| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a)(ii) |
| **Subject:** | FW: Reg 2.08 [SEC=UNCLASSIFIED] |
| **Date:** | Thursday, 31 May 2018 4:04:27 PM |
| **Attachments:** | Policy Advice Received BVA Eligibility - - Minor child is currently UNC - s. 47F(1) DLMFor-Official-Use-Only.msg |

UNCLASSIFIED

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

Fyi

Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team

Skilled and Family Visa Program | Immigration and Visa Services Division

Immigration and Citizenship Services

Department of Home Affairs

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

@homeaffairs.gov.au


UNCLASSIFIED


UNCLASSIFIED

**From:** s. 22(1)(a)(ii)

**Sent:** Thursday, 31 May 2018 3:54 PM

**To:** s. 22(1)(a)(ii)

**Subject:** FW: Reg 2.08 [SEC=UNCLASSIFIED]

**From:** s. 22(1)(a)(ii)

**Sent:** Friday, 6 April 2018 2:53 PM

**To:** s. 22(1)(a)(ii)                    @HOMEAFFAIRS.GOV.AU>

**Subject:** FW: Reg 2.08 [SEC=UNCLASSIFIED]

UNCLASSIFIED


UNCLASSIFIED

**From:** s. 22(1)(a)(ii)

**Sent:** Tuesday, 12 December 2017 2:34 PM

**To:** s. 22(1)(a)(ii)                    @BORDER.GOV.AU>

**Subject:** Reg 2.08 [SEC=UNCLASSIFIED]

UNCLASSIFIED

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

Please refer to the attached policy advice, as well as PAM guidelines at:

https://legend.border.gov.au/Migration/2017-2020/2017/08-12-2017/legend_current_mp/Pages/_document00004/level%20100303.aspx#JD_GGA-ADDINGFAMILYUNITMEMBERSTOANAPPLICATION

I have copied the relevant PAM extract below:

**Combined visa applications**

If a child is born to two non-citizens who have made a combined application for the same visa (and a decision has not yet been made on those applications), the child is taken to have made **two** applications for the same visa, rather than one application for the same visa. This means a separate decision must be made on each of the child's (two) visa applications. If a decision maker only makes a decision to grant or refuse one of the child's visa applications then the other visa application remains undecided (unless it is withdrawn). The child would remain the holder of any associated Bridging Visa until a decision is made on the child's second visa application.

Where a child is taken to have made two visa applications for the same visa, which is combined with the parent's visa application, the decision maker may send one notification letter addressed to the primary applicant but covering all applicants if:

• the decision for all visa applicants is the same and
• each applicant has the same entitlements to merits review.

The notification letter must refer specifically to each applicant and the decision made on that applicant's visa application. Where it is a refusal decision, each visa applicant must be told what criterion they did not meet, why they did not meet it and their review rights (if any). In respect of the child, the notification letter must clearly state that there has been two decisions and, if the child has review rights, that there are review rights for both refusal decisions.

Regards,

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

Position Number: 60024550
NSW Temp Work (Skilled) Visa (Subclass 457)
Economic and Skilled Visa Program Branch
Visa and Citizenship Management Division
Department of Immigration and Border Protection

UNCLASSIFIED

**From:** s. 22(1)(a)(ii)
**To:** s. 22(1)(a)(ii)
**Subject:** Policy Advice Received : BVA Eligibility - - Minor child is currently UNC - s. 47F(1)                    [DLM=For-Official-Use-Only]
**Date:** Thursday, 2 November 2017 6:47:32 PM
**Attachments:** image001.jpg
image002.jpg

For-Official-Use-Only

Hi s. 22(1),

I found that have received policy advice regarding two bridging visa decisions for a baby under reg 2 08   I found it in my Enterprise Vault written by ABC Policy Management

This case started out with the agent lodging a BVA application to keep the baby lawful after my refusal on 28/02/2017   It was later determined that the BVA application the agent lodged for judicial review was invalid   BV Management advised that the child still holds a BVA as I had only granted one BVA and made only one refusal decision   I have since granted the second BVA backdated to the child s birth   I still have to refuse the second application which is on hold until judicial review proceedings for the parents are completed

I have it in my batch and will keep an eye on it for when the time comes to refuse   I don t dare put it back in the mix as no-one would know what to do with it

By the way, ICSE allowed me to grant a second BVA backdated to the dob 1/9/15 without ceasing the first BVA on 1/9/15, I think because there had been a 457 decision in between s. 22(1

For-Official-Use-Only

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**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 30 May 2017 12:41 PM
**To:** s. 22(1)(a)(ii)
**Subject:** RE: BVA Eligibility - Advice Received - Minor child is currently UNC - s. 47F(1)                    [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1,

No problem at all ☺

Thank you!

Kind regards,

s. 22(1)(a)(ii)
Team Leader | Channel Strategies and Management Branch
Digital Transformation and Channels | Visa and Citizenship Services Group
Department of Immigration and Border Protection
T: s. 22(1)(a)(ii)         @border gov au

For-Official-Use-Only

---

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 30 May 2017 2:38 PM
**To:** s. 22(1)(a)(ii)         @border gov au>
**Subject:** FW: BVA Eligibility - Advice Received - Minor child is currently UNC - s. 47F(1)                    [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1
I wanted to let you know that I have been given the task to grant another BVA and refuse etc   I am working on it now but have to attend training between 1pm and 4 30pm
Thank you
s. 22(1
457 CAT Perth

**From:** s. 22(1)(a)
**Sent:** Monday, 22 May 2017 10 57 AM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)
**Subject:** BVA Eligibility - Advice Received - Minor child is currently UNC - s. 47F(1)                    [DLM=For-Official-Use-Only]
**Importance:** High

For-Official-Use-Only

Hi  team,

We ve received policy advice regarding a BVA eligibility for s. 47F(1)            ; as outlined below

Please advise once second BVA has been recorded in ICSE, as mentioned in sections **1** and **2**

I have a feeling TRIPS will need to record this manually, which can be done via email

Once this has been completed, I will make contact with the registered Migration Agent

Kind regards,

s. 22(1)(a)(ii)
Team Leader | Channel Strategies and Management Branch
Digital Transformation and Channels | Visa and Citizenship Services Group
Department of Immigration and Border Protection
T: s. 22(1)(a)(ii)         @border gov au

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 16 May 2017 9:23 AM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)

**Subject:** RE: BVA Eligibility Advice Required - Minor child is currently UNC - s. 47F(1)      [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1 ,

I apologise again for the delay in getting this back to you

Currently (on 15 05 2017 s. 47F( :

1    has an undecided Subclass 457 visa application that must be decided as soon as practicable
- A note will need to be put in ICSE to note that s. was taken to have made two 457 applications at the time of his birth – I ve provided further details under **no. 1** below, and

2    is a lawful non-citizen, as he holds a BVA that is still in effect (that needs to be added to the ICSE record)
- The BVA that s. 47F( was taken to have held at the time of his birth as a result of the BVA that his mother held at that time, needs to be added to ICSE against the 457 permission request s. 47F(1) ): WA-010, condition 8104, granted on s. 47F(1) , in effect on 15 05 2017 (and will be until it is ceased by the trigger event when the undecided 457 application is decided)  I ve provided further details under **no. 2** below, and

3    has made an invalid application for a BVA in relation to the judicial review proceedings concerning the decisions to refuse his mother and father s applications for a Subclass 457 application
- Further explanation about why, and a draft response for the migration agent, are set out under **nos. 3 and 4** below

Reasoning and further information as follows:

**1.   Has an undecided Subclass 457 visa application that must be decided as soon as practicable.**
- By operation of law as a result of regulation 2 08, at the time of his birth on s. 47F(1) :
  - is taken to have made two applications for a 457 application – one as a result of his father s 457 application, and one as a result of his mother s 457 application – neither application had been decided at the time of s. 47F(1) birth
- Further, under regulation 2 08, both of PRID s. 47F(1) 457 applications are taken to have been combined with his parents  combined 457 applications, on PRID s. 47F(1)
- While ICSE will only allow one of s. 47F( applications to be recorded against the application permission request, both applications are required to be decided by a decision maker and the applicant must be notified of both decisions for the applications to be taken to have been decided:
- As the notification for the 28 02 2017 refusal only referred to a single refusal, and a note was not recorded in ICSE or elsewhere to note that a decision had been made on s. 47F(1 second 457 application, s. 47F(1 second 457 application has not been finally determined and a decision must be made and a notification of the decision must be provided
- Case Notes can be added in ICSE to note that "*Under regulation 2.08 s. 47F( is taken to have made two applications for the 457 visa at the time of his birth on s. 47F(1) ", and when the decision is made that "Under regulation 2.08 s. 47F( was taken to have made two applications for the UC457 visa at the time of his birth on C s. 47F(1) , and on <DATE> a decision to <grant/refuse> the second UC457 application was made*"
- In cases such as this one, if a note is made in ICSE that references a decision on both applications taken to have been made under regulation 2 08, and the notification of the refusal/grant is amended to reference two decisions instead of a single decision, then both of the substantive visas will be taken to have been decided

**2.   Is a lawful non-citizen, as he holds a BVA that is still in effect:**
- By operation of law as a result of s78(2) of the Act, at the time of his birth on s. 47F(1) was taken to have been granted two BVAs:
  - one BVA of the same kind and class and on the same terms and conditions (if any) as his father s. 47F(1) ):
    - BVA subject to condition 8105, and
  - one BVA of the same kind and class and on the same terms and conditions (if any) as his mother s. 47F(1) ):
    - BVA subject to condition 8104
- As he was also taken to have applied for two 457 visas on s. 47F(1) as a result of regulation 2 08, each of the BVAs that he was granted under s78(2) are taken to have been granted in association with each of the 457 applications and will be ceased by the relevant Schedule 2 (010 5)  That is, s. 47F(1) BVAs will each cease as a result of the decisions made on each of his 457 applications, not the decisions made in relation to his mother and father s 457 applications:
  - one BVA would have ceased 28 days after s. 47F was taken to have been notified of the refusal decision of 28 02 2017 in relation to the first of s. 47F(1, two 457 applications - in this case, the BVA subject to condition 8105 as it was recorded in the system along with the one 457 application that has been decided for s. 47F, and
  - one BVA would still be in effect as no decision has been made on the associated 457 application as yet - in this case, the BVA subject to condition 8104, that has not been recorded in the system, and the one that would be linked to s. 2nd 457 application that has not been decided or noted in the systems
- In ICSE s. 47F(1 record should show two BVAs:
  - BVA 1: WA-010, condition 8105, granted on s. 47F(1) ) ceased 28 days after s. 47F( was taken to have been notified of the 28 02 2017 refusal decision: 04 04 2017
  - BVA 2: WA-010, condition 8104, granted on 01 09 2015 by operation of law as a result of s78(2), in effect on 10 05 2017 – this BVA grant needs to be recorded in ICSE against permission request ID s. 47F(1)

**3.   Has made an invalid application for a judicial review BVA:**
- s. 47F( cannot satisfy item 1301(3)(c)(ii) in Schedule 1 to the Regulations as he (being an applicant in his own right) has not made an application within statutory time limits for judicial review of a decision in relation to one of his substantive visa applications (as is required by item 1301(3)(c)(ii))  The fact that his parents have made judicial review applications within statutory time-frames is not relevant to whether s. 47F( meets the criteria in item 1301(3)(c)(ii s. 47F(1) was therefore not able to make a valid application for a judicial review BVA on 27 March 2017, when the Department received the completed form 1005 BVA application that was made on s. 47F(1 behalf, as he was not able to meet the requirements of item 1301(3)(c) of Schedule 1 of the Regulations

**4.   Once ICSE has been amended appropriately, and preferably before the decision is made on the outstanding 457 application, the following draft response could be provided to the migration agent:**

We have carefully gone through your client, s. 47F(1) case, and wish to advise that s. 47F( currently holds an in-effect BVA, and currently has an undecided 457 application awaiting decision by the Department

At the time of his birth s. 47F(1) was taken by operation of law to:
1   have made two applications for a 457 visa, under regulation 2 08 of the Migration Regulations  One of these applications was refused on 28 February 2017, the other will be decided as soon as practicable, and
2   have been granted two BVAs (one subject to condition 8105, the other subject to condition 8104), under s78(2) of the Migration Act  The BVA subject to condition 8105 ceased 28 days after s. 47F was taken to have been notified of the refusal decision of 28 February 2017  The BVA subject to condition 8104 is currently in effect, and will cease when the relevant Schedule 2 (010 5) ceasing event is triggered in relation to s. 47F(1 second 457 application

The application that was made for s. 22( for a judicial review BVA (form 1005, received on 27 March 2017), does not satisfy the validity provisions for a BVA as set out in paragraph 1301(3)(c)(ii) of Schedule 1 to the Regulations, and as such, is not a valid application for a BVA and cannot be considered for decision  s. 47F is an applicant in his own right and he has not made an application within the statutory time limits for judicial review of the decision that was made on his 457 application on 28 February 2017  The fact that his parents have made judicial review applications within the statutory time-frames in relation to the decisions that were made on their 457 applications is not relevant to whether s. 47F meets the criteria in item 1301(3)(c)(ii)  References in 1301(3)(c)(ii) specifically relates to "*judicial review of a decision in relation to the applicant's substantive visa application*" – that is, the judicial review must be of the decision made on the specific applicant s application, not a decision made in relation to a separate applicant included in the combined substantive visa application  Each applicant included in the substantive visa application is an applicant in their own right, and although applications may be considered together, a decision must be made for each applicant, and each applicant is then able to seek, or not seek, review of the decision made in relation to their visa application

Kind regards
s.

s. 22(1)(a)
Assistant Director, BV ABC programme management
Maritime, Transit & Border Entry Visa Management Section | Temporary Visa Programme Branch

Visa and Citizenship Management Division | Visa and Citizenship Services Group
Department of Immigration and Border Protection
P: s. 22(1)
E: s. 22(1)(a) @border gov au

For-Official-Use-Only

**From:** s. 22(1)
**Sent:** Friday, 28 April 2017 2:27 PM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)
**Subject:** RE: BVA Eligibility Advice Required - Minor child is currently UNC - s. 47F(1)   [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1),

Unfortunately I m still waiting on the advice from Legals, they re anticipating that they will have their advice finalised early next week

Kind regards
s.

s. 22(1)(a)
Assistant Director, BV ABC
Maritime, Transit & Border Entry Visa Management Section | Temporary Visa Programme Branch
Visa and Citizenship Management Division | Visa and Citizenship Services Group
Department of Immigration and Border Protection
P: s. 22(1)
E: s. 22(1)(a) @border gov au

For-Official-Use-Only

**From:** s. 22(1)(a)
**Sent:** Friday, 28 April 2017 2:20 PM
**To:** s. 22(1)
**Cc:** s. 22(1)(a)(ii)
**Subject:** RE: BVA Eligibility Advice Required - Minor child is currently UNC - s. 47F(1)   [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi team,

I m so sorry to email through again; I m just concerned with s. 47F(1) unlawful status

Is there an update?

Kind regards,

s. 22(1)(a)(ii)
Channel Strategies and Management Branch
Digital Transformation and Channels | Visa and Citizenship Services Group
Department of Immigration and Border Protection
T: s. 22(1)(a)(ii) @border gov au

For-Official-Use-Only

**From:** s. 22(1)
**Sent:** Friday, 21 April 2017 10:26 AM
**To:** s. 22(1)(a)(ii) >
**Cc:** s. 22(1)(a)(ii) >
**Subject:** RE: BVA Eligibility Advice Required - Minor child is currently UNC - s. 47F(1)   [DLM=For-Official-Use-Only]

For-Official-Use-Only

Sorry s. 22(1),

Still waiting for final advice from LOHD   Will update you as soon as I get something

Kind regards
s.

s. 22(1)(a)
Assistant Director, BV ABC
Maritime, Transit & Border Entry Visa Management Section | Temporary Visa Programme Branch
Visa and Citizenship Management Division | Visa and Citizenship Services Group
Department of Immigration and Border Protection
P: s. 22(1)
E: s. 22(1)(a) @border gov au

For-Official-Use-Only

**From:** s. 22(1)(a)
**Sent:** Friday, 21 April 2017 10:21 AM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)

**Subject:** RE: BVA Eligibility Advice Required - Minor child is currently UNC - s. 47F(1)  [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi team,

Do we have an update in relation to this case?

Kind regards,

s. 22(1)(a)(ii)
Channel Strategies and Management Branch
Digital Transformation and Channels | Visa and Citizenship Services Group
Department of Immigration and Border Protection
T: s. 22(1)(a)(ii)  @border gov au

---

**From:** s. 22(1)
**Sent:** Thursday, 13 April 2017 12 02 PM
**To:** s. 22(1)(a)(ii)  @border gov au>
**Cc:** s. 22(1)(a)(ii)  @border gov au>
**Subject:** RE: BVA Eligibility Advice Required - Minor child is currently UNC - s. 47F(1)  [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1),

Unfortunately it is looking like it won t be possible to get the advice to you by COB today, and may not be available until Wed/Thurs next week, as we (BV ABBC and Legal Opinions) have to do some more digging in relation to the BVAs

s. 42(1)

Kind regards
s. 22(1)(a)

s. 22(1)(a)
Assistant Director, BV ABC
Maritime, Transit & Border Entry Visa Management Section | Temporary Visa Programme Branch
Visa and Citizenship Management Division | Visa and Citizenship Services Group
Department of Immigration and Border Protection
P: s. 22(1)
E: s. 22(1)(a)  @border gov au

For-Official-Use-Only
For-Official-Use-Only

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**From:** s. 22(1)
**Sent:** Wednesday, 12 April 2017 4:26 PM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)
**Subject:** RE: BVA Eligibility Advice Required - Minor child is currently UNC - s. 47F(1)  [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1),

Sorry I didn t update you earlier   I ve been working on this all afternoon and am waiting for confirmation from LOHD before providing finalised advice   I referred the matter to LOHD given the nature of the agent s correspondence to date   We have been trying to get the advice to you by this afternoon

Thank you for sending through the additional email from the agent – we ll consider that now and may need to provide additional advice now in relation to the extra discussions that were held regarding the cessation dates of the BVA

Kind regards
s. 22(1)(a)

s. 22(1)(a)
Assistant Director, BV ABC
Maritime, Transit & Border Entry Visa Management Section | Temporary Visa Programme Branch
Visa and Citizenship Management Division | Visa and Citizenship Services Group
Department of Immigration and Border Protection
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)  @border gov au

For-Official-Use-Only

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**From:** s. 22(1)(a)
**Sent:** Wednesday, 12 April 2017 4:19 PM
**To:** s. 22(1)
**Cc:** s. 22(1)(a)(ii)
**Subject:** FW: BVA Eligibility Advice Required - Minor child is currently UNC - s. 22(1)(a)(ii)
**Importance:** High

Hi team,

Please see the email from the migration agent, in conjunction with my below email

Please note that with the long weekend coming up – I d like clarification before COB tomorrow if possible, so that I may let the client know that they need to attend CSR if required

Kind regards,

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

Acting Team Leader | Channel Strategies and Management Branch
Digital Transformation and Channels | Visa and Citizenship Services Group
Department of Immigration and Border Protection
s. 22(1)(a)(ii)

---

**From:** (s. 22(1)(a)(ii))
**Sent:** Wednesday, 12 April 2017 12:22 PM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)
**Subject:** BVA Eligibility Advice Required - Minor child is currently UNC - s. 47F(1)
**Importance:** High

Hi team,

RID: s. 47F(1)

This client s migration agent has lodged a request for a BVA for minor child s. 47F(1) on 27/03/2017

We incorrectly granted a JR BVA in ICSE, which was reversed by myself today

Essentially – the migration agent has advised that their client is eligible for a BVA under 020 212; which I also interpret as correct

> **(3) Other:**
>
> (a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
>
> (b) Applicant must be in Australia but not in immigration clearance.
>
> (c) Either:
>
>   (i) the applicant has made a valid application for a substantive visa that has not been finally determined; or
>
>   (ii) application has been made, within statutory time limits, for judicial review of a decision in relation to the applicant's substantive visa application, and the judicial review proceedings (including proceedings on appeal, if any) have not been completed.

