

icrcrc
IMMIGRATION CONSULTANTS OF
CANADA REGULATORY COUNCIL



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CONSEIL DE RÉGLEMENTATION DES
CONSULTANTS EN IMMIGRATION DU CANADA

**IMMIGRATION CONSULTANTS OF CANADA
REGULATORY COUNCIL**

AGENTS REGULATION

April 2013

Agents Regulation

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UPDATES TO SECTION

Listing by dates:

Date: 15 April 2013

Section 2.i was amended to enhance the definition of a designate:

- i. “Designate” means an individual who has been given authority, in writing, by the Client to act on his or her behalf *in dealings with the Member. The client must specify what duties are being conferred to the designate and the duration of the authority. A designate shall not be compensated by the client or the Member, for acting in the capacity as designate.*

Section 1 PURPOSE

The purpose of this Regulation is to set out the nature of the working relationship between the Member and his or her Agent, to articulate the rules that guide and govern that relationship, and to make clear each party's responsibilities.

Section 2 DEFINITIONS

In this Regulation:

- a. "Agent" means a person or company who:
 - i. does not provide immigration advice for a fee in contravention of *Immigration and Refugee Protection Act* (IRPA);
 - ii. represents an ICCRC member in furtherance of the member's practice;
 - iii. solicits or facilitates business in connection with the ICCRC member's practice;
 - iv. is registered, or required to be registered, as an Agent pursuant to ICCRC's *By-law*; and for greater certainty, "Agent" does not include an individual who merely refers a Client to a member but does not otherwise take any part in a proceeding or application, or potential proceeding or application, under the IRPA.
- b. "Agent Agreement" means the contract between a Member and an Agent that sets out the terms of the business arrangement between them.
- c. "By-law" means the by-law of the Council.
- d. "Client" means a person whose interests the Member undertakes to advance, for a fee or other consideration, or *pro bono* regarding a proceeding or application, or potential proceeding or application, under the *Immigration and Refugee Protection Act*. In cases pertaining to Labour Market Opinions, some Provincial Nominee Program applications, or Arranged Employment Opinions, Client means the entity or person whose interests the Member undertakes to advance, for a fee or other consideration, or *pro bono*, regarding a proceeding or application, or potential proceeding or application.
- e. "Client Property" means original documents and documents prepared for the Client's benefit which the Member has been retained by the Client to prepare. Client Property includes, but is not limited to, all original documentation belonging to the Client; all documents, information, and data provided to the Member, or to the Member's Agent, by the Client, or his or her Designate, prior to or after the signing of the Retainer Agreement; the Retainer Agreement; the Initial Consultation Agreement; documents produced by the government or any other third party (e.g., letters) in connection with the Retainer Agreement; and all documents or other property the Member was retained to prepare in connection with the Retainer Agreement.
- f. "Client Records" means documents that provide evidence of activities performed, events occurred, results achieved, or statements made as a result of the Initial Consultation Agreement and / or the Retainer Agreement.

- g. “Company” means any legal entity which may include a corporation or partnership.
- h. “Council” means the Immigration Consultants of Canada Regulatory Council/Conseil de réglementation des consultants en immigration du Canada.
- i. “Designate” means an individual who has been given authority, in writing, by the Client to act on his or her behalf in dealings with the Member. The client must specify what duties are being conferred to the designate and the duration of the authority. A designate shall not be compensated by the client or the Member, for acting in the capacity as designate.
- j. “Employee” means a person who is in an employee / employer relationship with an ICCRC Member, excluding another ICCRC Member.
- k. “Member” means any individual who is admitted as a member of the Council in accordance with the *By-law*. A Member is a Regulated Canadian Immigration Consultant (RCIC).
- l. “Retainer Agreement” means the contract between a Member and the Client, or his or her Designate, that sets out the terms of the business arrangement between them.

Section 3 INTERPRETATION

If there should arise any conflict between this Regulation and any of the Council’s *By-law*, the Council’s *By-law* will prevail.

Section 4 EXPECTATIONS

- i. Every Member of the Council who has an Agent must register the Agent with the Council by providing the following information promptly and in no event later than thirty (30) calendar days of engaging an Agent:
 - a. Agent’s first and last name;
 - b. Agent’s Company name, if applicable;
 - c. Business address of the Agent (street, city, province, country, postal code);
 - d. Agent’s business phone number; and
 - e. Date Agent was engaged by the Member.
- ii. Further to subsection (i), a Member must inform the Council of any changes to the Agent’s information.

