From: s. 22(1)(a)(ii)
To: s.
Cc: s. 22(1)(a)(ii)
Subject: RE: Custody regarding a minor - s. 47F(1) [SEC=UNCLASSIFIED] [DLM=For-Official-Use-Only]
Date: Tuesday, 5 June 2018 11:37:31 AM

For-Official-Use-Only

Hi s. 22(1)(a),

Thanks so much. We will send the documents as required.

s. 22(1)(a)(ii) – please action on priority.

s. 22(1)(a

From: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Sent: Tuesday, 5 June 2018 6:55 AM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii)

Subject: RE: Custody regarding a minor - s. 47F(1) [SEC=UNCLASSIFIED] [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii),

No further considerations are required from UHM before POST proceed to process the visa.

However, please note as per the PAM to send the following documents to the UHM mailbox once the visa has been processed:

1. UHM Bio Data
2. Interview template
3. Form 1258
4. RRF – Resettlement Registration Form

Kind regards,

s. 22(1)(a)(ii)
Intake and Reporting | Unaccompanied Humanitarian Minors (UHM) Programme
UHM and Guardianship Section |Child Wellbeing Branch

Health Services Policy and Child Wellbeing Division | Corporate and Enabling Group
Department of Home Affairs
P: (s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii) @dfat.gov.au]
Sent: Saturday, 2 June 2018 2:21 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii)
Subject: RE: Custody regarding a minor - s. 47F(1) [SEC=UNCLASSIFIED] [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi UHM and Hum desk colleagues,

Thank you for your advice regarding this family, including the UHM grandniece. We intend to proceed to process the family and the minor separately.

I note PAM states that the UHM team must be informed before visa grant of any case that is proceeding that involves an unaccompanied minor, so that the minor's IGOC status can be ascertained and support services arranged as needed.

Do you need any further information from us or are there any final considerations before we proceed?

Thanks so much,

s. 22(1)(a)(ii)
Senior Migration Officer (Migration and Citizenship)
Second Secretary (Immigration and Border Protection)
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Sent: Wednesday, 11 April 2018 12:34 PM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) >
Subject: FW: Custody regarding a minor - s. 47F(1) [SEC=UNCLASSIFIED] [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii),

Based on the email trail below, we agreed that POST need to make the decision regarding processing of the visa, based on knowledge of the family's situation.
Regardless of if the minor is the PA or a dependent, it won't affect the minor's eligibility for the UHM programme.

I hope we've been able to assist you!

Please don't hesitate to be in contact again, should you need.

Kind regards,

s. 22(1)(a)(ii)
Intake and Reporting | Unaccompanied Humanitarian Minors (UHM) Programme
UHM and Guardianship Section | Child Wellbeing Branch
Children, Community and Settlement Division | Corporate Group
Department of Home Affairs
☏ s. 22(1)(a)(ii)
✉ s. 22(1)(a)(ii) @homeaffairs.gov.au
✉ s. 22(1) @border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Wednesday, 11 April 2018 1:36 PM
To: s. 22(1)(a)(ii)
Subject: RE: Custody regarding a minor - s. 47F(1) [SEC=UNCLASSIFIED]

[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii) ,

I agree, whether the minor is the PA or a dependent won't affect the minor's eligibility for the program. If processing the minor separately allows the minor to remain with the family unit as they migrate to Australia then it would appear to be in the minor's best interest (based on the limited information available). However the post will need to make that decision based on their knowledge of the family's situation.

Regards,

s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>
Sent: Tuesday, 10 April 2018 10:08 AM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Subject: RE: Custody regarding a minor - s. 47F(1) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Good Morning s. 22(1)(a)(ii) ,

Thank you for raising this case – much appreciated.

s. 22(1)(a)(ii) – do you have any input from a GPol perspective regarding this New Delhi case? It would seem appropriate to
process the minor separately so that there are no issues in meeting the PIC requirements.

From a program perspective, I think that it would be up to POST / Ref and Hum on how they want to process the visa. Looking at the
limited information below, if granted, the minor would arrive onshore as an indicative non-IGOC, and may be entitled to services
depending on where the family settles in Australia. Pre-arrival decisions regarding the processing of the visa doesn't have an impact on the
minor's entry into the program – please advise otherwise.

Regards,

s. 22(1)(a)(ii)
A/g Assistant Director, Operations

Unaccompanied Humanitarian Minors (UHM) Programme
UHM and Guardianship Section
Child Wellbeing Branch
Children, Community and Settlement Services Division
Corporate Group
Department of Home Affairs
P: s. 22(1)(a)(ii)
E. s. 22(1)(a)(ii) @homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)
Sent: Monday, 9 April 2018 4:41 PM
To: s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>
Subject: FW: Custody regarding a minor - s. 47F(1) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s. 22(1)(a)(ii),

Grateful if we could have a chat about direction or resolve of this query?

Kind regards,

s. 22(1)(a)(ii)
Intake and Reporting | Unaccompanied Humanitarian Minors (UHM) Programme
UHM and Guardianship Section |Child Wellbeing Branch
Children, Community and Settlement Division | Corporate Group
Department of Home Affairs
☏ s. 22(1)(a)(ii)
✉ s. 22(1)(a)(ii) @homeaffairs.gov.au
✉ s. 22(1) @border.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>
Sent: Monday, 9 April 2018 4:16 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) @homeaffairs.gov.au>; s. 22(1)(a)(ii)
>
Subject: FW: Custody regarding a minor - s. 47F(1) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi UHM,

Could you please assist our colleagues in New Delhi with the query below. Post has indicated that the application consists of a husband and wife with their four biological children and the 1 year old child of their niece (grandniece) . The niece (and mother of the child) has gone missing and therefore is no longer included in this application at this time . It appears that UNHCR have established the familial relationships and is aware that the niece has left the family unit. It would appear unlikely that the relationships here have been contrived to engineer a migration outcome or potential people smuggling activities (however I'll leave that for post to confirm/clarify)

s. 22(1)(a)(ii) has suggested that the child can be processed separately as a UHM, currently it appears unlikely that the child can satisfy PICs 4015/4017 if they remain a dependent applicant on the PA's application. What are UHM Policy's views on this approach ? I note that your PAM would suggest that both custody and BID PIC considerations should be satisfied however if the child was the PA in their own application these PICs are not part of the visa requirements. How would this approach impact on the settlement of the child in A/a if it were to be supported. While it appears nothing untoward is happening here in terms of the family arrangements it is a concern that the biological mother may have no awareness of the migration of her child to A/a

Regards
s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Tuesday, 3 April 2018 5:42 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii)
>
Subject: FW: Custody regarding a minor - s. 47F(1) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Helpdesk

Just a quick reminder about the query below. Grateful for your advice.

Thanks so much.

Regards

s. 22(1)(a)(ii)
Senior Visa Officer (Family Migration and Humanitarian Team)
Visa & Citizenship Services
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au

W: www.homeaffairs.gov.au | www.india.embassy.gov.au

E-lodgement

Online lodgement of visitor visa applications is the most convenient and fastest option available to nationals of India, Nepal, Bangladesh and Bhutan.
http://www.homeaffairs.gov.au/Trav/Visa-1/600-/Visitor-e600-visa-online-applications

---

From: s. 22(1)(a)(ii)
Sent: Thursday, 22 March 2018 3:48 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii)
>
Subject: RE: Custody regarding a minor - s. 47F(1) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Helpdesk/s. 22(1)(a)(ii)

We had a week of interview sessions of s. 47F(1) clients in February 2018 sometime and there is one case that I am seeking your advice on. s. 22(1)(a and I had discussed it and we thought it would be a good idea to get your views on this.

The case originally comprised a family of 8 people (primary applicant, his wife, four biological children, his niece and her child). At the time of the interview the niece did not appear for the interview. The primary applicant, s. 47F(1), declared during the interview that his niece, s. 47F(1), was living with him but had gone missing in December 2017. He further stated that the niece had a child, s. 47F(1), out of wedlock and he and his wife were looking after the child.

The primary applicant and his wife have claimed to be the guardians of the child. He stated that she had left the child with them and had gone missing. He stated that they were unaware of who was the father of the baby and had made up a fictitous name of the father in order to receive a birth certificate.

We asked the primary applicant if he had filed a police report for the missing niece and he responded by stating that she had gone missing on a few occasions and they had reported to the UNHCR each time. He further stated that they were told that it was unlikely that they would find her and he did not want to go through the same process of reporting her missing to the police as he had with UNHCR.

We wrote to UNHCR to check if the information we had received matched with the information that they held. UNHCR responded by stating that they had only been informed of the disappearance of the niece on 23 January 2018. They also stated *'UNHCR cannot confirm that they have parental rights over the child. This are normally informal arrangements.'*

The child would be assessed as an Unaccompanied Humanitarian Minors (UHM).

Details of the primary applicant are given below:

Main applicant – s. 47F(1)
UNHCR ID - s. 47F(1)
File No. – s. 47F(1)

I will be grateful if you could please advise how we should proceed with this application.

Thank you so much.

Regards

s. 22(1)(a)(ii)
Senior Visa Officer (Family Migration and Humanitarian Team)
Visa & Citizenship Services
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au

W: www.homeaffairs.gov.au | www.india.embassy.gov.au

E-lodgement
Online lodgement of visitor visa applications is the most convenient and fastest option available to nationals of India, Nepal, Bangladesh and Bhutan.
http://www.homeaffairs.gov.au/Trav/Visa-1/600-/Visitor-e600-visa-online-applications

Disclaimer
This e-mail message and any attached files may contain information that is copyright or

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: FW: URGENT FOR ACTION: UHM grant to s. 47F(1) minor [DLM=For-Official-Use-Only]
Date: Tuesday, 5 June 2018 6:24:59 PM

For-Official-Use-Only

For TRIM to one of our new files please and then please proceed.

s. 22(1)(a)

From: s. 22(1)(a)(ii)
Sent: Tuesday, 5 June 2018 12:43 PM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) >
Subject: RE: URGENT FOR ACTION: UHM grant to s. 47F(1) minor [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks s. 22(1)(a)

I understand the child is now s. 47F(1) old (born s. 47F(1)), UNCHR has confirmed the child has lived with the family since birth? And that the mother's disappearance was reported to UNHCR only in January 2018, shortly in advance of the RSHP interview in February, and that the family claims she has disappeared before (which implies that she has returned in the past).

My concern would be, like yours, that the child's mother still retains parental rights and on the basis of same may make applications in the future.

Nevertheless assuming UHNCR have confirmed that the child has been with the extended family since birth, and that family is eligible for the programme, there doesn't seem to be a viable alternative but to consider the child.

I am a little surprised by the UHM advice as I would have thought that the claims of this child rest on being a member of the family unit of the PA in the mother's absence. However given their advice that UHM is the appropriate avenue please proceed.

Thanks

s. 22(1)(a)(ii)

From: s. 22(1)(a)(ii)
Sent: Saturday, 2 June 2018 9:46 AM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) >
Subject: URGENT FOR ACTION: UHM grant to s. 47F(1) minor [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii),

I seek your views before finalising a subclass 202 visa application.

The application is for a s. 47F(1) family of 8 that includes one unaccompanied humanitarian minor where the mother is a niece of the PA but has gone missing. Parental rights cannot be confirmed but UNHCR has advised in the first attached email that these are usually informal.

PAM states:

> *Posts should email the Humanitarian Helpdesk before accepting the referral of an unlinked unaccompanied minor. The UHM team (email: uhm) must be informed before visa grant of any case that is proceeding that involves an unaccompanied minor, so that the minor's status under the Immigration (Guardianship of Children) Act 1946 (IGOC Act) can be ascertained and support services arranged as needed.*

We contacted the UHM team via Hum branch who advised in the attached email that the child would be eligible for the UHM programme and that Post needs to make the decision regarding processing of the visa, based on knowledge of the family's situation.

We intend to process the family with the grandniece as a PA in her own right. I'll write to onshore and confirm this will be our approach, and that we'll ensure the family travels together.

Please let me know if you have any objections to this approach, otherwise I will proceed to finalise.

Thanks,

s. 22(1)(a)(ii)

Senior Migration Officer (Migration and Citizenship)
Second Secretary (Immigration and Border Protection)
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
Sent: Friday, 1 June 2018 3:18 PM

To: s. 22(1)(a)(ii) @dfat.gov.au>
Subject: Urgent advice on a s. 47F(1) case regarding custody - s. 47F(1) [DLM=For-Official-Use-Only]

For-Official-Use-Only

s. 22(1)(a)

I have a s. 47F(1) case below for which I am seeking your advice.

A summary of the case:

The case originally comprised a family of 8 people (primary applicant, his wife, four biological children, his niece and her child). At the time of the interview the niece did not appear for the interview. The primary applicant, s. 47F(1), declared during the interview that his niece, s. 47F(1), was living with him but had gone missing in December 2017. He further stated that the niece had a child, s. 47F(1), out of wedlock and he and his wife were looking after the child. The primary applicant and his wife have claimed to be the guardians of the child. He stated that she had left the child with them and had gone missing. He stated that they were unaware of who was the father of the baby and had made up a fictitous name of the father in order to obtain a birth certificate.

