

Episode 86: Summary

Episode name: Migration Nation: The Immigration Advice Landscape and the Future of Migration Practice

Guest(s): Marsha Bassily

What area(s) of law does this episode consider?

The immigration advice landscape in Australia.

Why is this topic relevant?

Australia is a migrant nation. Immigration is central to our national story, and the melting pot society that we take for granted is built on the backs of those who choose Australia to call home. There are whole industries dedicated to advising potential migrants and those who seek to sponsor or employ them.

A subset of that advice is legal, and involves the interpretation and implementation of the continuously moving target that is the *Migration Act 1958* (Cth). The landscape of who can give immigration advice is also subject to change and - in just one example - that landscape underwent significant change just a few years ago in 2021.

From March of that year, Australian lawyers were no longer required under the *Migration Act* to be dual registered with the Office of the Migration Agents Registration Authority (or, MARA) in order to provide immigration advice in the course of legal practice.

What legislation is considered in this episode?

Migration Act 1958 (Cth) (***Migration Act***)

What are the main points?

- From March 2021, there was a significant change to the regulation of immigration advice.
- Post March 2021, unrestricted Australian legal practitioners were no longer required to be dual registered with MARA to provide immigration advice in the course of their legal practice.
- Changes in the *Migration Act* in 2021 had a big impact on both registered migration agents and accredited lawyers.
- These changes included tougher penalties for those who are not properly accredited.
- While the legal profession was in favour of this change, some migration agents were concerned that it could reduce the quality of immigration advice.
- In Marsha's view, however, lawyers are typically highly prudent and don't take on work they aren't qualified to do. Also, lawyers are governed by the Law Society and Uniform Laws so they are already held to a high standard.
- The *Outline of the Government's Migration Strategy: A Migration System for a More Prosperous and Secure Australia* was released in April 2023. It sets a broad strategy for the future of the migration system.

- The overhaul means skilled migrants will be able to secure work visas in a way that is designed to be more sensible and sensitive to the current market.
- The Temporary Skilled Migration Income Threshold (TSMIT) is the minimum salary payable to employees who hold a visa that is within one of the specified streams.
- The new policy will increase the TSMIT from \$53,900 to \$70,000.
- A skilled migrant is someone who may not have an employer yet or be sponsored, but has a skill that the Government has deemed of value.
- When advising immigrant clients, understanding where they're coming from is key.
- Migration lawyers need to be aware of changes in the migration space, be on top of government guidance and to understand how all of the pieces interact. Also, keep across labour market trends and political changes.
- If you wish to practise in immigration law, get an immigration library such as LEGENDcom. Marsha suggests an electronic version - as a paper library would be difficult to navigate.
- If you want to get a visa result, you will not be challenging the law - so it is useful to be familiar with the administrative decision maker's thought process.

What are the practical takeaways?

Show notes

[Australian Government Department of Home Affairs. *Outline of the Government's Migration Strategy: A Migration System for a More Prosperous and Secure Australia \(2023\)*](#)