

# RPA Alert

## Regulation. Prosecution. Action.

***Alert to all practitioners from the Legal Services Board and the Legal Services Commissioner***

**RPA Alert 5, September 2013**

\*This email has been delivered to you because you have actively requested, or previously consented to, receiving intermittent email messages from the Board or the Commissioner about matters of importance to lawyers.

### Employment of overseas-qualified lawyers

The Legal Services Board is aware of several instances where law practices have employed overseas-qualified lawyers to engage in legal practice in Victoria as employees or consultants, when they are not entitled to do so under the *Legal Profession Act 2004 (Vic)*.

This RPA Alert is being issued to assist law practices to meet their obligations when employing overseas-qualified lawyers. The Board is mindful of the value of deploying people with a breadth of competencies for the provision of legal services. This may be especially so with international and multi-jurisdictional legal services. It is important however, that law practices ensure they comply with the legislative requirements and that mistakes are not made that could have significant consequences for the law practice and the individual.

Subject to limited exceptions in the Act, an overseas-qualified lawyer may only engage in legal practice in Victoria if he or she is:

- an Australian legal practitioner (admitted to the legal profession in an Australian jurisdiction and holds a current practising certificate from an Australian jurisdiction); or
- registered as a foreign lawyer in an Australian jurisdiction. Note: a foreign lawyer can *only* practise the law of an overseas jurisdiction in Victoria - they are *not* permitted to practise Australian law.

There are serious repercussions for persons who engage in legal practice in Victoria when not entitled to do so under the Act. These also extend to people who represent or advertise that they are entitled to engage in legal practice when they are not; for example, by using certain titles, names or descriptions such as “solicitor”, “attorney” and “counsel”. The use of such terms is restricted under the Act as they give rise to the presumption of an entitlement to engage in legal practice.

Accordingly, when presenting overseas-qualified lawyers to clients, to other lawyers and to members of the public, the lawyer's role within the law practice should be clearly stated, including whether or not they are qualified to engage in legal practice in Victoria. Law practices should also take care to ensure that the titles used by overseas-lawyers do not mislead others into thinking that they are entitled to engage in legal practice in Victoria, when in fact, they are not.

A breach of the Act may involve the offence of unqualified legal practice. Further, Australian legal practitioners and law practices assisting persons to engage in unqualified legal practice in Victoria may also be risking disciplinary proceedings.

Law practices should therefore ensure that they are not recruiting overseas-qualified lawyers to engage in legal practice in Victoria or representing them as being entitled to do so, unless they meet the requirements set out in the Act. It is suggested that a copy of this newsletter be also provided to your law practice's Human Resources and Marketing Managers.

It is important to note that the requirements for qualified legal practice also apply to New Zealand-qualified lawyers despite the fact that they are eligible for admission pursuant to the Mutual Recognition Scheme.

Further information on qualified legal practice is available on the [Legal Services Board website](#).

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