We asked the primary applicant if he had filed a police report for the missing niece and he responded by stating that she had gone missing on a few occasions and they had reported to the UNHCR each time. He further stated that they were told that it was unlikely that they would find her and he did not want to go through the same process of reporting her missing to the police as he had with UNHCR.

We wrote to UNHCR to check if the information we had received matched with the information that they held. UNHCR responded by stating that they had only been informed of the disappearance of the niece on 23 January 2018. They also stated *'UNHCR cannot confirm that they have parental rights over the child. This are normally informal arrangements.'*

The child would be assessed as an Unaccompanied Humanitarian Minors (UHM).

Details of the primary applicant are given below:

Main applicant – s. 47F(1)
UNHCR ID - s. 47F(1)
File No. – s. 47F(1)

I had written to Helpdesk onshore (see attached email) for their advice. They liaised with the UHM section who advised post that the child would be eligible for the UHM programme which is what we were considering.

I would like to seek your advice on whether we can include the grand niece in this application

considering that we do not know the whereabouts of the mother.

My views are that the grand niece can be included in the application as I noted during the interview that there appeared to be good bonding between the baby and the primary applicant's wife and the rest of the family. On checking with UNHCR regarding the grand niece they have stated that they are unable to confirm whether the primary applicant have parental rights but have stated that 'these are normally informal arrangements'. The primary applicant has completed form 1258 (Agreement to undertake care of an unaccompanied humanitarian minor). I further note that if the mother was to re-appear later that the primary applicant could sponsor her in the future as the community has a large network and its fairly easy to locate their relatives.

Grateful for your advice.

This application of 7 applicants is otherwise ready for a positive decision.

Regards

s. 22(1)(a)(ii)
Senior Visa Officer (Family Migration and Humanitarian Team)
Visa & Citizenship Services
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au

W: www.homeaffairs.gov.au | www.india.embassy.gov.au

E-lodgement

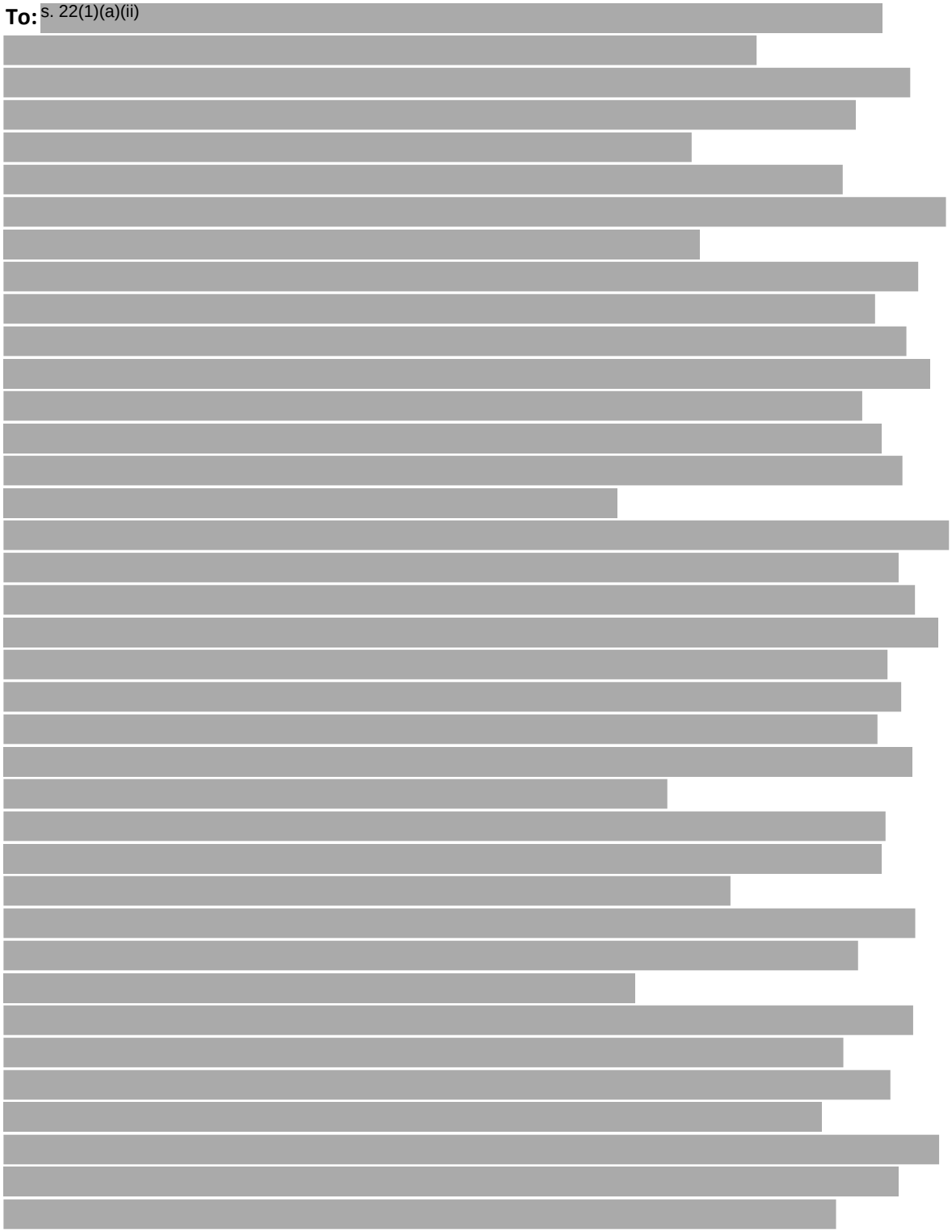
Online lodgement of visitor visa applications is the most convenient and fastest option available to nationals of India, Nepal, Bangladesh and Bhutan.
http://www.homeaffairs.gov.au/Trav/Visa-1/600-/Visitor-e600-visa-online-applications

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: FW: SRS Attachment issues [DLM=For-Official-Use-Only]
Date: Thursday, 7 June 2018 3:13:14 PM

For-Official-Use-Only

FYI and for sharing with team please

From: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Sent: Thursday, 7 June 2018 10:04 AM
To: s. 22(1)(a)(ii)



s. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii)

>

Subject: SRS Attachment issues [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear PMO's and SMO's,

We are asking for your assistance, by passing on to your relevant staff an issue that is causing us and EA significant time and resources to correct.

When sending security referrals for PIC4002 or PIC4003(b), the SRS portal's attachment section allows users to attach relevant documents for EA to use during their assessment.

However, EA's system will not receive active PDF documents that contain type-able fields, hyperlinks or passwords. Where a client's PDF document has these, users can select 'Microsoft Print to PDF' from the print options in Adobe, then save the document and attach it to SRS. This will remove any active elements within the document. There is also a 10MB size limit for files in SRS.

VSALT is very grateful for your assistance.

Kind Regards

s. 22(1)(a)(ii)

Visa Security Assessment Liaison Team
Visa Security and Special Case Assessments
National Intelligence Branch | Intelligence Division |
Intelligence and Capability Group
Department of Home Affairs
Canberra City ACT 2601
P: s. 22(1)(a)(ii)
E: s. 22(1) @homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: FW: Regional Directors – VRA Update [SEC=UNCLASSIFIED]
Date: Thursday, 7 June 2018 7:01:31 PM

UNCLASSIFIED

FYI

From: s. 22(1)(a)(ii)
Sent: Thursday, 7 June 2018 1:00 PM
To: s. 22(1)(a)(ii)
>
Subject: FW: Regional Directors – VRA Update [SEC=UNCLASSIFIED]

UNCLASSIFIED

fyi

Kind regards

s. 22(1)(a)(ii)
First Secretary (Immigration)
Australian High Commission | New Delhi
Website: www.homeaffairs.gov.au www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
Sent: Thursday, 7 June 2018 12:58 PM
To: s. 22(1)(a)(ii)
>;
s. 22(1)(a)(ii) @dfat.gov.au>
Subject: Fwd: Regional Directors – VRA Update [SEC=UNCLASSIFIED]

UNCLASSIFIED
UNCLASSIFIED

From: "s. 22(1)(a)(ii) @homeaffairs.gov.au>
Date: Thursday, 7 June 2018 at 12:48:02 pm
To: s. 22(1)(a)(ii)
>,
"Andrew, Fiona" <Fiona.Andrew@dfat.gov.au>, s. 22(1)(a)(ii)
, "Phil BREZZO"

<PHIL.BREZZO@CUSTOMS.GOV.AU>, "Phil BREZZO" <PHIL.BREZZO2@HOMEAFFAIRS.GOV.AU>, s. 22(1)(a)(ii) "Steven BIDDLE" <STEVE.BIDDLE@HOMEAFFAIRS.GOV.AU>, s. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii) >

Subject: Regional Directors – VRA Update [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Regional Directors,

s. 33(a)(i)

Kind regards,

s. 22(1)(a)(ii)
Director, Visa Risk Assessment Implementation
Intelligence Development Branch
Department of Home Affairs
W: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii) @homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: FW: Query on when there is more than one application for an applicant [SEC=UNCLASSIFIED]
Date: Wednesday, 11 July 2018 9:40:28 AM

UNCLASSIFIED

Please save to g drive and our policy TRIM file.

s. 22(1)(a)

From: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Sent: Wednesday, 11 July 2018 5:06 AM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>
Subject: RE: Query on when there is more than one application for an applicant [SEC=UNCLASSIFIED]

UNCLASSIFIED

G'day s. 22(1)(a)(ii)

Yeah this is a not uncommon phenomena particularly with our Middle East posts (often there will be a sc200 UNHCR referral and a sc202 SHP referral). Generally start by linking the two applications together. If you are looking to refuse without interview (self-referred etc.) you should refuse both at the same time. If looking to progress the application, the interview is a good time to raise with the client the option to withdraw one application particularly if on a grant pathway .. you can withdraw one when you grant the other .. noting the client should be granted the most appropriate visa subclass.

Dare I say it has been known to admin close one application when granting the other (if you haven't obtained a withdrawal) . While admin closure is only meant to be used when an error has bene made in creating the record it is a reasonably pragmatic way around things if you haven't been able to get a withdrawal and don't wish to muddy the waters by refusing the surplus application

Anyway short answer is request withdrawal at interview !

Cheers
s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Tuesday, 10 July 2018 7:15 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>

Subject: Query on when there is more than one application for an applicant [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Helpdesk

I am writing in regard to scenarios where an applicant has more than one application in process with the post. Although it is a very small per cent of the caseload but we sometime receive applications from clients who already have an application in process. The reasoning behind this is that the clients think that their previous applications have been refused (even though they would not have received any notification) and they then lodge another application.

In this situation I am seeking your advice on how to action the second application taking into consideration that we do not want to disadvantage the applicant as its unknown which of the applications has the most information unless we review both the applications. The suggested way could be to request for withdrawal for the second application once a decision is made on one of the applications.

I will be grateful if you could advise what is the global preferred approach to these kind of scenarios where a client has more than one application in process.

Thank you so much in advance and I look forward to your response soon.

Do let me know if you need any clarification on the above.

Regards

s. 22(1)(a)(ii)
Senior Visa Officer (Family Migration and Humanitarian Team)
Visa & Citizenship Services
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au

W: www.homeaffairs.gov.au | www.india.embassy.gov.au

E-lodgement
Online lodgement of visitor visa applications is the most convenient and fastest option available to nationals of India, Nepal, Bangladesh and Bhutan.
http://www.homeaffairs.gov.au/Trav/Visa-1/600-/Visitor-e600-visa-online-applications

error, please notify
us immediately through the Australian immigration enquiry form and delete this e-mail together with any attachments.

Important Notice: The content of this email is intended only for use by the individual or entity to whom it is addressed. If you have received this email by mistake, please advise the sender and delete the message and attachments immediately. This email, including attachments, may contain confidential, sensitive, legally privileged and/or copyright information.

Any review, retransmission, dissemination or other use of this information by persons or entities other than the intended recipient is prohibited. The Department of Home Affairs and ABF respect your privacy and have obligations under the Privacy Act 1988.

Unsolicited commercial emails MUST NOT be sent to the originator of this email.

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: Urgent advice on spelling mistake on immicard of client"s name [SEC=UNCLASSIFIED]
Date: Wednesday, 11 July 2018 2:57:50 PM

UNCLASSIFIED

G'day s. 22(1)(a)(ii)

We had something similar to this a couple of months back .. I can't for the life of me find the email trail (different issue but did involve clearing and re-granting due to incorrect names on Immicards) . Firstly this one is outside our remit and I should really defer to our IRIS colleagues on this … however … my own recollection (hazy at best) is that you could clear and re-grant given you aren't making a new decision, rather just tidying up an admin error. The main issue will be whether you can backdate or not .. and I'm not sure. Sounds like there isn't a way around it anyway without some risk that the clients data will be inadvertently changed in one of the systems causing problem at check in . With that in mind the lesser of two evils looks like clearing and re-granting in the correct biodata (don't forget to change the new immicard details in IRIS once they are known)

I reckon just give it a go and if you can't backdate just email Humanitarian Data to advise them of the records so they are aware of the data issue (granting same cases in two program years) I think I heard somewhere that we aren't as worried about retrospective changes to numbers now as the numbers on COB 31 July are going to be 'it; from now on .. but for that one I will also have to differ to my colleagues in Hum Data !