The applicant s. 47F(1) was added to the substantive UC-457 visa application on 08/11/2016 and was granted a standalone BVA on the same date (which was back-dated to s. 47F(1) as per S78)

This visa application was subsequently refused on 28/02/2017, which then shortened the applicant s BVA to 06/04/2017 (LUD)

Before the applicant s BVA ceased, his migration agent requested a JR BVA under the following regulations:

> **010.211**
>
> (1) The applicant meets the requirements of subclause (2), (3), (4), (5) or (6).
>
> (2) An applicant meets the requirements of this subclause if:
>
>   (a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
>
>   (b) that application has not been finally determined; and
>
>   (c) he or she held a substantive visa at the time that application was made; and
>
>   (d) either:
>
>     (i) he or she has applied for a bridging visa in respect of that application; or
>
>     (ii) a bridging visa can be granted in respect of that application under regulation 2.21B.
>
> (3) An applicant meets the requirements of this subclause if:
>
>   (a) the applicant:
>
>     (i) has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
>
>     (ii) held a substantive visa when he or she made the application; and
>
>   (aa) that application was refused; and
>
>   (b) either:
>
>     (i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant's substantive visa application; or
>
>     (ii) the applicant:
>
>       (A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and
>
>       (B) made a substantive visa application that was combined with the substantive visa application mentioned in subparagraph (i); and
>
>   (c) at the time of that application, he or she held a Bridging A (Class WA) or Bridging B (Class WB) visa; and
>
>   (d) the judicial review proceedings (including proceedings on appeal, if any) are not completed.

The migration agent is challenging the validity of this application, they interpret the word applicant s under Item 1301 (3)(c) as the parents of the child – as this means the child meets the MOFU requirements

**Can you please confirm that the word 'applicant' under Item 1301 (3)(c) means the child, as they are the applicant in relation to their BV application received on 27/03/2017?**

The applicant in this case does not meet (3)(c) as they have a finally determined application (Refused on 28/02/2017) and they are not a part of JR proceedings This has been confirmed by

the agent

If this is the case, I can invalidate the application and refer the client to Status Resolution

I ve advised the migration agent that I reversed the JR BVA decision; because whilst granted, provided the same BV end date as the original BV once the visa application was refused

Kind regards,

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

Acting Team Leader | Channel Strategies and Management Branch
Digital Transformation and Channels | Visa and Citizenship Services Group

Department of Immigration and Border Protection
☎ s. 22(1)(a)(ii)
For-Official-Use-Only

| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a)(ii) |
| **Cc:** | s. 22(1)(a)(ii) |
| **Subject:** | FW: C37807 - BVA grant effect on BVB - same substantive application [DLM=Sensitive:Legal] |
| **Date:** | Friday, 22 June 2018 3:58:04 PM |

Sensitive:Legal

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

We have received advice from Legals which is detailed below.  We tried but unfortunately this one cannot be fixed.  The client will need to apply for and be granted a new BVB.

Regards

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

Sea, Air and Bridging ABC Visas Section

Temporary Visa Programme Branch | Immigration and Citizenship Services

Department of Home Affairs

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

Sensitive:Legal

**From:** s. 22(1)(a)(ii)

**Sent:** Friday, 22 June 2018 3:47 PM

**To:** s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>

**Cc:** s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>

**Subject:** C37807 - BVA grant effect on BVB - same substantive application [DLM=Sensitive:Legal]

Sensitive:Legal

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

s. 42(1)

s. 42(1)

s. 42(1)

s. 42(1)

Happy to discuss, kind regards

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

Legal Opinions Help Desk | Migration & Citizenship Law Branch
Legal Division | Corporate & Enabling Group | Department of Home Affairs
T: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)  @homeaffairs.gov.au

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Sensitive:Legal

-

| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a)(ii) |
| **Subject:** | FW: Oral notification of invalid BV application [DLM=For-Official-Use-Only] |
| **Date:** | Friday, 29 June 2018 11:36:57 AM |
| **Attachments:** | image001.png |
| | image002.jpg |
| | image003.jpg |
| | image004.jpg |
| | image005.jpg |

For-Official-Use-Only

Dear All

### RE: Oral notification of Invalidation of Bridging Visa Applications

s. 47E(d)

s. 47E(d)

Kind Regards

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

Manager – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii) @homeaffairs.gov.au

Regards

For-Official-Use-Only

**From:** "s. 22(1)(a)(ii)                                    @HOMEAFFAIRS.GOV.AU>
**Date:** Thursday, 28 June 2018 at 1:54:06 pm
**To:** "s. 22(1)(a)(ii)                                    @HOMEAFFAIRS.GOV.AU>
**Subject:** FW: Form 1005 to be invalidated - s. 47F(1)                            ), Passport
number: s. 47F(1)        [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

This is the outcome of the issue relating to invalid BV applications:

1.   There is no problem with oral notification of invalid BV applications.
2.   However, where there is more than one invalid BV application, each one needs to be noted as invalid. While two invalid BV applications from the same person can be managed with the one phone call, it needs to be made clear to the client that the call covers all their invalid BV applications, and ICSE notes need to indicate that the client was informed that both BV applications are invalid.

So the only adjustment that needs to be made is to ensure that it is clear to the applicant (or their agent) that all their emailed BV applications are invalid, and noted accordingly in ICSE.


Cheers,


s. 22(1)(a)(ii)
Manager, TSS & 457 Program Delivery Support
Skilled and Family Visa Program
Immigration and Visa Services Division
Immigration & Citizenship Services
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)
**Sent:** Thursday, 28 June 2018 1:37 PM
**To:** s. 22(1)(a)(ii)

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

**Subject:** RE: Form 1005 to be invalidated - s. 47F(1)                    ), Passport number:
s. 47F(1)       [DLM=For-Official-Use-Only]


For-Official-Use-Only

Hi s. 22(1)(a

Where a client purportedly applies for a BV that is subsequently determined to be invalid, the client should be notified accordingly.  This would apply for each attempt.  For the BVs that we manage, we have no concerns if this is done orally providing contemporaneous notes are made in ICSE to account for the transaction.  In this case, if the client has lodged two separate BVA applications that have both been found to be invalid, then he should be advised of each determination.

Regards

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

Sea, Air and Bridging ABC Visas Section
Temporary Visa Programme Branch | Immigration and Citizenship Services
Department of Home Affairs
Ph. s. 22(1)(a)(ii)

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 28 June 2018 1:06 PM
**To:** s. 22(1)(a)(ii)

**Cc:** s. 22(1)(a)(ii)
**Subject:** FW: Form 1005 to be invalidated - s. 47F(1) ), Passport number:
s. 47F(1) [DLM=For-Official-Use-Only]

For-Official-Use-Only

My apologies, I accidentally pressed send before finished typing my email. Please see a complete version below. Thank you.

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

Employer Sponsored Network Support Section
Skilled and Family Visa Program Branch | Immigration and Visa Services 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)
**Sent:** Thursday, 28 June 2018 1:01 PM
**To:** s. 22(1)(a)(ii)

**Cc:** s. 22(1)(a)(ii)
**Subject:** FW: Form 1005 to be invalidated - s. 47F(1) ), Passport number:

s. 47F(1)    [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

Please find attached the response from Stat Res regarding invalidating Form 1005 received via email. My understanding is that Stat Res do not have any problems if the application is invalidated orally. They seem to be concerned that the network is not invalidating multiple applications from the same applicant.

In s. 47F(1) case there appears to be two invalid applications and only one has been invalidated orally. I think what they are trying to say is that the second one also need to be invalidated, i.e. notes entered in ICSE.

Please let me know if your interpretation of s. 22(1)(a)(ii) email is the same as mine and whether the SVCAT team can invalidate the second application in ICSE as per s. 22(1)(a)(ii) request.

Thank you

Kind Regards

s. 22(1)(a

For-Official-Use-Only

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**From:** s. 22(1)(a)(ii)
**Sent:** Wednesday, 27 June 2018 3:02 PM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)

**Subject:** RE: Form 1005 to be invalidated - s. 47F(1) ), Passport number: s. 47F(1)    [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a

Thanks for the opportunity to respond.

I think there has been some confusion with my email. I have attached my original email for context.

I note that PAM3 allows for applications to be made invalid via verbal means, and provides guidelines on when verbal notification is acceptable. If a program decides verbal notification is preference, then as long as there are ICSE notes that clearly specify the requirements around notifying a client verbally has been met then this should not present as an issue should a client enter the status resolution or detention space.

The second issue which seems to not have been answered by the attached policy response is the

double or triple applications. The status resolution helpdesk has continued to provide Status resolution advice that any application received via email (whether it is a carbon copy of the first or not) is still an application received and therefore it must be considered. If deemed valid, it is an open application that must be considered or if invalid, invalidated. As such those clients sending multiple BV applications have made multiple applications that are still outstanding and would need to be addressed.

Potential impacts for open applications can lead to unlawful detention and or delays in removal which can increase detention debts and costs. Should you require status resolution advice on this matter I would suggest that you contact: s. 22(1)(a)(ii)

Please note – as per my original email, as a result of the double applications lodged by s. 47F(1) , it is my view that there is an open application that requires invalidation. The two applications received via email are as follows:

Form 1005 received by email on 24/04/2018 - s. 22(1)(a)(ii) – no invalidation notes for this application.
Form 1005 received by email on 02/05/2018 - s. 22(1)(a)(ii)

Regards

s. 22(1)(a)(ii)
Manager A/g, QLD Community Status Resolution
Status Resolution Branch | Community Protection Division
Visa and Citizenship Services Group
Department of Home Affairs

P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)
**Sent:** Wednesday, 27 June 2018 11:20 AM
**To:** s. 22(1)(a)(ii)
**Subject:** FW: Form 1005 to be invalidated - s. 47F(1) ), Passport number: s. 47F(1) [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

I am just following up to check if you yet had a chance to review the email below.

Look forward to hearing from you soon.

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

Employer Sponsored Network Support Section
Skilled and Family Visa Program Branch | Immigration and Visa Services Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

**For-Official-Use-Only**

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**From:** s. 22(1)(a)(ii)
**Sent:** Friday, 22 June 2018 4:40 PM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)

**Subject:** FW: Form 1005 to be invalidated - s. 47F(1) ), Passport number: s. 47F(1) [DLM=For-Official-Use-Only]

**For-Official-Use-Only**

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

457/TSS processing network have escalated this matter to Employer Sponsored Program Management for resolution.

It appears that we have two different opinions in relation to the requirement to invalidate Form 1005 received via email.

Bridging visa ABC policy advised that is no legal requirement to notify the person of invalid application (please see the email attached below). However, in your correspondence to the network you advised that this could cause detention/removal implications should the clients ever enter the compliance space.

Due to a high volume of emails received in the 457/TSS mailboxes, it is more efficient to provide oral notification of the invalid BV application, especially considering that some applicants email their 1005 forms twice or three times. The need to advise the applicants of invalid applications in writing will stretch our already limited resources even further.

Would you be able to elaborate further on the consequences for the clients if their Form 1005 submitted via email is not invalidated in writing?

Thank you

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

Employer Sponsored Network Support Section
Skilled and Family Visa Program Branch | Immigration and Visa Services Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

<span style="color:red">For-Official-Use-Only</span>

**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 24 May 2018 4:15 PM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)

**Subject:** RE: Form 1005 to be invalidated - s. 47F(1) ), Passport number: s. 47F(1) [DLM=For-Official-Use-Only]

<span style="color:red">For-Official-Use-Only</span>

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

There is no legal requirement to notify but it looks as though the MA was advised anyway. The MA clearly took the advice on board as they then took steps to make a valid application.

In our view, providing you have made notes of what took place, then there is nothing further to do.

Regards

s. 22(1)(a)(ii)
Sea, Air and Bridging ABC Visas Section
Temporary Visa Programme Branch | Immigration and Citizenship Services
Department of Home Affairs
Ph. s. 22(1)(a)(ii)

<span style="color:red">For-Official-Use-Only</span>

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 22 May 2018 4:55 PM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)

**Subject:** FW: Form 1005 to be invalidated - s. 47F(1) ), Passport number: s. 47F(1) [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

RID: s. 47F(1)

We have received an email from the QLD Community Status Resolution requesting to invalidate an emailed PDF Form for a 1005.

The form 1005 for a change of work condition was sent in a PDF format via email on 02/05/2018.  On 10/05/2018, we advised the agent that emailed or faxed Form 1005 for change of work conditions is not acceptable and is invalid.  The MA advised that she will send the application through mail as they cannot lodge it online because there is a different migration agent for the 457 application. On 21/05/2018, the paper application Form 1005 was received and processed.

Policy instructions provide that there is no legal requirement to notify the person of invalid application however from the viewpoint of Compliance it might create a problem in the future as there may be an un-finalised or pending application.

Please advise if the invalid BVA application can be considered an un-finalised application.

Going forward, in cases such as this would it be prudent to send an email to the applicant advising them that they have not made a valid application.


For-Official-Use-Only


Regards,

s. 22(1) (a)(ii)
Position Number:  00000235
Decision Maker, TSS and 457 Program Delivery
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
s. 22(1)(a)(ii)

---

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 22 May 2018 10:18 AM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)

**Subject:** RE: Form 1005 to be invalidated - s. 47F(1) ), Passport number:
s. 47F(1) [DLM=For-Official-Use-Only]


For-Official-Use-Only

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

I am emailing you as this below email trail has been escalated to me for advice on how to proceed.

An email with a form 1005 (application for varied conditions on his BVA) was sent to s. 22(1)(a)(ii) as well as s. 22(1)(a)(ii) on 24 April 2018. On 2 May 2018, the agent sent the same email again to the above email addresses. As a result of these two emails being sent, this leaves two BVA applications pending requiring a decision. I note that the clients agent used form 1005, therefore, these forms will need to be invalidated as per item 1301(1) not lodged in the prescribed means.

I note that the 457 team contacted the agent to advise that the form 1005 needs to be sent via paper through the mail, however, the case officer did not invalidate the two applications that were lodged incorrectly. Consequently, the 457 team received the paper applications on 11 May 2018 and made a decision on the 21 May 2018 to grant BVA with work rights.

Whilst I understand a decision has now been made, this does not negate the fact the department has two open applications that were received by email that will require invalidation. As these applications are BVA's associated to the pending 457 application it will require your team to action. If these applications remain on foot, this could cause detention/removal implications should the clients even enter the compliance space.

I would be grateful if you could ask your team to invalidate these two applications (24/04/2018 and 02/05/2018) as per item 1301(1).

For reference:
Form 1005 received by email on 24/04/2018 - s. 22(1)(a)(ii)
Form 1005 received by email on 02/05/2018 - s. 22(1)(a)(ii)

Regards

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

Manager A/g, QLD Community Status Resolution
Status Resolution Branch | Community Protection Division
Visa and Citizenship Services Group
Department of Home Affairs

P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

---

**From:** s. 22(1)(a)(ii) ]
**Sent:** Wednesday, 2 May 2018 10:24 AM
**To:** s. 22(1)(a)(ii)
>
**Subject:** FW: s. 47F(1) ), Passport number: s. 47F(1)
**Importance:** High

Dear Case Officer,

We hope you are well.

We refer to the above matter.

Kindly note that we are still waiting to receive a response to our client's work rights application.

We humbly request that the application be expedited as a matter of urgency.

We thank you for your assistance.

We look forward to hearing from you.

Kind Regards

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

Solicitor and Registered Migration Agent (MARN s. 22(1)(a)(ii) )

s. 47F(1)

Phone: s. 22(1)(a)(ii)
Fax: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)
Web: s. 47F(1)

e_signature (2).png

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**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 24 April 2018 10:29 AM
**To:** s. 22(1)(a)(ii)

>
**Subject:** s. 47F(1) ), Passport number: s. 47F(1)
**Importance:** High

Dear Case Officer,

We hope you are well.

We refer to the above client.

Please see the attached work rights application, including the following documents:
Submissions;
- Form 956;
- Form 1005;
- Passport copy of our client;
- Statements for all accounts held by our client;
- Evidence of expenses.

We humbly request that the application be expedited as a matter of urgency.

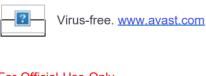We thank you for your assistance.

We look forward to hearing from you.

If you have any queries or concerns, please do not hesitate to contact me.

Kind Regards

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

Solicitor and Registered Migration Agent (MARN s. 22(1)(a)(ii) )

s. 47F(1)

Phone: s. 22(1)(a)(ii)
Fax: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)
Web: s. 47F(1)

e_signature (2).png

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| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a)(ii) |
| **Subject:** | FW: IMMI Bridging Visa Grant Notification - s. 47F(1) [DLM=For-Official-Use-Only] |
| **Date:** | Monday, 30 July 2018 1:34:07 PM |
| **Attachments:** | image001.png image002.jpg |

For-Official-Use-Only

FYI.

Kind regards,

s. 22(1)(a)(ii)
Team Leader – PESE CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
T: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 17 July 2018 5:20 PM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)
**Subject:** RE: IMMI Bridging Visa Grant Notification - s. 47F(1) [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

I am not too familiar with how procedural fairness works in your space. But purely looking at the BVC decision, I agree that we have assessed the BVC application correctly. At the time of the 482 visa application (28/05/2018), the client was onshore holding a BVB (valid till 29/05/2018). Therefore, the client was taken to have applied for a bridging visa in association with his 482 visa application. As the client was not a holder of a substantive visa at the time of the 482 visa application, the client was issued a BVC.

It would appear that the RMA got three things wrong:

- The RMA appears to be under the impression that one should get a BVA after returning on a BVB;
- If the client was a holder of a BVA, he would have got a BVA from his 482 application;
- That the client is subject to s48 bar (obviously whether he meets Sch 1 of another visa is a different matter).

Perhaps we can work from those three points and hopefully it would 'clarify' some of the agent's queries?

Kind regards,

s. 22(1)(a)(ii)
Team Leader – PESE CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
T: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)


**For-Official-Use-Only**

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**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 17 July 2018 3:23 PM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)
**Subject:** FW: IMMI Bridging Visa Grant Notification - s. 47F(1)


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

Grateful if you can confirm that my assessment of the matters being disputed is correct.

The agent is disputing two matters.
1. Incorrect BVC grant in relation to the subsequent 482 visa application and
2. During the recent application under subclass 482, we had requested that if the Sponsor's application was refused, then the visa applicant should be allowed to withdraw his visa application.  The intention is for him to either look for another potential employer or to return to his country.
   Our client was not provided this procedural fairness when the potential business sponsor's application was refused.

