
Independent review of the Office of the Migration Agents Registration Authority (OMARA)

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Introduction

1. The Law Council of Australia welcomes the opportunity to provide a submission to this inquiry into the Office of the Migration Agents' Registration Authority (OMARA) and the regulatory arrangements for the migration advice industry.
2. This submission has been prepared with the assistance of members of the Migration Law Committee of the Law Council of Australia's International Law Section. **Attachment A** provides a profile of the Law Council of Australia; and **Attachment B** provides a profile of the International Law Section.
3. The Migration Law Committee is comprised of legal practitioners experienced in migration law. Many members are accredited specialists in migration law.
4. The Law Council understands that, consistent with the Australian Government's commitment to de-regulation, the Independent Review is examining:
 - a. the OMARA's organisational capability and challenges;
 - b. the quality and effectiveness of OMARA's internal controls and governance; and
 - c. the regulatory framework and powers of the OMARA, to determine if they are still appropriate and identify opportunities to reduce regulatory burden.

Law Council principal policy position

5. The Law Council's policy position, set out in numerous submissions to previous reviews into migration advice industry regulatory arrangements, is as follows:
 - a. The legal profession is the most comprehensively regulated profession in Australia. Mandatory dual regulation of legal professionals providing immigration advice and assistance is an avoidable and unnecessary cost to governments, the profession and the community, and should be ceased immediately.
 - b. Australian legal practitioners, when providing immigration-related advice and assistance ("immigration services") are providing a legal service. This is irrespective of whether the *Migration Act 1958* (Cth) defines "immigration assistance" as non-legal services or prescribes which services are "immigration legal assistance". All such services are part-and-parcel of the provision of legal advice and assistance to those seeking immigration assistance.
 - c. The OMARA should be re-established as a statutory body, independent of government, the Migration Industry Association and the legal profession. This body would be responsible for regulating migration agents.
 - d. Alternatively, if an independent statutory body is not established, the OMARA (or similar body) should continue to be the body responsible for regulating registered migration agents, including the investigation of complaints against them, but that the jurisdiction to determine those

complaints be vested in an existing independent body for determination such as the Administrative Appeal Tribunal (AAT).

- e. The Law Council also recommends that implementing the following minimum requirements for migration agents may assist in improving consumer protection standards:
 - i. expanding the current prerequisite graduate certificate in migration law and practice to a graduate diploma (1 year full time/2 years part time) and incorporating a period of mandatory work experience;
 - ii. at least two years supervised practice following completion of the qualification; and
 - iii. implementing a requirement to demonstrate suitability for unsupervised practice as a migration agent, perhaps by way of an exam or course, to assess knowledge and ethics.
 - f. In addition, there should be different tiers of registration for those registered to provide immigration assistance based on qualifications, experience and expertise. In that regard, the Reviewer may wish to consider the regulatory structure in the United Kingdom (which is broadly summarised at **Attachment C**).
6. The Law Council would be pleased to provide further submissions or information on any of the matters outlined above.

Background

Previous reviews and recommendations

- 7. The Law Council notes that a number of previous reviews by the Department of Immigration (under its various titles) (the Department) and other government agencies have considered the issue of dual regulation of migration lawyers.
- 8. More recent Inquiries have recognised many of the problems inherent in the present dual-regulatory framework, which are outlined below.

2007-2008 Review of Statutory Self-Regulation of the Migration Advice Profession

- 9. This review, conducted by an independent panel on the instigation of the Department, concluded (relevantly) as follows:
 - a. The Migration Agents Registration Authority (as it then was) should be wound-up and re-established as a statutory body, independent of government, the migration agents' representative bodies and legal professional associations.
 - b. All complaints against legal practitioners should be referred to the relevant legal professional regulatory body.
- 10. Neither of these recommendations were implemented (or implemented to their full extent) following the review.

11. This review, conducted as part of an own-motion inquiry by the Productivity Commission, concluded (relevantly) as follows:
 - a. The Australian Government should amend the *Migration Act 1958* to exempt lawyers holding a current legal practising certificate from the requirement to register as a migration agent in order to provide ‘immigration assistance’ under section 276. An independent review of the performance of these immigration lawyers and the legal professional complaints handling and disciplinary procedures, should be conducted three years after an exemption becomes effective; or
 - b. Alternatively, if the primary recommendations were not accepted, disciplinary procedures would become the primary responsibility of the legal regulators, but during a transition ‘confidence building’ phase the OMARA could continue to have some oversight of (or authority to selectively review) outcomes. Where compliance with relevant legal profession regulation is deemed to satisfy migration agent regulation there should be scope to reduce registration fees payable by immigration lawyers. The effectiveness of these reforms could then be evaluated and the case for progressing to the second stage, involving full exemption, reconsidered.
12. Again, the Law Council notes that neither of these recommendations has been implemented, and the problems identified by the Productivity Commission persist.