Cheers
s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Tuesday, 10 July 2018 9:33 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii)
>
Subject: Urgent advice on spelling mistake on immicard of client's name [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Helpdesk

I am writing in regard to two applications that were finalised in April and May 2018. Unfortunately there was a spelling error of the names of the applicants and this was noticed at the time of receiving the Immi cards. We wrote to TRIPs who were able to update the clients' records but this update did not reflect in IRIS. We then wrote to Immicards who stated that they had liaised with IRIS Helpdesk who advised 'you should be able to set aside the grant, amend the

name and then reinstate it while back dating the grant date (which should then not impact upon your numbers). Are you able to investigate and see if this is possible?'

I have attached the email exchanges for both clients to TRIPS and Immicards for your information.

Could you please advise what is the process we should follow considering that this appears to be an admin error rather than over a legal decision.

The details of the two clients are:

1. **Incorrect name on IRIS:** s. 47F(1)
   Correct Name: s. 47F(1)
   IC number: s. 47F(1)
   IRIS ID: s. 47F(1)

2. **Name:** s. 47F(1)
   Last Name on IRIS: s. 47F(1)
   Correct name: s. 47F(1)
   IC number: s. 47F(1)
   IRIS ID: s. 47F(1)

Grateful for your urgent advice and action that should be taken as one of the applicants has indicated that he is planning to travel soon.

Thanks so much in advance.

Regards

s. 22(1)(a)(ii)
Senior Visa Officer (Family Migration and Humanitarian Team)
Visa & Citizenship Services
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au

W: www.homeaffairs.gov.au | www.india.embassy.gov.au

E-lodgement
Online lodgement of visitor visa applications is the most convenient and fastest option available to nationals of India, Nepal, Bangladesh and Bhutan.
http://www.homeaffairs.gov.au/Trav/Visa-1/600-/Visitor-e600-visa-online-applications

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) ; s. 22(1)(a)(ii)
Subject: FOR COMMENT: Information Regarding Request for advice: CBD application via surrogacy in India - responsible parent written to MPs [DLM=For-Official-Use-Only]
Date: Thursday, 6 September 2018 5:17:44 PM

For-Official-Use-Only

Hi s. 22(1)(a)(ii),

We discussed another surrogacy CBD case with you when we met on Tuesday afternoon – the s. 47F(1) case. We agreed to check with Citz Helpdesk re our approach given the intended father was an Australian citizen at time of surrogacy. Helpdesk support our approach. I don't think we need to let DFAT know about this one given it doesn't have the added complication of the only intended parent being a single, homosexual foreigner but please let me know if you disagree.

If not, I will finalise as soon as you respond or on Monday.

s. 22(1)(a)(ii) – please TRIM this email to the Policy file.

Thanks,

s. 22(1)(a)(ii)

Senior Migration Officer (Migration and Citizenship)
Second Secretary (Immigration and Border Protection)
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Sent: Thursday, 6 September 2018 12:26 PM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii)
Subject: Information Regarding Request for advice: CBD application via surrogacy in India - responsible parent written to MPs [DLM=For-Official-Use-Only]

Hi s. 22(1)(a)(ii)

No concerns. Except to note that the client's did everything to make it hard for themselves.

Its great to see it will be finalised. Well done!

Regards,
s. 22(1)(a)(ii)

Citizenship Help Desk
Citizenship Operations
Citizenship and Multicultural Programs Branch
Refugee, Citizenship and Multicultural Programs Division
Immigration and Citizenship Services
Department of Home Affairs

>>>> Original request is displayed below

From: "s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Thursday, September 06, 2018 04:00 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Copy To: "s. 22(1)(a)(ii) @dfat.gov.au>, "s. 22(1)(a)(ii) >
Subject: Request for advice: CBD application via surrogacy in India - responsible parent written to MPs [DLM=For-Official-Use-Only]
For-Official-Use-Only

Good afternoon all,

Grateful for your advice on a CBD application where the child was born via surrogacy in India. It is similar to the recent case of the s. 47F(1) on which we sought your advice but with slight differences that we wanted to raise before proceeding. Please note that the responsible parent has written to several MPs about delays and requests for DNA.

Name: s. 47F(1)
CID: s. 47F(1)
This is a CBD application where the child was born through surrogacy (which the responsible parent did not declare at the time of lodgement). A brief summary of the case is given below.

Date of lodgement – 18/12/2017
Responsible parent – s. 47F(1) – PR of Australia (sc801)
Responsible parent – s. 47F(1) – Australia citizen (acquired on 15/04/2010)

Brief of the case:

- Surrogacy was not declared when the application was lodged.
- Responsible parent s. 47F(1) was asked to provide documents in regard to prenatal records. He failed to provide this and eventually declared that the child was born through surrogacy.
- Responsible parent s. 47F(1) initially refused to undertake DNA test but eventually agreed. The DNA results confirmed the relationship between the child and the responsible parent s. 47F(1)
- The responsible parent s. 47F(1)) provided documents including details of blood tests, prenatal blood test reports for the surrogate as well as post-natal check-ups. Evidence of s. 47F(1) undertaking IVF tests for conceiving and failing to conceive were also submitted as reasons for going for surrogacy.
- The other documents included – surrogacy agreement, no objection affidavit from the surrogate and her spouse, legal opinion and a letter from a medical practitioner confirming that s. 47F(1) sperm was used and the egg used was from an unknown donor as s. 47F(1) was advised to go for surrogacy by her cardiologist.
- There is no mention of the nationalities of the intended parents in the surrogacy agreement although it does state that the surrogate mother is an Indian citizen. The agreement is between the intended parents and the surrogate. It is further noted that the address given for the intended

parents is a local address and not their Australian address.

- The legal opinion states that the surrogacy agreement is legally enforceable and legally permissible as there is not yet a codified law with regards to surrogacy. It further states that both s. 47F(are the legal parents of the child. It states that both the intended parents and surrogate mother have signed the agreement of their own will. The legal opinion further states that the parents are genetically linked to child (which is not wholly true as the egg was obtained from an unknown donor). It further confirms that the surrogate mother has relinquished in writing all parental rights to the child and has done this in the form of a legal affidavit.

Outcome:

- DNA test was undertaken for the responsible parent s. 47F(1) and the child. The results confirmed the likely paternity for s. 47F(1) to the child by 99.99%.
- The intended mother did not undergo the DNA testing as her genetic materials was not used for conception. The letter written by the IVF doctor states –

"*Genetic material (sperm) from* s. 47F(1) *was found. And half a dozen healthy oocytes were used for fertilization from an anonymous donor. After fertilization two of them grew to healthy embryos and were transferred to the surrogate on 13/10/2016.*"

- The application stated that she was not able to conceive and that they had taken many tests but were unsuccessful. s. 47F(1) also has a heart problem and they have stated that eventually their cardiologist suggested that they use surrogacy to have a child. Evidence to support this was provided by documents of tests undertaken for IVF which they have stated they had gone through several times and this included tests taken in Australia. They have further stated that they went through these procedures between 2013 and 2015 after which s. 47F(1) conceived 4 times but failed to continue her pregnancy on all 4 occasions. All the IVF procedures and doctor reports concerning the intended mother establishes that she is unable to carry out a full term pregnancy.
- The surrogacy agreement is acceptable and is similar to agreements that post has previously sighted.
- The legal opinion confirms that the surrogacy agreement is legally enforceable, that the responsible parents are the legal parents of the child and that the surrogate mother has relinquished her legal rights over the child.

The only remaining concern we have is that the legal opinion does not specific, as did the opinion in the case of the s. 47F(1) , that the surrogacy was legal notwithstanding that the intended father was a dual citizen at the time of the surrogacy.

I note the Surrogacy Bill preventing single foreign nationals from being commissioning parents in India has yet to be passed.

Do you have any concerns with my proposed approach?

Thanks as always,

s. 22(1)(a)(ii)
Senior Migration Officer (Migration and Citizenship)
Second Secretary (Immigration and Border Protection)
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) ; s. 22(1)(a)(ii) ; s. 22(1)(a)(ii)
Subject: FOR ACTION: Request for consideration of penal/police checking in India for the s. 47F(1) caseload PY2018-19 [DLM=For-Official-Use-Only]
Date: Thursday, 20 September 2018 8:31:52 PM

For-Official-Use-Only

Hi s. 22(1)(a)

Thanks for the below comprehensive information.

I am aware that the MHA has been inconsistent in policies in relation the issuance of documentation to clients from s. 47F(1), as part of the Indian Government's response to the Rohingya crisis. This has involved either stricter conditions for issuance of penal clearances (guarantor letters from landlords etc) and in some circumstances, refusal to issue.

On the basis of the strong procedures and protections you have in place for this cohort, I will waive the penal clearance requirement for any clients in this group who have stated they are unable to obtain a clearance, As you have stated, if there are any allegations or further information known to the department from any source, we should consider these on a case by case basis.

Grateful if you can please TRIM this email.

Cancellation Support – For your information, this only applies to the caseload processed in New Delhi.

Regards

s. 22(1)(a)(ii)
First Secretary (Immigration and Border Protection)
Department of Home Affairs
Australian High Commission, New Delhi

P: s. 22(1)(a)(ii)
M: s. 22(1)(a)(ii)
F: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
Sent: Thursday, 20 September 2018 8:46 AM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) @dfat.gov.au>
Subject: FOR ACTION: Request for consideration of penal/police checking in India for the s. 47F(1) caseload PY2018-19 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1),

We are writing to seek your approval to waive penal clearances for s. 47F(1) RSHP clients for the programme year 2018-19. The approval would cover penal clearances for India. Our total indicative allocation at present is **280 grants** for the programme year.

Background of the s. 47F(1) caseload

s. 47F(1) refugees accepted by post in India are urban refugees of s. 47F(1) ethnicity, a minor ethnic group from s. 47F(1). Most are Christians, with a handful of Buddhists. Post continues to only accept clients mandated by the UNHCR, noting that UNHCR has ceased registering s. 47F(1) s. 47F(1) in India and is only renewing registration where the expiry date is recent (within three months) and only until end 2019. UNHCR is of the view that repatriation is an option and will be facilitating clients return to s. 47F(1), though this has not been welcomed by local s. 47F(1) community leaders. UNHCR mandated s. 47F(1) refugees are responsible for their own livelihood in India and the UNHCR assists only the most compelling cases. The onhand caseload at Post and with OHPC contains more than 280 (our current allocation for this cohort) s. 47F(1) who currently hold UNHCR registration or may hold renewed registration.

For clients who fled s. 47F(1) in the 2000's, the claims of persecution presented were strong. In 1988, a s. 47F(1) insurgency emerged after a crackdown on the democratic movement across s. 47F(1), with a number of s. 47F(1) politicians arrested. In 1990, the presence of the s. 47F(1) military increased significantly in s. 47F(1) state and many s. 47F(1) fled the state after their lands were forcefully ceased by the military without compensation and to escape forced labour in the military. It was also around this time that the s. 47F(1) started to face discrimination and persecution for being Christians from the military who tried to coerce them to convert to Buddhism and also destroyed churches and harassed and arrested pastors. The s. 47F(1) people continued to face discrimination and persecution from the s. 47F(1) military and persecution from the CNF (The s. 47F(1) National Front) and CNA (The s. 47F(1) National Army) through the 2000's and most applicants assessed at post would have fled s. 47F(1) in the 2000's.

This cohort usually do not possess many documents except for their UNHCR ID cards/letters and FRRO RCs (registration certificates). Children born in India may have birth certificates and for couples married in India, they would usually be able to provide a marriage certificate issued by the church here. Although not common, some applicants may still have their Pink national ID cards from s. 47F(1). At interview, there is some emphasis on background information to ascertain that the clients are genuine s. 47F(1) refugees and not impostors, given the identity concerns for a group of s. 47F(1) previously resettled from Kuala Lumpur. While it is difficult to confirm that the information provided is accurate, the interviewer normally tests the client's confidence and comfort in providing this information instead. This is consistent with the UNHCR's interviewing techniques for

this group. Social media checks and further checks with the UNHCR are conducted post-interview if there are serious concerns regarding identity. We expect to conduct more of these checks given the adverse reaction the local s. 47F(1) community has had to the UNHCR decision to phase out registration and the consequent potential for false claims in relation to persecution, relationship with proposers, identity of applicants and family composition. If these issues cannot be resolved, the case is generally refused.

In the past, clients have been able to provide penal clearances for India. In PY2017-18 there were some clients who indicated that they were not able to provide penal clearances however it was noted towards the end of the programme year that FRRO have resumed issuing penal clearances to the majority of clients.

In PY2018-19 post will be accepting both SHP and refugee cases. There may be cases where clients are not able to provide penal clearances. Some of these cases may not be registered with FRRO or have let their FRRO registration cease or have had difficulty getting it renewed.

Current Process undertaken

Currently post refers all SHP clients to the UNHCR, New Delhi for character verification prior to scheduling for interview and any other information that they may hold on clients which would be of interest to post. UNHCR has previously been reticent in providing information on character concerns and when we have received information, it has been in relation to claims rather than character. However, Post's recent email correspondence and recent meetings with UNHCR have clarified the importance of this information and detailed the types of character-related information we are seeking, including criminal charges and convictions. UNCHR have agreed to provide any adverse information on record for clients and, where no adverse information exists, including character concerns, to respond confirming checks were conducted and that there is no adverse information known to them. If serious concerns are identified after receiving information from UNHCR these cases normally do not proceed to interview and are refused.