The following are the events for your reference:
21/12/2016 -  FA600 visa granted valid until 01/09/2017
24/08/2017 – 457 visa lodged whilst applicant was onshore
24/08/2017 – associated BVA granted
25/10/2017 - BVB granted
28/10/2017 – Applicant departed Australia on a BVB
30/11/2017 – Applicant arrived in Australia on a BVB
24/04/2018 – 457 visa withdrawn as sponsorship was refused
BVB valid until 29/05/2018 (35 days from date of withdrawal)

28/05/2018 – 482 visa lodged whilst applicant was onshore
12/06/2018 – Initial BVC#1 granted
26/06/2018 – Replacement BVC#s granted
08/06/2018 – 482 visa was withdrawn

I am of the opinion that the BVC#1 and BVC#2 were correctly granted as the applicant did not hold a substantive visa at time of lodgement of the 482 application.  With regard to the 482 withdrawal

and our failure to provide natural justice, I think that there was no need for us to provide a natural justice letter as the applicant declared "YES" to withdrawal if the associated SBS or nom is refused or withdrawn.

Thank you for your assistance.

Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

---

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 12 June 2018 6:58 PM
**To:** s. 22(1)(a)(ii)

**Cc:** s. 22(1)(a)(ii)
**Subject:** RE: IMMI Bridging Visa Grant Notification - s. 47F(1)

Dear Officer
Following on from my call to the Department of Home Affairs this morning, my client was issued a BVC. However, on 8 June 2018, he was declared unlawful. We appreciate your swift reaction to sort this matter.

At this stage, this has not resolved the original issue. My client should have been on BVA after our two emails of 8 December 2017 and 8 Jan 2018 where we informed the Department via email
s. 22(1)(a)(ii) that our client had returned to Australia.

The Department did not update its records and assumed that my client was on BVB.

During the recent application under subclass 482, we had requested that if the Sponsor's application was refused, then the visa applicant should be allowed to withdraw his visa application. The intention is for him to either look for another potential employer or to return to his country. Our client was not provided this procedural fairness when the potential business sponsor's application was refused.

Our client has now been granted BVC for no fault of his but instead the Department made errors which led to his situation. I urge that the Department grant him BVA and that will allow him to make a further substantive application onshore.

I look forward to this decision or a call on s. 22(1)(a)(ii) to discuss this further please.

Kindly

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

cid:image002.png@01D3A706 s. 47F(1)

| s. 22(1)(a)(ii) | Principal | s. 47F(1) | MEMBER OF: |
|---|---|---|---|
| s. 47F(1) | | CANBERRA SYDNEY | actlawsociety [MARA logo] [MIA logo] |

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s. 47F(1)

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**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 12 June 2018 3:36 PM
**To:** s. 22(1)(a)(ii)
**Subject:** IMMI Bridging Visa Grant Notification - s. 47F(1)



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

You have been authorised to receive correspondence on behalf of the applicant(s) listed below.

| Client name | Date of birth |
|---|---|
| s. 47F(1) | s. 47F(1) |

Please see the attached information.

Yours sincerely

s. 22(1)(a)
(ii)
Position Number: 00011511

Department of Home Affairs

*This email and attachment(s) was sent to* ^s. 22(1)(a)(ii)                              .

Subclass:482; Stream:Medium Term; Citizenship:FIJI; Country of residence:FIJI; Processing Office:Parramatta Centre of Excellence


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| From: | s. 22(1)(a)(ii) |
|---|---|
| To: | s. 22(1)(a)(ii) |
| Cc: | s. 22(1)(a)(ii) |
| Subject: | RE: Child was born during merits review [SEC=UNCLASSIFIED] |
| Date: | Tuesday, 31 July 2018 1:39:16 PM |

UNCLASSIFIED

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

Apologies for the delay.  We understand the facts of the case to be:

**Family**
Child: s. 47F(1)
Father: s. 47F(1)
Mother:

**Overview of events for Father**
16/03/2015: Subclass 573 granted LUD 28/04/2017
23/03/2016: Applies for Subclass 457
23/03/2016: BVA1 granted in association with 457 application (sits out of effect)
18/06/2016: Subclass 457 application refused
07/09/2016: Merits Review Commenced
28/04/2017: Subclass 573 ceases naturally
29/04/2017: BVA1 comes into effect as the sole visa held
s. 47F(1) : Child born onshore - Acquires 1 x BVA per s 78 compliments of Father held on the
same terms and conditions. Reg 2.08 not applicable as primary decision on application made.
13/01/2018: Father departs Australia; this action ceases BVA1 (Note: child's BVA also ceases)
25/01/2018: Subclass 601 grant
28/01/2018: Enters Australia subclass 601
21/02/2018: BVA2 grant in association with 457 merits review (sits out of effect)
10/03/2018: Departs
18/03/2018: Enters Australia subclass 601 (M03)
18/06/2018: Subclass 601 ceases
19/06/2018: BVA2 comes into effect
10/07/2018: BVA3 grant which ceases BVA2

**Overview of events for Mother**
16/07/2015: Subclass 601 granted
09/08/2015: Enters Australia subclass 601 (M03)
31/10/2015: Departs
01/11/2015: Enters subclass 601 (M03)
05/12/2015: Departs
26/12/2015: Enters subclass 601 (M03)
23/03/2016: Applies for Subclass 457
23/03/2016: BVA1 granted in association with 457 application (sits out of effect)
26/03/2016: Subclass 601 ceases naturally
27/03/2016: BVA1 comes into effect as the sole visa held
11/05/2016: Applies for BVB1 which is granted same day.  Must not arrive after 11/08/2016.

The grant of BVB1 ceases BVA1.
22/05/2016: Departs Australia BVB1
18/06/2016: Subclass 457 application refused
05/08/2016: Enters BVB1
07/09/2016: Merits Review Commenced
s. 47F(1) : Child born onshore - Acquires 1 x BVB per s 78 compliments of Mother held on the same terms and conditions. Reg 2.08 not applicable as primary decision on application made.
13/01/2018: Departs BVB1.  This visa ceases upon departure. (Note: child's BVB1 also ceases)
18/03/2018: Enters subclass 601 (M03)
18/06/2018: BVA2 granted in association with 457 merits review (sits out of effect)
19/06/2018: BVA2 comes into effect as 601 ceases
10/07/2018: BVA3 granted which ceases BVA2

**Overview of events for child**
s. 47F(1) : Child born in Australia.  Section 78 results in 1 x BVA from Father and 1 x BVB from Mother held on the same terms and conditions. Reg 2.08 is not applicable.
13/01/2018: Departs Australia
13/01/2018: BVA ceases
13/01/2018: BVB ceases
14/03/2018: Subclass 601 grant
18/03/2018: Enters Australia on Subclass 601 (M03)
18/06/2018: Subclass 601 ceases naturally
19/06/2018: Child becomes UNC
10/07/2018: Child applies for a BVA by submitting Form 1005.  A delegate grants the BVA although it is not clear on what basis.

ICSE purports to show the child has been added to the Parents' subclass 457 application that is currently at Merits Review, however we have confirmed with the Employer Sponsored Network Support Section that current legislation does not support this where there is no primary decision made in respect of the child.  It follows that the BVA wouldn't appear to be linked to an application that is not yet finally determined or a judicial review matter.  In our view it will need to be considered for cancellation in due course.

**Next steps**
In light of the advice from the Employer Sponsored Network Support Section confirming the child cannot be added, we suggest the child's records be corrected.
Consider possible BVA cancellation action (at the appropriate time).

Regards


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

Sea, Air and Bridging ABC Visas Section
Temporary Visa Programme Branch | Immigration and Citizenship Services
Department of Home Affairs
Ph. s. 22(1)(a)(ii)


UNCLASSIFIED

**From:** s. 22(1)(a)(ii)
**Sent:** Wednesday, 11 July 2018 10:59 AM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)

**Subject:** Child was born during merits review

Good morning

I am writing to seek advice regarding an incorrectly granted BVA

Relevant facts:

20/03/2016 – 457 application lodged
18/08/2016 – 457 application refused
07/09/2016 – AAT review commenced
s. 47F(1)  – child born onshore

At time of birth of the child, parents held BVA from 23/03/2016 to 13/01/2018. The child was granted two BVA's manually. However, the child was Incorrectly added to the parents 457 application that is currently with AAT (RID s. 47F(1)  ). As the child was born when the parent's application for a visa is with a merits review body, current legislation does not permit a child to be added to an AAT review application if there is no primary decision in respect of the child. If a child was born after the decision to grant, withdraw or refuse, the child is not deemed to have made a combined application with the parents under Reg 2.08. This can be rectified by first obtaining acknowledgement and consent from the parents or implied consent from the migration agent as their representative to remove the child from the permission request.

The parents lodged a Form 1005 application and included the child which led to a subsequent BVA being granted to the child. I am of the view that the BVA application of the child is invalid. Please advise if this is correct and grateful for your assistance in a way moving forward with the case.

Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a)(ii) |
| **Cc:** | s. 22(1)(a)(ii) |
| **Subject:** | RE: Manual Visa Grant PID - s. 47F(1)   [DLM=For-Official-Use-Only] |
| **Date:** | Thursday, 2 August 2018 2:07:16 PM |
| **Attachments:** | image001.png |
| | image002.png |
| | image003.png |
| | TRIPS MANUAL GRANT FORM - s. 47F(1)   .docx |

**For-Official-Use-Only**

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

Firstly, an apology from TRIPS. I can see what the initial issue was: s. 22(1)(a) accidentally put the Stay Period in the wrong order, when she originally tried to record the visa. For stay period, we have to enter the date in *reverse* order, so she should have entered it as 20181222 instead of 22122018. So that was our mistake. We are, after all, only human!

However, this misstep on our end has actually been a blessing in disguise!

I was talking to s. 22(1)(a)(ii) about this, and I now believe that there should be no issue with recording this visa in ICSE. The scenario is thus: client holds a 186 visa in effect, granted *after* their date of birth (reg 2.08 – according to s. 22(1)(a)(ii) ). Client needs to hold 457 visa under s78. Under s78, 457 visa needs to hold the same conditions (etc) as that of the parent. Which means, it is appropriate to record the visa with the 22/12/2018 Stay Period. Requesting a new stay period/end date of 19/06/2018 would be unlawful (or, at least, against the operation of law that dictates how the visa need be granted). I understand that this date is the grant date of the 186, so as a system workaround, the logic makes sense.

However, the system is designed to cease a visa with the granting of a new substantive visa. As the client has a 186 already recorded with a grant date of 19/06/2018, retrospectively recording the s78 457 visa (grant date = DOB) should have the 457 automatically cease from the grant date of the 186. That means, I don't see an issue with the recording of the 457 in ICSE.

TRIPS HD don't work in ICSE, so I don't understand fully how it works, but I am under the impression that you should be able to record the 457 visa with the original (future) cease date – this should hopefully not give you a limitation/prevent you from recording the visa. Once recorded, the system should read the client's 186 visa granted after the 457, and cease the 457 from the grant date of the 186.

As such, can I suggest, first, that you try record this in ICSE? I am hoping everything will work out fine.

I'm including s. 22(1)(a)(ii) as an FYI, as if this scenario pops up in the future, you might find this as a quicker solution, rather than filling out and submitting a manual grant to TRIPS.

Compliments and commendation to s. 22(1)(a)(ii) for raising this issue with TRIPS – it has allowed us both to address this issue specifically, share knowledge and come to a mutual solution that hopefully will benefit both teams (as in, save your area time by negating the need to raise a manual grant in this instance). I'm pleased and impressed someone as diligent as s. 22(1)(a)(ii) is constantly in communication with me and my team to try and achieve the most desirable and appropriate outcome for the client. Cheers!

Thank you,

Regards,

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

TRIPS Helpdesk | Visa and Citizenship Helpdesks
Channel Management Branch | Visa Delivery Transformation Division
Immigration and Citizenship Services Group
Department of Home Affairs
TRIPS Helpdesk Ph: s. 22(1)(a)(ii)                          )
Email: s. 22(1)(a)(ii)

**For-Official-Use-Only**

**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 2 August 2018 10:13 AM
**To:** s. 22(1)(a)(ii)
**Subject:** RE: Manual Visa Grant PID - s. 47F(1)        [DLM=For-Official-Use-Only]

Dear s. 22(1)(a ,

Thank you for your e- mail. Please find the amended TRIPS manual grant form, attached. Thank you for your time.

Kind Regards

s. 22(1)(a)(ii)
Decision Support Officer – TSS CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

**From:** s. 22(
**Sent:** Wednesday, 1 August 2018 1:07 PM
**To:** s. 22(1)(a)(ii)                                    >
**Subject:** FW: Manual Visa Grant PID - s. 47F(1)        [DLM=For-Official-Use-Only]

**For-Official-Use-Only**

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

Please look into this case.

Regards

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

Supervisor # TSS CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
Email: s. 22(1)(a)(ii)

Important Notice: 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.  DIBP respects your privacy and has obligations under the Privacy Act 1988.  The official departmental privacy policy can be viewed on the department's website at www.homeaffairs.gov.au
See: http://www.homeaffairs.gov.au/functional/privacy.htm

**For-Official-Use-Only**

**From:** s. 22(1)(a)(ii)
**Sent:** Sunday, 15 July 2018 10:35 AM
**To:** s. 22(1)(a)(ii)
**Subject:** RE: Manual Visa Grant PID - s. 47F(1)

Hello

Unfortunately, the attached manual grant form has not been completed correctly. You will need to amend certain fields and resubmit. As TRIPS is not a delegated role, nor can make legal decisions, we rely on accurate information supplied on these grant forms in order to record the visas only. These forms represent legal decisions (or grants through operation of law, in your client's instance), so they need to be completed accurately before we can action.

Please amend the following fields:

s. 47E(d)

s. 47E(d)

Regards

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

TRIPS Helpdesk | Visa and Citizenship Helpdesks
Channel Management Branch | Visa Delivery Transformation division
Immigration and Citizenship Services Group
Department of Home Affairs
Email: s. 22(1)(a)(ii)

TRIPS Enquiries:    s. 22(1)(a)(ii)
Phone:

Please ensure all replies are sent to the appropriate mailbox and not to the individual officer sending this email and always with email history.

**UNCLASSIFIED**

**From:** s. 22(1)(a)(ii)
**Sent:** Wednesday, 11 July 2018 2:11 PM
**To:** s. 22(1)(a)(ii)
**Subject:** Manual Visa Grant

Dear officer,

Hope you have had a great day so far. Please assist in granting the above client a UC 457 manually. Thank you for your time.

Kind Regards

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

Decision Support Officer – TSS CAT
Skilled Visa Centralised Administration Team

Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

Please fill in below form with all information <u>relevant to your request</u> -

| Requesting Officer's name: | s. 22(1)(a)(ii) |
|---|---|
| | |

| Name of Office/ Area: | Parramatta TSS |
|---|---|

| Name of Branch/Section: | Temporary Visa Programme |
|---|---|

| Is this a manual Grant or Evidence or Re-Evidence? | Manual Grant |
|---|---|

| *Why do you need TRIPS to do it? ie: Why can't it be done in another granting system like ICSE? (*Mandatory – systems limitation, no access etc) | As per s78, child born onshore while parents were a holder of UC 457 visa valid till 19/06/2018. |
|---|---|

| *Does your branch have the delegation for us to record this visa grant? (*Mandatory field remove yes or no accordingly) | Yes |
|---|---|
| Visa Class: | UC |

| Visa s/c: | 457  (STAT CODE : 182) |
|---|---|

| Primary  OR  Secondary/Dependant Applicant (Criteria): | Dependant Applicant |
|---|---|

| FAMILY name/s: | s. 47F(1) |
|---|---|

| Given Name/s: | s. 47F(1) |
|---|---|

| Gender: | s. 47F(1) |
|---|---|

| DOB: | s. 47F(1) |
|---|---|

| Birth Country: | s. 47F(1) |
|---|---|

| Country of Current Citizenship: | s. 47F(1) |
|---|---|

| Travel Doc. Number: | s. 47F(1) |
|---|---|
| Travel Doc. Country: | s. 47F(1) |

| Travel Doc. Type:<br><br>01    = Passport<br><br>02    = Other Travel Doc<br><br>03    = Titre de Voyage<br><br>04    = DFTTA<br><br>05    = PLO56 (M56)<br><br>98    = ImmiCard | 01 |
|---|---|

| TD Issue Date: | 28/02/2018 |
|---|---|

| TD Expiry date: | 27/02/2023 |
|---|---|
| TD issuing country: | Australia |

| Visa Grant date: | 19/06/2018 |
|---|---|

| Visa Application date: | 25/05/2018 |
|---|---|

| Primary Applicants Visa Application date:<br>(only if applicable) | 22/10/2014 |
|---|---|

| Entry Expiry Date/Visa Cease Date: | 19/06/2018 |
|---|---|

| Migrant Entry Date/Enter Before Date:  (only if applicable) | |
|---|---|

| Initial Stay Until Date/Initial Stay Date:  (only if applicable) | 19/06/2018 |
|---|---|

| No of  Entries/Entries Allowed: | M |
|---|---|

| Visa Conditions (All condition codes required): | 8107, 8501 |
|---|---|

| | |
|---|---|
| Visa Grant No: (required for evidence or re-evidence only) | s. 47F(1)                    ) |

| | |
|---|---|
| Visa Evidence No: (required for evidence or re-evidence only) | |

| | |
|---|---|
| Visa Label (Evidence) Issue Date: (required for evidence or re-evidence only) | |

| | |
|---|---|
| Client PID: | s. 47F(1) |

| | |
|---|---|
| *Substantive Application ID (*Must be provided for Bridging Visa Grants unless you require a stand-alone BV not attached to a Substantive Application, Remember Stand Alone BV's won't have a Sub Application ID to make them cease automatically when required, so you will need to request TRIPS HD to cease them manually when appropriate) | RID: s. 47F(1) |

| From: | s. 22(1)(a)(ii) |
|---|---|
| To: | s. 22(1)(a)(ii) |
| Cc: | s. 22(1)(a)(ii) |
| Subject: | FW: 482 Already Granted - NFA for BVB [SEC=UNCLASSIFIED] |
| Date: | Friday, 3 August 2018 8:10:39 AM |

Hi All

I refer you to the email from s. 22(1) (PDCU) below.

- On 27/07/2018, Decision Makers were reminded to finalise any BVB applications before granting the 457/TSS visa.
- If you come across any 457/TSS grants after 27/07/2018 with an un-finalised BVB application, please bring them to my attention for referral to PDCU.
- We are not resourced to offer clients to withdraw and refund the BVB payment.

We have identified three BVB's that have not been granted prior to the 475/TSS grant before 27/07/2018.  Withdrawal and refund will be offered for these three applications and they will be given them 7 days to respond.  If by the 8<sup>th</sup> day we do not get a response, we will make a decision and there will be no scope for a refund.

In order to avoid such incidents from occurring, please advise your Supervisor if you have un-actioned BVB cases in your ICSE batch by COB on the day you are rostered for the function.

This information IS stored in OBJ2018/39060 – Visa Processing.

Kind Regards

s. 22(1)(a)(ii)
Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 2 August 2018 4:35 PM
**To:** s. 22(1)(a)(ii)                    @HOMEAFFAIRS.GOV.AU>
**Subject:** RE: 482 Already Granted - NFA for BVB [SEC=UNCLASSIFIED]

UNCLASSIFIED

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

I asked the ADs on 27/7 to remind their teams to finalise any BVB applications before they grant the 457 or the TSS visa. (as I put it, although getting them to withdraw and refunding the payment is the nicer thing to do, we are not resourced to be that nice)

Please let me know if you are seeing grants after 27/7 where the DM is not finalising the BVB before granting the substantive visa, so I can then take those to the AD of the DM in question.