Key Issues

Ending Dual Regulation of legal practitioners

13. The provision of immigration assistance is regulated under Part 3 of the *Migration Act 1958*. In general terms the Act defines and prohibits the giving of “immigration assistance” by a person who is not a registered migration agent.¹
14. The definition of “immigration assistance” in the Act includes many elements of what would be ordinarily characterised as legal services provided during the ordinary course of legal practice.
15. The Act also defines “immigration legal assistance”, whereby the giving of immigration legal assistance by a lawyer is excluded from the prohibition on giving immigration assistance when not a registered as a migration agent.² (Lawyer is defined in the Act to mean, in effect, a person holding an Australian legal practising certificate – i.e. an Australian legal practitioner).
16. The Act therefore treats immigration legal assistance as a subset of immigration assistance. However, the statutory definition of immigration legal assistance encompasses only some - not all - of the services a legal practitioner may provide to a client in relation to immigration matters during the ordinary course of legal practice.

¹ *Migration Act 1958* (Cth), section 276.

² *Migration Act 1958* (Cth), section 277.

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17. The exemption of legal practitioners from the requirement to be registered as a migration agent, on the basis of them providing only immigration legal assistance, is therefore of little benefit in practice. Australian legal practitioners acting in migration matters register as migration agents and comply with the duties and obligations required by the Act, because it is not feasible to comply with the legal professional's obligations as an Officer of the Court and under legal profession rules and regulations if services are restricted to only those falling within the definition of immigration legal assistance.
 18. At the same time, legal practitioners and the manner in which legal services are provided are regulated under State and Territory laws with respect to legal practice and the provision of legal services. All legal practitioners, including those who practise in migration law, must comply with their statutory and professional duties and obligations as legal practitioners.
 19. Dual regulation therefore occurs in the present context when immigration assistance is provided as a legal service by a legal practitioner in the ordinary course of legal practice.
 20. As identified by the Productivity Commission in 2010, no compelling case has been made by the Department for the ongoing dual regulation and dual registration of immigration lawyers. While it remains important for the OMARA, or an equivalent, statutorily independent body to continue to regulate the conduct and education of non-lawyer migration agents, the OMARA's regulatory functions in respect of lawyers should cease.
 21. If the Review reaches the view the removal of the registration requirement for lawyers is not acceptable, the Law Council submits as follows:
 - a. all complaints against legal practitioners must be referred automatically to legal profession regulators;
 - b. fees for migration lawyers to register with OMARA should be reduced to a nominal amount in recognition of the OMARA's reduced regulatory functions;
 - c. lawyers should be exempt from duplicative continuing professional development (CPD) requirements, in recognition of their existing CPD requirements under legal profession regulatory requirements; and
 - d. the OMARA should be re-established as a statutory body, independent of government and the migration advice industry.

Consequences of dual regulation

22. The present legislative and regulatory regime has produced a number of complexities, uncertainties, duplications, costs and undesirable outcomes, including:
 - a. legal practitioners must pay both practising certificate fees and migration agent registration fees in respect of the same regulated activity;
 - b. confusion for consumers as to their entitlements and avenues to obtain compliance with regulatory requirements and redress in relation to immigration services provided by legal practitioners. This confusion may extend to whether certain professional obligations exist, including client

legal privilege, trust accounting, coverage by fidelity funds and professional indemnity insurance, not to mention the level of competence that might be expected of those with legal or non-legal qualifications to provide immigration assistance services;

- c. the prospect of legal practitioners being subject to up to three separate complaints handling processes in relation to the same alleged conduct (with the prospect of separate complaints handling processes by the legal services regulator, the OMARA and the state and territory fair trading offices, or equivalents);
- d. an apparent need for memoranda of understanding between the OMARA and the legal profession regulatory bodies as to complaints-handling and referrals. While the effectiveness of these MOUs is unclear, they appear not to require the referral of complaints or delineate regulatory responsibility between lawyer and non-lawyer migration agents);
- e. two sets of mandatory annual continuing professional development obligations (although it is noted that the OMARA has recently made some modest concessions in this regard); and
- f. two sets of conduct obligations – legal profession rules of professional conduct as embodied in the Australian Solicitors' Conduct Rules and the Code of Conduct for Registered Migration Agents.

