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In the offices of the
Secretary Home Affairs
Correspondence No: 947

Noted



Australian Government
Department of Home Affairs

MP

16/05/2018

Immigration and Citizenship Services Group

Date: 16 May 2018

Secretary/Commissioner Correspondence No: ***

s47E(d)

Response

Australia has *non-refoulement* obligations (not to forcibly return, deport or expel a person to a place where they will be at risk of a specific type of harm) under international treaties to which it is a party, including:

- the 1951 Convention relating to the Status of Refugees (Refugees Convention) and its 1967 Protocol; and
- the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and
- the International Covenant on Civil and Political Rights (ICCPR).

s47E(d)

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s47E(d)



KEY ISSUES – Commonwealth Games overstayers

- As at 14 May 2018, of the 13,681 accredited individuals granted visas to participate in the 2018 Commonwealth Games, 163 (or 1.19%) have lodged an application for a protection visa in Australia:
 - 161 of these have applied for permanent protection (subclass 866); and
 - s47F have applied for a Safe Haven Enterprise visa (SHEV). They were only eligible to apply for temporary protection as their Temporary Activity (subclass 408) visas were cancelled at the airport.

s47E(d)



s47E(d) See Attachment B for statistical breakdown by country of nationality.

s22(1)(a)(ii) [Redacted]

- Protection visa applications from Commonwealth Games participants will be rigorously assessed s47E(d). Some cases may be complex due to integrity, character or security concerns which will need to be explored in detail. This can extend the time taken to finalise an application.
 - If the primary application is refused, the decision will be eligible for merits review by the AAT. If unsuccessful at merits review, the review decision may be subject to Judicial Review in the courts. s47E(d)
- Resolution of protection visa applications lodged by Commonwealth Games attendees is a high priority in the protection visa program, s47E(d)

Bridging visa arrangements

- When a person applies for a protection visa in Australia, the application form is also an application for a bridging visa that must be decided by a delegate of the Minister.
- Where the person meets the criteria for grant of a bridging visa and there are no community protection or national security risks, they are, under policy, granted a bridging visa to remain lawfully in the community while their protection visa application is assessed.
- Where the person does not meet the criteria for grant of a bridging visa, and they overstay their current visa's period of effect, they will become liable to be held in immigration detention unless and until they are granted a further visa, or depart Australia.

Author:	s22(1)(a)(ii) Director, Protection Assessment Support Section, s22(1)(a)(ii) or s22(1)(a)(ii)
SES Clearance:	Luke Mansfield, First Assistant Secretary, Refugee, Citizenship and Multicultural Programs Division, s22(1)(a)(ii) or s22(1)(a)(ii)
Through:	Malisa Golightly, Deputy Secretary, Immigration and Citizenship Services Group
Consultation:	Pip De Veau, First Assistant Secretary, Legal Division

<u>Attachment A</u> (Original tasking)	Not applicable
<u>Attachment B</u> (Background)	2018 Commonwealth Games attendees who have applied for protection in Australia, by country of nationality, as at 14 May 2018

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Attachment B

2018 Commonwealth Games attendees who have applied for protection in Australia, as at 14 May 2018

Nationality		Permanent Protection (XA 866)	Safe Haven Enterprise (XE 790)	Total
s47F				
Total		161	2	163

**Home Affairs Portfolio
Budget Estimates – May 2018**

KEY BRIEF

Title: Commonwealth Games Support

Responsible Deputy Secretary: Malisa Golightly, Immigration and Citizenship Services Group

Key Points:

- Australia has long-established universal visa arrangements, which require all foreign nationals seeking to enter Australia to obtain a visa.
- We strongly support major events like the Commonwealth Games and note the benefits to Australia of hosting such events on the world stage.
- The Department granted visas to a total of 13,681 individuals. Not all visa holders travelled and a large number of visas were cancelled after the Department was notified that accreditation had been withdrawn for the individuals. 8,103 individuals travelled to Australia through a streamlined visa application process.
- In recognition of the current security environment, the decision to require all participants to apply through a formal visa process has allowed for health, character and security screening of individuals prior to their arrival at the border.
- Games time visas allowed participants to extend their stay and holiday in Australia until 15 May 2018, which is one month after the Games finished.
- As at 21 May 2018, 7,848 of these individuals have departed Australia. 255 individuals remain in Australia.
- 205 of these individuals are lawful following the automatic grant of a Bridging visa in association with their visa applications (Protection and other). 50 remain unlawful.

Protection visa applications

Luke Mansfield, FAS Refugee, Citizenship and Multicultural Programs

- As at 09:00 on 21 May 2018, the Department has received 190 Protection visa applications from persons who were granted visas to attend the Commonwealth Games.

If asked: 56 applications from athletes, 44 from officials, 47 from media and 43 from guests of the Commonwealth Games Associations (CGAs).

- Protection visa applications will be assessed in accordance with Australia's international obligations and the criteria set out in the Migration Act 1958.
- To protect the applicants' privacy, it is inappropriate to comment on individual cases.