Post has not seen character concerns in relation to s. 47F(1) clients in the past except for one case (very old case) where the client had provided a penal clearance for his application and post was advised one month later by UNHCR that the client was in prison. We note that Indian authorities later confirmed they had issued the PCC in error, which was identified by UNHCR in meetings with the clients and Post was immediately advised. The application was refused on the basis of this information.

Post has adopted a new process from 10 September 2018 to ensure all information from UNHCR is actioned quickly. The new process has arisen as a client was granted a visa in the 2017-18 programme year when there was information known to the department the client was in prison. As part of this process, Post has also reviewed the format of the requests for information sent to UNHCR. These requests are sent to UNHCR immediately prior to interviewing applicants. The request includes specific questions about convictions and prison sentences. Post has requested UNHCR (and IOM where applicable) to mark the subject line of emails containing adverse character information as 'Urgent Sensitive Information' for immediate actioning at Post. Post also regularly engages with UNHCR (and IOM) and, while UNHCR rarely seeks updated

information about clients after the initial registration process, we expect them to provide any adverse information they receive outside the routine pre-interview requests from Post as they have done recently.

During interviews, all s. 47F(1) clients are instructed to declare all instances of criminal convictions, arrests and any time spent in prison. The clients are counselled that any adverse information discovered that is not declared could result in the refusal of the application. All clients above 16 are also requested to sign a Character Statutory Declaration.

Current Status

In order to meet our outcomes for the current programme year we are scheduled to interview approximately 350 s. 47F(1) clients in the next five months. We are expecting to undertake three interview sessions, one of which was completed yesterday, 9 August 2018. In the completed recent interview mission it has been noticed that some of the 138 clients interviewed were unable to provide a valid FRRO registration at interview. Those without PCCs have been issued a new letter to give to the FRRO, with one client having already provided a PCC.

The scenarios which may prevent clients from obtaining PCCs include the following:

- Clients are asked to provide a lease agreement to obtain an extension on their Registration Certificate (RC) but are not able to provide this document.
- Clients have re-applied for the extension of their visa before it has expired and they have been provided with an acknowledgement slip, but have still not obtained the visa for India.
- Clients who have applied for an extension after their visa has expired and they have been told to come back.
- Clients have never registered with the FRRO.

Post has noted that the FRRO does not have a consistent policy on registration for mandated s. 47F(1) refugees and the processes can change without notice and quite regularly.

In all cases, post requests PCCs for India and, where they are not able to be provided, requires evidence of attempts to obtain PCCs from the FRRO or evidence that the clients are subject to one of the known circumstances in which obtaining an Indian PCC is not possible.

The exceptions to the blanket waiver are:

- All non-s. 47F(1) spouses – although unlikely, in such circumstances, post will continue to request for PCCs for Indian spouses.
- s. 47F(1) who have spent more than 12 months in the last 10 years in countries

other than India – post will request for PCCs and if required, escalate on a case-by-case basis for approval to the relevant officer.

- Any client who has an allegation or any adverse information from the UNHCR or any other source – most, if not all, of these cases are refused and if being considered for grant, post will escalate on a case-by-case basis for approval to the PMOI.

Grateful for your consideration and are available to provide any further information that you may require.

Regards,

s. 22(1)(a)(ii)
Senior Migration Officer (Migration and Citizenship)
Second Secretary
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: FW: FOR ACTION: Request for consideration of penal/police checking in Nepal for s. 47F(1) refugees PY2018-19 [DLM=For-Official-Use-Only]
Date: Saturday, 22 September 2018 9:10:27 AM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

For TRIM and g drive. Please send me the TRIM reference.

s. 22(1)(a

From: s. 22(1)(a)(ii)
Sent: Friday, 21 September 2018 6:47 PM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii)
Subject: RE: FOR ACTION: Request for consideration of penal/police checking in Nepal for s. 47F(1) refugees PY2018-19 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a

Thanks for the below comprehensive information.

Despite the possibility of character concerns with this cohort, I am satisfied that UNHCR, IOM and your team have a good working relationship and thorough processes to identify any cases of character concern.

On this basis, I waive the penal clearance requirement for this cohort.

Grateful if you can TRIM this email.

(I note s. 22(1)(a)(ii) email is not below, but I recall this from last year and have attached the approval from the time)

Cancellation Support – For your information, this only applies to the caseload processed in New Delhi.

Regards

s. 22(1)(a)(ii)
First Secretary (Immigration and Border Protection)
Department of Home Affairs
Australian High Commission, New Delhi

P: s. 22(1)(a)(ii)
M: s. 22(1)(a)(ii)
F: +91 11 2688 7536
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
Sent: Thursday, 20 September 2018 8:42 AM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) @dfat.gov.au>
Subject: FOR ACTION: Request for consideration of penal/police checking in Nepal for s. 47F(1) refugees PY2018-19 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1),

We are writing to seek your approval to waive penal clearances for s. 47F(1) RSHP clients in the programme year 2018 – 2019 noting that the previous approval was valid till 30 June 2018. The approval would cover penal clearances for **Nepal and India, for** s. 47F(1) **refugees residing in Nepal.** Our total indicative allocation at present is **270 grants** for the programme year.

The situation for the s. 47F(1) refugee cohort remains mostly the same (as detailed in s. 22(1)(a)(ii) original email to you dated 22 February 2017) which is in the email trail below. The only exception is that now UNHCR has reduced their operations and are not referring any cases to Australia and IOM has closed their offices and moved to the IOM-MHD (IOM –Migration Health Department (MHD)). Details of the cohort is provided below for your consideration:

For Refugee applications the details are given below:

- UNHCR has ceased referrals for Australia. For the programme year 2017-18 and for 2018-19 to date (19 July 2018) post has not received any referrals. In very limited circumstances a XB202 has been converted to XB200 by the decision maker at post and these decisions were made after the interview.
- If we do receive referrals from UNHCR the referral and character vetting process undertaken by UNHCR will remain the same. If we are unable to interview in person (subject to budget), we will undertake interviews by video-conference and have the clients provide their biometrics data at the VFS office in Kathmandu.
- We have a pipeline of 3 cases (11 persons) which may be granted in 2018-19. These cases are complex with issues such as medical deferrals and child custody. None have any known character concerns but will be checked by post with UNHCR for any known character concerns or updates prior to grant, as always. Those referred by UNHCR that have character concerns will be refused in the 2018-19 programme year.
- For those not yet interviewed and assessed, Post will liaise with UNHCR for any known character concerns or updates at time of assessment and prior to grant, as always. As above, those referred by UNHCR that have character concerns will be refused in the 2018-19 programme year.

For SHP applications the details are given below:

- The process will remain the same and UNHCR have continued to support the character vetting process for this cohort, in the absence of a formal police checking option.
- Subject to budget approval, the preference is to interview this cohort personally to mitigate risks. If we are unable to interview in person then it is likely that these applicants will be interviewed by video conference and have the clients provide biometrics at VFS Kathmandu.

Current status:

The last list of s. 47F(1) SHP applications we sent for vetting to UNHCR Damak revealed character concerns for refugees who have applications with us under the SHP programme. Recent discussions with Head of Office, IOM Nepal, also suggest alcoholism is a growing problem with some clients imprisoned in the camps for crimes including sexual assault. This instils confidence that UNHCR are reasonably well informed about various issues including offences committed by this cohort. As such these cases will not proceed further and are more likely to be refused.

Post has adopted a new process from 10 September 2018 to ensure all information from UNHCR is actioned quickly. The new process has arisen as a client was granted a visa in the 2017-18 programme year when there was information known the department the client was in prison. As part of this process, Post has also reviewed the format of the requests for information sent to UNHCR. These requests are sent to UNHCR immediately prior to interviewing applicants. The request includes specific questions about convictions and prison sentences. Post has requested UNHCR (and IOM where applicable) to mark the subject line of emails containing adverse character information as 'Urgent Sensitive Information' for immediate actioning at Post. Post also regularly engages with UNHCR (and IOM) and, while UNHCR rarely seeks updated information about clients after the initial registration process, we expect them to provide any adverse information they receive outside the routine pre-interview requests from Post as they have done recently.

The exceptions to the blanket waiver, as previously stated, will remain as below:

- All non-s. 47F(1) spouses – post will continue to request for PCCs for Nepalese and Indian spouses.
- s. 47F(1) clients who have spent more than 12 months in the last 10 years in countries **other than Nepal and India** – post will request for PCCs and if required, escalate on a case-by-case basis for approval to the PMOI.
- s. 47F(1) clients were there is evidence they **entered/resided in India legally** – post will request for PCCs and if required, escalate on a case-by-case basis for approval to the PMOI.
- Any client who has an allegation or any adverse information from the UNHCR or any other source – most, if not all, of these cases are refused and if being considered for grant, post will escalate on a case-by-case basis for approval to the PMOI.

We will be grateful for your consideration and are available to provide any further information that you may require.

Regards,

s. 22(1)(a)(ii)

Senior Migration Officer (Migration and Citizenship)
Second Secretary
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: Penal/police checking in Nepal for s. 47F(1) refugees PY2017-18 [DLM=For-Official-Use-Only]
Date: Friday, 6 October 2017 7:21:00 PM

For-Official-Use-Only

Hi All

For refugee s. 47F(1) applicants residing in Nepal, on the basis that we receive RRFs from UNHCR and we conduct thorough interviews either in person or via video conference, I waive the requirement for a penal clearance from Nepal for this program year. I note there is no current method for these clients to obtain a clearance from relevant authorities and we hold a level of confidence in the UNHCR process.

For SHP s. 47F(1) applicants residing in Nepal, on the basis that we undertake thorough interviews (in person or via video conference), have previously assessed the relevant inviter and receive information from UNHCR, I waive the requirement for a penal clearance from Nepal for this program year. I note there is no current method for these clients to obtain a clearance from relevant authorities and UNHCR have provided what information is available to them.

I will waive the requirement for Nepal. I note that you have also requested consideration to waive the requirements for clients who have spent some time in India. Given that the clients would have entered and resided in India illegally, I will waive this requirement. In the event there is evidence a client entered/resided in India legally, I expect the client to obtain a PC and this waiver does not apply to this cohort.

In both circumstances, this does not apply to clients where we have received an allegation or further adverse information from UNHCR or any other source, without further investigation.

Please ensure this is saved to TRIM.

Regards

s. 22(1)(a)(ii)
First Secretary (Immigration)/Principal Migration Officer (Integrity)
Department of Immigration and Border Protection
Australian High Commission, New Delhi

P: s. 22(1)(a)(ii)
M: s. 22(1)(a)(ii)
F: +91 11 2688 7536
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.border.gov.au | www.india.embassy.gov.au

E-lodgement
Online lodgement of visitor visa applications is the most convenient and fastest option available to nationals of India, Nepal, Bangladesh and Bhutan.
http://www.border.gov.au/Trav/Visa-1/600-/Visitor-e600-visa-online-applications

---

From: s. 22(1)(a)(ii)
Sent: Friday, 6 October 2017 9:58 AM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii)
>
Subject: Penal/police checking in Nepal for s. 47F(1) refugees PY2017-18 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(

I apologise as s. 22(1)(a)(ii) wrote this some time ago, and I did not forward it on to you.

We are writing to seek your approval to waive penal clearances for s. 47F(1) RSHP clients IN 2017-18, noting that the previous approval was valid till 30 June 2017. The approval would cover penal clearances for **Nepal and India, for** s. 47F(1) **refugees residing in Nepal** from 1 July 2017 – 30 June 2018 and our total indicative allocation at present is 200 grants for the PY.

The situation for the s. 47F(1) refugee cohort remains mostly the same as detailed in my original email to you dated 22 February 2017 (in trail). An update on both cohorts is provided below for your consideration:

- **Refugee**
  - Indicative allocation for 2017-18 is **70 grants**.
  - The UNHCR have ceased bulk referrals of these cases but may seek approval from Post to refer exceptional cases on a case by case basis – they have flagged one possible case so far.
  - The referral and character vetting process undertaken by the UNHCR will remain the same. If we are unable to interview in person (subject to budget), we will undertake interviews by video-conference and have the clients provide their biometrics data at the VFS in Kathmandu prior to grant.
  - All applicants we expect to grant in 2017-18 (with the exception of the 1 additional case flagged) have already been referred, interviewed and assessed in. None have any known character concerns and we will check with the UNHCR for any updates prior to grant, as always. Those referred by the UNHCR in the last batch with character concerns have been refused or are pending refusal.

- **SHP**
  - Indicative allocation for 2017-18 is **130 grants**.
  - The process will remain the same and the UNHCR have agreed to continue supporting the

character vetting process for this cohort, in the absence of a formal police checking option.

- Our preference remains to interview this cohort personally to mitigate risks which is our position to HQ however, this is subject to budget approvals. If we are unable to interview in person, we will interview by VC and have the clients provide biometrics at VFS Kathmandu prior to grant.

We have recently received advice from UNHCR Damak detailing the known character concerns of refugees who have applications with us under the SHP program and note a significant number of cases of concern. However, we are confident that this means UNHCR are reasonably well advised about offences committed by the cohort and we will not be proceeding to grant in cases where there are significant concerns.