Continuing professional development

- 23. All lawyers are subject to mandatory annual CPD requirements. While many practitioners specialise in migration law, there are a significant number of practitioners who also practise in a number of other areas – indeed, in many locations it may be untenable to focus solely or substantially on the practise of migration law.
- 24. Dual CPD requirements create a disincentive for lawyers to practise in the area of migration law and may result in a diminution or denial of access to justice for those who require immigration legal services, particularly in suburban, regional or other areas in which such services might be sought.
- 25. Presently, those lawyers who seek registration to practise in migration law must complete a mandatory level of CPD, which in many cases will result in a requirement to complete significantly more CPD in any given year than lawyers practising in any other area of law. A number of migration lawyers also undergo further, rigorous training and assessment by law societies to be recognised as accredited specialists in Australian migration law. In general, applicants for accreditation are required to:
 - a. have a minimum of five years full time practice experience and a minimum of three years' experience in their area of specialisation;
 - b. maintain a high degree of professional development in their area of specialisation;
 - c. pass a comprehensive examination process, developed by legal professional experts.

Existing legal profession regulation and consumer protection

26. The Law Council notes that deferrals of previous attempts to de-regulate, by eliminating dual regulation, were influenced by a view that the projected outcomes of the COAG National Legal Profession Reforms needed to be implemented. While the reforms are not going ahead in the manner envisaged, it is noted that NSW and Victoria (which account for three-quarters of Australia's legal practitioners) have enacted legislation to introduce a new, uniform scheme of legal profession regulation based on the COAG Taskforce proposals, to commence in early 2015. The Law Council is confident other States and Territories will progressively join the NSW/Victoria scheme.
27. Nevertheless, the Law Council notes that existing legal profession regulation is also based on common approaches across all States and Territories. The regulatory regime in all jurisdictions includes:
- a. specific academic, practical legal training and personal suitability requirements for admission to the profession;
 - b. a mandatory 18-month to 2-year period of supervised practice (followed, in a number of jurisdictions, by practical examinations) before permitting any legal practitioner to practise unsupervised (i.e. establish their own practice or act as a principal in any firm);
 - c. personal suitability requirements for the granting and annual renewal of practising certificates;
 - d. the ability to immediately cancel, suspend or vary practising entitlements or conditions in response to instances of misconduct, bankruptcy, or commission of certain offences;
 - e. mandatory continuing professional development;
 - f. mandatory professional indemnity insurance;
 - g. ethical and other professional responsibilities;
 - h. trust money and trust accounting regulation, including provision for external intervention;
 - i. fidelity cover – noting that in NSW, dual regulation has effectively resulted in the loss of fidelity cover for clients of immigration lawyers who provide “immigration assistance”;
 - j. complaint mechanisms for consumer and disciplinary matters, and a range of consumer remedies;
 - k. legal practitioners remain at all times officers of the court and are thereby subject to the inherent supervisory and disciplinary powers of the court; and
 - l. Nationally consistent rules of professional conduct.
28. The Law Council notes that consumers who seek assistance from non-lawyer migration agents do not benefit from these protections and some of these protections are undermined by dual regulation (such as fidelity fund coverage).

Statutory independent body

29. While the Law Council accepts that the OMARA has adopted a consultative and reasonable approach in carrying out of its regulatory functions, there is an inherent conflict as a result of the OMARA being part of the Department, which is the primary complainant against registered migration agents and the policy-setting agency for immigration matters and the regulatory scheme for migration agents.
30. Whether this is an actual or perceived conflict, the Law Council suggests it is inappropriate for the arrangement to continue. In order to perform its functions with the level of integrity and independence appropriate to the Office, it is highly desirable that an independent regulatory body be established to oversee the regulation and disciplining of registered migration agents.
31. The Law Council suggests that the Office of the Immigration Services Commissioner in the UK may be a reasonable model for consideration, which is summarised at **Attachment C**.
32. It is acknowledged that the establishment of a new independent body may create some additional cost for the Commonwealth. The Law Council notes that, given the OMARA has separate premises and has had to implement other measures to give the appearance of independence from the Department, such as separation of its computing and information and communications systems, the Law Council considers it should be feasible for the OMARA to continue on a largely self-funded basis, with minimal separate appropriations required.
33. An alternative may be to allow the OMARA (or a similar body) to continue in its current role of registering and regulating non-lawyer migration agents, including the investigation of conduct complaints, but to provide for the hearing or determination of those complaints by an existing independent body such as the AAT. It is recognized this would require amendments to legislation to provide such bodies with the necessary jurisdiction to hear those complaints.