As for these three, I'm afraid we're going to have to ask them to withdraw the BVB and offer a refund. We're not obliged to give them 28 days to respond – so maybe give them 7 days, plus the refund offer, and say that if we don't hear back, we will make a decision and there will then be no scope for a refund. I think we'll find that the idea of getting $145 back will make people move.

Cheers,

s. 22(1)(a)(ii)
Manager, TSS & 457 Program Delivery Support
Skilled and Family Visa Program
Immigration and Visa Services Division
Immigration & Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

UNCLASSIFIED

**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 2 August 2018 3:57 PM
**To:** s. 22(1)(a)(ii) >
**Subject:** FW: 482 Already Granted - NFA for BVB [SEC=UNCLASSIFIED]

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

Please seek clarification about outstanding BVB that SVCAT have not processed but were subsequently granted the 482 visa.

What action do we take with the outstanding BVB? A refusal is the only option as time of application criteria 020.211 requires the applicant to hold a BVA or BVB and time of decision criteria requires the applicant to continue to meet 020.211. Or do we ask them to withdraw the BVB?

Grateful for your guidance.

Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

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**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 2 August 2018 3:13 PM
**To:** s. 22(1)(a)(ii)
**Subject:** 482 Already Granted - NFA for BVB [SEC=UNCLASSIFIED]

UNCLASSIFIED

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

As discussed before, please see the list below where the 482's have been granted and no BVB grant is required.

RID: s. 47F(1) – BVB Lodged: 20/07/2018 – 482 Granted: 26/07/2018

RID: s. 47F(1) – BVB Lodged: 20/07/2018 – 482 Granted: 26/07/2018

RID: s. 47F(1) – BVB Lodged: 23/07/2018 – 482 Granted: 27/07/2018

Thank you

Warm wishes

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

Administration Officer, TSS and 457 Program Delivery
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)

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

UNCLASSIFIED

| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a)(ii) |
| **Cc:** | s. 22(1)(a)(ii) |
| **Subject:** | FW: URGENT- 651 visa still valid while other granted visa sitting behind system [DLM=For-Official-Use-Only] |
| **Date:** | Monday, 13 August 2018 3:24:00 PM |

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

Thank you for your reply.

I have asked the TSS Program Coordination Unit for assistance in finalising the application.

Feedback will be given to all the Support Officers in TSS CAT to avoid similar situations in the future.


Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)




**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 13 August 2018 3:11 PM
**To:** s. 22(1)(a)(ii)                          @HOMEAFFAIRS.GOV.AU>
**Cc:** s. 22(1)(a)(ii)



**Subject:** RE: URGENT- 651 visa still valid while other granted visa sitting behind system [DLM=For-Official-Use-Only]


For-Official-Use-Only

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

There is no easy fix for this one.  In our view, possible options from most to least preferred are as follows:

1.   Ask the area responsible to fast track the processing of the subclass 457 application that remains on foot; we note this was lodged nearly one year ago; or
2.   The holder waits until the BVA comes into effect on 23/10/2018. This assumes she doesn't

depart Australia and return again during this period (which would add a further 3mths); or

3.    Lodge a new BVA application on Form 1005 which is intentionally left undecided. Compliance then cancel the subclass 651 which will also cancel the out of effect BVA. The delegate then decides the outstanding BVA application. Note: not sure of the impact (if any) such action could have on the pending 457 application. You would need to check this with the 457 policy area to be sure.


Regards


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

Sea, Air and Bridging ABC Visas Section
Temporary Visa Programme Branch | Immigration and Citizenship Services
Department of Home Affairs
Ph. s. 22(1)(a)(ii)


For-Official-Use-Only


**From:** s. 22(1)(a)(ii)
**Sent:** Friday, 10 August 2018 3:45 PM
**To:** s. 22(1)(a)(ii)                                                      >
**Cc:** s. 22(1)(a)(ii)
                                                                  >
**Subject:** FW: URGENT- 651 visa still valid while other granted visa sitting behind system [DLM=For-Official-Use-Only]


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

I am writing to seek advice regarding a way forward with a BVA that is out of effect because the applicant applied for a TV651.

RID s. 47F(1)
-    Primary applicant and dependant applicant applied for a BVB however the officer granted the BVB to the PA and due to oversight did not process the BVB for the DA.
-    DA departed and came back with a TV651 visa.
-    The DA applied for a replacement BVA and was granted with the same condition (8547).
-    TV651 is in effect because it is the more beneficial visa.
-    Client would like to continue working however the BVA is out of effect.


Please advise how this can be resolved.


Kind Regards


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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division

Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

**From:** s. 22(1)(a)
**To:** s. 22(1)(a)(ii)
**Subject:** FW: Form 1005 to be invalidated - s. 47F(1)                    ), Passport number: s.          [DLM=For-Official-Use-Only]
**Date:** Tuesday, 14 August 2018 2:14:28 PM
**Attachments:** image001.png
image002.png
image003.jpg
image004.jpg

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**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 24 May 2018 4:15 PM
**To:** s. 22(1)(a)(ii)                    @HOMEAFFAIRS.GOV.AU>
**Cc:** s. 22(1)(a)(ii)

@HOMEAFFAIRS.GOV.AU>
**Subject:** RE: Form 1005 to be invalidated - s. 47F(1)                    ), Passport number: s. 47F(1)    [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

There is no legal requirement to notify but it looks as though the MA was advised anyway.  The MA clearly took the advice on board as they then took steps to make a valid application.

In our view, providing you have made notes of what took place, then there is nothing further to do.

Regards

s. 22(1)(a)(ii)
Sea, Air and Bridging ABC Visas Section
Temporary Visa Programme Branch | Immigration and Citizenship Services
Department of Home Affairs
Ph. s. 22(1)(a)(ii)

For-Official-Use-Only

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**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 22 May 2018 4:55 PM
**To:** s. 22(1)(a)(ii)                    >
**Cc:** s. 22(1)(a)(ii)

>
**Subject:** FW: Form 1005 to be invalidated - s. 47F(1)                    ), Passport number: s. 47F(1)    [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1) ,

RID: s. 47F(1)

We have received an email from the QLD Community Status Resolution requesting to invalidate an emailed PDF Form for a 1005.

The form 1005 for a change of work condition was sent in a PDF format via email on 02/05/2018.  On 10/05/2018, we advised the agent that emailed or faxed Form 1005 for change of work conditions is not acceptable and is invalid.  The MA advised that she will send the application through mail as they cannot lodge it online because there is a different

migration agent for the 457 application. On 21/05/2018, the paper application Form 1005 was received and processed.

Policy instructions provide that there is no legal requirement to notify the person of invalid application however from the viewpoint of Compliance it might create a problem in the future as there may be an un-finalised or pending application.

Please advise if the invalid BVA application can be considered an un-finalised application.

Going forward, in cases such as this would it be prudent to send an email to the applicant advising them that they have not made a valid application.

For-Official-Use-Only

Regards,

s. 22(1)(a)(ii)
Position Number:  00000235
Decision Maker, TSS and 457 Program Delivery
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
E: s. 22(1)(a)(ii)

---

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 22 May 2018 1:03 PM
**To:** s. 22(1)(a)(ii)                                    >
**Cc:** s. 22(1)(a)(ii)                                    >
**Subject:** FW: Form 1005 to be invalidated - s. 47F(1)                              ), Passport number: s. 47F(1)   [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

I refer you to the email below requesting for the Form 1005 received via email on the 02/05/2018 has been invalidated.

Please contact s. 22(1)(a)(ii)  and explain to him the emailed PDF form 1005 CLD2018/22916351 is not a valid application. A paper application was lodged and has now been actioned.

Kind Regards

s. 22(1)(a)(ii)
Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

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**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 22 May 2018 12:14 PM
**To:** s. 22(1)(a)(ii)                                    >
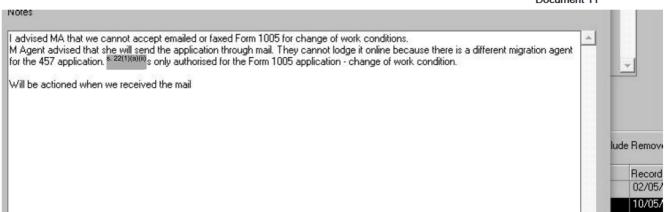**Cc:** s. 22(1)(a)(ii)
                                          >

**Subject:** RE: Form 1005 to be invalidated - s. 47F(1)                    ), Passport number: s. 47F(1)  [DLM=For-Official-Use-Only]

Hi s. 22(1)(a)(

Can you please get a staff member to action below request. Thank you

Kind Regards

s. 22(1)(a)(ii)
Manager – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

---

**From:** s. 22(1)(a)(ii)                     >
**Sent:** Tuesday, 22 May 2018 10:18 AM
**To:** s. 22(1)(a)(ii)                     >
**Cc:** s. 22(1)(a)(ii)
**Subject:** RE: Form 1005 to be invalidated - s. 47F(1)              ), Passport number: s. 47F(1)  [DLM=For-Official-Use-Only]

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

I am emailing you as this below email trail has been escalated to me for advice on how to proceed.

An email with a form 1005 (application for varied conditions on his BVA) was sent to s. 22(1)(a)(ii)              as well as s. 22(1)(a)(ii)                   on 24 April 2018. On 2 May 2018, the agent sent the same email again to the above email addresses. As a result of these two emails being sent, this leaves two BVA applications pending requiring a decision.  I note that the clients agent used form 1005, therefore, these forms will need to be invalidated as per item 1301(1) not lodged in the prescribed means.

I note that the 457 team contacted the agent to advise that the form 1005 needs to be sent via paper through the mail, however, the case officer did not invalidate the two applications that were lodged incorrectly. Consequently, the 457 team received the paper applications on 11 May 2018 and made a decision on the 21 May 2018 to grant BVA with work rights.

Whilst I understand a decision has now been made, this does not negate the fact the department has two open applications that were received by email that will require invalidation. As these applications are BVA's associated to the pending 457 application it will require your team to action. If these applications remain on foot, this could cause detention/removal implications should the clients even enter the compliance space.

I would be grateful if you could ask your team to invalidate these two applications (24/04/2018 and 02/05/2018) as per item 1301(1).

For reference:
Form 1005 received by email on 24/04/2018 - CLD2018/22916077
Form 1005 received by email on 02/05/2018 - CLD2018/22916351

Regards

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

Manager A/g, QLD Community Status Resolution
Status Resolution Branch | Community Protection Division
Visa and Citizenship Services Group
Department of Home Affairs

P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 22 May 2018 8:59 AM
**To:** s. 22(1)(a)(ii)
**Subject:** FW: Form 1005 to be invalidated - s. 47F(1) ), Passport number: s. 47F(1) [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

I also sent this yesterday to their team leader.

Thanks

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

Administrative Coordinator
Community Status Resolution Service
Status Resolution Branch | Immigration Integrity and Community Protection Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii) | F: 07 3136 7582
E: s. 22(1)(a)(ii)

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 21 May 2018 3:25 PM
**To:** s. 22(1)(a)(ii) >
**Cc:** s. 22(1)(a)(ii) >
**Subject:** RE: Form 1005 to be invalidated - s. 47F(1) ), Passport number: s. 47F(1) [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

I am one of the team leaders in QLD Status resolution. I have looked in ICSE and cannot see where this form

1005 has been withdrawn or invalidated. I can see that subsequent form 1005 have been granted. Can you please action this as a matter of urgency.

Regards,

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

Administrative Coordinator
Community Status Resolution Service
Status Resolution Branch | Immigration Integrity and Community Protection Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii)                              | F: 07 3136 7582
E: s. 22(1)(a)(ii)

For-Official-Use-Only

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**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 21 May 2018 2:43 PM
**To:** s. 22(1)(a)(ii)                                    >
**Cc:** s. 22(1)(a)(ii)                                    >
**Subject:** RE: Form 1005 to be invalidated - s. 47F(1)                    ), Passport number: s. 47F(1)   [DLM=For-Official-Use-Only]

For-Official-Use-Only

Can you please let me know when the Form 1005 received via email on the 02/05/2018 has been invalidated.

Regards,

s. 22(1)(a)(ii)
Community Status Resolution Officer
Status Resolution Branch | Immigration Integrity and Community Protection Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

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**From:** s. 22(1)(a)(ii)                                    ]
**Sent:** Monday, 21 May 2018 2:40 PM
**To:** s. 22(1)(a)(ii)                                    >
**Cc:** s. 22(1)(a)(ii)
**Subject:** RE: Form 1005 to be invalidated - s. 47F(1)                    ), Passport number: s. 47F(1)   [DLM=For-Official-Use-Only]

For-Official-Use-Only

I have not looked for the email as I noted that my colleague s. 22(1)(a)(ii) made a note on 02.05 . So I only processed the hard copy.

Notes

I advised MA that we cannot accept emailed or faxed Form 1005 for change of work conditions.
M Agent advised that she will send the application through mail. They cannot lodge it online because there is a different migration agent
for the 457 application. s. 22(1)(a)(ii) s only authorised for the Form 1005 application - change of work condition.

Will be actioned when we received the mail

lude Remove

Record
02/05/
10/05/

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

Decision Support Officer – TSS CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E:

For-Official-Use-Only

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**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 21 May 2018 2:37 PM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)
**Subject:** RE: Form 1005 to be invalidated - s. 47F(1)                    , Passport number: s. 47F(1)    [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

Can you confirm the form 1005 received via email on the 02/05/2018, at the invalid email address has been invalidated.  ICSE shows a BVA granted but no applications invalidated.

Regards,

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

Community Status Resolution Officer
Status Resolution Branch | Immigration Integrity and Community Protection Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii)
E:

For-Official-Use-Only

---

**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 21 May 2018 2:14 PM
**To:** s. 22(1)(a)(ii)
**Cc:**
**Subject:** RE: Form 1005 to be invalidated - s. 47F(1)                    ), Passport number: s. 47F(1)    [DLM=For-Official-Use-Only]

For-Official-Use-Only

Its been done thanks s. 22(1)(a)(ii)

s. 22(1)(a)(ii)
Decision Support Officer – TSS CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

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**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 21 May 2018 1:37 PM
**To:** s. 22(1)(a)(ii)                                           >
**Cc:** s. 22(1)(a)(ii)                                           >
**Subject:** RE: Form 1005 to be invalidated - s. 47F(1)                          ), Passport number: s. 47F(1)   [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

It's actually the Form 1005 lodged via email, not post, on the 2nd May 2018.

The client's Agent has incorrectly emailed the Form 1005 to the QLD Status Resolution Inbox. .  We are unable to invalidate it as it is an application for a Bridging A visa.

Regards,

s. 22(1)(a)(ii)
Community Status Resolution Officer
Status Resolution Branch | Immigration Integrity and Community Protection Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

For-Official-Use-Only

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**From:** s. 22(1)(a)(ii)                                           ]
**Sent:** Monday, 21 May 2018 12:57 PM
**To:** s. 22(1)(a)(ii)                                           >
**Cc:** s. 22(1)(a)(ii)                                           >
**Subject:** FW: Form 1005 to be invalidated - s. 47F(1)                          ), Passport number: s. 47F(1)   [DLM=For-Official-Use-Only]
**Importance:** High

For-Official-Use-Only

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

RID s. 47F(1)

Please locate the form 1005 received by post on 11/05/2018 and make a decision on the request for permission to work.

Please advise me and cc s. 22(1)(a)(ii) once the application is finalised.

Kind Regards

s. 22(1)(a)(ii)
Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)


For-Official-Use-Only

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**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 21 May 2018 8:49 AM
**To:** s. 22(1)(a)(ii)
>
**Subject:** FW: Form 1005 to be invalidated - s. 47F(1) ), Passport number: s. 47F(1) [DLM=For-Official-Use-Only]
**Importance:** High


For-Official-Use-Only

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

Thank you for your email.

s. 22(1)(a)(i) – I refer to my email of 9/5 and to the follow up enquiry from s. 22(1)(a)(ii) of CSR Office (as attached). Grateful for your response. Thanking you.


Regards

s. 22(1)(a)(ii)
Ag/ Assistant Director, TSS and 457 Program Delivery
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)


For-Official-Use-Only

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**From:** s. 22(1)(a)(ii)
**Sent:** Wednesday, 9 May 2018 11:44 AM
**To:** s. 22(1)(a)(ii) >
**Subject:** FW: Form 1005 to be invalidated - s. 47F(1) ), Passport number: s. 47F(1) [DLM=For-Official-Use-Only]
**Importance:** High


For-Official-Use-Only

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

I no longer have carriage of this particular work types as 457 Admin Team has moved to SVCAT as of 7 May.

I have included s. 22(1)(a)( in this email. s. 22(1)(a)( is the Team Leader to SVCAT (457/TSS).

s. 22(1)(a)( – Grateful for your assistance. Thanks.

Regards

s. 22(1)(a)(ii)
Ag/ Assistand Director, TSS and 457 Program Delivery
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

---

**From:** s. 22(1)(a)(ii)
**Sent:** Wednesday, 9 May 2018 8:49 AM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)
**Subject:** FW: Form 1005 to be invalidated - s. 47F(1) ), Passport number: s. 47F(1) [DLM=For-Official-Use-Only]
**Importance:** High

For-Official-Use-Only

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

Are you able to respond to s. 22(1)(a)(ii) from QLD Status Resolution in relation to the attached application?

Kind regards,

s. 22(1)(a)(ii)
A/g Manager - Temporary Work (Skilled) 457 Queensland
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

In office Monday to Thursday

For-Official-Use-Only

---

**From:** s. 22(1)(a)(ii)
**Sent:** Wednesday, 9 May 2018 8:00 AM
**To:** s. 22(1)(a)(ii) >
**Subject:** Form 1005 to be invalidated - s. 47F(1) ), Passport number s. 47F(1) [DLM=For-Official-Use-Only]
**Importance:** High

For-Official-Use-Only

Hi s. 22(1) ,

I wanted to ask if it would be possible if you could find out when this Form 1005 requesting a Bridging A visa will be invalidated. The application was sent to QLD CSRS in error and we are not able to invalidate Bridging A visa applications.

Many thanks.

s. 22(1)(a)(ii)
Community Status Resolution Officer
Status Resolution Branch | Immigration Integrity and Community Protection Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 3 May 2018 9:27 AM
**To:** s. 22(1)(a)(ii)        >
**Subject:** Form 1005 to be invalidated - s. 47F(1)                     ), Passport number: s. 47F(1)   [DLM=For-Official-Use-Only]
**Importance:** High

For-Official-Use-Only

Hi Team,

Can you please advise me when this Form 1005 requesting a Bridging A visa is invalidated.

Regards,

s. 22(1)(a)(ii)
Community Status Resolution Officer
Status Resolution Branch | Immigration Integrity and Community Protection Division
Immigration and Citizenship Services Group
Department of Home Affairs

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)
**Sent:** Wednesday, 2 May 2018 11:12 AM
**To:** s. 22(1)(a)(ii)        >
**Subject:** Form 1005 to be invlaidated - s. 47F(1)                 ), Passport number: s. 47F(1)   [DLM=For-Official-Use-Only]
**Importance:** High

For-Official-Use-Only

Hi Team,

The client's Agent has incorrectly emailed the Form 1005 to the QLD Status Resolution Inbox.  Can you please invalidate the application.  We are unable to invalidate it as it is an application for a Bridging A visa.