As previously agreed, the exceptions to the blanket waiver will remain as below:

- All non-s. 47F(1) spouses – we will continue to request for PCCs for Nepalese and Indian spouses
- s. 47F(1) clients who have spent more than 12 months in the last 10 years in countries **other than Nepal and India** – we will request for PCCs and if required, escalate on a case-by-case basis for approval to the PMOI
- Any client who has an allegation or any adverse information from the UNHCR or any other source – most, if not all, of these cases are refused and if being considered for grant, we will escalate on a case-by-case basis for approval to the PMOI

Please let us know if you require any additional information.

s. 22(1)(a)(ii) – thanks for putting this together.

s. 22(1)(a)(ii)
Senior Migration Officer
Family and Humanitarian Migration
Department of Immigration and Border Protection
Australian High Commission, New Delhi
Phone: s. 22(1)(a)(ii)
Fax: +91 11 2688 7536
Email: s. 22(1)(a)(ii) @dfat.gov.au
Web: www.border.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
Sent: Wednesday, 22 February 2017 3:11 PM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii)
>
Subject: RE: Penal/police checking in Nepal for s. 47F(1) refugees [DLM=For-Official-Use-Only]

Hi s. 22(1)(a)(ii)

Given these clients are in the same circumstance, I agree to a waive of penal clearance for these clients for this program year.

Regards

s. 22(1)(a)

s. 22(1)(a)(ii)
First Secretary (Immigration)/Principal Migration Officer (Integrity)
Department of Immigration and Border Protection
Australian High Commission, New Delhi

P: s. 22(1)(a)(ii)
M: s. 22(1)(a)(ii)
F: +91 11 2688 7536
E: s. 22(1)(a)(ii)@dfat.gov.au
W: www.border.gov.au | www.india.embassy.gov.au

Compliments and Complaints
Your compliments and complaints provide us with information to help improve the quality of our services. Please contact us using the online form available from our website:
http://www.border.gov.au/contacts/forms/services/

From: s. 22(1)(a)(ii)
Sent: Wednesday, 22 February 2017 8:18:06 PM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: Penal/police checking in Nepal for s. 47F(1) refugees [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks so much for this s. 22(1), much appreciated.

With regards to PCCs for India for the s. 47F(1) refugee/SHP cohort, would you consider a similar blanket penal waiver given that there is also no current method for these clients to obtain a clearance from the relevant authorities here? Or would you prefer for us to refer these to you for your consideration individually? On average, we process around 10 applicants requiring this waiver per programme year.

Grateful for your consideration please.

Thanks,
s. 22(1)(a)(ii)

From: s. 22(1)(a)(ii)
Sent: Wednesday, 22 February 2017 1:07 PM

To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: Penal/police checking in Nepal for s. 47F(1) refugees [DLM=For-Official-Use-Only]

Hi s. 22(1)(a)(ii)

Many thanks for this information.

For refugee s. 47F(1) applicants residing in Nepal, on the basis that we receive RRFs from UNHCR and we conduct thorough interviews, I waive the requirement for a penal clearance from Nepal for this program year. I note there is no current method for these clients to obtain a clearance from relevant authorities.

For SHP s. 47F(1) applicants residing in Nepal, on the basis that we undertake thorough interviews, have previously assessed the relevant inviter and receive information from UNHCR, I waive the requirement for a penal clearance from Nepal for this program year. I note there is no current method for these clients to obtain a clearance from relevant authorities.

In both circumstances, this does not apply to clients where we have received an allegation or further adverse information from UNHCR or any other source, without further investigation.

Regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)
First Secretary (Immigration)/Principal Migration Officer (Integrity)
Department of Immigration and Border Protection
Australian High Commission, New Delhi

P: s. 22(1)(a)(ii)
M: s. 22(1)(a)(ii)
F: +91 11 2688 7536
E: s. 22(1)(a)(ii)@dfat.gov.au
W: www.border.gov.au | www.india.embassy.gov.au

Compliments and Complaints
Your compliments and complaints provide us with information to help improve the quality of our services. Please contact us using the online form available from our website:
http://www.border.gov.au/contacts/forms/services/

From: s. 22(1)(a)(ii)
Sent: Wednesday, 22 February 2017 3:12:12 PM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: FW: Penal/police checking in Nepal for s. 47F(1) refugees [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1),

Re-sending the amended request for a blanket penal waiver for Nepal and India, for s. 47F(1) refugees in Nepal. Grateful for your consideration please.

Background

The Australian government has been resettling s. 47F(1) refugees from Nepal through the Refugee program since 2007 and intends to continue resettling refugees from this cohort in 2017 through the UNHCR-referred Refugee/Woman-at-Risk programme and the Special Humanitarian Programme to allow s. 47F(1) refugees in Nepal to reunite with family already resettled to Australia. Post expects to grant approximately 460 more visas by June 2017 and may finalise 100-200 more visas from July-December 2017.

Since 2007, New Delhi post has sought policy approval annually for a blanket penal waiver for s. 47F(1) refugees for Nepal – please see attached emails *'RE: Request for blanket penal waiver for* s. 47F(1) *refugees for 2015'* which further have approvals from 2012-2015 attached. This policy decision was made because it is not possible for s. 47F(1) refugees to be provided with a penal clearance certificate from the relevant Nepalese authorities. As processing of applications from s. 47F(1) refugees is continuing, we are seeking to extend this waiver until at least the end of December 2017.

In February 2016, Post received Nepalese PCCs issued by local district authorities for 3 s. 47F(1) SHP applicants. Clarification was sought from the UNHCR and they confirmed that these PCCs were not acceptable as PCCs have to be issued in Kathmandu to be valid and that this process was not open to s. 47F(1) refugees – please see email *'RE: Nepalese PCC for* s. 47F(1) *refugee'*.

Post-UNHCR verification process

Post relies on the UNHCR to provide all information relating to character concerns on record for UNHCR-referred refugees. If any information is available, it is routinely included in the Refugee Resettlement Form (RRF) provided by the UNHCR at the time of referral. Post assesses this information before formally accepting referrals. Of the 400+ refugees referred to Post in December 2016, referrals for 24 applicants were declined by Post due to significant character concerns.

Post also refers all SHP applicants to the UNHCR for character verification prior to scheduling for interview. Due to privacy limitations, the UNHCR indicates to Post if a client has been verified as eligible for resettlement by the UNHCR and the resettlement-eligibility determination conducted by the UNHCR includes a character assessment. Where a client is not eligible for resettlement, the UNHCR provides a generic statement explaining why and if the allegations have been confirmed. Post usually refuses SHP applicants deemed ineligible for resettlement by the UNHCR. If the nature of the information provided is not significant and the allegations not confirmed, Post liaises with Character Section for advice.

It appears that there are some limitations to the information UNHCR may provide. For instance, in the last mission, 2 out of 15 SHP applicants referred to us by the OHPC in January 2017 could not be vetted by the UNHCR. The UNHCR clarified that only clients who had expressed an

interest to resettle before UNHCR resettlement referrals ceased on 31 December 2016 would have had their eligibility assessed and information on record shared with us. In one of these cases the UNHCR has subsequently advised that a dependent applicant was considered ineligible for settlement for fraud (further details not received), and in a separate case which was assessed by UNHCR before 31 December 2016 it appears that information about a pending criminal matter was omitted but this was subsequently raised at interview by the client. On follow up with the UNHCR, they conducted additional checks and confirmed the information was true however, they did not have this information at the time we requested for a check. As such it appears that the information provided by UNHCR on SHP cases may not be current as the UNHCR would not conduct subsequent checks if the client was not being considered for UNHCR referral.

For your further consideration, given that referral activity by UNHCR has now ceased, they may not be able to provide character information for future SHP cases who have not previous expressed an interest in resettlement as they will no longer have the resources to conduct this check. Alternative avenues may have to be explored.

UNHCR character verification process – Nepal (information as provided by the UNHCR)
UNHCR do not systematically conduct character verification for s. 47F(1) refugees in Nepal. However, as part of the protection mandate, from time to time UNHCR undertakes visits to detention centers or get the list of detainees/prisoners, as well as court list for individuals in litigation in the various instances of the judicial system in Nepal. The purpose is to verify if there are any refugees involved in litigation. This enables UNHCR to track protection issues and ensure that the refugees have access to due process. During this process, the UNHCR's implementing partner (NBA) lawyers have access to all information relating to refugee litigants, which they share with UNHCR. NBA also support the refugee litigant to collect the final verdict at the end of the judicial process.

Please note that the process is not at all times smooth, there are some cases for which there is very limited information and the final verdicts have not been obtained because the records are reported to not exist.

All information on character concerns known to UNHCR are recorded in the databases and systematically shared with the resettlement countries, including a copy of the final verdict if available.

Character verification process for other resettlement countries
According to the UNHCR, the US conducts security checks in Nepal, but do not involve the GoN. Canada and NZ have not asked for police certificates before.

UNHCR character verification process - India
The UNHCR do not have a mechanism in place to carry out similar character verification activities in India.

History of Indian penal waivers for s. 47F(1) refugees
Post used to seek individual penal waivers for s. 47F(1) refugees who had spent time in India from the PMOI. On average, we have processed 10-20 individual penal waivers for India per programme year since 2012.

In December 2015, then-PMOI s. 22(1)(a)(ii) recommended that we seek a blanket penal waiver for India for the same s. 47F(1) refugee cohort – attached is my email '*RE: Request for blanket penal waiver for* s. 47F(1) *refugees in Nepal'* sent to Character Section on 5/1/2016 and their response approving the penal waiver for Nepal and India *'Re:* s. 47F(1) *refugees'*.

At interview, all applicants are instructed to declare all instances of criminal convictions, arrests and any time spent in jail. It is explained that any adverse information discovered that isn't declared could result in the refusal of the application. All applicants above 16 are also requested to sign a Character Statutory Declaration. All Nepalese/Indian wives of male s. 47F(1) refugees are expected to submit PCCs for Nepal and other applicable countries as per the standard process.

Based on the information above and the background of blanket penal waivers for this cohort, we would like to seek your approval to extend the blanket penal waiver for India and Nepal, for the s. 47F(1) refugee cohort until December 2017.

If you require any additional information, please let us know.

Kind regards,

s. 22(1)(a)(ii)
Senior Visa Officer
Family Migration and Humanitarian Team
Department of Immigration and Border Protection
Australian High Commission, New Delhi
Fax: + 91 11 2688 7536
Email: s. 22(1)(a)(ii) @dfat.gov.au
Web: www.border.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
Sent: Wednesday, 15 February 2017 2:19 PM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)

Subject: RE: Penal/police checking in Nepal for s. 47F(1) refugees [DLM=For-Official-Use-Only]

For-Official-Use-Only

s. 22(1)(a)(ii)

s. 22(1)(a)(asked for more information re UNHCR screening and the clients' circumstances before she will consider the waiver.

Could you please discuss with s. 22(1)(a)(ii) (she knows what s. 22(1)(a)(is after) and draft a more detailed submission for s. 22(1)(a)(to review.

Regards

s. 22(1)(a)(ii)
Second Secretary (Immigration)
Department of Immigration and Border Protection
Australian High Commission, New Delhi
Ph s. 22(1)(a)(ii)
Fax +91 11 2688 7536
Email s. 22(1)(a)(ii) @dfat.gov.au
Web www.border.gov.au | www.india.embassy.gov.au

Compliments and Complaints

Your compliments and complaints provide us with information to help improve the quality of our services. Please contact us using the online form available from our website: http://www.border.gov.au/about/contact/provide-feedback

Emails exceeding file size of 10mb

Please note that we are unable to accept emails with a total file size larger than 10mb. Under current arrangements, no notification will be generated for emails exceeding 10mb which are not successfully received.

Disclaimer

This e-mail message and any attached files may contain information that is copyright or confidential. It has been prepared for the private and confidential use of the intended recipient and may not be disclosed to anyone else. Any review, re-transmission, disclosure, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is unauthorised. If you have received this e-mail in error, please notify us immediately at enquiry-india@border.gov.au and delete this e-mail together with any attachments.

From: s. 22(1)(a)(ii)
Sent: Monday, 13 February 2017 4:34 PM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: Penal/police checking in Nepal for s. 47F(1) refugees [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1 ,

Just following up on the blanket penal waiver request below as a number of applicants from the recent mission are ready for grant and we expect to grant 466 more visas to this cohort until June. All applicants have been screened by the UNHCR to ensure that there are no character concerns on record.

Please let me know if you require any additional information.

Thanks and regards,
s. 22(1)(a)(ii)

From: s. 22(1)(a)(ii)
Sent: Wednesday, 18 January 2017 4:01 PM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: Penal/police checking in Nepal for s. 47F(1) refugees [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1,

Just following up on the blanket waiver request for PCCs in Nepal and India for s. 47F(1) refugees - all related emails are attached.

We will be finalising about 470 RSHP visas to s. 47F(1) refugees after the interview mission in February so just wanted to confirm whether a new blanket waiver has been exercised or if the original waiver has been extended for this cohort beforehand.

Thanks so much,
s. 22(1)(a)(ii)

From: s. 22(1)(a)(ii)
Sent: Friday, 21 October 2016 1:52 PM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: FW: Penal/police checking in Nepal for s. 47F(1) refugees [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1,

Please see the UNHCR's comments below regarding the US, Canada and NZ's penal requirements for the s. 47F(1) cohort in Nepal. Is there anything you'd like to have clarified or have more information about?