Functions of the OMARA

34. In the interests of consumer protection, the Law Council recommends reviewing and expanding the powers and functions of the OMARA.
35. For example, at present, the OMARA does not have power to make orders with respect to the management or disposition of the estates of deceased migration agents, or in respect of monies and other assets held on behalf of clients or former clients, where the migration agent's practice is insolvent, or has been placed in receivership or under external administration.
36. These are of particular concern, given the high number of migration agents who enter and leave the migration agent profession within the first three years of registration and the correspondingly high number of business failures in the sector.
37. It is also noted that the OMARA has only a limited capacity to deal with defalcations by migration agents, powers which are intrinsic to the functions of legal profession regulators and essential for adequate supervision of migration agents who receive client monies on trust. In addition, there would be some benefit in requiring registered migration agents to contribute annually to a fidelity fund, administered by the OMARA (or equivalent), to provide protection to clients who are the subject of defalcations by registered migration agents.

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38. The Law Council further submits that consumer protection standards could be improved by requiring a mandatory period of supervised practice for all migration agents before allowing them unrestricted registration (i.e. registration as a principal of a business providing immigration assistance).

Separate tiers of registration

39. The Law Council considers that the creation of separate tiers of registration of registered migration agents could have significant benefits for consumers and provide incentives in the migration advice industry to improve standards of professionalism, knowledge and service delivery.
40. A similar system has been established in the UK and bears consideration for implementation in Australia (as outlined in **Attachment C**).
41. The Law Council considers that consumers would benefit from the provision of appropriate information on the register of migration agents, indicating the capabilities of those who practise in this area. For example, there would be immediate benefit for consumers to be able to determine if a potential adviser was able to provide advice on legal issues as well as migration matters. There would also be benefit in consumers knowing whether the practitioner was an accredited specialist, held an unrestricted practising certificate, or was a supervised practitioner or non-legally qualified migration agent.

Conclusion

42. The Law Council notes that the present environment is favourable to deregulation and has consistently argued that migration lawyers are subject to unnecessary, inefficient and counter-productive dual regulation.
43. Regulation of legal practitioners is and always has been a state/territory responsibility. There are significant and unnecessary costs associated with dual regulation of migration lawyers, in particular the additional costs of duplicative complaints and investigation processes.
44. The Law Council considers that significant overhaul of the OMARA and the regulatory framework for the migration agents is necessary to improve consumer protection.
45. The Law Council has also consistently recommended that the OMARA be re-established as a statutorily independent body, or that its regulatory functions be vested in an existing independent body – a view that appears to have little opposition, in principle.
46. The Law Council submits, as follows:
- a. lawyers holding a current legal practicing certificate should be exempt from the requirement to register as a migration agent in order to provide “immigration assistance”;
 - b. irrespective of whether dual regulation is ceased, all complaints against lawyers be referred by the OMARA to the relevant legal profession regulatory body;

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- c. a tiered of registration system, as applied in the United Kingdom, should be implemented;
 - d. additional minimum education and registration requirements should be established for migration agents to improve consumer protection standards in the migration advice industry;
 - e. If the Government decides not to establish an independent statutory body, the OMARA (or similar body) should continue in its role as the body responsible for registering agents and investigating complaints, which are then referred to another independent body for determination such as the Administrative Appeal Tribunal (which may go some way toward removing the conflict inherent in the regulatory functions of the OMARA and its relationship with the Department).
47. The Law Council would be pleased to respond to any queries arising from this submission. Please contact Nicole Eveston: (02) 6246 3753, nicole.eveston@lawcouncil.asn.au or Nick Parmeter: (02) 6100 3750, nick.parmeter@lawcouncil.asn.au.

Attachment A: Profile of the Law Council of Australia

The Law Council of Australia exists to represent the legal profession at the national level, to speak on behalf of its Constituent Bodies on national issues, and to promote the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world.

