawyer works from a sound knowledge base including an understanding of all aspects of immigration law, policy, and departmental practices enabling the lawyer to identify relevant facts to question and to obtain the client's account of facts and his or her expectations. The lawyer adopts an ordered approach to eliciting information, checking with the client and the client's records to clarify data. The lawyer displays familiarity with appropriate documentation.

1.3 Appraising the situation

The specialist immigration lawyer analyses the information provided by the client and identifies the relevant issues of fact, law and policy, and the extent to which these are clear and settled. The lawyer distinguishes realistic and unrealistic expectations and decides if the client's problems are capable of resolution. The lawyer identifies the immediately available options including appropriate legal and other courses of action. The lawyer communicates clearly to the client the factors relevant to choosing between available options and courses of action and the consequences of each including procedural requirements, time frames, costs and the dynamic nature of the law. The lawyer checks to ensure the client's understanding of the advice and reviews the resources available to the client to undertake the various options. The lawyer advises on and recommends interim actions in light of the client responses.

1.4 Responding

The specialist immigration lawyer identifies matters of urgency, relevant deadlines and responds immediately with court or administrative action. In respect of other matters he or she responds promptly and as appropriate. At all times the lawyer acts in accordance with properly obtained instructions and keeps the client fully informed.

2. Research and investigate by:

2.1 Gathering information

The specialist immigration lawyer adopts an orderly and creative approach to gathering and assessing relevant information. The lawyer demonstrates an ability to communicate with a wide variety of people who may assist, and to access potential sources of information. The lawyer keeps a full and accurate record of the information obtained.

2.2 Analysing information obtained

The specialist immigration lawyer analyses the information provided by the client and obtained from third parties, including experts, government and non government agencies and through appropriate enquiry or investigation. The analysis of the facts involves a cross-referencing of documents and statements and obtaining relevant expert comment on the evidence. The lawyer also assesses the reliability of witnesses, the competence of experts as witnesses, the relative weight of evidence and, where necessary, determines what is admissible.

2.3 Determining legal issues

The specialist immigration lawyer recognises the legal issues arising from the facts and identifies the extent to which the legal principles are clear. The lawyer identifies areas where the law is unsettled or where arguments can be developed. The lawyer promptly and efficiently identifies the sources available to resolve legal issues, eg legal texts, law reports, tribunal decisions and guidelines, legislation, explanatory memoranda, departmental instructions and guidelines, circulars and relevant databases. The lawyer determines whether to seek counsel's opinion on the legal issues and seeks appropriate instructions.

3. Develop a plan by:

3.1 Formulating options

The specialist immigration lawyer develops courses of action in the light of relevant legislation, case law, departmental practices and the client's instructions and circumstances. The lawyer displays a comprehensive knowledge of immigration law and related areas to identify all available options. Such options may include doing nothing; non legal action; applications to and negotiation with Department of Immigration & Citizenship (DIAC) and other agencies; tribunal and court action.

3.2 Advising client

The specialist immigration lawyer communicates clearly the possible courses of action open to the client and the procedures involved in each option. The lawyer clearly explains the legal and practical consequences of each option, the advantages and disadvantages and the extent to which each will achieve the client's objectives. The lawyer is aware of Legal Aid arrangements.

3.3 Confirming instructions for action

The specialist immigration lawyer obtains feedback from the client on relevant issues, recommends the preferred option and determines with the client the plan to be implemented. The lawyer confirms very clearly the client's instructions, preferably in writing.

3.4 Use of Interpreters

As required the specialist immigration lawyer uses competent interpreters in clarifying instructions and confirm content with clients.

4. Implement plan by:

4.1 Conducting negotiations

When negotiating, the specialist immigration lawyer assesses the client's eligibility and legal entitlements against the Department's position, and demonstrates an ability to put the client's case coherently and persuasively.