Regards,

s. 22(1)(a)(ii)
Senior Visa Officer
Family Migration and Humanitarian Team
Department of Immigration and Border Protection
Australian High Commission, New Delhi

Fax: + 91 11 2688 7536
Email: s. 22(1)(a)(ii) @dfat.gov.au
Web: www.border.gov.au | www.india.embassy.gov.au

Compliments and Complaints

Your compliments and complaints provide us with information to help improve the quality of our services. Please contact us using the online form available from our website: http://www.immi.gov.au/contacts/forms/services/

Emails exceeding file size of 5mb

Please note that we are unable to accept emails with a total file size larger than 10mb. Under current arrangements, no notification will be generated for emails exceeding 10mb which are not successfully received.

Disclaimer

From: s. 22(1)(a)(ii)]
Sent: Friday, 21 October 2016 11:44 AM
To: s. 22(1)(a)(ii)
Subject: RE: Penal/police checking in Nepal for s. 47F(1) refugees [DLM=For-Official-Use-Only]

Dear s. 22(1)(a)(ii), US does not require police certificates from countries of asylum. They do security checks, but do not involve the GoN. Canada and NZ have not asked for police certificates before.

Regards

s. 22(1)(a)(ii)

From: s. 22(1)(a)(ii) @dfat.gov.au]
Sent: 14 October 2016 10:04
To: s. 22(1)(a)(ii) @unhcr.org>
Subject: Penal/police checking in Nepal for s. 47F(1) refugees [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii),

Hope you are well.

I was hoping you'd be able to shed some light on the penal/police checking processes in Nepal of other resettlement countries for the s. 47F(1) refugees.

I have contacted the Americans in regards to this previously and they were going to get back to me but have not despite a follow-up - they must be busy with their multiple missions this year.

Till date, we have waived the penal checking requirement for s. 47F(1) refugees in Nepal as they are not able to obtain police clearance certificates from the Nepalese authorities. Can you confirm if other resettlement countries have a similar approach to ours?

Thanks and regards,

s. 22(1)(a)(ii)
Senior Visa Officer
Family Migration and Humanitarian Team
Department of Immigration and Border Protection
Australian High Commission, New Delhi
Fax: + 91 11 2688 7536
Email: s. 22(1)(a)(ii) @dfat.gov.au
Web: www.border.gov.au | www.india.embassy.gov.au

Compliments and Complaints

Your compliments and complaints provide us with information to help improve the quality of our services. Please contact us using the online form available from our website: http://www.immi.gov.au/contacts/forms/services/

Emails exceeding file size of 5mb

Please note that we are unable to accept emails with a total file size larger than 10mb. Under current arrangements, no notification will be generated for emails exceeding 10mb which are not successfully received.

Disclaimer

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: Query re "Split Family" Applications and subclass changes [DLM=For-Official-Use-Only]
Date: Wednesday, 26 September 2018 3:30:29 PM

For-Official-Use-Only

Thanks s. 22(1)(a)(ii). I will finalise shortly.

s. 22(1)(a)(ii) – please TRIM the advice to our policy TRIM file.

s. 22(1)(a

From: s. 22(1)(a)(ii)
Sent: Wednesday, 26 September 2018 10:57 AM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>
Subject: RE: Query re 'Split Family' Applications and subclass changes [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(

I have changed the subclass for all the five applications and have also updated the case notes regarding the change from XB 202 to XB 200.

Regards
s. 22(1)(a)(ii)
Visa Officer | Family Migration and Humanitarian Team
Visa & Citizenship Services
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

E-lodgement
Online lodgement of visitor visa applications is the most convenient and fastest option available to nationals of India, Nepal, Bangladesh and Bhutan.
http://www.homeaffairs.gov.au/Trav/Visa-1/600-/Visitor-e600-visa-online-applications

From: s. 22(1)(a)(ii)
Sent: Wednesday, 26 September 2018 6:58 AM

To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii)
>
Subject: RE: Query re 'Split Family' Applications and subclass changes [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii),

Thanks so much for your super quick response!

s. 22(1)(a)(ii) – please change the subclass to 200 so I can finalise today.

Thanks,

s. 22(1)(a)(ii)

Senior Migration Officer (Migration and Citizenship)
Second Secretary
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Sent: Wednesday, 26 September 2018 6:35 AM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii)
>
Subject: RE: Query re 'Split Family' Applications and subclass changes [DLM=For-Official-Use-Only]

For-Official-Use-Only

s. 22(1)(a),

Thanks for your query.

There are various explanations for the conversion of a subclass 200 split family application to subclass 202, e.g.

- the erroneous belief that all split family is subclass 202
- the practice in 2013-14 and 2014-15 of processing subclass 200 applications as subclass

202 applications with applicants' consent for a quicker outcome and to meet new program priorities after the change of government, though I take it there's no evidence this happened in this case, and certainly no need now.

As you note, though, split family of subclass 200 should be processed for subclass 200 visas.

Regards,

s. 22(1)(a)(ii)

Offshore Humanitarian Program Section
Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii) @homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Tuesday, 25 September 2018 10:11 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) >
Subject: Query re 'Split Family' Applications and subclass changes [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi all,

We have a 'split family' case (5 primary applicants) ready for decision.

File references 2015/000093-66, 99; lodged in February 2015.

The five primary applicants are s. 47F(1) proposed by their mother (CID s. 47F(1)) who was granted an XB200 in 2012 as a dependent on her husband's XB200 application (husband is step-father to primary applicants applying as split family members).

I can see from the notes from OHPC in March 2015 that the five applications were converted from subclass 202 to 200. It appears from Post's IRIS notes in May 2017 that the applications were converted back to subclass 202 on receipt at Post but with no notes as to why.

Current PAM clearly states that if the proposer holds or held an XB-200 visa, the split family application must be considered under XB-200.

Was there any policy around at the time (March 2015 and May 2017) that would warrant/explain the confusion in the conversion of the subclass? If not, I will process the five applicants under subclass XB200 as per PAM.

Thanks as always,

s. 22(1)(a)(ii)

Senior Migration Officer (Migration and Citizenship)
Second Secretary
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: FW: Query regarding custody for a s. 47F(1) minor - s. 47F(1) [SEC=UNCLASSIFIED]
Date: Thursday, 27 September 2018 10:13:27 AM

UNCLASSIFIED

FYI and for TRIM

From: s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>
Sent: Thursday, 27 September 2018 5:26 AM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) ; s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) >
Subject: RE: Query regarding custody for a s. 47F(1) minor - s. 47F(1) [SEC=UNCLASSIFIED]

UNCLASSIFIED
Hi s. 22(1)(a)(ii)

Thanks for this. Given the question relates to custody I must defer to the relevant policy owner as it how it should be applied. It sounds to me that you have drawn a conclusion that the circumstances presented fall within scope (if not the letter of the law by omission of a key document) of local customary conventions around custody arrangements. I would suggest that your position is reasonable and arguable and in this case and likely meets the intent of the PIC, particularly in the context of length of time elapsed in this case and support from a credible third party.

I guess there is also some mitigation in that the father could join the family unit through the split family provisions (through his confirmed relationship with the child) although this in itself is not relevant to interpreting the PIC

Cheers,
s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Wednesday, 26 September 2018 3:38 PM
To: s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>
Cc: s. 22(1)(a)(ii) >; s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) >
Subject: FW: Query regarding custody for a s. 47F(1) minor - s. 47F(1) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s. 22(1)(a)(ii),

Not sure if you've had a chance to read the response from Family Program Management below, but I wanted to seek you final views before I proceed with the XB202 application.

In regards to local laws on custody in s. 47F(1), Post understands custody of children is normally mutually agreed by the separating couple. In s. 47F(1), a marriage ceremony is not required under s. 47F(1) customary law to constitute a valid marriage. Mutual consent normally brings a marriage to an end. In such cases the couple can end the marriage without going to court or administrative authorities. For the s. 47F(1), it appears that customary laws have the force of law. Where there is a mutual divorce, the rights to custody of children depend upon the arrangement made at the time of divorce. Normally the parents arrange and agree on this. The children are bound by the arrangements made by their parents at the time of divorce regarding the custody of the children.

If there are any questions regarding the custodial rights or the couple cannot reach an amicable end by themselves then they have to be referred to the Guardians and Wards Act and not the s. 47F(1) customary laws. For the courts the welfare of the child is of the most paramount consideration in custody proceedings (international obligations embedded in 1993 laws).

We have noticed through experience that since a marriage can be ended mutually the clients may provide a letter from Community leaders stating that the couple have separated and who has custody. While not provided in this instance, given the time lapse since separation, UNHCR have confirmed the client's claims.

Noting this, where we have done what we can to obtain consent from the other parent and we are satisfied it is not possible, and have no evidence to suggest the applicant is providing us with false/misleading information, we are inclined to take a broader view and accept that the applicant has sole custody of the child.

Grateful for any final thoughts you might have,

s. 22(1)(a)(ii)

Senior Migration Officer (Migration and Citizenship)
Second Secretary
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Sent: Tuesday, 25 September 2018 6:55 AM
To: s. 22(1)(a)(ii) @dfat.gov.au>

Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii)
>
Subject: RE: Query regarding custody for a s. 47F(1) minor - s. 47F(1)
[SEC=UNCLASSIFIED]

UNCLASSIFIED
Dear s. 22(1)(a)(ii)

Thanks for sending this through.

PICs 4015 and 4017 exist in the

Migration Regulations to ensure that Australia meets its obligation under the Hague Convention on the Civil Aspects of International Child Abduction. However, as you have noted, in very limited circumstances officers outside Australia may consider that Australia's obligations under UN Convention of the Rights of the Child should outweigh its obligations under The Hague Convention. In this case, in the absence of any reports of domestic violence, there does not appear to be a strong case for officers to consider the rights of the child outweigh the rights/responsibilities of the parent and, as you have noted, these cases are rare.

In order to ensure that custody and access rights are respected and in accordance with *Schedule 4,* PICs 4015 and 4017 require the Minister to be satisfied that either:

- each person who can lawfully determine where the applicant is to live consents to the grant of the visa or the law of the applicant's home country permits the removal of the applicant; or
- the law of the applicant's home country permits the removal of the applicant

If the father cannot be located and permission is not forthcoming, officers should closely assess local law to determine if the mother, who was unmarried at the time of the child's birth, has the sole right to decide the child's residence. If it is the case that the unmarried mother shares responsibility for the child with the father, we will need to take all circumstances (such as those where a father has abandoned their family) into consideration before determining whether or not the PIC has been met.

Kind regards
s. 22(1)

.....
s. 22(1)(a)(ii)
Family Migration Program Management Section
Skilled & Family Visa Program Branch
Immigration & Visa Services Division
Immigration & Citizenship Services
Department of Home Affairs

UNCLASSIFIED

From: s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Sunday, 23 September 2018 4:03 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii)
Subject: Query regarding custody for a s. 47F(1) minor - s. 47F(1)
[SEC=UNCLASSIFIED]

UNCLASSIFIED

Good afternoon colleagues,

We seek your specialist advice on custody issues. I note the query is in relation to a XB202 Special Humanitarian visa application, however as you can see from the exchange with the Ref&Hum team onshore, we would appreciate your advice as it relates to the definition of custody.

In brief, the main applicant has included her s. 47F(1) child. The main applicant, s. 47F(1), declared during her interview that she was in a de facto relationship in 2010 with s. 47F(1) until he went missing. She stated that he told her that he was going out to work so that he could save money for their wedding. The applicant further declared that she was 7-8 months pregnant at the time when s. 47F(1) left. She has not specifically stated that he abandoned her or if something happened to him due to which he could not return. She stated that he was in contact with her for two months after he left but after that he stopped contacting her and she does not know his whereabouts. She has declared that she has the custody of the child.

The details of the main applicant are:

Name: s. 47F(1)
File No: s. 47F(1)
UNHCR ID: s. 47F(1)

We wrote to UNHCR asking for any information they may hold in regard to this matter and they responded by stating that they hold a copy of the child's birth certificate confirming that the father was s. 47F(1) and the information the applicant provided us about him going missing is consistent with the information provided to UNHCR. UNHCR also confirmed that they have received several applications from the applicant stating the hardship of raising the child as a single mother.

In order for this application to be processed we need to decide whether the applicant has sole custody of the child taking into consideration that there is no substantial evidence that the father of the child has disappeared and his whereabouts are unknown, other than the cross-checking of information held by UNHCR.

Can we apply the policy on Reg.1.03 and custody versus best interests of the child (copied below) to this scenario?

Reg.1.03

Conflict between custody rights and best interests

Policy background

Weighing the obligations

It is accepted that, in very limited circumstances, officers outside Australia may consider that Australia's obligations under the UN Convention on the Rights of the Child should outweigh its obligations under The Hague Convention on the Civil Aspects of International Child Abduction.

Cases may arise, for example, where the child, applying as a member of the family unit of an offshore humanitarian visa applicant, is reasonably considered to be in danger from the other parent or the situation from which the applicant is seeking refuge. Such cases may arise, for example, in the Woman at risk (XB-204) visa program.