- iii. Every Member of the Council who has an Agent must inform ICCRC promptly and in no event later than thirty (30) calendar days after the date the Agent resigned or was terminated. Similar information identified in subsection (i) is required for de-registration.
- iv. Further to subsections (i) and (iii), Members must send the required information to info@icrc-crcic.ca.
- v. A Member who engages an Agent must enter into an Agent Agreement with the Agent that describes the scope of services and working relationship between the Agent and the Member.
- vi. Where the Member engages a Company as the Agent, the Agent Agreement will be between the Member and the Company.

Section 5 GENERAL CONTENT

- i. A Member working with an Agent must ensure the Agent Agreement clearly identifies the:
 - a. Agent;
 - b. Name, address and telephone number of the Member and the Agent;
 - c. Agent's responsibilities and commitments;
 - d. Member's expectations of the Agent; and
 - e. Member's responsibilities.
- ii. An Agent Agreement must be dated and signed by the Member and the Agent at the time the Agent is engaged and before the Agent commences working for the Member.
- iii. A Member must provide a copy of the Agent Agreement to the Agent and retain a copy for his / her file.
- iv. Further to Section 5(i), a Member must clearly identify what services the Agent cannot provide to a Client or his or her Designate (e.g., provide immigration advice, etc.).
- v. An Agent Agreement must specify the duration of the engagement.
- vi. A Member is responsible for ensuring that the Agent complies with the Council's *By-law, Code of Professional Ethics*, and Regulations.

Section 6 CHANGES TO THE ORIGINAL AGENT AGREEMENT

- i. Any changes or edits made to the Agent Agreement after the document is originally signed must be mutually agreed upon in writing.

- ii. All changes or edits should be initialled by the Member and the Agent.

Section 7 ETHICAL DIRECTION

- i. A Member must inform the Agent of the relevant sections of the Council's *By-law, Code of Professional Ethics*, and Regulations pertaining to the responsibilities of an Agent and the Member's responsibilities to the Council.

Section 8 FEES FOR SERVICES

- i. A Member must include and clearly identify in the Agent Agreement:
 - a. How and when the Agent will be compensated (e.g., commission, pro-rated targeted base, bill by the hour, flat fee billing with payment by milestones or predetermined dates); and
 - b. The method of payment (e.g., wire transfer, etc.).

Section 9 CLIENT RECORDS AND CLIENT PROPERTY

- i. A Member must identify in the Agent Agreement that the Agent is responsible for forwarding all Client Records and/or Client Property upon receipt or creation.
- ii. A Member must identify in the Agent Agreement how Client Records and/or Client Property will be delivered to the Member (e.g., mail, courier, email, etc.).

Section 10 EXPENSES

- i. An Agent Agreement must specify who will cover expenses incurred by either party (e.g. travel, promotions, etc.).

Section 11 PROMOTION

- i. Where applicable, a Member must identify in the Agent Agreement what promotional activities the Agent may undertake to further the Member's practice, pursuant to Article 16 of the *Code of Professional Ethics*.

Section 12 CONFIDENTIALITY

- i. A Member must include a statement in the Agent Agreement that outlines how the Agent will protect the Client's personal information and records.

Section 13 CONFLICT OF INTEREST

- i. A Member must clearly identify in the Agent Agreement what action will be taken in the event that a conflict of interest relating to the Agent is identified by the Member.

Section 14 ISSUES OF DISPUTE

- i. A Member must include in the Agent Agreement:
 - a. A statement about the relationship between the Member and the Council;
 - b. The agreed upon process the Agent and the Member must undertake to resolve a dispute; and
 - c. Contact information of the Council should the Agent wish to file a complaint if a dispute related to the *Code of Professional Ethics*, remains unresolved.

Section 15 TERMINATION

- i. A Member must terminate the Agent Agreement if he / she has reasonable grounds to believe that the Agent has engaged in any illegal activities which would make the Agent unsuitable to continue to discharge his / her duties outlined in the Agent Agreement.
- ii. A Member must specify in the Agent Agreement when he / she or the Agent can terminate the Agreement.
- iii. A Member must specify in the Agent Agreement what happens in the event the Agent or the Member terminates the Agent Agreement.
- iv. A Member must identify in the Agent Agreement what the financial implications are in the event the Member or the Agent terminates the Agent Agreement.
- v. A Member must include a statement in the Agent Agreement directing the Agent to deliver all Client Records and Client Property to the Member upon termination.