The Law Council was established in 1933, and represents 16 Australian State and Territory law societies and bar associations and the Large Law Firm Group, which are known collectively as the Council's Constituent Bodies. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Australian Capital Territory Law Society
- Bar Association of Queensland Inc
- Law Institute of Victoria
- Law Society of New South Wales
- Law Society of South Australia
- Law Society of Tasmania
- Law Society Northern Territory
- Law Society of Western Australia
- New South Wales Bar Association
- Northern Territory Bar Association
- Queensland Law Society
- South Australian Bar Association
- Tasmanian Bar
- The Large Law Firm Group (LLFG)
- The Victorian Bar Inc
- Western Australian Bar Association

Through this representation, the Law Council effectively acts on behalf of approximately 60,000 lawyers across Australia.

The Law Council is governed by a board of 23 Directors – one from each of the constituent bodies and six elected Executive members. The Directors meet quarterly to set objectives, policy and priorities for the Law Council. Between the meetings of Directors, policies and governance responsibility for the Law Council is exercised by the elected Executive members, led by the President who normally serves a 12 month term. The Council's six Executive members are nominated and elected by the board of Directors.

Members of the 2014 Executive are:

- Mr Michael Colbran QC, President
- Mr Duncan McConnel President-Elect
- Ms Leanne Topfer, Treasurer
- Ms Fiona McLeod SC, Executive Member
- Mr Justin Dowd, Executive Member
- Dr Christopher Kendall, Executive Member

The Secretariat serves the Law Council nationally and is based in Canberra.

Attachment B: Profile of the International Law Section

The International Law Section (ILS) provides a focal point for judges, barristers, solicitors, government lawyers, academic lawyers, corporate lawyers and law students working in Australia and overseas, who are involved in transnational and international law matters, migration and human rights issues.

The ILS runs conferences and seminars, establishes and maintains close links with overseas legal bodies such as the International Bar Association, the Commonwealth Lawyers' Association and LAWASIA, and provides expert advice to the Law Council and its constituent bodies and also to government through its Committees.

Members of the 2013-14 ILS Executive are:

- Dr Gordon Hughes, Section Chair
- Dr Wolfgang Babeck, Deputy Chair
- Ms Anne O'Donoghue, Treasurer
- Mr Fred Chilton, Executive Member
- Mr John Corcoran, Executive Member
- Mr Glenn Ferguson, Executive Member
- Ms Maria Jockel, Executive Member
- Mr Andrew Percival, Executive Member
- Dr Brett Williams, Executive Member.

The ILS Committees are:

- The Alternative Dispute Resolution Committee (Ms Mary Walker, Chair)
- The Comparative Law Committee (Dr Wolfgang Babeck and Mr Thomas John, Co-Chairs).
- The Human Rights Committee (Dr Wolfgang Babeck and Mr Glenn Ferguson, Co-Chairs)
- The Migration Law Committee (Mr Erskine Rodan, Chair and Ms Katie Malyon Vice-Chair)
- The Trade & Business Law Committee (Mr Andrew Percival, Chair).

The Immigration Lawyers Association of Australasia (ILAA) was established in 2003. The ILAA joined the Law Council as part of the International Law Section (ILS) in 2005. In 2012, the ILAA changed its name to the Migration Law Committee.

The Migration Law Committee:

- provides specialist advice to government through the Law Council on substantive migration law issues;
- attends stakeholder meetings with the Department of Immigration and Citizenship;
- provides Continuing Professional Development (CPD) accreditation under the Office of the Migration Agents Registration Authority (OMARA) scheme for lawyer Migration Agents
- provides network opportunities for Australian lawyers in the field of migration law.

Attachment C: International Regulation of Migration Lawyers

The regulatory environment in Australia is at odds with most countries in the western world. The regulatory schemes in the United Kingdom, New Zealand, the United States, Canada and South Africa exist for similar reasons – that is, to protect consumers of immigration advisory services. However, a common theme for each is the recognition that lawyers are more appropriately regulated as lawyers, by legal institutions charged with regulating the legal profession. The following compares the regulatory schemes of those countries³:

United Kingdom

- The *Immigration and Asylum Act 1999* established the Office of the Immigration Services Commissioner (OISC) as an independent public body to regulate the immigration advice profession in the United Kingdom. It is a criminal offence in the UK to provide immigration advice unless the adviser or organisation is registered with the OISC, or has been granted a certificate of exemption.
- Notably, persons who are members of a “designated professional body” may give immigration advice without registering with the OISC. Those bodies include the Law Society of England and Wales, the Law Society of Scotland, the Law Society of Northern Ireland, the Institute of Legal Executives, the General Council of the Bar, the Faculty of Advocates and the General Council of the Bar of Northern Ireland.
- Immigration services advice can also be given at different levels of competency, ranging from level 0, permitting sign posting and information, to level 3, which indicates capacity to provide specialist legal advice and advocacy services.