I realise the Agent has also sent the email to your team as well.  I have already emailed the Agent advising her the application sent to QLD CSRS will be invalidated as we only deal with client's that are unlawful or hold Bridging E visas.

Many thanks,

s. 22(1)(a)(ii)
Community Status Resolution Officer
Status Resolution Branch | Immigration Integrity and Community Protection Division
Immigration and Citizenship Services Group
Department of Home Affairs

<span style="color:red">For-Official-Use-Only</span>

---

**From:** ▓s. 22(1)(a)(ii)▓ ]
**Sent:** Wednesday, 2 May 2018 10:24 AM
**To:** ▓s. 22(1)(a)(ii)▓
▓▓▓▓▓ >
**Subject:** FW: ▓s. 47F(1)▓ ), Passport number: ▓s. 47F(1)▓
**Importance:** High

Dear Case Officer,

We hope you are well.

We refer to the above matter.

Kindly note that we are still waiting to receive a response to our client's work rights application.

We humbly request that the application be expedited as a matter of urgency.

We thank you for your assistance.

We look forward to hearing from you.

If you have any queries or concerns, please do not hesitate to contact me.

Kind Regards

▓s. 22(1)(a)(ii)▓
Solicitor and Registered Migration Agent (MARN ▓s. 22(1)▓ )

▓s. 47F(1)▓
▓▓▓▓▓

Phone: ▓s. 22(1)(a)(ii)▓
Fax: ▓s. 22(1)(a)(ii)▓

Email: ▓s. 22(1)(a)(ii)▓
Web: ▓s. 47F(1)▓

e_signature (2).png

---

**From:** ▓s. 22(1)(a)(ii)▓ ]
**Sent:** Tuesday, 24 April 2018 10:29 AM
**To:** ▓s. 22(1)(a)(ii)▓
▓▓▓▓▓ >
**Subject:** ▓s. 47F(1)▓ ), Passport number: ▓s. 47F(1)▓
**Importance:** High

Dear Case Officer,

We hope you are well.

We refer to the above client.

Please see the attached work rights application, including the following documents:
Submissions;
- Form 956;
- Form 1005;
- Passport copy of our client;
- Statements for all accounts held by our client;
- Evidence of expenses.

We humbly request that the application be expedited as a matter of urgency.

We thank you for your assistance.

We look forward to hearing from you.

If you have any queries or concerns, please do not hesitate to contact me.

Kind Regards

s. 22(1)(a)(ii)
Solicitor and Registered Migration Agent (MARN s. 22(1)(a)(ii) )

s. 47F(1)

Phone: s. 22(1)(a)(ii)
Fax: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)
Web: s. 47F(1)

e_signature (2).png

 Virus-free. www.avast.com

For-Official-Use-Only

**From:**  s. 22(1)(a)(ii)
**To:**  s. 22(1)(a)(ii)
**Cc:**  s. 22(1)(a)(ii)
**Subject:**  HPRM: FW: HPRM: Extenuating Circumstances - Apparent Technical Error | s. 47F(1)
[SEC=UNCLASSIFIED]
**Date:**  Tuesday, 21 August 2018 3:06:19 PM
**Attachments:**  image001.png

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

Thank you for the advice.  I will inform the RMA.

Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: (s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 21 August 2018 2:40 PM
**To:** s. 22(1)(a)(ii)  >
**Cc:** s. 22(1)(a)(ii)

>
**Subject:** RE: HPRM: Extenuating Circumstances - Apparent Technical Error | s. 47F(1)
[SEC=UNCLASSIFIED]

UNCLASSIFIED

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

We have checked with Legals.  In this case BVB#1 to BVB#5 were all held in association with the one Subclass 457 application.  The grant of the BVA on 15/06/2018 (also in association with the same application) ceased BVB#5 in its entirety in line with cl 020.511(1)(v) of Sch 2 to the Regulations; it will not reactivate.  The BVA ceased at the point when the holder departed Australia.

Regards

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

Sea, Air and Bridging ABC Visas Section
Temporary Visa Programme Branch | Immigration and Citizenship Services

Department of Home Affairs
Ph. s. 22(1)(a)(ii)

UNCLASSIFIED

**From:** s. 22(1)(a)(ii)
**Sent:** Friday, 17 August 2018 10:21 AM
**To:** s. 22(1)(a)(ii)                                                      >
**Cc:** s. 22(1)(a)(ii)

                                                       >
**Subject:** FW: HPRM: Extenuating Circumstances - Apparent Technical Error | s. 47F(1)
                                        [SEC=UNCLASSIFIED]
**Importance:** High

UNCLASSIFIED

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

Can you please provide a copy or TRIM link so we can see the Form 1005 lodged 23/05/2018.

Thanks

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

Sea, Air and Bridging ABC Visas Section
Temporary Visa Programme Branch | Immigration and Citizenship Services
Department of Home Affairs
Ph. s. 22(1)(a)(ii)

UNCLASSIFIED

**From:** s. 22(1)(a)(ii)
**Sent:** Friday, 17 August 2018 9:06 AM
**To:** s. 22(1)(a)(ii)                                            >
**Subject:** FW: HPRM: Extenuating Circumstances - Apparent Technical Error | s. 47F(1)
                                        [SEC=UNCLASSIFIED]
**Importance:** High

UNCLASSIFIED

UNCLASSIFIED

**From:** s. 22(1)(a)(ii)
**Sent:** Friday, 17 August 2018 8:14 AM
**To:** s. 22(1)(a)(ii)                                                      >
**Cc:** s. 22(1)(a)(ii)

                                                              >
**Subject:** FW: HPRM: Extenuating Circumstances - Apparent Technical Error | s. 47F(1)

**Importance:** High

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

I refer you to the email below.  The RMA  is of the view that technical error has occurred as BVB being the most beneficial visa should not have ceased.

Timeline of events:
22/05/2018 - BVB granted with travel facility until 31/12/2018 (BVB ceased on 15/06/2018 due to BVA grant)
15/06/2018 – BVA granted with 8547 condition (ceased on 27/07/2018 due to applicant's departure)
27/07/2018 – departed Australia on a BVA
10/08/2018 – applicant lodged FA600 offshore (undecided and is being processed in Indonesia)

Grateful for your assistance with this matter.

Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 16 August 2018 10:54 AM
**To:** s. 22(1)(a)(ii)                              >
**Subject:** HPRM: Extenuating Circumstances - Apparent Technical Error | s. 47F(1)

**Importance:** High

**Primary applicant** s. 47F(1)
**Visa Visitor (Business) (subclass 600)**
**Date of application 10 August 2018**
**Application ID** s. 47F(1)
**Transaction reference number** s. 47F(1)

Dear TSS Team,

I am contacting you in relation to an urgent matter.

The above named applicant was the holder of a BVA, during which time a BVB was applied for and approved until 31 December 2018. Following this, a request to have condition 8547 removed from the BVA in preparation for when it came back into effect following the BVB validity period, was made. Another BVA was subsequently issued, which overrode the applicant's BVB. The applicant's BVA ceased when he travelled offshore and he is unable to return to Australia without a valid visa. I have been advised that his BVB cannot be reinstated whilst he is offshore.

**Apparent technical error**

The validity period of the applicant's BVB gave permission to travel until **31 December 2018**. As prescribed by legislation, the applicant's BVB should still have been in effect, despite the grant of the BVA. S 82(3) of the *Migration Act 1958* provides that a BVB will cease to be in effect where another visa, including another bridging visa comes into effect. However, as per the *Regulations* and Departmental policy, if the other visa is a less beneficial bridging visa than the BVB, the BVB "reactivates" under s 68(4) of the Act. Regulation 2.21(2) of the *Migration Regulations 1994* provides that a BVB is the most beneficial bridging visa a person can hold. It is the case therefore that the BVA should only have become active, following the expiry of the BVB held by the applicant, in December 2018.

Please advise whether action can be taken to correct the apparent error to allow the BVB to show as active, to allow the applicant to return to Australia as he is currently stuck in Bali.

Do not hesitate to contact me should you require any further information.

Kind Regards,

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

| Visit our website | s. 22(1)(a)(ii) |
| --- | --- |
| [?] | **Registered Migration Agent | MARN** s. 22(1)(a)(ii) |
| | **Office:** +s. 22(1)(a)(ii) |
| | **Email:** s. 22(1)(a)(ii) |
| | **Web:** s. 47F(1) |
| | s. 47F(1) |

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law. If you are not the named recipient you are not permitted to copy, discuss, distribute, or take any action in relation to this message. The opinions, conclusions and other information contained in the message are those of the sender and not necessarily those of s. 47F(1) . If you have received this message in error, or if transmission is incomplete, please contact the sender immediately.

| From: | s. 22(1)(a)(ii) |
| To: | s. 22(1)(a)(ii) |
| Cc: | s. 22(1)(a)(ii) |
| Subject: | RE: <URGENT: ADDING NEW BORN BABY> FW: s. 47F(1) -<br>IMMI Grant Notification [SEC=UNCLASSIFIED] |
| Date: | Friday, 24 August 2018 5:04:58 PM |
| Attachments: | image001.jpg |

UNCLASSIFIED

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

Apologies for the delay in providing a final response to this query.

As you are aware, there have been a number of issues which have contributed to this current situation - the late advice from the agent regarding the newborn child and the delay on the department acting on this advice, coupled with the fact the child departed Australia with his parents.

The timeline of events is copied below for ease of reference.

| Date | Event |
|------|-------|
| 15/12/16 | 1st 457 visa granted to parents – **Valid to 15/06/18** |
| 04/09/17 | 2nd 457 visa lodged – BVA granted to parents |
| s. 47F(1) | **Baby born onshore** |
| 11/05/18 | Parents and newborn child depart Australia |
| 23/05/18 | Email received from agent advising of newborn child requesting it be added to existing 457 and undecided 457 application<br>s. 22(1)(a)(ii) |
| 04/06/18 | Child granted s/c601 offshore |
| 09/06/18 | Parents and child return to Australia |
| 15/06/18 | 1st 457 visa ceases |
| 28/06/18 | Baby added to 2nd (undecided) 457 visa application under s78 |
| 09/07/18 | Baby added to parent's 1st 457 visa application and granted s/c457 visa |

1.  The timeline shows that by the time the child was added to the parent's original 457 application and granted a 457 visa on the **09/07/18**, the child had departed Australia on 11/05/18 (without a visa) and returned to Australia on the 09/06/18 as the holder of a 601 visa.
2.  The parent's original 457 visa had also by this time (09/07/18), naturally expired, ceasing on 15/06/18 which actually makes the 457 visa granted to the child redundant in these circumstances.
3.  The child had also previously (on 28/06/18) been added (under s78) to the parent's subsequent undecided 2nd 457 visa application.

I note that at the time of the child's birth on s. 47F(1) , the parents held a 457 visa **and** an out of effect BVA associated with the 457 application they lodged on 04/09/17. This being the case, as

the parents held both visas i.e. 457 and out of effect BVAs, based on the PAM extract below, the child is also taken to hold a BVA in addition to the 457. On this basis, the child is indeed able to be added to his parent's current undecided 457 application and be granted a BVA in association with that application (with a Nil VAC) with the BVA coming into effect when his s/c601 visa ceases.

## Child born in Australia to bridging visa holder

Section 78 of the Act states that a non-citizen child born in Australia to the holder of a visa (other than a special purpose visa) is taken to have been granted, at birth, a visa of the same kind and class and with the same visa terms and conditions.

If a child is born in Australia to a bridging visa holder, they will hold the same bridging visa as their parent, whether or not the parent's bridging visa was in effect at the time of the child's birth. If the child's parent(s) holds more than one visa or the parents each hold a different visa, the child will also hold each of those visas held by each parent. Therefore, the child could hold multiple visas. Refer also to PAM3: GenGuideA - All visas - Visa application procedures

Any further queries let me know.

Regards

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

Employer Sponsored Network Support Section
Skilled and Family Visa Program Branch | Immigration and Visa Services Division
Immigration and Citizenship Services Group | Department of Home Affairs
Telephone: s. 22(1)(a)(ii)

UNCLASSIFIED

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 21 August 2018 2:58 PM
**To:** s. 22(1)(a)(ii)                    @HOMEAFFAIRS.GOV.AU>
**Cc:** s. 22(1)(a)(ii)                    @HOMEAFFAIRS.GOV.AU>
**Subject:** FW: <URGENT: ADDING NEW BORN BABY> FW: s. 47F(1)
                  - IMMI Grant Notification [SEC=UNCLASSIFIED]
**Importance:** High

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

The agent has sent an email requesting for an update.  A standing reply will be given whilst we await further clarification.

The agent has pointed out the subsequent 457 application was lodged on 04/09/2017 whilst the child s. 47F(1)        ) was born on s. 47F(1)        .  Therefore, she could not add the child to the subsequent application.  We have already added the child under s78 to the parent's original 457 visa (request ID s. 47F(1)        ).  The child departed Australia on 11/05/2018, returned on 09/06/2018 as the holder of a UD601 visa and is lawful until 09/09/2018.

Grateful for clarification about your earlier advise to to get consent from the main applicant to remove the child from the application and get them to lodge a subsequent TSS application.

Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

**From:** s. 22(1)(a)(ii)
**Sent:** Wednesday, 11 July 2018 8:18 AM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)

>
**Subject:** FW: <URGENT: ADDING NEW BORN BABY> FW: s. 47F(1)

- IMMI Grant Notification [SEC=UNCLASSIFIED]
**Importance:** High

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

Thank you for your quick reply.

The subsequent 457 application of the parents (RID s. 47F(1) ) was lodged on 04/09/2017. They departed on 11/05/2018 and returned on 09/06/2018 under a UD601 visa. It would appear that the RMA forgot to add the child in this application.

Going forward with the incorrect addition of the child to the subsequent application, we will advise the RMA and get them to lodge a TSS application for the child. Please advise if it is it necessary to get consent from the main applicant to remove the child from the application?

Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

**From:** s. 22(1)(a)(ii)

**Sent:** Tuesday, 10 July 2018 4:10 PM

**To:** s. 22(1)(a)(ii)

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

>

**Subject:** FW: <URGENT: ADDING NEW BORN BABY> FW: s. 47F(1)

- IMMI Grant Notification [SEC=UNCLASSIFIED]

**Importance:** High

UNCLASSIFIED

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

I agree with you that the newborn child (as it was at the time) was correctly granted a 457 visa in accordance with s78 (see red highlighted text copied below) in connection with the child's parent's original 457 visa (request ID s. 47F(1) ).

| Section 78 | **Children born in Australia** |
|---|---|

**(1)** If:

    (a)  a child born in Australia is a non-citizen when born; and

    (b)  at the time of the birth:

        (i)  one of the child's parents holds a visa (other than a special purpose visa); and

        (ii)  the other parent is, under section 83, included in that visa or does not hold a visa (other than a special purpose visa);

        the child is taken to have been granted, at the time of the birth, a visa of the same kind and class and on the same terms and conditions (if any) as that visa.

**(2)**  If:

    (a)  a child born in Australia is a non-citizen when born; and

    (b)  at the time of the birth, each of the child's  parents holds a visa (other than a special purpose visa);

    the child is taken to have been granted, at the time of the birth, visas of the same kind and class and on the same terms and conditions (if any) as each of those visas.

However, adding the same child to his parent's subsequent undecided 457 visa application lodged on 04/09/17 on the basis that this was permitted under s78 was not correct. Instead, the child should have been included as a secondary dependent applicant in his parents application at the time it was lodged.

The reason he wasn't added to his parent's 457 application at the time it was lodged was likely due to him being offshore. Unfortunately, I don't have access to the movement data base in ICSE so can't check the child's travel movements but I note he was granted a s/c601 visa (which is current to 09/09/18) presumably to facilitate his return travel to Australia at which time he was added to the parent's current undecided 457 application – incorrectly under s78.

As the main applicant and his spouse have already lodged their 457 visa application and it is still pending a decision, the child (who is no longer deemed to be a newborn infant) should apply for a TSS visa as a subsequent entrant.

Regards

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

Employer Sponsored Network Support Section
Skilled and Family Visa Program Branch | Immigration and Visa Services Division
Immigration and Citizenship Services Group | Department of Home Affairs
Telephone: (s. 22(1)(a)(ii)

UNCLASSIFIED

**From:** s. 22(1)(a
**Sent:** Tuesday, July 10, 2018 9:58 AM
**To:** s. 22(1)(a)(ii)                                                                 >
**Cc:** s. 22(1)(a)(ii)

                                                        >
**Subject:** FW: <URGENT: ADDING NEW BORN BABY> FW: s. 47F(1)
                    - IMMI Grant Notification
**Importance:** High

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

I am writing to seek your assistance with the baby who was born onshore.

The Primary applicant was an existing 457 visa holder and has also lodged a subsequent 457 visa application.

s. 47F(1)                              – PA
s. 47F(1)                              – spouse
s. 47F(1)                              – baby born on shore

The following are the relevant facts:

10/03/2016 – RID s. 47F(1)          457 visa lodged for PA and spouse
15/12/2016 – 457 visa granted for PA and spouse valid until 15/06/2018
09/07/2018 – baby added and granted 457 visa under s78

04/09/2017- RID s. 47F(1)          457 visa application in progress

**28/06/2018 – baby added to the application under s78**

I am of the view that the child was correctly added to the previous 457 (RID <span style="background:gray">s. 47F(1)</span> ) visa application as the child was born during the time that the parents held the 457 visa. The child was also added to the subsequent visa application that is still in progress.

Please advise if adding the child to the subsequent 457 visa application (RID <span style="background:gray">s. 47F(1)</span> ) that is still in progress is lawful.

I await your response.

Kind Regards

<span style="background:gray">s. 22(1)(a)(ii)</span>

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: <span style="background:gray">s. 22(1)(a)(ii)</span>
E: <span style="background:gray">s. 22(1)(a)(ii)</span>

---

**From:** <span style="background:gray">s. 22(1)(a)(ii)</span> >
**Sent:** Wednesday, 23 May 2018 4:57 PM
**To:** <span style="background:gray">s. 22(1)(a)(ii)</span> >
**Subject:** FW: <URGENT: ADDING NEW BORN BABY> FW: <span style="background:gray">s. 47F(1)</span> - IMMI Grant Notification
**Importance:** High

Dear Sir/Madam,

Refer to the attached , please add new born baby to the existing 457 visa holder, <span style="background:gray">s. 47F(1)</span> /Passport: <span style="background:gray">s. 47F(1)</span> ).

She also lodged renewal of 457 visa application; TRN <span style="background:gray">s. 47F(1)</span> , then the change of circumstance has been uploaded to Immi account already.

Please advise me as soon as possible.

Warm regards

<span style="background:gray">s. 22(1)(a)(ii)</span>

<span style="background:gray">s. 47F(1)</span>

Registered Migration Agent

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

Office: s. 22(1)(a)(ii)
Mobile: s. 22(1)(a)(ii)
Address s. 47F(1)

*This email contains confidential information intended for the use of the addressee named above. If you are not the intended recipient you are hereby notified that any use, dissemination, distribution or reproduction of this email or the contained information is strictly prohibited by law. If you have received this email in error, please delete and destroy all copies and notify* s. 47F(1) *by telephone on* s. 47F(1) *or by replying to the sender. Except as required by law,* s. ___ s. 47F(1) *does not represent, warrant and/or guarantee that the integrity of this email has been maintained nor that the communication is free of errors, virus, interception or interference. Any views expressed in this message are those of the sender. You may not rely on this message as advice to act unless subsequently confirmed by fax or letter signed by an authorised representative of* s. 47F(1)

---

**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, December 15, 2016 8:50 AM
**To:** s. 22(1)(a)
**Subject:** s. 47F(1) - IMMI Grant Notification

This email regarding your application is automatically generated.

