



## Lawyers doing migration work

Lawyers are now able to do immigration legal work without having to be Registered Migration Agents. The work must be done as part of a legal practice. This change commenced 22 March 2021 flowing from the **Migration Amendment (Regulation of Migration Agents) Act 2020 (Cth)**.

### What could lawyers do before the changes?

Prior to 23 March 2021 lawyers had to be registered as migration agents if they were providing 'immigration assistance,' which broadly covered assisting with visa applications, merits review or certain Ministerial discretion requests.

Lawyers who were not Registered Migration Agents were able to provide 'immigration legal assistance' which broadly covered giving advice about court proceedings relating to immigration matters (ss.276-281 **Migration Act 1958 (Cth)**).

### The changes

The new law removed holders of unrestricted legal practising certificates (UPC) from the statutory scheme. They were taken off the Register of Migration Agents administered by the Migration Agents Registration Authority (MARA).

Lawyers with restricted practising certificates who were migration agents before 22 March 2021 have a two-year period (and can request a further two years) to maintain registration as both a lawyer and a Registered Migration Agent (RMA). This gives them time to obtain their unrestricted practising certificate to be able to practice migration law without needing to be registered as a migration agent. They must notify MARA within 28 days of becoming an UPC holder. Lawyers on restricted certificates who are not RMA's can still give immigration assistance if they are appropriately supervised within a legal practice.

## Opportunities for immigration practice for lawyers

To do immigration work as a lawyer, you must have a practising certificate, have appropriate supervision, maintain a reasonable standard of competence and diligence, and work within a 'law practice' as defined by your governing law body (in Queensland see **Legal Profession Act 2007 (Qld)**).

To become a migration agent, you must complete a Graduate Diploma in Australian Migration Law and Practice and pass a capstone exam. Having a legal practising certificate is no longer sufficient to become a migration agent.

Lawyers wishing to do pro bono immigration law work can do so through a community legal centre or through pro bono work supervised by a private legal practice.

Anyone can provide 'Administrative assistance' (including clerical work and passing on information from a third party) without being a Registered Migration Agent (s.276 **Migration Act**) or a lawyer.

## Lawyers volunteering with RAILS

RAILS volunteer programs have been designed so that lawyers who do not have specific immigration law expertise can still assist clients. All volunteer lawyers are properly supervised and can work without needing specific immigration law expertise. The deregulation of lawyers from the registered migration agent scheme will not change the nature of these programs.