

Terra Nova *e-news*

Section 93 and 158 of the Immigration Act 2009

Immigration Act 2009

Immigration to New Zealand and the Rules set by the Government to regulate this are contained in the Immigration Act. This Act is called the Immigration Act 2009 and replaces the previous Immigration Act 1987.

In this Terra Nova e-News, Section 93 and Section 158 is highlighted and why it are important Sections.

Personal information

On the application forms, paper and electronic, and on nearly all approval letters and other messages from Immigration New Zealand, it is advised that you are required to inform Immigration New Zealand of any change in personal circumstances, such as change of address, marital status, etc.

When this is **NOT** done and Immigration New Zealand becomes aware of those changes, it may have an impact on your immigration status in New Zealand. Sections 93 and 158 may come into play

Section 158

Section 158(1)(b) of the Immigration Act 2009 allows a residence class visa holder to be deported if the Minister determines any relevant information in relation to their application was “concealed”.

Section 58(3) provides the obligation to “*inform an immigration officer of any relevant fact, including any material change in circumstances that occurs after the application is made, if that fact or change in circumstances - (a) may affect the decision on the application; or (b) may affect a decision to grant entry permission in reliance on the visa for which the application is made*”.

Section 58(4) states that this **material change in circumstances** in subsection (3) “... *may relate to the applicant or another person included in the application, and may relate to any matter relevant to this Act or immigration instructions*”. This is very wide. Section 58(5) amended in May 2015 says this will be treated as “concealing” so that INZ can seek deportation by the Minister.

Terra Nova *e-news*

Terra Nova Consultancy Ltd is a commercial business and immigration consultancy company providing assistance and immigration advise to people who wish to immigrate to and or settle in New Zealand.



The Terra Nova *e-news* may freely be distributed to anyone.

For correspondence, or, if you wish to contribute with an interesting article, please email in word format to:

info@terranovaconsultancy.co.nz

Our website is at;

www.terranovaconsultancy.co.nz

J Peter Hendrikx-

What you should know

Not updating your personal circumstance with Immigration New Zealand is can have severe implications for your residency in NZ. It is regulated in Section 158 of the Immigration Act 2009

Similar but different is Section 93 of the

Terra Nova Consultancy Ltd SERVICES

We are specialised in Immigration Services of any kind and also offer other services such as;

- Applications for Citizenships
- Business Plan writing
- Business set-up services
- CV's

Section 158(1A) now makes it clear that even if another person, such as an adviser, provided the information deportation *can still occur*. It also makes it clear that this section applies retrospectively to *all past applications*.

An example

A residence application granted some 5 years ago. INZ became aware that a dependant applicant who had not actually been dependant any longer (a child had married at a late stage without updating Immigration New Zealand). INZ are only now preparing papers for the Minister to consider deportation of the whole family. This could be done regardless of the principal applicant's lack of knowledge of the marriage. Some aspects of the case go back nearly a decade.

Advice

This clearly illustrates that advisers need to be very careful to make it clear to clients that they must declare all relevant facts about themselves and all dependants from the beginning of their working relationship.

You as a client must update your agent of all their changes in personal circumstances and



any secondary applicant at all times.

It is the client's responsibility to update Immigration New Zealand through their the agent of their change of circumstances.

Please note that Immigration New Zealand can go back 10 years or more to check the personal information held by them and react to that.

Section 93

This is similar to Section 158 and talks about the Expression of Interest. It also makes the connection between this Section and Section 158.

There are many examples in my practice of people who forgot to tick the Yes box for a conviction or being refused entry or a refused a visa for another country.

In that instance, you will receive a letter from Immigration New Zealand stating that you fall under the provisions of *SM3.5 Implications of providing false or misleading information*.

It is important to note that you as the client are responsible, i.e. it means that even when you used the services of an agent, you are not able to blame that agent as it is your responsibility.

What is also important to know is that you will not be able to request a Character Waiver.

Just be upfront with your past and provide the information that is requested from you, otherwise Section 93 and or 158 come into play!!!

Advice

We suggest that the following may assist in preventing you having any issues with Immigration New Zealand, now or 10 years later:

Declare a change of personal circumstances and those of your dependants immediately to your immigration adviser.

Provide this in writing, by email is great!

Be upfront with your adviser and ensure that you declare any convictions you may have. A good example are traffic offences how trivial they may be, declare them!

DID YOU KNOW ...

... that you are not allowed to Work in New Zealand without a Work Visa.

... that only a Work Visa entitles you to work for the Employer and in the position as is stipulated on your Work Visa.

... that this means that you may not work for any or other Employer without a legal Work Visa.

... that Visitor Visa holders may not Work in New Zealand.

... that Student Visa holders are only entitled to Study a Course of Study at an Educational Institute as stipulated on the Student Visa

... that student Visa holders may request to Work part time for up to 20 hours per week, though certain conditions do apply

... that a Variation of Conditions is required to change any condition on your Student or Work Visa. Example would be change of course, change of education provider, change of employer (in same location)

... that we do not guarantee any INZ approval! We will however do our best to ensure the application meets INZ Immigration Instructions and the Lodgement Requirements before we lodge your application.

