



Migration Institute of Australia
Leading professionalism in the migration field

IMMIGRATION ESSENTIALS FOR LAWYERS

"I thought the seminars were very good, particularly as they went through the procedures and practical points in Migration Law. I would definitely recommend it to lawyers who are wanting to practise in this area."

"One of the best courses I have attended over the last ten years"

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Participation in this course may give you CLE points depending on the state / territory you are registered in. Please contact the MIA for more information on 02 9279 3140.

a) Introduction to the Australian Migration System and General Principles of Statutory interpretation

- Australian Constitution and an explanation of the separation of powers
- Power to legislate regarding Migration and Citizenship – The Migration Act and Regulations
- Brief history of Australia's migration legislation
- How an Act and Regulations are made and amended
- Delegated legislation and policy
- How policy is made and the interrelationship between legislation and policy

b) Introduction to Migration Procedure and Visa Applications

- Structure of the Migration Act and Regulations including Schedules and Gazettes;
- Application of the Migration Act: citizen/non-citizen dichotomy
- What is a visa?
- Types of visas: substantive/non substantive; temporary/ permanent; brief mention of categories: family; economic; refugee/humanitarian/special eligibility
- Relationship between visa classes and sub-classes and links with other Schedules in the Migration Regulations;
- Overview of substantive visas and how to read a visa label (conditions; multiple/ single entry)
- Key concepts: lawful/ unlawful non-citizen; immigration clearance; assurance of support; nomination; sponsorship and Regulation 1.20J
- Definitions in the Migration Act and Regulations
- Introduction to visa processing: making a valid visa application (s65); Schedule 1 (fees, forms etc); applying for the right visa (schedule 2 – primary and secondary criteria explained)
- Code of procedure for decision-making (s51A-64 Migration Act) and notice requirements
- Capping and priority processing
- Basic tools of Migration Practice: Migration Act/Regulations; Citizenship Act/Regulations; PAMs, MSI's; Gazettes; s499 Directions; case Law

2. Unlawful Non Citizens and Exclusion Periods**DAY 1**

- What is an unlawful non-citizen
- Consequences and options for unlawful non-citizens: becoming lawful; voluntary departure; detention, include costs & debt to the Commonwealth; removal; exclusion periods/ re-entry bans
- Compliance – powers under the Act and Regulations
- Bridging Visas (BV): Automatic applications; Separate applications; different classes of BV's and eligibility requirements; BV conditions

3. Public Interest Criteria – Health Criteria**DAY 1**

- Schedule 4 of the Migration Regulations explained
- Health requirements explained – where to find them and how to apply
- Health waiver requirements
- Other Public Interest Criteria explained generally

4. Character, Cancellation and Deportation**DAY 1**

- Explain Character Provisions; character test; rights of appeal
- Explain cancellation provisions of the Migration Act, including:

- Character grounds
- Incorrect information
- General power of cancellation
- Cancellation of business visas
- Other powers of cancellation: business sponsorship/nomination/visa/employer sanctions
- Consequences of cancellation – include deportation/exclusion periods
- Criminal deportation provisions
- Review rights

5. Economic Stream Visas DAY 2

- General Skilled Migration	- Temporary Business Sponsorship
- Business Skills	- Employer Nomination Scheme

- Introduction to onshore and offshore skilled migration, and options: Employer sponsored permanent entry; Employer sponsored temporary entry; permanent and temporary business entry;
- Skilled Migration:
 - Overview of points test: pass and pool marks
 - Key definitions explained: Division 2.6 Migration Regs
 - Skilled occupation list
 - Nominated occupation
 - Skills assessment
 - Schedule 1 and 2 requirements
 - Allocation of points – Schedule 6A
 - Onshore applications – validity and other issues
- Explain independent and sponsored business visas
- Explore Employer Sponsored Temporary entry: sponsorship; nomination; visa requirements; list of occupations; gazette wage etc; focus on training record
- Employer sponsored permanent entry: 2-step process: nomination and visa; regulation 5.19 nomination requirements
- Permanent and temporary business entry: Common definitions (ownership, qualifying business, main business etc); visa subclasses explored; common problems explored (calculation of net-assets, establishing management control etc);
- Business short stay
- Graduate visas
- Business owners; senior executives; investment linked business persons; persons with established businesses in Aust.; regional established business in Aust.;
- Employment: Explain requirements for employer nominations; RSMS; labour agreements; Employer obligations