Other visa applications lodged

Christine Dacey, FAS Immigration and Visa Services Division

- As at 09:00 on 21 May 2018, the Department has received 15 applications for other types of visas.
- These visas will be processed in accordance with standard legislative requirements

Visa over-stayers who have not lodged a further visa application

Clive Murray, Deputy Commissioner Operations

- As at 09:00 on 21 May 2018, 50 Games participants have overstayed their visas and remain unlawfully in Australia.
- The Australian Border Force (ABF) will locate, detain and remove Games over-stayers and, where appropriate, investigate Migration Act and/or Criminal Code Act offences regarding exploitation of individuals and/or Australia's migration system.

s22(1)(a)(ii)

If asked: How many visas were cancelled and why?

- Of the 13,681 visas granted for the 2018 Games, 4,907 visas were cancelled after the Gold Coast 2018 Commonwealth Games Corporation (GOLDOC) notified the Department of those athletes or other participants who did not qualify or were no longer able to participate in the Games.
- Visa cancellation prevented these individuals from travelling to Australia.

s22(1)(a)(ii)

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s22(1)(a)(ii)



Key Statistics

Visa holders who entered Australia for the Commonwealth Games

Number of Games visas holders who entered Australia	8103
Number of visa overstayers as at 09:00am on 21 May 2018	50

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Protection Visa applications lodged by Nationality (as at 09:00am on 21 May 2018)

PV Applications lodged		Totals
Media	<5	<5
Athletes	11	
Media	<5	12
Athletes	<5	
Officials	<5	<5
Athletes	8	
Officials	16	
CGA Guests	5	
Media	14	<40
Media	<5	<5
Athletes	<5	<5
Athletes	5	
Officials	<5	
CGA Guests	<5	
Media	5	17
Media	<5	<5
Athletes	<5	
Officials	<5	
Media	<5	<5
Athletes	23	
Officials	14	
CGA Guests	36	
Media	17	90
Athletes	<5	<5
Athletes	5	
Officials	<5	
CGA Guests	<5	
Media	<5	12
Total of all Nationalities		190

Other visa applications lodged	
Total	15

Consultation: Data Management, Refugee, Citizenship and Multicultural Programs Division, the Australian Federal Police and the Australian Border Force.

Additional References: N/A.

Attachments: N/A.



Australian Government
Department of Home Affairs

Submission

For decision

PDMS Ref. Number MS18-001399

To	Minister for Home Affairs Minister for Immigration and Border Protection	RECEIVED
Subject	Commonwealth Games update s22(1)(a)(ii)	3 1 MAY 2018
Timing	<i>At your convenience</i>	Minister for Home Affairs

Recommendations

That you:

- note the overall success of the visa process for the 2018 Commonwealth Games;

noted please discuss

s22(1)(a)(ii)



Minister for Home Affairs
Minister for Immigration and Border Protection

Signature: *Peter Dutton*

Date: 26.06 / / 2018

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Minister's Comments				
Rejected Yes/No	Timely Yes/No	Relevance <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	Length <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	Quality Poor 1.....2.....3.....4.....5 Excellent Comments:

Key Issues

1. s22(1)(a)(ii)
s22(1)(a)(ii) The visa application process was largely successful, noting that the Commonwealth Games was the first event of this magnitude where a formal application process was implemented.

s22(1)(a)(ii)

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s22(1)(a)(ii)

Background

8. The 2018 Gold Coast Commonwealth Games was held from 4-15 April 2018. It was a successful event, with around 8000 participants from 71 Commonwealth nations and territories (53 countries) attending the event and then departing Australia during the validity of their visa.
9. However, genuine participants of any major events such as the Commonwealth Games may choose to remain unlawfully in Australia after their participation, or may lodge Protection or other visa applications. ^{s47E(d)}
10. 255 Commonwealth Games participants remained in Australia after their AGEE visa ceased on 15 May 2018. As at 23 May 2018, 211 individuals have lodged valid visa applications (196 Protection visas; 15 various temporary visas) and 44 individuals are unlawful with no active application. This is 1.87 per cent of the total (13,681) visas granted for this purpose. ^{s47E(d)}

s22(1)(a)(ii)

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s22(1)(a)(ii)

ABF Operations

16. National Operation ^{s47E(d)} was the ABF operational response to the 2018 Games. ABF operational support for the Games was predominately focussed on ensuring efficient traveller processing at air and seaports in the lead up to the Games, during and at the end of the Games.

17.

^{s47E(d)}

18.

19. As at 23 May 2018, 44 individuals remain unlawful in Australia with no further visa application made after the AGEE visa ceased. ^{s47E(d)}

s22(1)(a)(ii)

21.

^{s47E(d)}

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22. As at 23 May 2018, 196 individuals have applied for Protection visas.