As this email is an automated notification we are unable to receive replies. Do not respond to this email address.

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

You have been authorised to receive correspondence on behalf of the applicant(s) listed below.

| Client name | Date of birth |
|---|---|
| s. 47F(1) | s. 47F(1) |

Please see the attached information.

Yours sincerely

Department of Immigration and Border Protection

*This email and attachment(s) was sent to*
s. 22(1)(a)(ii)

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.

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| From: | s. 22(1)(a)(ii) |
| To: | s. 22(1)(a)(ii) |
| Subject: | FW: Legal advice (ref: C37812) - AAT set aside and reg 2.08 [DLM=Sensitive Legal] |
| Date: | Tuesday, 28 August 2018 5:17:16 PM |

Sensitive:Legal

Hello CAT leaders,

s. 42(1)

Regards

s. 22(1)
A/g SV Centralised Administration Team Manager
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)
E: s. 22(1)(a)(ii)

Sensitive:Legal

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 28 August 2018 3:51 PM
**To:** s. 22(1)(a)(ii)
**Subject:** FW: Legal advice (ref: C37812) - AAT set aside and reg 2.08 [DLM=Sensitive:Legal]

Sensitive:Legal

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

s. 42(1)

Please let me know if further assistance is required from Employer Sponsored Program Management.

Thank you

Kind Regards

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

Employer Sponsored Network Support Section
Skilled and Family Visa Program Branch | Immigration and Visa Services Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

Sensitive:Legal

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 28 August 2018 2:12 PM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)                               >
**Subject:** Legal advice (ref: C37812) - AAT set aside and reg 2.08 [DLM=Sensitive:Lega ]

Sensitive:Legal

Dear s. 22(1)(a ,

Thank you for your request for advice copied below.

s. 42(1)

s. 42(1)

Regards,

s. 22(1)
Senior Legal Officer
Legal Opinions Help Desk
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)

*This email may contain legal advice that is subject to legal professional privilege.  Care should be taken to avoid unintended waiver of that privilege.  Legal Opinions should be consulted prior to any decision to disclose the existence or content of any advice contained in this email to a third party.*

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Sensitive
Good afternoon LOHD,

s. 42(1)

Please let me know if you require further information. I look forward to your advice.

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

ored Network Support Section
Skilled and Family Visa Program Branch | Immigration and Visa Services Division
Immigration and Citizenship Services Group
Dep
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

Sensitive

From: s. 22(1)(a)(ii)
Sent
To: s. 22(1)(a)(ii)                                        >
Subj                                                    tive]

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

From my experience, the following persons can be reinstated BVAs only if they lodge a new F1005 as they were holders of a substantive visa at the time of RN187 visa application, and the cancellation of their 457 visa has been set aside by the tribunal.

s. 47F(1)                                    Holder of 457
s. 47F(1)                  s. 47F(1)         f 457
`, `                                        Holder of 457

As mentioned by the TRIPS team, the BVAs ceased correctly for the family on cancellation of the 457 visas under reg 010.511(1)(b)(vi). The set aside decision of the 457 cancellation is not meant to enliven the BVAs again, and they would be required to lodged a new BVA application and meet all relevant requirements for the grant of the new BVAs.

As for the child s. 47F(1)                    ), she was born to parents who were only holding BVEs at the time                              before the set aside decision). Hence, it would seem that the child was granted 2 x BVEs by virtue of section 78.

Now that the 457 cancellation has been set aside, it would be interesting to see if legal supports that the parents were actually holders of 457 visas at the time the child was born. If the answer is no - the child was not a holder of 457 at time of birth and at the time of RN187 visa application, then the child may not be able to make a valid BVA application under Item 1301(3)(d).

Item 1301    Bridging A (Class WA)<https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/regs/Pages/_document00000/_level%20100007/_level%20200073/legend_current_mrpop02239.aspx>

(3)  Other:

(a)  An  application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument <https://www.legislation.gov.au/Details/F2018L00289> made for this item under subregulation 2.07(5)<https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/regs/Pages/_document00000/_level%20100002/level%20200016.aspx#2075>.

(b)  Applicant must be in Australia<https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/regs/Pages/_document00000/_level%20100001/_level%20200001/level%20200002.aspx#JD_103-inAustralia> but not in immigration clearance<https://legend.border.gov.au/migration/2017-

[2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100005/level%20200013.aspx#JD_17240241-Immigrationclearance](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100005/level%20200013.aspx#JD_17240241-Immigrationclearance)>.

(c)   Either:

(i)   the applicant has made a valid application for a substantive visa<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition)> that has not been finally determined<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_540941-Interpretation-FinallyDetermined](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_540941-Interpretation-FinallyDetermined)>; or

(ii)   application has been made, within statutory time limits, for judicial review<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/regs/Pages/_document00000/_level%20100008/level%20200081.aspx#JD_050212404A41-Criteriatobesatisfiedattimeofapplication](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/regs/Pages/_document00000/_level%20100008/level%20200081.aspx#JD_050212404A41-Criteriatobesatisfiedattimeofapplication)> of a decision in relation to the applicant's substantive visa<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition)> application, and the judicial review proceeding<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/level%20100014.aspx#JD_486D40541judicialreviewproceeding](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/level%20100014.aspx#JD_486D40541judicialreviewproceeding)> (including proceedings on appeal, if any) have not been completed.

(d)   Applicant must:

(i)   hold a substantive visa<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition)>; or

(ii)   hold a Bridging A (Class WA) or Bridging B (Class WB) visa<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/regs/Pages/_document00000/_level%20100007/level%20200073.aspx#JD_1302-BridgingB40ClassWB41](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/regs/Pages/_document00000/_level%20100007/level%20200073.aspx#JD_1302-BridgingB40ClassWB41)> and have held a substantive visa<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition)> when he or she made the substantive visa<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition)> application; or

(iii)   have held a substantive visa<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition)> when he or she made the substantive visa<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition)> application referred to in paragraph (c); or

(iv)   have previously held a Bridging A (Class WA) visa granted under regulation 2.21A<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/regs/Pages/_document00000/_level%20100002/level%20200023.aspx#JD_221A-GrantofBridgingA40ClassWA41visaswithoutappln](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/regs/Pages/_document00000/_level%20100002/level%20200023.aspx#JD_221A-GrantofBridgingA40ClassWA41visaswithoutappln)> in respect of the substantive visa<[https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition](https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition)> referred to in paragraph (c).


Hope this helps!

Regards

s. 22(1)(a)(ii)   – PESE CAT
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Dep          e Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)                                          >
Thi                                                         ion' as defined under the Migration Act 1958 or Australian Citizenship Act 2007, and can only be used for purposes under these Acts.


Sensitive:Legal

| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a) |
| **Cc:** | s. 22(1)(a)(ii) |
| **Subject:** | RE: s. 47F(1)                                                    [DLM=For-Official-Use-Only] |
| **Date:** | Wednesday, 29 August 2018 10:20:42 AM |

<span style="color:red">For-Official-Use-Only</span>

Hi <span>s. 22(1)(a)(ii)</span> ,

Looks as though this case has resolved itself so no further action.  We've copied TRIPS in as the second subclass 457 needs to be recorded.

This is what we are seeing:

**Child:**
s. 47F(1)                                                              ) ICSE CID: s. 47F(1)          – child born onshore

**Father:**
s. 47F(1)                                                    ) ICSE CID: s. 47F(1)
Visa held: Subclass 457 (granted 04/06/2014 cease 04/06/2018)

**Mother:**
s. 47F(1)                                               ) ICSE CID: s. 47F(1)
Visa held: Subclass 457 (granted 04/06/2014 cease 04/06/2018)

**Summary:**
Child acquires 2 x 457 visas per s 78 valid until **04/06/2018**
Applications per Reg 2.08: NIL

**Subsequent events:**
06/07/2018: BVC1 granted after child is added to parents Subclass 457 application
10/07/2018: Child applies for Subclass 482 visa in own right
16/07/2018: BVC2 granted in association with Subclass 482 application
20/07/2018: Child withdrawn from Subclass 457 application are request made in writing (BVC1 cessation trigger)
23/08/2018: Subclass 482 granted **LUD 23/08/2022.** (BVC2 ceases upon this visa being granted)
24/08/2018: BVC1 ceases naturally

**Next steps:**
TRIPS DATA to add a second (identical) Subclass 457 visa as the child acquired two. <u>Acquisition date 06/10/2016, cease date 04/06/2018.</u>

Regards


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

Sea, Air and Bridging ABC Visas Section
Temporary Visa Programme Branch | Immigration and Citizenship Services

Department of Home Affairs
Ph. s. 22(1)(a)(ii)

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 12 July 2018 4:23 PM
**To:** s. 22(1)(a)(ii)                                                          >
**Cc:** s. 22(1)(a)(ii)                                                          >
**Subject:** s. 47F(1)                                        )- CID s. 47F(1)          [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi

The following are the relevant facts:

04/06/2014 – **RID** s. 47F(1)       457 visa was granted to PA (father) and Spouse valid until 04/06/2018
s. 47F(1)       – Baby born but was not added in previous visa
08/02/2018- RID s. 47F(1)       PA lodged another UC 457 visa application without adding child in question as dependant
04/04/2018 – Baby  added in previous  457 visa and granted visa on 04/04/2018 under  Sec 78 **RID** s. 47F(1)
14/05/2018- PA requested to add Baby added in their current UC 457 visa application still in progress -  RID s. 47F(1)
06/07/2018- Baby was granted BVC
10/07/2018- Baby lodged another Temporary Skill Shortage (Subsequent Entrant) 482 visa application and BV is yet to be granted **RID** s. 47F(1)       )

I have checked ICSE record s. 47F(1)                        has not lodged  any Temp Skill Shortage (Medium) (GK 482 visa application and his 457 visa application is still in progress. I am of the view that the child was correctly added to the previous 457 (**RID** s. 47F(1)       ) visa application as the child was born during the time that the parents held the 457 visa. The child was also added to the subsequent visa application that is still in progress.

Please advise if lodging of  Temporary Skill Shortage (Subsequent Entrant) 482 visa application (**RID** s. 47F(1)       ) that is still in progress is lawful.

I await your response.

Regards

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

Decision Support Officer – TSS CAT

Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
Email: s. 22(1)(a)(ii)

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)
**To:** s. 22(1)(a)(ii)
**Subject:** FW: URGENT RID : s. 47F(1)      - Unlawful/Onshore [DLM=For-Official-Use-Only]
**Date:** Monday, 10 September 2018 12:50:55 PM

fyi

**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 10 September 2018 11:44 AM
**To:** s. 22(1)(a)(ii)                                                                          >
**Cc:** s. 22(1)(a)(ii)
                                        >
**Subject:** RE: URGENT RID : s. 47F(1)      - Unlawful/Onshore [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

Thank you for the additional information.  The BVA application purportedly lodged on 04/09/2018 is invalid as schedule 1 is not satisfied, namely Item 1301(3)(d).

In terms of BVC eligibility, while a valid application can be made, in our view it will not be possible for the person to satisfy cl 030.212(2)(ba).

Regards


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

Sea, Air and Bridging ABC Visas Section
Temporary Visa Programme Branch | Immigration and Citizenship Services
Department of Home Affairs
Ph. s. 22(1)(a)(ii)

For-Official-Use-Only


**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 10 September 2018 11:35 AM
**To:** s. 22(1)(a)(ii)                                          >
**Cc:** s. 22(1)(a)(ii)                                      >
**Subject:** FW: URGENT RID : s. 47F(1)      - Unlawful/Onshore [DLM=For-Official-Use-Only]


For-Official-Use-Only


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

Please find attached form 1005.

Kind regards,

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

Decision Support Officer – TSS CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
Tel: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

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See: http://www.homeaffairs.gov.au/functional/privacy.htm

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 10 September 2018 11:06 AM
**To:** s. 22(1)(a)(ii)                               >
**Cc:** s. 22(1)(a)(ii)

                                        >
**Subject:** URGENT RID : s. 47F(1)          - Unlawful/Onshore [DLM=For-Official-Use-Only]

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

We received a paper Form 1005 request for an initial BVA in relation to an ongoing 457 application.

The following is the timeline of events:
- 27/05/2016 - Last held Substantive visa TU 572 since ceased
- 30/05/2016 – lodged TU 572
- 08/12/2017 - lodged Judicial Review
- 28/12/2017  - BVB lodged
- 06/09/2018 – BVB ceased
- 27/01/2018  - Substantive 457 Lodged Offshore not finally determined
- 31/08/2018   - Paper Form 1005 lodged in WA
- 04/09/2018 - Paper Form 1005 received by SVCAT/Parramatta

Client was Offshore and did not hold substantive visa at the time of 457 application, however was holding valid BVB.  At the time of lodgement of the paper form 1005 client was onshore and held valid BVB.  Our assessment is that applicant cannot validly make a BVA application because  Item 1301(3)(d)(i) is not met.

We are trying to ascertain whether the applicant can validly apply for a BVC in relation to the 457 application.

Your urgent response is appreciated as applicant is currently unlawful and will be presenting to Compliance in WA.

Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: ( s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

**From:** s. 22(1)(a)(ii)
**To:** s. 22(1)(a)(ii)

**Cc:** s. 22(1)(a)(ii)
**Subject:** FW: URGENT - Advice received - FW: Regulation 1.08 - compelling need to work [DLM=For-Official-Use-Only]
**Date:** Tuesday, 11 September 2018 11:54:00 AM

Hi All

We have received confirmation from s. 22(1)(a)(ii) , Employer Sponsored Network Support Section that *TSS was specifically excluded from Regulation 1.08(d) i.e. this was a specific policy decision made in relation to the TSS visa at the time it was introduced and replaced 457. TSS applicants will therefore need to demonstrate financial hardship if they want a new BV without a work limitation.*

TSS applicants will therefore need to demonstrate financial hardship if they want a new BV without a work limitation.  For TSS applications, you will not be able to approve a BV without a work limitation on the basis of an approved nomination.


Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: (s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)


**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 11 September 2018 10:55 AM
**To:** s. 22(1)(a)(ii)
>
**Cc:** s. 22(1)(a)(ii)

>
**Subject:** RE: URGENT - Advice received - FW: Regulation 1.08 - compelling need to work [DLM=For-Official-Use-Only]


<span style="color:red">For-Official-Use-Only</span>

For clarity, this is for TSS visa applicants as we were discussing yesterday.  The regulation is clear re 457 visa applicants.

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

Please let me know if you have any questions.

Kind regards

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

Manager, TSS & 457 Program Delivery Support
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration & Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 11 September 2018 10:45 AM
**To:** s. 22(1)(a)(ii)
>
**Cc:** s. 22(1)(a)(ii)

**Subject:** URGENT - Advice received - FW: Regulation 1.08 - compelling need to work [DLM=For-Official-Use-Only]
**Importance:** High

For-Official-Use-Only

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

Flowing on from our conversation below, please see response from Program Management regarding the intentional operation of Regulation 1.08 – Compelling Need to Work.

Please see s. 22(1)(a)(ii) email noting, "*applicants will therefore need to demonstrate financial hardship if they want a new BV without a work limitation.*"  You will not be able to approve a BV without a work limitation on the basis of an approved nomination.

Please let me know if you have any questions.  Thanks s. 22(1)(a)(ii) , particularly for raising this issue.

Kind regards

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

Manager, TSS & 457 Program Delivery Support
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration & Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

**From:** s. 22(1)(a)(ii)

**Sent:** Monday, 10 September 2018 4:10 PM
**To:** s. 22(1)(a)(ii)                        >
**Cc:** s. 22(1)(a)(ii)

                     >
**Subject:** RE: Regulation 1.08 - compelling need to work [DLM=For-Official-Use-Only]

For-Official-Use-Only

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

TSS was specifically excluded from Regulation 1.08(d) i.e. this was a specific policy decision made in relation to the TSS visa at the time it was introduced and replaced 457. TSS applicants will therefore need to demonstrate financial hardship if they want a new BV without a work limitation.

Regards

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

Employer Sponsored Network Support Section
Skilled and Family Visa Program Branch | Immigration and Visa Services Division
Immigration and Citizenship Services Group | Department of Home Affairs

For-Official-Use-Only

---

**From:** s. 22(1)(a)(ii)
**Sent:** Monday, September 10, 2018 3:32 PM
**To:** s. 22(1)(a)(ii)                           >
**Cc:** s. 22(1)(a)(ii)                   >
**Subject:** Regulation 1.08 - compelling need to work [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hello,

We've just realised that regulation 1.08 states the following:

> For the purposes of these Regulations, a non-citizen has a compelling need to work if and only if:
>
> (a)  he or she is in financial hardship; or
>
> (d)  he or she:
>
>> (i)  is an applicant for a Temporary Business Entry (Class UC) visa who seeks to satisfy the criteria for the grant of a Subclass 457 (Temporary Work (Skilled)) visa; and
>>
>> (ii)  is identified in an approved nomination of an occupation made by:

(A)  a standard business sponsor; or

(B)  a former standard business sponsor; or

(C)  a party to a labour agreement;

who is specified in the application for that visa; and

(iii)  appears to the Minister, on the basis of information contained in the application, to satisfy the criteria for the grant of that visa.


It has not been amended to include applicants for a Temporary Skill Shortage visa who seek to satisfy the criteria for the grant of a Subclass 482 (Temporary Skill Shortage) visa.

Was this intentional? In the meantime, we will have to ask those seeking PTW to provide evidence of financial hardship.



Cheers,



s. 22(1)(a)(ii)
A/g Assistant Director, TSS & 457 Program Delivery
Skilled and Family Visa Program
Immigration and Visa Services Division
Immigration & Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)


For-Official-Use-Only

| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a)(ii) |
| **Cc:** | s. 22(1)(a)(ii) |
| **Subject:** | FW: URGENT - Advice received - FW: Regulation 1.08 - compelling need to work [DLM=For-Official-Use-Only] |
| **Date:** | Tuesday, 11 September 2018 11:54:08 AM |

Hi All

We have received confirmation from s. 22(1)(a)(ii) , Employer Sponsored Network Support Section that *TSS was specifically excluded from Regulation 1.08(d) i.e. this was a specific policy decision made in relation to the TSS visa at the time it was introduced and replaced 457. TSS applicants will therefore need to demonstrate financial hardship if they want a new BV without a work limitation.*

TSS applicants will therefore need to demonstrate financial hardship if they want a new BV without a work limitation.  For TSS applications, you will not be able to approve a BV without a work limitation on the basis of an approved nomination.


Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)


**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 11 September 2018 10:55 AM
**To:** s. 22(1)(a)(ii)

>
**Subject:** RE: URGENT - Advice received - FW: Regulation 1.08 - compelling need to work [DLM=For-Official-Use-Only]


For-Official-Use-Only

For clarity, this is for TSS visa applicants as we were discussing yesterday.  The regulation is clear re 457 visa applicants.

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

Please let me know if you have any questions.