6. Student Visas and Student Visas Cancellations DAY 3

- Explain different subclasses of student visas/ categories of entry and criteria
- How to apply onshore and offshore, rights and entitlements and extensions
- Assessment levels and pre-visa assessments
- Using Schedule 5A
- Student visa cancellation – provisions (s116, s137J-P, reg2.43) processes and rights
- Explain different subclasses of student visas/ categories of entry and criteria
- How to apply onshore and offshore, rights and entitlements and extensions
- Assessment levels and pre-visa assessments
- Using Schedule 5A

- Types of review: merits and judicial review distinguished
- Merits review (MRT, RRT, AAT)
 - MRT reviewable decisions
 - RRT reviewable decisions
 - AAT reviewable decisions
 - Powers of Tribunals
 - Time Limits
 - Procedures
- Ministerial intervention – s351; s417 and s195A
- Judicial Review
 - Judicially reviewable decisions
 - Court hierarchy – Federal and state
 - Legal precedent – what is it and how does it work in the context of immigration law
 - AD (JR) Act
 - Time limits/ procedures
- Role of Migration Agents in review process: reviewing reasons for decision; obtain priority; adduce new evidence; written submissions; limited role at merits review hearings/ reviewing tribunals written decision; post remittal work
- FOI – brief intro to legislation and procedures

8. Family Stream Visas:

- Partner Visas
- Parent visas
- Remaining Relative, Child and Carer Visas

- Onshore/offshore difference explained
- Key concepts explained: Member of the family unit; children born during processing and after visa grant; adding dependent family members
- Range of offshore family visas (Temporary and permanent) explained. Some of the following visa criteria to be dealt with in detail:
 - Partners: explore relationship definitions and visa subclasses: explain 2-step process; spouse; de facto; provisional; prospective; interdependent. Domestic Violence provisions explained; limitations on sponsorship (Reg 1.20JJ) explained.
 - Parents/ aged parent/ contributory parent/ contributory aged parent;
 - Child/adoption/ orphan relative; dependency for over and under 18's
 - Remaining relative
 - Aged dependent relative
 - Carer Visas
 - Supported dependent

9. Citizenship, Resident Return Visas & Special Eligibility for New Zealand Citizens

- Resident return provisions in Schedule 2 – types of RRV's
- Review options for refused RRV's
- Overview of citizenship legislation and policy
- Acquisition of citizenship by birth; adoption; grant; descent
- Special provisions and concessions;
- Dual citizenship
- Loss and resumption of citizenship
- Review provisions for refusal of citizenship
- Special Category visas – NZ Citizens/ Eligible NZ citizens; sc444; family of NZ citizens – sc 461

10. Refugee and Humanitarian Visas**DAY 4**

- International definition of refugee and application of that definition to the Migration Act
- Examine refugee/humanitarian visa categories (on and offshore, permanent and temporary);
- Explain conditions on TPVs
- Overview of application preparation

11. Temporary Entry/Visitor Visas/ETA's/Temporary 400 series visas/Bridging Visas**DAY 5**

- Explain visitor visas
- ETA's – eligibility and conditions
- Medical treatment visas
- Working holiday makers
- Explain sponsored family visitor visas

12. Office of the MARA: Code of Conduct/Complaints/Registration Requirements**DAY 5**

- Explanation of the Code of Conduct – Parts 1 to 11 of the Code
- Continuing Professional Development requirements
- Explanation of the role of the MARA