



Immigration Advisers Authority

New Zealand Government

Rob Stevens
Chief Executive
Education New Zealand
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Wellington 6143

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Dear Rob

The offshore provisions of the Immigration Advisers Licensing Act 2007 (the Act) come into effect on 4 May 2010, when offshore immigration advisers must be licensed, unless they are exempt. This marks the final date of the implementation phase of the Act.

There are nine separate categories of exemption to the requirement to be licensed. The majority of these exemptions relate to people based in New Zealand (such as lawyers).

Many offshore education agents fall within the exemption for people who provide immigration advice offshore in relation to applications or potential applications for student visas or student permits only (section 11(h) of the Act). In light of its importance in the education sector, I wish to clarify the key aspects of this exemption.

The Act clearly exempts offshore advisers in relation to student applications only. This exemption does not cover advice given on any other application types submitted with a student application, such as guardian, visitor or work applications.

For this exemption to apply, the immigration adviser must be offshore when the advice is given. The location of the applicant is not relevant to the exemption.

People onshore giving immigration advice in relation to student applications must be licensed. The requirement to hold an immigration adviser's licence extends to people who give immigration advice to both public and private education providers.

Many people assisting migrants in the New Zealand education sector refer to publicly available information available on Immigration New Zealand's (INZ's) website or fill in an application form based on information provided by the applicant. These activities all fall outside of the scope of immigration advice, and an education agent does not need a licence for these.

Example A – Providing publicly available information

An unlicensed education adviser attends an education information meeting offshore and speaks to a group of potential students and their families. When speaking to the group, the adviser can give publicly available information about the different options open to students and their family members, such as the ages at which a guardian must also accompany the student or a partner's visa options.

This is an example of an adviser providing publicly available information and working within the offshore student exemption, and so the adviser does not need to be licensed.

Example B – Providing immigration advice

Individuals at an offshore education information meeting ask an adviser specific questions about their personal circumstances regarding work and visitor applications. As the adviser uses their knowledge of immigration matters to answer these questions, this is providing immigration advice on matters outside the offshore student exemption.

This is an example of an adviser providing advice about other types of applications and so the adviser does need to be licensed.

The Authority is aware of the importance of the export education market to New Zealand. We appreciate your continuing assistance regarding informing education agents regarding where they may be providing immigration advice and the scope of the offshore student exemption. We welcome any feedback you have on ways the Authority can improve communication on these requirements.

Yours sincerely



Barry Smedts
Registrar of Immigration Advisers