Even in such cases, officers cannot ignore the custody rights (or similar) rights/responsibilities that the other parent might have.

However, under policy, it is reasonable for officers to consider that the rights of the child outweigh the rights/responsibilities of the parent and that, for this reason, consider granting the child a visa (provided all visa requirements are met).

It must be stressed that such cases are expected to arise only rarely.

Referral to National Office

In specific cases, officers should seek further advice from this instruction's owner, providing all case details, including:

- *the reasons for the absence of consent of the other parent and*
- *the dangers faced by the child and*
- *the age of the child and*
- *depending on the child's age, where (and with whom) the child has indicated they prefer to live.*

Your advice we allow us progress other similar cases where one parent is not available due to being missing or has divorced and not maintained contact with the parent and child resettling in Australia.

Thanks in advance,

s. 22(1)(a)(ii)

Senior Migration Officer (Migration and Citizenship)
Second Secretary
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
Sent: Thursday, 13 September 2018 3:55 PM
To: s. 22(1)(a)(ii)
>
Cc: s. 22(1)(a)(ii) >; s. 22(1)(a)(ii)
@dfat.gov.au>
Subject: RE: ADVICE - Query regarding custody for a s. 47F(1) minor - s. 47F(1)
[SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s. 22(1)(a)(ii),

Thanks for the quick response! We will write to Family Policy and copy you in.

s. 22(1)(a)(ii) – FYI.

s. 22(1)(a)(ii)

Senior Migration Officer (Migration and Citizenship)
Second Secretary
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Sent: Thursday, 13 September 2018 12:41 PM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii)
@border.gov.au>
Subject: RE: ADVICE - Query regarding custody for a s. 47F(1) minor - s. 47F(1)
[SEC=UNCLASSIFIED]

UNCLASSIFIED
Hi s. 22(1)(a)(ii)

Thanks for this. About 18 months ago we had some discussions with Family Policy concerning application of the custody PIC for our caseload (how sc204 often couldn't meet the strict requirements of the PIC and no waiver provision etc) At that time we came up with the process outlined in the Custody definition PAM you have highlighted below. We sent a message out to posts at the time letting them know that if you had any complex custody cases that looked to be legitimate (not attempting to take a child from another parent) to let us know and we will

forward to Family.

I suggest you ask Family policy directly and copy the our helpdesk in for visibility (and so we can see outcomes).

Anyway , my understanding is the intention is for cases with domestic violence and where the claim relates to those issues, therefore it would be inappropriate and dangerous for the applicant to attempt to gain consent from the other responsible parent. Whether it can be applied more broadly in cases were the father has lost contact or is missing is yet to be tested (but I tend to agree that , while not specific, the below advice suggests this should be restricted to DV type cases) . However it is open for you to ask Family policy how they wish to interpret their own policy position. I'd imagine that they would like to have a BID from UNHCR for starters and some evidence that the husband is indeed missing, possibly a statement from UNHCR. My personal view is that there should be scope to extend this broader consideration to our applicants who have a missing spouse and all evidence suggests the situation hasn't been contrived to remove the child from the other parent.

Cheers
s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Wednesday, 12 September 2018 6:05 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>
Subject: ADVICE - Query regarding custody for a s. 47F(1) minor - s. 47F(1) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hello Helpdesk

I am writing in regard to a XB202 case regarding custody rights.

The below is a summary of the concerns of this XB202 application

The composition of this application is the main applicant and her s. 47F(1) child. The main applicant, s. 47F(1) declared during her interview that she was in a de facto relationship in 2010 with s. 47F(1) until he went missing. She stated that he told her that he was going out to work so that he could save money for their wedding. The applicant further declared that she was 7-8 months pregnant at the time when s. 47F(1) left. She has not specifically stated that he abandoned her or if something happened to him due to which he could not return. She stated that he was in contact with her for two months after he left her but after that he stopped contacting her and she does not know his whereabouts. She has declared that she has the custody of the child.

The details of the main applicant are:

Name: s. 47F(1)
File No: s. 47F(1)
UNHCR ID: s. 47F(1)

In this regard we wrote to UNHCR asking for any information they may hold in regard to this matter and they responded by stating that they hold a copy of the child's birth certificate confirming that the father was s. 47F(1) and the information the applicant provided us about him going missing is consistent with the information provided to UNHCR. UNHCR have also confirmed that they have received several applications from the applicant stating the hardship of raising the child as a single mother.

UNHCR have advised that they have also asked protection colleagues to enquire through their implementing partner to find out about her living condition and any information they might have pertaining to s. 47F(1) but this may take some time.

Recommendation:

My approach for this application is that I would like to recommend that we accept that the applicant has the sole custody of the child. There is no evidence available to the Department regarding the whereabouts of the father inspite of contacting UNHCR who have confirmed that they hold the same information as provided by the applicant. I refer to Reg.1.03 which covers custody rights and best interests and suggest that, taking this regulation into consideration, the custody rights for the child be considered with the applicant.

Reg.1.03

Conflict between custody rights and best interests

Policy background

Weighing the obligations

It is accepted that, in very limited circumstances, officers outside Australia may consider that Australia's obligations under the UN Convention on the Rights of the Child should outweigh its obligations under The Hague Convention on the Civil Aspects of International Child Abduction.

Cases may arise, for example, where the child, applying as a member of the family unit of an offshore humanitarian visa applicant, is reasonably considered to be in danger from the other parent or the situation from which the applicant is seeking refuge. Such cases may arise, for example, in the Woman at risk (XB-204) visa program.

Even in such cases, officers cannot ignore the custody rights (or similar) rights/responsibilities that the other parent might have.

However, under policy, it is reasonable for officers to consider that the rights of the child outweigh the rights/responsibilities of the parent and that, for this reason, consider granting the child a visa (provided all visa requirements are met).

It must be stressed that such cases are expected to arise only rarely.

Referral to National Office

In specific cases, officers should seek further advice from this instruction's owner, providing all

case details, including:

- *the reasons for the absence of consent of the other parent and*
- *the dangers faced by the child and*
- *the age of the child and*
- *depending on the child's age, where (and with whom) the child has indicated they prefer to live.*

I am, though, not sure that this would be considered the right approach as the regulation states that '*such cases are expected to arise only rarely'.*

I will be grateful for your advice on how we should assess this application further and should the custody rights for the child be considered to be with the mother.

Regards

s. 22(1)(a)(ii)
Senior Visa Officer (Family Migration and Humanitarian Team)
Visa & Citizenship Services
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au

W: www.homeaffairs.gov.au | www.india.embassy.gov.au

E-lodgement
Online lodgement of visitor visa applications is the most convenient and fastest option available to nationals of India, Nepal, Bangladesh and Bhutan.
http://www.homeaffairs.gov.au/Trav/Visa-1/600-/Visitor-e600-visa-online-applications

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: FW: CIRST update: s. 47F(1) passports [DLM=For-Official-Use-Only]
Date: Wednesday, 7 November 2018 5:52:35 PM

For-Official-Use-Only

Hi s. 22(1)(a)(ii),

FYI and for TRIM to our policy file.

s. 22(1)(a

From: s. 22(1)(a)(ii)
Sent: Wednesday, 7 November 2018 12:22 PM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) >; s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) >
Subject: RE: CIRST update: s. 47F(1) passports [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks s. 22(1,

This didn't come up in our last interview mission and I suspect it won't in this year's mission either for the reasons you note below. Of course I'll provide any updates that arise.

Thanks,

s. 22(1)(a

From: s. 22(1)(a)(ii)
Sent: Tuesday, 6 November 2018 3:33 PM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) >; s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) >
Subject: CIRST update: s. 47F(1) passports [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a

s. 33(a)(iii)

s. 33(a)(iii)

[redacted]

s. 33(a)(iii)

[redacted]

s. 47F(1)

[redacted]. She said that younger people were more and more keen to take out citizenship given the job prospects and other opportunities this offered. She stated that AI is keen to recruit from the North East, given their hard work ethic and also recruit s. 47F(1), but they are prevented from hiring them if they are stateless.

Given the majority of your clients would not meet the requirements as they had not been born in India during this time, the recent passport issuance will have little effect on your program. Processing is still so haphazard and arduous, it could easily be argued that as yet, this is not a viable solution.

Regards

s. 22(1)(a)(ii)

First Secretary (Immigration and Border Protection)
Department of Home Affairs
Australian High Commission, New Delhi

P: s. 22(1)(a)(ii)
M: s. 22(1)(a)(ii)
F: +91 11 2688 7536
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
Sent: Tuesday, 6 November 2018 3:18 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) >
Subject: Update request: CIRST India [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear Colleagues

Please find attached a revision of Chapters 2 (India Document Verification) and 3 (India education and student visas) of the India CIRST document.

The main change is the addition of a new entry in the doc section on documents provided to s. 47F(1) in India and a section in students about medical students / qualifications. We have also taken the opportunity to update the remaining sections of these two chapters.

As per previous requests, we have marked the changes in track changes and the new parts are marked according.

Please let me know if you require additional information.

Regards,

s. 22(1)(a)(ii)
First Secretary (Immigration and Border Protection)
Department of Home Affairs
Australian High Commission, New Delhi

P: s. 22(1)(a)(ii)
M: s. 22(1)(a)(ii)
F: +91 11 2688 7536
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: FW: Information Regarding RE: Request for advice: CBD application with bogus birth certificate for non-citizen mother of applicant [DLM=For-Official-Use-Only]
Date: Thursday, 8 November 2018 12:15:33 PM

For-Official-Use-Only

FYI – I am going to speak to s. 22(1)(a)(ii) before proceeding.

Please TRIM the below email trail to our policy folder.

s. 22(1)(a

From: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Sent: Wednesday, 7 November 2018 9:03 AM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Subject: Information Regarding RE: Request for advice: CBD application with bogus birth certificate for non-citizen mother of applicant [DLM=For-Official-Use-Only]

Hi s. 22(1)(a)(ii)

Maybe I was being too strict in my first email. I took time to think because the identity of a child hinges on the identity of their parents, particularly the mother. So I take quite a hardline where the mother isn't adequately identified. And this is particularly in relation to surrogacy cases where the surrogate mother's identity is very difficult to discern, as are the circs of the conception and birth, therefore in some cases its appropriate to refuse on identity based on failure to establish who the mother is and how the child has been "obtained".

But I take on board that this is a different case, that the mother and father are married and the child is born of the r/ship....so perhaps should be treated differently...but...

I still have lingering concerns about the failure of the mother to engage with the 309 process and provide the id docs or at least an explanation regarding the fraudulent doc. But I think if you're happy to proceed and satisfied that the app's identity is sufficiently established that the mother's id is not an issue, then I am happy to support that.

So many buts! Not my best grammatical effort!

Regards,
s. 22(1)(a)(ii)

Citizenship Help Desk
Citizenship Operations
Citizenship and Multicultural Programs Branch
Refugee, Citizenship and Multicultural Programs Division
Immigration and Citizenship Services
Department of Home Affairs

>>>> Original request is displayed below

From: "s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Monday, November 05, 2018 09:10 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>, s. 22(1)(a)(ii) @homeaffairs.gov.au>, s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>
Copy To: "s. 22(1)(a)(ii) @dfat.gov.au>, s. 22(1)(a)(ii) dfat.gov.au>
Subject: RE: Request for advice: CBD application with bogus birth certificate for non-citizen mother of applicant [DLM=For-Official-Use-Only]
For-Official-Use-Only

Hi s. 22(1)(a)(ii) ,

Apologies for missing your reply – I was back from two weeks leave and this must have gotten caught in the catch up on my emails.

Regarding your query about the mother's age in the birth certificate and hospital records, the birth certificate lists the mother's name only, not her date of birth. The hospital records list her as s. 47F(1) at time of discharge after the child's birth and s. 47F(1) at time of pre-pregnancy ultrasounds, which would be consistent with the age on her birth certificate and also consistent with my understanding that the hospitals would not necessarily check the genuineness of the age on the birth certificate. I am satisfied that her admission to us in a previous application of her year of birth being s. 47F(1) is the more likely truth.

s. 22(1)(a)(ii) – did you have any further comments? Would policy allow me to refuse based on non-satisfaction of mother's identity? I understood the following provision related to the CBD applicant only.

> *Identity*
> **(3)** The Minister must not approve the person becoming an Australian citizen unless the Minister is satisfied of the identity of the person.

I can't see in Chapter 13 – Identity that there is a provision for the mother's identity to prevent approval but appreciate your advice!

Regards,

s. 22(1)(a)(ii)
Senior Migration Officer (Migration and Citizenship)
Second Secretary
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Sent: Monday, 5 November 2018 12:15 PM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) >
Subject: RE: Request for advice: CBD application with bogus birth certificate for non-citizen mother of applicant

[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii),

I believe my colleague s. 22(1)(a)(ii) (we are both Citizenship Integrity) provided the following advice on 17/10/2018 -also attached for your convenience-.

> Hi s. 22(1)(a)(ii)
>
> From your email, I understand the following, and do please correct me if I am wrong:
>
> - You do not have concerns with the child's birth certificate and the hospital records provided in support of the CBD application
> - You do not have concerns regarding the identity of the child or the responsible parent's Australian citizenship
> - You have sighted evidence of the relationship between the child's parents
>
> Provided you are also satisfied that a parent-child relationship existed between the father and child at the time of her birth, there does not appear to be an issue from integrity's perspective in relation to the child. While I appreciate that the child's mother provided a bogus birth certificate with her previous partner visa application, this should not detract from the fact that the child's identity is supported by her birth certificate and hospital records.
>
> Out of curiosity, does the birth or hospital records list a date of birth for the mother?