United States of America

- The *Immigration and Nationality Act* defines when a person is entitled to legal representation and counsel. Generally, the provision of legal advice by persons who are not licensed as attorneys is illegal in the US. Immigration Laws provide that only attorneys or employees of non-profit organisations certified by the US Board of Immigration Appeals may assist a person with their immigration forms and other matters. “Consultants” are able to provide non-legal service to persons, though the problem of these consultants posing as licensed immigration attorneys is currently under review.
- In southern States, particularly Texas, many illegal migration advisers have adopted the name “notarios”, a ploy designed to confuse clients, many of whom are Mexican or Hispanic, into believing the adviser has legal qualifications. Prosecutions of “notarios” and illegal immigration consultants are generally carried out by the office of the Attorney-General in the State in which the complaint is made.

³ This is a summary of a research paper prepared by Maria Jockel of the Immigration Lawyers Association of Australasia, ‘A Comparative Analysis of the Regulation of Immigration Lawyers – Australia, United Kingdom, USA, Canada, New Zealand and South Africa’, 15 October 2004.

Canada

- Canada commenced regulation of “immigration consultants” in 2004, with the establishment of the Canadian Society of Immigration Consultants (CSIC), a not-for-profit, self-regulating body for immigration consultants. The *Immigration and Refugee Protection Regulations* provides that no one who is not an ‘authorised representative’ may, for a fee, represent, advise or consult with a person who is the subject of a proceeding or application before the Minister, an officer or the CSIC Board. An ‘authorised representative’ is defined as a member in good standing of a Bar of a province, the Chambre des Notaires du Quebec, or the CSIC.
- Lawyers are not required to register with CSIC and the law in Canada actually prohibits members of the Bar from holding membership with any other professional body, to avoid any potential for conflicts of interest. There are calls for the registration scheme to be removed and for the government to outlaw the practise of migration consultancy by persons without appropriate, recognised educational qualifications.
- The new Canadian regulatory scheme has been criticised⁴ for:
 1. effectively sanctioning the practise of law by non-lawyers; and
 2. granting legitimacy to migration law advisory services by non-lawyers, who lack the background, education or experience of persons admitted to practise.
- It is noted that these concerns mirror the concerns of the Australian legal profession and highlight the serious consumer protection concerns that exist, where non-lawyers are given a green light to provide legal services to a particularly vulnerable minority.⁵

New Zealand

- The New Zealand Parliament recently passed the *Immigration Advisers Licensing Bill (270-2)*. The bill creates a licensing regime for people who provide immigration advice both in New Zealand and overseas. The Law Council understands that the working committee consulted heavily with the DIAC and other professional bodies before and during the drafting of the bill.
- Importantly the bill expressly exempts lawyers from registering as immigration advisers. The Law Council notes that the prospect of dual regulation of migration lawyers was expressly rejected by the Transport and Industrial Relations Committee which stated In its commentary “requiring lawyers to be licensed in order to provide immigration advice would be duplicative and might create unnecessary complications.”⁶

⁴ Sergio Karas, ‘Canadian Immigration Bar Under Attack: Regulation of “Consultants” Sets Dangerous Precedent’ (2004) *Immigration Law Weekly*.

⁵ *Ibid.*

⁶ *Immigration Advisers Licensing Bill (270-2): Commentary: Transport and Industrial Relations Committee*, Wellington, New Zealand. at p4.

South Africa

- The South African *Immigration Act 2002* provides that no one, other than an attorney, advocate or immigration practitioner, may conduct the trade of representing another person in proceedings or procedures flowing from the *Immigration Act*. All immigration practitioners must be registered with the Department of Home Affairs and are subject to a scheme of statutory self-regulation, similar to Australia. Notably, the South African scheme does not require legal practitioners to register under the scheme as they are already subject to regulation under the law.