Kind regards

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

Manager, TSS & 457 Program Delivery Support
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration & Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

<span style="color:red">For-Official-Use-Only</span>

---

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 11 September 2018 10:45 AM
**To:** s. 22(1)(a)(ii)

>

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

>

**Subject:** URGENT - Advice received - FW: Regulation 1.08 - compelling need to work [DLM=For-Official-Use-Only]
**Importance:** High

<span style="color:red">For-Official-Use-Only</span>

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

Flowing on from our conversation below, please see response from Program Management regarding the intentional operation of Regulation 1.08 – Compelling Need to Work.

Please see s. 22(1)(a)(ii) email noting, "*applicants will therefore need to demonstrate financial hardship if they want a new BV without a work limitation.*"  You will not be able to approve a BV without a work limitation on the basis of an approved nomination.

Please let me know if you have any questions.  Thanks s. 22(1)(a)(ii) , particularly for raising this issue.

Kind regards

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

Manager, TSS & 457 Program Delivery Support
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration & Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

<span style="color:red">For-Official-Use-Only</span>

---

**From:** s. 22(1)(a)(ii)

**Sent:** Monday, 10 September 2018 4:10 PM
**To:** s. 22(1)(a)(ii)                                                    >
**Cc:** s. 22(1)(a)(ii)

                                        >
**Subject:** RE: Regulation 1.08 - compelling need to work [DLM=For-Official-Use-Only]

<span style="color:red">For-Official-Use-Only</span>

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

TSS was specifically excluded from Regulation 1.08(d) i.e. this was a specific policy decision made in relation to the TSS visa at the time it was introduced and replaced 457. TSS applicants will therefore need to demonstrate financial hardship if they want a new BV without a work limitation.

Regards

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

Employer Sponsored Network Support Section
Skilled and Family Visa Program Branch | Immigration and Visa Services Division
Immigration and Citizenship Services Group | Department of Home Affairs

<span style="color:red">For-Official-Use-Only</span>

---

**From:** s. 22(1)(a)(ii)
**Sent:** Monday, September 10, 2018 3:32 PM
**To:** s. 22(1)(a)(ii)                                                    >
**Cc:** s. 22(1)(a)(ii)                                          >
**Subject:** Regulation 1.08 - compelling need to work [DLM=For-Official-Use-Only]

<span style="color:red">For-Official-Use-Only</span>

Hello,

We've just realised that regulation 1.08 states the following:

> For the purposes of these Regulations, a non-citizen has a <u>compelling need to work</u> if and only if:
>
> (a)  he or she is in financial hardship; or
>
> (d)  he or she:
>
> > (i)  is an applicant for a <u>Temporary Business Entry (Class UC) visa</u> who seeks to satisfy the criteria for the grant of a <u>Subclass 457 (Temporary Work (Skilled)) visa</u>; and
> >
> > (ii)  is identified in an approved nomination of an occupation made by:

(A)  a standard business sponsor; or

(B)  a former standard business sponsor; or

(C)  a party to a labour agreement;

who is specified in the application for that visa; and

(iii)  appears to the Minister, on the basis of information contained in the application, to satisfy the criteria for the grant of that visa.

It has not been amended to include applicants for a Temporary Skill Shortage visa who seek to satisfy the criteria for the grant of a Subclass 482 (Temporary Skill Shortage) visa.

Was this intentional? In the meantime, we will have to ask those seeking PTW to provide evidence of financial hardship.

Cheers,

s. 22(1)(a)(ii)
A/g Assistant Director, TSS & 457 Program Delivery
Skilled and Family Visa Program
Immigration and Visa Services Division
Immigration & Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. |
| **Cc:** | s. 22(1)(a)(ii) |
| **Subject:** | RE: RE: AMENDMENT OF BVA GRANT DATE [SEC=UNCLASSIFIED] |
| **Date:** | Friday, 28 September 2018 1:34:37 PM |

UNCLASSIFIED

Hi TSS,

Unfortunately grant date is not a field that can be amended in TRIPS. You will need to reverse the grant and re-grant the BV with the correct grant date.

_____

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

TRIPS Helpdesk
Visa & Citizenship Helpdesks Section
Department of Home Affairs

TRIPS Helpdesk Enquiries:    s. 22(1)(a)(ii)
Phone:                                   s. 22(1)(a)(ii)                    ]

**\*\*Please note: if TRIPS Helpdesk has modified a visa for you, you will need to notify the client of the amendment / issue a new grant notification, so the client has the updated information regarding their visa.\*\***

Please ensure all replies are sent to the group mailbox and not to the individual officer sending this email and always with email history.

UNCLASSIFIED

**From:** s. 22(...
**Sent:** Friday, 28 September 2018 12:48 PM
**To:** s. 22(1)(a)(ii)            @homeaffairs.gov.au>
**Cc:** s. 22(1)(a)(ii)

**Subject:** RE: AMENDMENT OF BVA GRANT DATE [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Trips,

RE: s. 47F(1)                                    ) – CID: s. 47F(1)        – RID: s. 47F(1)

Grateful if you can amend the grant date of BVA for the above baby added under Reg 2.08.

Baby was born s. 47F(1) , however the admin person forgot to change the BVA grant date to the child's date of birth.

Kind regards,

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

Supervisor – TSS CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
E: s. 22(1)(a)(ii)

UNCLASSIFIED

| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a)(ii) |
| **Cc:** | s. 22(1)(a)(ii) |
| **Subject:** | RE: URGENT APPLICANT s. 47F(1)     CID s. 47F(1)     [SEC=UNOFFICIAL] |
| **Date:** | Friday, 28 September 2018 3:17:59 PM |

UNOFFICIAL

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

Thanks for your email.  This is what we are seeing:

**Child**
s. 47F(1)                                    ) ICSE CID: s. 47F(1)          , born onshore

**Mother**
s. 47F(1)                                 ) ICSE CID: s. 47F(1)
Visa/s held at time of child's birth: Subclass 573, granted 10/06/2014 LUD 08/01/2017
Applications on foot at time of child's birth: NIL

**Father**
s. 47F(1)                            ) ICSE CID: s. 47F(1)
Visa/s held at time of child's birth: Subclass 573, granted 10/06/2014 LUD 08/01/2017
Applications on foot at time of child's birth: NIL

**Summary**
The child acquired 2 x 573 Student visas valid until 08/01/2017 in line with s 78 of the Act.
Reg 2.08 is not applicable in this case.

**Subsequent events for child**
08/01/2017: Both Student visas cease naturally
09/01/2017: UNC
02/03/2018: Makes a combined application for a Subclass 457 and associated BV (as a dependant)

**BVC eligibility**
In our view the child has made a valid application for a BVC in association with the Subclass 457 application and prima facie satisfies both the schedule 1 and 2 requirements.  It follows that it is open to a delegate to grant the BVC subject to any remaining criterion also being satisfied.

We trust this helps.

Regards

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

Sea, Air and Bridging ABC Visas Section
Temporary Visa Programme Branch | Immigration and Citizenship Services

Department of Home Affairs
Ph. s. 22(1)(a)(ii)

UNOFFICIAL

---

**From:** s. 22(1)(a)(ii)
**Sent:** Friday, 28 September 2018 2:14 PM
**To:** s. 22(1)(a)(ii) @homeaffairs.gov.au>
**Cc:** s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>
**Subject:** FW: URGENT APPLICANT s. 47F(1) CID s. 47F(1) [SEC=UNOFFICIAL]

Good afternoon

I refer you to my email below.  Please assist with the enquiry regarding the validity of the associated BVC application.

Looking forward to your reply.


Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

---

**From:** s. 22(1)(a)(ii)
**Sent:** Friday, 28 September 2018 8:22 AM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)

**Subject:** FW: URGENT APPLICANT s. 47F(1) CID s. 47F(1) [SEC=UNOFFICIAL]

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

I refer you to the email below from the Student Centre.

Overview of the case:

s. 47F(1)                    :                baby born onshore

10/06/2014 – 08/01/2017:    TU573 held by parents at time of baby's birth

23/05/2018 – 15/03/2018:    TU500 held by parents however baby was added as Unaccom Fam Member/Child

02/03/2018:                parents and baby lodged 457

02/03/2018:                baby's associated BV invalidated by system as child was showing offshore

25/09/2018:                RMA sent an email to Adelaide Student Centre requesting for child to be

27/09/2018:                The child has now been merged, placed onshore and granted TU573 visa under S78 from child's birth to 08/01/2017

The system invalidated the BV as at the time of application the baby was still showing offshore.  I am seeking your advice regarding the validity of the associated BVC application (UC457) and can reg 030.212(2) be met.

Thank you for your assistance.


Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: ( s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

---

**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 27 September 2018 3:43 PM
**To:** s. 22(1)(a)(ii)                                    >
**Subject:** RE: URGENT APPLICANT s. 47F(1)              CID s. 47F(1)              [SEC=UNOFFICIAL]


UNOFFICIAL

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

Thank you for your email.

At the time of birth the parents of s. 47F(1)              held a TU573 student visa with an expiry

date of 8 January 2017.

s. 47F(1) has been placed onshore and granted a TU573 visa under Section 78 by operation of law from her date of birth until 8 January 2017.

As s. 47F(1) was an unaccompanied family member on her parents' subsequent student visa application no decision was made for her in this application. s. 47F(1) no longer meets the Schedule 2 requirements for this application under Regulation 500.311. I have included this regulation below for your reference.

I have forwarded your email to the UC457 area for follow up. Please direct any further queries to this area.

**500.311**

The applicant is a member of the family unit of a person (the primary person) who holds a student visa, having satisfied the primary criteria for that visa, and either:

(a)  the applicant became a member of the family unit of the primary person before the grant of the student visa to the primary person, and was included in:

   (i)  the primary person's application under subregulation 2.07AF(3); or

   (ii)  information provided in relation to the primary person's application under subregulation 2.07AF(4); or

(b)  the applicant became a member of the family unit of the primary person:

   (i)  after the grant of the student visa to the primary person; and

   (ii)  before the application was made.

Regards,

s. 22(

Administration Officer | SA Student Visa Centre
Temporary Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: 131 881

UNOFFICIAL

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 25 September 2018 1:38 PM

**To:** [s. 22(1)(a)(ii)] >

**Subject:** URGENT APPLICANT [s. 47F(1)]

Dear Case Officer

We have just had a call from [s. 22(1)(a)(ii)] from Department of Home Affairs who has advised us to send the Form 1022 together with birth certificate and passport to be updated in your system.

The parents held a student visa when she was born.

The mother physically went to Immigration and was to told at the service desk she had to post the 1022 they could not accept over the counter.

She then posted it but it appears to misplaced.

We have also contacted Immigration during the 457 process to try and get this rectified but not much has been done until now.

Please confirm you have updated your system so that the 457 team can issue [s. 22(1)(a)(ii)] a BVA and the process can continue.

Regards

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

Director - Migration Agent (MARN: [s. 22(1)(a)(ii)] )

[s. 47F(1)]

**Migration Agents**

[s. 47F(1)]

**PH: +**[s. 22(1)(a)(ii)]

website: [s. 47F(1)]

email: [s. 22(1)(a)(ii)]

skype: [s. 47F(1)]

**NEW FACEBOOK PAGE:** [s. 22(1)(a)(ii), s. 47F(1)]

_____

entire liability will be limited to resupplying the material.

| | |
|---|---|
| **From:** | s. 22(1)(a) |
| **To:** | s. 22(1) |
| **Cc:** | s. 22(1)(a)(ii) |
| **Subject:** | RE: Baby born – Standalone BVB manual grant PID: s. 47F(1) [SEC=UNCLASSIFIED] |
| **Date:** | Wednesday, 17 October 2018 11:11:27 AM |
| **Attachments:** | s. 47F(1) |

UNCLASSIFIED

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

An interesting one for you.

We received a manual grant request for two BVB's for a child. Initially we had issues recording this visa in the system (screenshots below). I suspect the issues are related to the fact that client was born offshore.

s. 22(1)(a)(ii) (attached) called me about this, and said Reg 2.08 applies.

I am no expect in policy, but Reg 2.08 says (ADD2012/1589023):

### Section 78. Children born in Australia

**78**. (1) If:
   (a)   a child born in Australia is a non-citizen when born; and
   (b)   at the time of the birth:
      (i)   one of the child's parents holds a visa (other than a special purpose visa); and
      (ii)   the other parent is, under section 83, included in that visa or does not hold a visa (other than a special purpose visa);
   the child is taken to have been granted, at the time of the birth, a visa of the same kind and class and on the same terms and conditions (if any) as that visa.

   **(2)**   If:
      (a)   a child born in Australia is a non-citizen when born; and
      (b)   at the time of the birth, each of the child's parents holds a visa (other than a special purpose visa);
   the child is taken to have been granted, at the time of the birth, visas of the same kind and class and on the same terms and conditions (if any) as each of those visas.

   **(3)**   Subdivisions AA, AB, AC (other than section 68), AE and AH do not apply in relation to visas granted under this section.

### Regulation 2.08   Application by newborn child

**2.08**   **(1)**   If:
      (a)   a non-citizen applies for a visa; and
      (b)   after the application is made, but before it is decided, a child, other than a contributory parent newborn child, is born to the non-citizen;
   then:
      (c)   the child is taken to have applied for a visa of the same class at the time he or she was born; and
      (d)   the child's application is taken to be combined with the non-citizen's application.

   **(2)**   Despite any provision in Schedule 2, a child referred to in subregulation (1):
      (a)   must satisfy the criteria to be satisfied at the time of decision; and
      (b)   at the time of decision must satisfy a criterion (if any) applicable at the time of application that an applicant must be sponsored, nominated or proposed.

   *Note*   Regulations 2.07AL and 2.08AA apply in relation to an application by a contributory parent newborn child.

-

Note: the word 'decided' in reg2.08(1)(b) above is defined as '**a primary decision has been made on the visa application**'.

What are the criteria that need be satisfied (highlighted)? I understand the parents want to add the child to their application, however, clients held a BVB, left Australia, spawned the child, then returned to Australia with the child. Child held an ETA to come into Australia.

Request is to manually record a BVB at time of birth for client. I was under the impression BVs can only be onshore grants (therefore, does the child fail to satisfy the criteria for grant?)? If anything, would the child be entitled to a BV *after* their arrival date and *after* they are added to the permission request/application?

TRIPS HD cannot move forward on this until we receive some clarity on this. As it stands, I do not think we can action this (system won't allow), and I suspect that's because the child may not be eligible? And if the child is eligible, we may need advice on what data to input for the manual recording of the visa.

Thank you,

Regards,

---

s. 22(1)(a)(ii)
TRIPS Helpdesk | Visa and Citizenship Helpdesks
Channel Management Branch | Visa Delivery Transformation Division
Immigration and Citizenship Services Group
Department of Home Affairs
TRIPS Helpdesk Ph: s. 22(1)(a)(ii)
Email s. 22(1)(a)(ii)

**Please note: if TRIPS Helpdesk has modified a visa for you, you will need to notify the client of the amendment / issue a new grant notification, so the client has the updated information regarding their visa.**

**Please ensure all replies are sent to the group mailbox and not to the individual officer sending this email, and always reply with email history.**

UNCLASSIFIED

---

**From:** s. 22(1)(a)(ii)
**Sent:** Wednesday, 17 October 2018 9:48 AM
**To:** s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>
**Subject:** RE: Baby born – Standalone BVB manual grant PID: s. 47F(1)  [SEC=UNCLASSIFIED]

UNCLASSIFIED

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

I am getting the following error message when trying to grant as per your requests

Also if the child is not born in Australia should they be entitled to hold the same visa as the parents from birth? This only occurs with onshore births under s78.

If born offshore the child should need to apply for a visa as normal.

Please advise TRIPS if any action required

Regards,

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

TRIPS Helpdesk | Visa and Citizenship Helpdesks
Channel Management Branch | Visa Delivery Transformation Division
Immigration and Citizenship Services Group
Department of Home Affairs
TRIPS Helpdesk Ph: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)

**Please note: if TRIPS Helpdesk has modified a visa for you, you will need to notify the client of the amendment / issue a new grant notification, so the client has the updated information regarding their visa.**

**Please ensure all replies are sent to the group mailbox and not to the individual officer sending this email, and always reply with email history.**

UNCLASSIFIED

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 16 October 2018 1:25 PM
**To:** s. 22(1)(a)(ii) >
**Subject:** Baby born – Standalone BVB manual grant PID: s. 47F(1)    [SEC=UNCLASSIFIED]

UNCLASSIFIED

**Baby born – Standalone BVB Manual Grant**

Dear Colleagues

Could you please action 2 manual standalone BVB grants for a new born baby.

Please see attachments for 2 Completed Manual Grant forms.

**Child**
**Name:** s. 47F(1)
**PID:** s. 47F(1)

**Parents**
**Name:** s. 47F(1)
**CID:** s. 47F(1)

**Name:** s. 47F(1)
**CID:** s. 47F(1)

Thank you

Kind regards

s. 22(1)(a)
(ii)
Decision Support Officer – TSS CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

UNCLASSIFIED

**TRIPS Helpdesk manual grant form (not for use with requesting BF-C's) – Version: Oct 2017**

**- Please ensure you complete form with all information <u>relevant to your request</u> –**

**All fields with a * are MANDATORY – your form will be returned for completion if these fields are not completed as we cannot leave these fields blank in the system when recording a manual grant**

| | |
|---|---|
| **Requesting Officers Name:** | s. 22(1)(a)(ii) |

| | |
|---|---|
| **Name of Office/Area:** | NSW Temporary Work (Skilled Visa Centralised Administration Team) |

| | |
|---|---|
| **Name of Section/Branch:** | 457/TSS SVCAT Parramatta |

| | |
|---|---|
| *****Why do you need TRIPS to do it? ie: Why can't it be done in another granting system like ICSE? (*Mandatory – systems limitation, no access etc)** | Action Required: Please grant child (PID: s. 47F(1) ) a standalone BVB for RID: s. 47F(1) <br> Reason: eligible under Reg 2.08 <br> System limitation: application is with AAT – standalone BVB required with no travel facility |
| *****Does your branch have the delegation for us to record this visa grant? (*Mandatory field remove yes or no accordingly)** | **YES** |

**GRANT DETAILS:**

| | |
|---|---|
| *****Visa Class (2 digit code):** | WB |

| | |
|---|---|
| *****Visa s/c (3 digit code):** | 020 |

| | |
|---|---|
| *****Primary OR Secondary/dependant Applicant (Criteria – remove option not applicable):** | S |

| | |
|---|---|
| **Statistical (Stat) Code: (if required)** | 000 |
| **Visa Stream Code: (if required)** | |

| | |
|---|---|
| *****FAMILY name/s:** | s. 47F(1) |

| | |
|---|---|
| **Given Name/s:** | s. 47F(1) |

| *Gender/Sex: | s. 4 |
|---|---|

| *DOB: (DD/MM/YYYY) | s. 47F(1) |
|---|---|

| *Birth Country: | s. 47F(1) |
|---|---|

| Travel Doc. Number: | s. 47F(1) |
|---|---|

| Travel Doc. Country: | s. 47F(1) |
|---|---|

| Travel Doc. Type:<br><br>01     = Passport<br><br>02      = Other Travel Doc<br><br>03      = Titre de Voyage<br><br>04      = DFTTA<br><br>05      = PLO56 (M56)<br><br>98      = ImmiCard | 01 |
|---|---|

| TD Issue Date: | 11/09/2018 |
|---|---|
| TD Expiry date: | 11/09/2023 |
| TD Issuing Country: | s. 47F(1) |
| Place of Issue: | Ministry of Foreign Affairs |

| *Visa Grant date: | 17/08/2018 |
|---|---|

| *Visa Application date: | 17/08/2018 |
|---|---|

| Primary Applicants Visa Application date: (only if applicable) | 02/06/2017 |
|---|---|

| *Entry Expiry Date+: (Called Must Not Arrive After in ICSE)  +If the visa has no end date or is PR then write Indefinite in this field | 02/10/2018 |
|---|---|

| | |
|---|---|
| **Migrant Entry Date: (called Enter Before in ICSE)** **+: (only if applicable) +for Offshore Migrant PR visas only** | N/A |
| **Initial Stay Until Date: (called Initial Stay in ICSE)** **(only if applicable)** | N/A |
| ***Visa Stay Period: (called Period of Stay in ICSE)** | I |
| ***No of  Entries: (called Entries Allowed in ICSE)** | No Travel facility |
| **Visa Conditions: (All Condition Codes required)** | 8547 No Travel facility |
| ***Onshore or Offshore Grant: (remove option not applicable)** | Onshore |
| ***Client TRIPS PID:** | s. 47F(1) |
| **+Substantive Application ID (called PRN in ICSE):** (+*Must be provided for Bridging Visa Grants unless you require a stand-alone BV not attached to a Substantive Application, Remember Stand Alone BV's won't have a Sub Application ID to make them cease automatically when required, so you will need to request TRIPS HD to cease them manually when appropriate*) | Standalone BVB |