4.2 Preparing written submissions to Department

The specialist immigration lawyer prepares submissions and documents which are clear, concise and comprehensive. Submissions, whether written or oral, summarise the relevant evidence and legal issues in a logical sequence, relate the evidence to the matters in issue, and emphasise key issues in a structured way. The lawyer prepares a plan for each submission to ensure all relevant matters are addressed, including: facts, law and policy, areas of discretion, previous decisions of Courts and Tribunals and their application to the client's case. The lawyer prepares submissions in a form which assists the decision maker's consideration of the case and argues the client's case persuasively. The lawyer is conscious of the parameters in which the decision maker operates.

4.3 Preparing and conducting hearings

The specialist immigration lawyer is familiar with the rules and practice of the courts and the relevant tribunals including Refugee Review Tribunal, Migration Review Tribunal and Administrative Appeals Tribunal. The lawyer operates effectively within the framework of the non adversarial jurisdictions. The lawyer initiates proceedings and prepares supporting documentation, including submissions, statements, declarations and affidavits. The lawyer conducts interlocutory procedures and where necessary advises on appeals. The lawyer is familiar with the relevant deadlines and procedural guidelines relating to the Tribunals.

4.4 Briefing counsel

The specialist immigration lawyer considers when to brief counsel, having regard to the nature and the complexity of the issues and the likelihood of success. The lawyer chooses the appropriate barrister for the matter, and knows when the registration requirements are involved. An instructing lawyer understands the relationship between barrister and client and plays an active role in the conduct and management of the case and acts as liaison between the barrister and the client.

4.5 Acting as advocate

When appearing the specialist immigration lawyer is well prepared, organised, clear and effective with the ability to think quickly on his or her feet. The lawyer tries to achieve the best result having regard to the client's instructions and the limits of the law and the remedies available. The lawyer prepares the client and witnesses to give evidence and may prepare written material for tender. The lawyer operates effectively within the non adversarial system and demonstrates a knowledge of the rules of evidence and the rules of natural justice and other administrative law principles as well as current legal principles and case law that apply to the case.

4.6 Ethics

The specialist immigration lawyer continually reflects on their ethical duties to their client, their duty to the court, their duty of care, the duty of fidelity and loyalty, duty to the Court and duty to their profession. The lawyer also has a clear understanding of their ethical duties outlined in the Professional Conduct and Practice Rules 2005 as well as the Code of Conduct of the Migration Agents Regulations and where conflicts may arise between the two roles. The lawyer also understands when legal professional privilege applies.

4.6 Managing the plan

The specialist immigration lawyer constantly reviews the plan in the light of changing circumstances in particular resulting from clarification or changes in the position of the other parties; procedural requirements, information gained, judicial or

arbitral decisions, actual or proposed legislative changes. The lawyer informs the client of any changes and explains their impact on the plan, any variation in prospects and the impact on costs.

4.7 Finalising the matter

The specialist immigration lawyer ensures all necessary documentation and correspondence are prepared and processed. The lawyer advises, as to the outcome of the matter, any further work required on the case and how to meet any obligations arising there from, including payments of any outstanding accounts and expenses

Applications

Applications must be made on the prescribed application form.

Resume of Practice

Applicants must submit, at the time of applying, a resume of their professional activities relevant to practice in Immigration Law. The resume should give the Board an overall picture of the applicant's experience and expertise in Immigration Law, with an emphasis on involvement over the past three (3) years. It is not expected that a comprehensive curriculum vitae will be submitted.

No standard format is prescribed. However, applicants might find it helpful to use some or all of the following headings:

- broad description of current practice activities;
- experience in specific areas of activity in Immigration Law;
- involvement with relevant professional organisations;
- relevant publications and presentations;
- academic qualifications;
- other

It is not necessary to repeat details provided on the application form.

Please forward to the Queensland Law Society:

- 1 the completed application form
- 2 three references
- 3 resume of practice
- 4 application fee of \$880.00* (including GST) payable to the Queensland Law Society.

Applications close

By 4:00pm Friday 30 April 2010 for all applications.

The address for applications is:

Specialist Accreditation
Queensland Law Society
GPO Box 1785
Brisbane QLD 4001

Enquiries:

Telephone: 07 3842 5929

Facsimile: 07 3221 2297

E-mail: specaccred@qls.com.au