



CONTEMPORARY CHALLENGES IN IMMIGRATION REGULATION

WHO ARE WE? With its roots in organizations founded in 1986, CAPIC was formed 10 years ago as The Association for Regulated Canadian Immigration Consultants and was established on the four pillars of education, information lobbying and recognition.

OUR VISION We are committed to strengthening the regulation and practice of regulated immigration consultants by Federal Statute. ICCRC should become a Statutory Body.

REGULATION BY STATUTE Will strengthen ICCRC's effective regulation of Consultants and its ability to protect consumers from unauthorized practitioners.

UNAUTHORIZED IMMIGRATION PRACTITIONERS It is clear that unauthorized immigration practitioners put consumers at a serious risk of financial loss and may permanently damage consumers' chances of immigration. They also tarnish the image of Canada at home and abroad. Instituting Federal Statutory Regulation of Immigration & Citizenship Consultants will be very effective in empowering ICCRC to aggressively combat unauthorized immigration practitioners who break the law.

STREAMLINING IMMIGRATION POLICY – ELIMINATING DOUBLE REGULATION We are of the opinion that double regulation by certain Provinces breeds confusion for the consumer and negates the effectiveness of the federally mandated regulator ICCRC. It also has an impact on limited resources which the various provinces could have better used in meeting other priorities.

CONCLUSION We respectfully submit that Regulation of Immigration & Citizenship Consultants under Statute will strengthen consumer protection and that eliminating double regulation will result in more appropriate Regulation and better use of scarce resources. Stricter action taken against unauthorized immigration practitioners deserves urgent and careful attention to restore full public confidence in the integrity of our immigration system and to save the consumer from the pernicious effects of unauthorized practice.



June 12th, 2015

Contemporary Challenges in Immigration Regulations

Introduction

The Canadian Association of Professional Immigration Consultants (CAPIC) represents over 1000 members across Canada and around the World. The Association was founded 10 years ago, and established on the 4 pillars of education, information, lobbying and recognition. As THE VOICE of immigration consultants in the Canada Immigration Domain, CAPIC is committed to promoting and protecting the practice of all Citizenship and Immigration Consultants

Our Vision on Self-Regulation

Today, the lobbying of CAPIC-ACCPI on Self-Regulation, has resulted in a regulator which provides a strong consumer protection. However, CAPIC's Vision on Self-Regulation goes even further. The regulator should be allowed and able to enforce federal law against unauthorized consultants and fraudulent actions, instead of having to leave this to CBSA, who already is strained with its resources.

In order to achieve this goal, CAPIC firmly believes that regulation under "**Statute**" is paramount in order to bring the immigration industry in line with other Federally-Regulated Professions. Furthermore, CAPIC also strongly advises that in the meantime more action should be taken against unauthorized immigration representatives and that a more effective Immigration Policy should be implemented, aiming to serve both immigration clients and regulated immigration practitioners alike.

Regulation under Statute

As proud supporters of immigration consultant self-regulation, CAPIC has continuously lobbied with the federal and provincial government stakeholders. The latest submission in this regard was strongly in favour of designating ICCRC as the regulatory body for Citizenship consultants. ([Consultation on Canada Gazette Part 1 Notice - 14 March 2015 Strengthening Canadian Citizenship Act](#)). CAPIC is a proud supporter for immigration consultant self-regulation and for promoting professionalism among practitioners. Throughout the years, we have promoted and improved the immigration consulting profession on several levels.

CAPIC strongly believes that more government initiatives should be taken in the direction of implementing 'statute' regulation, which by nature streamlines regulation, enforcement, and effectivity on all levels. Only by defining a clear complete, structure, can the consumer's be protected in the same manner as in other federal statute regulated industries.



Unauthorized Immigration Consultants

The lack of enforcement due to the current regulation as observed in the case of unauthorized consultants is very damaging for consumers, but also to the profession of regulated immigration practitioners on multiple levels. First of all, unauthorized consultants, are breaching the criminal code by practicing without a license. Despite the fact that they do not possess the necessary training, they provide services for a fee to individuals that seek advice on their immigration applications. As a result, CAPIC strongly encourages members of the public to report them to CBSA or to file a complaint with ICCRC, who forwards it to CBSA.

This in turn, affects the overall image of immigration practitioners. When individuals encounter unregulated consultants that charge a fee for their services without being able to provide the adequate services, their opinion of all consultants alike, is inadvertently affected by their personal experience. Secondly, the trust they will have placed in immigration consultants is ultimately destroyed by such cases as they do not know the difference, because otherwise they would not go in the first place to an unregulated consultant; this, could only be prevented from happening by impeding such cases from occurring through the implementation of stricter regulations for better enforcement authority against unauthorized consultants.

Problem For Effective Self-Regulation- Double Regulation by Provinces

Another particular issue of great concern is the 'Double-Regulation' of federally regulated immigration consultants by provinces. For example, in the case of Saskatchewan, the provincial Legislation states that: *"All immigration consultants must be licensed by the Government of Saskatchewan before providing services to foreign nationals seeking to come to the province. Consultants must also be members of ICCRC". There are another two provinces, and unfortunately none of them coordinated their legislation/policies with the federal regulator.*

As a result, of this Double Regulation, the consumer, the regulator ICCRC and even the provinces themselves face several challenges, just to name a few of them please see the following:

- Negative Impact on ICCRC's mandate: Unintentional creation of unregulated Consultants by provinces
- Consumer confusion about who is in charge in a matter of complaint and enforcement becomes even more complicated
- Raised cost burden for provinces due to administration of the legislation
- Restricting consumers considerably in their selection of legitimate representatives by creation of a "playing field" that is not level Canada wide, and increasing costs for the consumer
- Unjust distribution of privileges, status, or rights



For example, as authorized immigration consultants are already regulated in *all provincial jurisdictions* by ICCRC (the federal regulator), the disclosure, contract requirements, prohibited practices as well as licensing and additional consumer-protection insurance fees affecting immigration consultants under the *Saskatchewan Act*, duplicate ICCRC's own requirements such as the liability insurance required by and the Code of Conduct for its regulated members.

Unfortunately, one of the reason that some of the provinces believe that they need regulation themselves is the unclear language in the PNP agreement between federal and provincial Government. There is NO clarification that there is a federal regulator in place, that they should cooperate with him, and that the provinces are NOT responsible for the regulation.

In view of the existence of an effective federal regulator, CAPIC respectfully requests a clarification by the federal Government to the provinces in the next PNP agreements updates with the provinces. The Regulatory Council for Immigration Consultants may be said, in effect, to be the equivalent of a "*federal law society*" [our term] vigilantly overseeing the ethical practice of regulated immigration consultants across Canadian provinces and ensuring consumer protection with respect to the immigration services provided by authorized representatives.

Conclusion

CAPIC respectfully requests that the 3 suggestions of **giving Statutory authority to the regulator, AND in the meantime to update the PNP-Federal Government agreements and provide CBSA for the interim more resources for enforcement against unregulated consultants.** Receive careful consideration by the federal Minister of Immigration and Citizenship, Parliament and Provincial Authorities. Regulation CAPIC has over the years submitted multiple Consultation Papers in the immigration domain, showcasing our members' expertise in the delivery of immigration advice and the steps needed to be implemented in ensuring a more effective delivery in this regard. In this regard, CAPIC offers respectfully its resources in support for any solution to these issues.

CAPIC looks forward to receiving your kind response, and appreciates your valuable time.

Sincerely,

A handwritten signature in cursive script that reads 'D. Jade'.

Dory Jade, RCIC, C.Dir.
President
CAPIC-ACCPI