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s22(1)(a)(ii)



Attachment

Attachment A List of current biometrics collection countries

<p>Authorising Officer</p> <p>Cleared by:</p> <p>Christine Dacey First Assistant Secretary Immigration and Visa Services Division</p> <p>Date: 30/05/2018 Ph: s22(1)(a)(ii)</p>

Contact Officer Judith O'Neill, Assistant Secretary, Temporary Visa Program Branch, Ph: s22(1)(a)(ii)

- CC**
- Secretary
 - Commissioner
 - DS Policy Group
 - DS Intelligence and Capability Group
 - DS Immigration and Citizenship Services Group
 - DC Support
 - FAS Intelligence Division
 - FAS Identity and Biometrics
 - AC Strategic Border Command

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Countries included in the Biometrics Programme (as at 23 May 2018)

Country	
Albania	Myanmar
Algeria	New Zealand
Bahrain	Nepal
Bangladesh **	Nigeria **
Bhutan	Oman
Bosnia and Herzegovina	Pakistan **
Cambodia	Peru
Colombia	Qatar
Egypt	Samoa **
Ethiopia	Saudi Arabia
Fiji **	Singapore **
France #	South Africa **
Ghana **	Sri Lanka **
Hong Kong	Thailand
Jordan #	Tonga **
Kenya **	Turkey
Kuwait	Uganda **
Lebanon	United Arab Emirates
Malaysia **	Vietnam
Mexico	Yemen

Note: ** Countries who participated in the Commonwealth Games.

s22(1)(a)(ii)

COMMONWEALTH GAMES VISA CANCELLATIONS

QUESTION:

- **Why have visas of people involved with the Commonwealth Games been cancelled?**
- **How many are unlawful?**
- **How many are detained?**
- **How many have been removed?**
- **How many have PV applications still outstanding (and indicative dates for decisions)?**
- **How many PV applications have been finalised and what were the outcomes?**
- **How many finally determined have gone to merits or judicial review?**

KEY TALKING POINTS:

- Australia has long-established universal visa arrangements, which require all foreign nationals seeking to enter Australia to obtain a visa.
- We strongly support major events like the Commonwealth Games and note the benefits to Australia of hosting such events on the world stage.
- The Department facilitated the entry of over 8,000 Commonwealth Games participants through a streamlined visa application process. The decision to require all participants to apply through a formal visa process has allowed for health, character and security screening of individuals prior to their arrival at the border.
- We worked closely with the Gold Coast 2018 Commonwealth Games Corporation (GOLDOC) to ensure that all participants who were accredited and entitled to have a visa did so, and to ensure that anyone who was not entitled, did not.
- A number of visas were cancelled to prevent those individuals who were no longer accredited from travelling to Australia.

Background

s22(1)(a)(ii)



For the 2018 Games, GOLDOC were advised that this process would not be available and that Games participants would be required to apply for a Temporary Activity (subclass 408) AGEE visa. s47E(d)

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COMMONWEALTH GAMES VISA CANCELLATIONS

s47E(d)

[REDACTED] to and finalise the process for lodgement of the required visa applications.

- There was significant resistance from the Commonwealth Games Federation and each country's Commonwealth Games Association (CGA) to a formal visa process. This included negative media in October 2017, where the Federation publicly stated that they considered the process to obtain a visa to be the major risk to a successful Games.

s47E(d)



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- Of the approximately 13,600 visas granted for the 2018 Games, more than 4,700 visas were cancelled after GOLDOC notified the Department of those athletes or other participants who did not qualify or were no longer able to participate in the Games.
- From 2 March 2018, a total of **4,907** visas were cancelled while the individual remained offshore.

COMMONWEALTH GAMES VISA CANCELLATIONS

- The top ten nationalities cancelled were ^{s47F} [REDACTED]. These nationalities made up 66 per cent of the total cancellations.
- In 72 cases, the cancellation was revoked as GOLDOC accreditation was reinstated following the cancellation.
- As at 23 May 2018, there were 255 individuals onshore.
 - Six (6) have departed Australia from the community
 - ^{s47F} [REDACTED] have been removed
 - On 22 June 2018, a further ^{s47F} [REDACTED] non-citizens who were granted visas through the streamlined visa process were removed from Australia to Ghana following location and detention by ABF.

As of 28 June 2018, of the 245 individuals who remain onshore:

Onshore lawful

- 216 individuals onshore lawfully in the community
 - 202 have lodged Protection visa applications (of a total of 205 applications)
 - 14 have lodged other visa applications

Onshore unlawful

- 29 individuals onshore unlawfully
 - 21 unlawful in the community and have been referred to ABF to locate and detain
 - Eight (8) individuals are in immigration detention
 - ^{s47F} [REDACTED] have lodged Protection visa applications (of a total of 205 applications)
- On 26 June 2018, five (5) individuals were located, ^{s47F} [REDACTED] NSW and ^{s47F} [REDACTED] VIC. These individuals were transferred to immigration detention.
- Of the 205 protection visa applications 154 are currently being processed and 51 applications have been finalised, or refused. Of the 51 applications, 28 applicants have sought merit review.

COMMONWEALTH GAMES VISA CANCELLATIONS

Total Onshore Visa applications	219
Includes:	
▪ Total Protection visa applications	205
▪ Total other visa applications	14

- The Department continues to work with the ABF in relation to identifying and locating those onshore visa holders who may no longer be entitled to hold a visa.

Contact: Commander James Copeman
Division: Field Operations
Date first prepared: 21/05/2018
Originating Source: (MO)

Contact: §22(1)(a)(ii)
Division: Field Operations
Date last updated: 28/06/2018

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