I trust you find the above useful and please let me know if I could be of any further assistance.

Regards,
s. 22(1)(a)(ii)

Citizenship Integrity | Citizenship Operations
Citizenship & Multicultural Affairs Programs | Refugee, Citizenship & Multicultural Programs Division
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii) @homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Monday, 5 November 2018 5:36 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>; s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>; s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii) >
Subject: RE: Request for advice: CBD application with bogus birth certificate for non-citizen mother of applicant [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii) and Citz Integrity,

Thank you s. 22(1)(a)(ii) for your clear guidance in this case. I am happy to proceed on the basis that we are not yet satisfied with the mother's identity.

Citz Integrity team – grateful for any additional or alternative views before I proceed?

Regards,

s. 22(1)(a)(ii)

Senior Migration Officer (Migration and Citizenship)
Second Secretary
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
Sent: Tuesday, 16 October 2018 11:40 AM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii)
Subject: RE: Rquest for advice: CBD application with bogus birth certificate for non-citizen mother of applicant [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thank you so much s. 22(1)(a)(ii) is currently on leave. We look forward to the views from citizenship integrity and s. 22(1)(a)(ii).

Regards

s. 22(1)(a)(ii)
Senior Visa Officer (Family Migration and Humanitarian Team)
Visa & Citizenship Services
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au

W: www.homeaffairs.gov.au | www.india.embassy.gov.au

E-lodgement
Online lodgement of visitor visa applications is the most convenient and fastest option available to nationals of India, Nepal, Bangladesh and Bhutan.
http://www.homeaffairs.gov.au/Trav/Visa-1/600-/Visitor-e600-visa-online-applications

From: s. 22(1)(a)(ii) >
Sent: Tuesday, 16 October 2018 6:14 AM
To: s. 22(1)(a)(ii)
@HOMEAFFAIRS.GOV.AU
Cc: s. 22(1)(a)(ii) @dfat.gov.au>; s. 22(1)(a)(ii)
>
Subject: Re: Rquest for advice: CBD application with bogus birth certificate for non-citizen mother of applicant [DLM=For-Official-Use-Only]

Hi s. 22(1)(a)(ii)

Sorry for the delay. I took some time to think about this before I responded because I appreciate that you have no concerns with the child's identity.

The issue for me is, that the child's identity is linked to that of the mother. Therefore it concerns me that she provided that bogus b/c, and didn't respond to the RFI for the 309 for her:
Copy of national ID
Copy of all current and previous passports
SSC registration card
SSC certificate
Historical evidence prior to the applicant's marriage to prove her Identification and Date of Birth including but not limited to - school admission records, medical reports from the time of applicant's birth.

And I think that's a problem and therefore you do need to resolve her identity issues before you accept the child.

I realise this might sound picky, but the identity bar in citizenship is quite high. It has equal weight to the parental r/ship, so in some cases where there's DNA evidence of bio parentage by an A/an citizen, there is still the id barrier and it often means that a cbd app is refused where we can't adequately identity the mother.

And it appears that is where we are with this one. Happy with the dad, happy with the child, but the mother provides a bogus doc - that she's provided previously - and it appears no other identity information. I don't think that is appropriate and I think that where the department has previously identified that information as bogus and not accepted it for visa purposes, we should not be accepting it for citizenship purposes.

s. 22(1)(a)(Citizenship Integrity - I'd be grateful for your thoughts on this.

Regards,
s. 22(1)(a)(ii)
Citizenship Help Desk
Citizenship Operations
Citizenship and Multicultural Programs Branch
Refugee, Citizenship and Multicultural Programs Division
Immigration and Citizenship Services
Department of Home Affairs

The Citizenship Help Desk considers each case on the merits and particular circumstances of the case. Advice contained in this response relates only to this particular case. If you have enquires in relation to another case, a new request should be made to the Citizenship Help Desk to ensure that all relevant information has been taken into consideration.

----- Original Message -----

From: "s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Wednesday, October 10, 2018 09:56 PM
To: "s. 22(1)(a)(ii) >
Copy To: s. 22(1)(a)(ii) @dfat.gov.au>, "s. 22(1)(a)(ii) >
Subject: Rquest for advice: CBD application with bogus birth certificate for non-citizen mother of applicant [DLM=For-Official-Use-Only]
For-Official-Use-Only

Good afternoon colleagues,

Grateful for you advice on this Citizenship by Descent application.

The applicant is from s. 47F(1) and, while there is evidence before us that the mother provided bogus documents in regards to her age in a previous application, the CBD applicant is otherwise eligible for approval.

Client details: s. 47F(1)) CID# s. 47F(1)

Parents' details: s. 47F(1)) CID# s. 47F(1) CID# s. 47F(1)

We have no concerns with the child's birth certificate and the hospital records provided in support of the CBD application. The application also includes proof of relationship of the parents.

However, we do note the following:

- The responsible parent had sponsored the mother for a subclass 309 in 2014 (s. 47F(1)) but withdrew the application on 09/02/2015 because the processing officer identified that the birth certificate provided was bogus. The mother was not born in s. 47F(1) as per her birth certificate. She was born in s. 47F(1) and she was therefore underage when she married the father of the CDB applicant in 2013.
- In the child's CBD application, the mother has submitted a birth certificate for herself which again claims that she was born in s. 47F(1) (even though she admitted she was born in s. 47F(1) when she withdrew the 309 application).

While a bogus document has been submitted in support of the CBD application, PIC 4020 is not a criteria for approval of CBD. We also have no concerns regarding the identity of the child or the responsible parent's Australian citizenship.

On this basis, I do not believe I have grounds to refuse the CBD application. I also imagine this wouldn't be the preferred policy approach given the child could not be considered to have consented to the provision of the mother's bogus birth certificate.

Grateful if you could provide any further comment regarding my approach to approve this CBD application.

Regards,

s. 22(1)(a)(ii)

Senior Migration Officer (Migration and Citizenship)
Second Secretary

Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: FW: Urgent request for action required - Request for DNM Waiver - s. 47F(1) - W [DLM=For-Official-Use-Only]
Date: Thursday, 13 December 2018 10:25:44 AM

For-Official-Use-Only

Hi s. 22(1)(a)(ii),

Please TRIM this email to the policy file.

Thanks,

s. 22(1)(a)(ii)

Senior Migration Officer (Migration and Citizenship)
Second Secretary
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Sent: Thursday, 13 December 2018 1:32 AM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: Urgent request for action required - Request for DNM Waiver - s. 47F(1) - W [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

As these decisions are recorded in the HAP, there is no longer any requirement for you to complete a template or report the decision to us .

Hope this makes your workload a little lighter.

Kind Regards

s. 22(1)(a)(ii)

Migration Operational Health Policy
Immigration Health Branch
Health Services Policy & Child Wellbeing Division
Department of Home Affairs

PH s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Wednesday, 12 December 2018 7:19 PM
To: s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) @dfat.gov.au>
Subject: FW: Urgent request for action required - Request for DNM Waiver - s. 47F(1) - W [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

I am writing to advise you of a health waiver where the costs identified in the medical opinion are not undue for the above named applicant. The waiver for this has been exercised by CMO s. 22(1)(a)(ii) today.

This is for your information.

Regards

s. 22(1)(a)(ii)
Senior Visa Officer (Family Migration and Humanitarian Team)
Visa & Citizenship Services
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au

W: www.homeaffairs.gov.au | www.india.embassy.gov.au

E-lodgement

Online lodgement of visitor visa applications is the most convenient and fastest option available to nationals of India, Nepal, Bangladesh and Bhutan.
http://www.homeaffairs.gov.au/Trav/Visa-1/600-/Visitor-e600-visa-online-applications

From: s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Wednesday, 12 December 2018 8:30 AM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) >
Subject: RE: Urgent request for action required - Request for DNM Waiver - s. 47F(1) - W [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks s. 22(1)(a)(ii)

As per policy advice, the costs identified in the medical opinion are not undue, and I therefore exercise the health waiver for this client

s. 22(1)(a)(ii)

---

s. 22(1)(a)(ii)
Counsellor (Dept of Home Affairs) / Chief Migration Officer
Australian High Commission, New Delhi
Ph s. 22(1)(a)(ii)
Fax +91 11 2688 7536
Email s. 22(1)(a)(ii) *@dfat.gov.au*

From: s. 22(1)(a)(ii) @dfat.gov.au>
Sent: Tuesday, 11 December 2018 2:02 PM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) >
Subject: Urgent request for action required - Request for DNM Waiver - s. 47F(1) - s. 47F(1) [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

I am writing to request for consideration of a DNM waiver for an RSHP client. I would also like to request if you could have a look at this on an urgent basis as this application is otherwise ready for a final decision to meet our target for December 2018.

I am attaching a health waiver submission for a s. 47F(1) RSHP applicant for your advice. The applicant does not meet the health requirements on cost grounds. Please find below a short summary of the applicant's condition for your reference.

The advice in PAM regarding Humanitarian health waivers have not changed ie that all costs should be considered undue. We recommend that a waiver be exercised for the applicant.

1. Applicant details – s. 47F(1) (File number – s. 47F(1)).

Condition – The applicant is a s. 47F(1) with moderate functional impairment due to deaf mutism. The applicant is likely to require commonwealth disability services including but not limited to the disability support pension.

. Cost – AUD 819,000

Once I receive your outcome on this submission I will upload on to HAP and send the submission to Health for information.

The attachment includes – Humanitarian Health Waiver (Cost only) Decision report, form 884 Opinion of a Medical Officer of the Commonwealth, Health Waiver Information and extract from the Migration Regulations 1994 regarding PIC 4007.

Please let me know if you have any queries.

Thank you so much in advance.

Regards

s. 22(1)(a)(ii)
Senior Visa Officer (Family Migration and Humanitarian Team)
Visa & Citizenship Services
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au

W: www.homeaffairs.gov.au | www.india.embassy.gov.au

E-lodgement

Online lodgement of visitor visa applications is the most convenient and fastest option available to nationals of India, Nepal, Bangladesh and Bhutan.
http://www.homeaffairs.gov.au/Trav/Visa-1/600-/Visitor-e600-visa-online-applications

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: FW: Australian Special Humanitarian VISA need to demonstrate refugee status [SEC=UNCLASSIFIED]
Date: Wednesday, 19 December 2018 11:14:11 AM

UNCLASSIFIED

FYI and for TRIM policy file please.

s. 22(1)(a)

From: s. 22(1)(a)(ii)
Sent: Wednesday, 19 December 2018 5:44 AM
To: s. 22(1)(a)(ii) >
Cc: s. 22(1)(a)(ii) >
Subject: RE: Australian Special Humanitarian VISA need to demonstrate refugee status [SEC=UNCLASSIFIED]

UNCLASSIFIED

Good morning s. 22(1)(a)(ii),

Thank you for your email. I am copying in s. 22(1)(a)(ii) who asked similar questions when my colleagues and I visited with your Chief of Mission last Friday.

On the question of registration for s. 47F(1) we have previously confirmed that a person must meet the United Nations definition of a refugee to be eligible for the refugee visas (further information can be found s. 22(1)(a)(ii)).

To be eligible for a Special Humanitarian visa (see s. 22(1)(a)(ii)), the main consideration is whether an applicant is subject to substantial discrimination amounting to a gross violation of their human rights in their home country. It is not a requirement that applicants, s. 47F(1) or otherwise, hold cards issued by UNHCR. However, being formally recognised as a refugee by UNHCR is a very practical way for us to determine whether an applicant meets this requirement, so in practice it would be very rare for us to progress applications from s. 47F(1) applicants in India to the interview stage unless they provide us with evidence of having, or having very recently held, such status.

Regarding s. 47F(1) seeking entry to the AHC, there are no grounds on which they would be given entry. This is the case whether they have a refugee card/certificate or not. The only time we allow entry to s. 47F(1) is when we have invited persons who have lodged a valid visa application to an interview at the AHC.

s. 47F(1) who wish to lodge a visa application with the AHC should first refer to the lodgement options on the Department of Home Affairs website here: https://immi.homeaffairs.gov.au/what-we-do/refugee-and-humanitarian-program.

I hope this clarifies both queries. We look forward to speaking further with you this morning.

Regards,

s. 22(1)(a)(ii)

Senior Migration Officer (Migration and Citizenship)
Second Secretary
Department of Home Affairs
Australian High Commission, New Delhi
E: s. 22(1)(a)(ii) @dfat.gov.au
W: www.homeaffairs.gov.au | www.india.embassy.gov.au

From: s. 22(1)(a)(ii)
Sent: Monday, 17 December 2018 7:56 PM
To: s. 22(1)(a)(ii) @dfat.gov.au>
Cc: s. 22(1)(a)(ii) >
Subject: Australian Special Humanitarian VISA need to demonstrate refugee status

Dear s. 22(1)(a)(ii),

s. 33(a)(iii)

Thanks in advance for your response and best regards,
s. 22(1)(a)(ii)