

# **New Zealand Association for Migration and Investment Code of Ethics (Regulation 7)**

All Members of the New Zealand Association for Migration and Investment ("NZAMI") must conduct their businesses ethically and in accordance with the law and with any Code of Conduct or practice requirements prescribed for their class of professional affiliation.

- Members who are licensed by the Immigration Advisers Authority ("IAA") are required to adhere to the IAA Code of Conduct.
- Members who hold a New Zealand Law Society practising certificate and practice as a lawyer are required to adhere to the Lawyers and Conveyancers Act 2006 and the Rules of Conduct and Client Care for Lawyers.
- Members who are not bound by New Zealand law to act in accordance with one of the regimes mentioned above are required to adhere to the NZAMI Code of Ethics ("the Code") as set out below:

1. **Members, whether in New Zealand or not, will, in the conduct of their business with their clients and with Immigration New Zealand, comply with all of the requirements of New Zealand law as if they were in New Zealand.**

New Zealand has high standards of business and ethical behaviour, enforced by legislation, in matters such as Human Rights, Race Relations, Fair Trading and Privacy. Members of the NZAMI, whether New Zealanders or not, and whether in New Zealand or not, shall in all respects deal with their clients and with Immigration New Zealand as if governed by the requirements of New Zealand law. Any failure to do so shall be regarded as a breach of the Code.

2. **Members will uphold the integrity of New Zealand's immigration system.**

The attention of Members is drawn to the offences provisions of the Immigration Act and to the Immigration Advisers Licensing Act. Amongst other things, it is an offence to make any statement or provide any information or submission, knowing it to be false or misleading, or to counsel any person to be in or remain in New Zealand in breach of a permit, or to encourage migration by publishing any representation that is false or misleading. Any action which is in breach of the offences provisions of the Immigration Act, or the Immigration Advisers Licensing Act, will be considered a breach of the Code, whether or not the Member is charged or convicted under these Acts. This obligation to uphold the

integrity of New Zealand's immigration system is paramount to the obligation to represent the client in terms of Ethical Rule 5.

3. **Members must take all reasonable care to ensure that before any engagement is entered into on behalf of the client, that the client is made aware in writing of the precise nature of the engagement and all significant matters relating to it, including the Member's obligations under the Code.**

After entering into an engagement to provide services for a client, Members should not subject the client to unexpected outcomes, costs or procedures. Particularly in the matter of fees, the amount of a fixed fee or the method of calculation of estimated fees must be explained to and accepted by the client prior to engagement, and recorded in written form, wherever reasonably possible. Before applying any proposed variation to the conditions of an engagement, a Member must obtain the client's written acceptance of that variation.

4. **A Member providing immigration advice shall:**

**(a) do so in a competent, efficient and professional manner; and**

**(b) offer advice only in those areas in which the Member has competence.**

Members providing immigration advice and/or services are required to be familiar with Immigration New Zealand law and policy and to be familiar with the practical issues which arise in preparation, lodgement and support of applications to Immigration New Zealand or to New Zealand immigration tribunals.

5. **During the term of engagement, Members will represent their clients properly and to the best of their ability, and will use their best endeavours to provide a successful outcome, subject to compliance by clients with the terms of engagement.**

If any Member becomes aware of their own inability to properly represent a client, they should seek the support of other Members in order to protect the client's interests.

If the client fails to comply with the terms of engagement, the Member should provide the client with a reasonable opportunity to comply before declining to act further.

In the event the Member becomes aware that the client's actions may lead the Member to breach Ethical Rules 1 or 2 of this Code, the client should be advised accordingly, and the Member should, if necessary, withdraw from engagement.

- 6. Members will disclose any financial interest in goods or services recommended or supplied to clients and any other matter which is, or could prove to be, a conflict of interest.**

The attention of Members is specifically drawn to the need to comply with the Secret Commissions Act 1908 and the Fair Trading Act 1986.

- 7. Members will respect the vulnerability of migrants, and will not exploit that vulnerability for commercial advantage.**

Migrants are particularly vulnerable in regard to documentation. Members must take particular care in regard to travel documents and personal documentation, and specifically may not, under any circumstances, withhold from a client any personal documentation provided by or on behalf of that client.

- 8. A Member will not disclose or permit disclosure of confidential information regarding their client's circumstances, without the proper consent of the client, or unless it is necessary to do so in order to comply with Rule 2 of the Code.**

The requirement for confidentiality is self-evident in terms of Ethical Rule 1 and the Privacy Act. The purpose of this Rule is to underline the paramount nature of Ethical Rule 2 and particularly to reinforce the obligation of Members to uphold the integrity of New Zealand's immigration system.

Privacy Principle No.11 of the Privacy Act, while not requiring disclosure of private information, does permit disclosure "to avoid prejudice of the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution and enforcement of offences."

Members should not allow themselves knowingly to be a shelter behind which clients breach the offences provisions of the Immigration Act.

- 9. Any breach of any Rule of this Code by a person or company employed by, or appointed as, or acting as an agent of a Member will be regarded as a breach of that Rule by that Member, and any disciplinary action consequent to the breach shall be taken against that Member.**

Clients are not well placed to form judgements on the credibility of individuals, or of agency arrangements. If a staff member or an agent is acting on behalf of a Member, the Code shall extend to the relationship between the client and that staff member or agent. This Ethical Rule cannot be contracted out of by any Member or their staff member or agent. This Ethical Rule will be applied widely, to cover situations in which Members form loose arrangements that they later claim not to be employment or agency arrangements. The purpose of this Ethical Rule is to

ensure that indirect linkages between Members and third parties, whether on- or off-shore, are covered as widely as possible by the Code.