**NOTE – IF NO TRAVEL DOCUMENT IS PROVIDED AND NO NEW TRAVEL DOCUMENT HAS BEEN ADDED TO THE CLIENTS RECORD THE CLIENT WILL NOT BE ABLE TO USE VEVO**

**TRIPS Helpdesk manual grant form (not for use with requesting BF-C's) – Version: Oct 2017**

**- Please ensure you complete form with all information <u>relevant to your request</u> –**

**All fields with a \* are MANDATORY – your form will be returned for completion if these fields are not completed as we cannot leave these fields blank in the system when recording a manual grant**

| Requesting Officers Name: | s. 22(1)(a)(ii) |
|---|---|

| Name of Office/Area: | NSW Temporary Work (Skilled Visa Centralised Administration Team) |
|---|---|

| Name of Section/Branch: | 457/TSS SVCAT Parramatta |
|---|---|

| **\*Why do you need TRIPS to do it? ie: Why can't it be done in another granting system like ICSE? (\*Mandatory – systems limitation, no access etc)** | Action Required: Please grant child (PID: s. 47F(1) ) a standalone BVB for RID: s. 47F(1) <br> Reason: eligible under Reg 2.08 <br> System limitation: application is with AAT – standalone BVB required with no travel facility |
|---|---|
| **\*Does your branch have the delegation for us to record this visa grant? (\*Mandatory field remove yes or no accordingly)** | **YES** |

**GRANT DETAILS:**

| **\*Visa Class (2 digit code):** | WB |
|---|---|

| **\*Visa s/c (3 digit code):** | 020 |
|---|---|

| **\*Primary  OR  Secondary/dependant Applicant (Criteria – remove option not applicable):** | S |
|---|---|

| Statistical (Stat) Code:  (if required) | 000 |
|---|---|
| Visa Stream Code:  (if required) | |

| **\*FAMILY name/s:** | s. 47F(1) |
|---|---|

| **Given Name/s:** | s. 47F(1) |
|---|---|

| | |
|---|---|
| **\*Gender/Sex:** | s. 4 |
| **\*DOB: (DD/MM/YYYY)** | s. 47F(1) |
| **\*Birth Country:** | s. 47F(1) |
| **Travel Doc. Number:** | s. 47F(1) |
| **Travel Doc. Country:** | s. 47F(1) |

| | |
|---|---|
| **Travel Doc. Type:**<br><br>**01 = Passport**<br><br>**02 = Other Travel Doc**<br><br>**03 = Titre de Voyage**<br><br>**04 = DFTTA**<br><br>**05 = PLO56 (M56)**<br><br>**98 = ImmiCard** | 01 |

| | |
|---|---|
| **TD Issue Date:** | 11/09/2018 |
| **TD Expiry date:** | 11/09/2023 |
| **TD Issuing Country:** | s. 47F(1) |
| **Place of Issue:** | Ministry of Foreign Affairs |

| | |
|---|---|
| **\*Visa Grant date:** | 17/08/2018 |

| | |
|---|---|
| **\*Visa Application date:** | 17/08/2018 |

| | |
|---|---|
| **Primary Applicants Visa Application date: (only if applicable)** | 02/06/2017 |

| | |
|---|---|
| **\*Entry Expiry Date+: <mark>(Called Must Not Arrive After in ICSE)</mark>  +If the visa has no end date or is PR then write Indefinite in this field** | 02/10/2018 |

| | |
|---|---|
| **Migrant Entry Date: (called Enter Before in ICSE)** **+: (only if applicable) +for Offshore Migrant PR visas only** | N/A |
| **Initial Stay Until Date: (called Initial Stay in ICSE)** **(only if applicable)** | N/A |
| ***Visa Stay Period: (called Period of Stay in ICSE)** | I |
| ***No of  Entries: (called Entries Allowed in ICSE)** | No Travel facility |
| **Visa Conditions: (All Condition Codes required)** | 8547 No Travel facility |
| ***Onshore or Offshore Grant: (remove option not applicable)** | Onshore |
| ***Client TRIPS PID:** | s. 47F(1) |
| **+Substantive Application ID (called PRN in ICSE):** **(+*Must be provided for Bridging Visa Grants unless you require a stand-alone BV not attached to a Substantive Application, Remember Stand Alone BV's won't have a Sub Application ID to make them cease automatically when required, so you will need to request TRIPS HD to cease them manually when appropriate*)** | Standalone BVB |

**NOTE – IF NO TRAVEL DOCUMENT IS PROVIDED AND NO NEW TRAVEL DOCUMENT HAS BEEN ADDED TO THE CLIENTS RECORD THE CLIENT WILL NOT BE ABLE TO USE VEVO**

| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a)(ii) |
| **Cc:** | s. 22(1)(a)(ii) |
| **Subject:** | RE: s. 47F(1) ) - BVE - PAPER FORM 1005 [DLM=Sensitive] |
| **Date:** | Monday, 5 November 2018 12:29:00 PM |

Sensitive

Thanks s. 22(1)(a)(ii) for the below information.

As per directions to our SVCAT TSS team s. 22(1)(a)(ii) was following up this process of scanning and emailing.

We have updated our procedure manual now and will be following as per you have suggested.

Kind Regards

s. 22(1)(a)(ii)
A/g Team Leader– TSS CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
Telephone: ( s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)

**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 5 November 2018 7:45 AM
**To:** s. 22(1)(a)(ii) >
**Cc:** s. 22(1)(a)(ii)
>
**Subject:** FW: s. 47F(1) - BVE - PAPER FORM 1005 [DLM=Sensitive]

Sensitive

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

Please do not forward any Form 1005/1008 Bridging Visa E applications on behalf of the client to the BVE Mailbox if your business area has received the form via post/email. You can forward these emails to NSW CSR Mailbox at s. 22(1)(a)(ii) in order to avoid duplication of applications.

BVE applications can be received via the following prescribed methods ONLY;

1. Client/Migration agent lodging directly to BVE Mailbox
2. Lodging prescribed forms via post mail

3.  Lodging Online via Immi Account

Kind Regards,

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

A/g Team Leader| NSW Community Status Resolution
Status Resolution Network| Immigration Integrity and Community Protection Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: [s. 22(1)(a)(ii)]
E: [s. 22(1)(a)(ii)]
Section E: [s. 22(1)(a)(ii)]

Sensitive

Sensitive

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**From:** [s. 22(1)(a)(ii)]
**Sent:** Thursday, 1 November 2018 4:39 PM
**To:** [s. 22(1)(a)(ii)] >
**Subject:** [s. 47F(1)] ) - BVE - PAPER FORM
1005 [DLM=Sensitive]

Sensitive

Hello Team,

Please find attached copy of the form 1005 for the BVE from the above client.

Regards

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

Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
[s. 22(1)(a)(ii)]
Telephone: ([s. 22(1)(a)(ii)]

Sensitive

This document may contain 'personal identifiers' and 'personal information' as defined

under the Migration Act 1958 or Australian Citizenship Act 2007, and can only be used for purposes under these Acts.

| From: | s. 22(1)(a)(ii) |
|---|---|
| To: | s. 22(1)(a) |
| Cc: | s. 22(1)(a)(ii) |
| Subject: | FW: Follow-up: Urgent request for assistance / advice - s. 47F(1)  ) - Request ID s. 47F(1)  - condition 8503 and successfully submitted online application [DLM=Sensitive] |
| Date: | Tuesday, 6 November 2018 8:16:00 AM |

**Sensitive**

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

Please check below the response from ESPM network.

Kind Regards

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

A/g Team Leader– TSS CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)

**Sensitive**

**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 5 November 2018 5:39 PM
**To:** s. 22(1)(a)(ii)  >
**Cc:** s. 22(1)(a)(ii)

>

**Subject:** RE: Follow-up: Urgent request for assistance / advice - s. 47F(1)  ) - Request ID s. 47F(1)  - condition 8503 and successfully submitted online application [DLM=Sensitive]

**Sensitive**

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

Apologies for the delayed response to the original query below.

I agree with s. 22(1)(a)(ii) email below that LEGEND is not very clear on the issue of 8503 waivers for applicants applying for a TSS (subclass 482) visa. I couldn't see any reference to this at all. However, based on the information below, the applicant in question is/was able to lodge a valid TSS (subclass 482) visa application without the requirement to lodge a formal 8503 waiver

request and have it approved (i.e. the 8503 condition waived) before lodging the 482 application.

The actual regulations at 2.05(4AA) state:

**(4AA)** For subsection 41(2A) of the Act, a further circumstance in which the Minister may waive condition 8503 in relation to a visa is that the holder of the visa has a genuine intention to apply for:

  (a) a General Skilled Migration visa; or

  (b) a Subclass 132 (Business Talent) visa; or

  (c) a Subclass 186 (Employee Nomination Scheme) visa; or

  (d) a Subclass 187 (Regional Sponsored Migration Scheme) visa; or

  (e) a Subclass 188 (Business Innovation and Investment (Provisional)) visa; or

  (f) a Subclass 482 (Temporary Skill Shortage) visa.

s. 22(1)(a)(ii) provided the following information from the training she provides in relation to TSS visa applicants with condition 8503 attached to their last visa who lodge a TSS visa application.

Where a visa applicant is subject to condition 8503 – No Further Stay, decision makers will need to record two events in ICSE before proceeding to grant:
  • **8503 waiver request received**
A case note needs to be entered, explaining that under regulation 2.05 an applicant can make a valid application for a TSS visa without formally requesting a waiver of 8503.
  • **8503 waiver approved**
Again, a case note needs to be entered stating the applicant meets the criteria for the grant of a TSS visa.

Hope the above clarifies the situation for you. Apologies once again for our delayed response.

Regards

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

Employer Sponsored Network Support Section
Skilled and Family Visa Program Branch | Immigration and Visa Services Division
Immigration and Citizenship Services Group | Department of Home Affairs
Telephone: s. 22(1)(a)(ii)

Sensitive

---

**From:** s. 22(1)(a)(ii)
**Sent:** Friday, November 2, 2018 12:06 PM
**To:** s. 22(1)(a)(ii) >
**Subject:** FW: Follow-up: Urgent request for assistance / advice - s. 47F(1) )
- Request ID s. 47F(1) - condition 8503 and successfully submitted online application
[DLM=Sensitive]

**Sensitive**

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

Manager, TSS & 457 Program Delivery Support
Skilled and Family Visa Program
Immigration and Visa Services Division
Immigration & Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

**Sensitive**

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**From:** s. 22(1)(a)(ii)
**Sent:** Friday, 2 November 2018 11:48 AM
**To:** s. 22(1)(a)(ii)                                          >
**Cc:** s. 22(1)(a)(ii)                                    >
**Subject:** RE: Follow-up: Urgent request for assistance / advice - s. 47F(1)                          ) - Request ID s. 47F(1)         - condition 8503 and successfully submitted online application [DLM=Sensitive]

**Sensitive**

Thanks Heaps s. 22(1)(a)(ii) for such a quick response. You have a great afternoon and enjoy weekend. Pretty much you have answered the query only the confirmation is pending so I will wait for s. 22(1)(a)(ii) response.

Kind Regards

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

A/g Team Leader– TSS CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)

**Sensitive**

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**From:** s. 22(1)(a)(ii)
**Sent:** Friday, 2 November 2018 11:44 AM
**To:** s. 22(1)(a)(ii)                                          >
**Subject:** RE: Follow-up: Urgent request for assistance / advice - s. 47F(1)                          ) - Request ID s. 47F(1)         - condition 8503 and successfully submitted online application

[DLM=Sensitive]

Sensitive

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

No I haven't sorry.  I am aware that they have quite a bit of work on at the moment and so responses have been slow.

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

Do you know the answer (see below for background and initial query) or can you please follow up with PM?   I have to head off early today, so don't really have the capacity to, sorry.

Thanks ladies.

Kind regards

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

Decision Support Lead Officer, TSS and 457 Program Delivery Support
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(II)

Sensitive

---

**From:** s. 22(1)(a)(ii)
**Sent:** Friday, 2 November 2018 11:33 AM
**To:** s. 22(1)(a)(ii)                                                    >
**Subject:** FW: Follow-up: Urgent request for assistance / advice - s. 47F(1)                    )
- Request ID s. 47F(1)          - condition 8503 and successfully submitted online application
[DLM=Sensitive]
**Importance:** High

Sensitive

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

s. 22(1)(a)(ii) is away so I am contacting you to check if we got any response for this query or not yet. I checked my inbox but can't find anything so thought of checking with you first.

I was not sure if I should ask s. 22(1)(a)(i) please advise if I am bothering you.

Kind Regards

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

A/g Team Leader– TSS CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services

Department of Home Affairs
Telephone: (s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)

Sensitive

---

**From:** s. 22(1)(a)(ii)
**Sent:** Friday, 19 October 2018 11:47 AM
**To:** s. 22(1)(a)(ii) >
**Subject:** FW: Follow-up: Urgent request for assistance / advice - s. 47F(1)
- Request ID s. 47F(1) - condition 8503 and successfully submitted online application
[DLM=Sensitive]
**Importance:** High

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

Please respond to s. 22(1)(a)(ii) once you get a reply from ESPM.


Kind Regards


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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: (s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

---

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 16 October 2018 5:26 PM
**To:** s. 22(1)(a)(ii) >
**Cc:** s. 22(1)(a)(ii)
>
**Subject:** Follow-up: Urgent request for assistance / advice - s. 47F(1) ) -
Request ID s. 47F(1) - condition 8503 and successfully submitted online application
[DLM=Sensitive]
**Importance:** High


Sensitive

Good afternoon colleagues,

Just following up on my query below.  We have perhaps resolved the query ourselves, however,

would like your confirmation that our understanding is correct as policy in Legend is not clear.

Regulation 2.05(4AA) states that the Minister <u>may</u> waive condition 8053 where the client has a genuine intention to apply for a Temporary Skills Shortage (subclass 482) visa, at paragraph (f).

I note that the policy for regulation 2.05(4AA) waivers in Legend speaks about access to the SkillSelect related visas and indicates that waivers <u>should</u> be given where an otherwise eligible client intends to apply for one of the SkillSelect visas (copied below). It also states that the system will automatically waive the condition as there is no requirement for a request to be made in writing for a SkillSelect applicant (the act of applying for a SkillSelect visa is considered sufficiently compelling).

However, the policy in Legend does not mention the Temporary Skills Shortage (subclass 482) visa. This could perhaps be because Legend / regulation 2.05(4AA) policy has not been updated for the introduction of this visa.

Could you please advise / confirm - does the same rationale apply for the Temporary Skills Shortage (subclass 482) visa as the visa seeks to address skills shortages and employer needs? And is condition 8503 automatically waived through the eLodgement system?

Grateful for your confirmation and / or further advice.

Thanks so much for your assistance, I look forward to your response.

## SkillSelect-related waivers(8503 and 8534)

### About SkillSelect-related waivers

Regulations 2.05(4AA), 2.05(4), 2.05(5A)(b) and 2.07(AG) enable conditions 8503 and 8534 to be waived if the person has a 'genuine intention' to apply for:

- a General Skilled Migration (GSM) visa
- a Business Talent (EA-132) visa
- an Employer Nomination Scheme (EN-186) visa
- a Regional Sponsored Migration Scheme (RN-187) visa or
- a Business Innovation and Investment (Provisional) (EB-188) visa.

These waiver provisions allow these particular applicants to make their application through SkillSelect even though there is a "no further application" condition on their current visa.

The policy rationale for waiving the condition is that these applicants are chosen from the SkillSelect database and, if relevant, invited to apply for a visa on the basis of having skills and attributes needed by the Australian economy. Therefore previous "no further application" conditions should be waived to facilitate their visa application and entry to the Australian labour market.

Provided requirements are met – refer in particular to <u>Invitation requirements</u> - SkillSelect will automatically override ("waive") the condition through the eLodgement channel - there is no "do not waive" or manual intervention option available to prevent the waiver from occurring. However, refer also to <u>Obligatory and unwaivable conditions</u>.

### Invitation requirements

If it is a Schedule 1 requirement for the particular subclass that the applicant have an **invitation** to apply, the person must have such an invitation in order for the 'no further application' condition to be waived. (The only SkillSelect visas that do **not** require an invitation are EN-<u>186</u> and RN-<u>187</u>.)

The invitation must have been issued within 60 days prior to the visa application being lodged. If the invitation was issued more than 60 days ago, the person:

- will not be able to make a valid application on the basis of that invitation and
- will not be eligible for the waiver of any condition to which they are subject, because, by not responding to the invitation on time, they have not demonstrated a 'genuine intention' to apply for one of the specified SkillSelect visas.

## If SkillSelect applicant is subject to an 8503 or 8534 condition

There is no requirement for the request for a waiver to be made in writing by SkillSelect applicants.

The act of applying via SkillSelect is (under policy) considered sufficiently compelling for the "no further application" condition to be waived in all cases where the applicant or dependent family member applies for one of the visas listed in About SkillSelect-related waivers.

SkillSelect has been enabled to automatically override (waive) the 8503 or 8534 condition when an applicant makes an application through the SkillSelect process.

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

Manager, TSS & 457 Program Delivery Support
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration & Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(II)

Sensitive

**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 11 October 2018 10:54 AM
**To:** s. 22(1)(a)(ii)                                        >
**Cc:** s. 22(1)(a)(ii)

**Subject:** Urgent request for assistance / advice - s. 47F(1)                  ) - Request ID s. 47F(1)          - condition 8503 and successfully submitted online application [DLM=Sensitive]
**Importance:** High

Sensitive

Good Morning Program Management Colleagues,

Grateful if you could you please assist s. 22(1)(a)(ii) from the 457 / TSS CAT team with her query below.

Client has successfully submitted an application for a TSS visa online, despite having condition 8503 imposed on their last visa, a Medical Treatment (subclass 602) visa. From discussing the case with s. 22(1)(a)(ii) and looking through Legend, we do not believe that the application should have been permitted to lodge and is not a valid application.

Could you please confirm this, as well as provide s. 22(1)(a)(ii) team with some advice on how to proceed given the system has allowed the application to be submitted and we appear to have granted a BVA as well (with notification).

While a waiver request was submitted on 24/09/2018, this has not yet been decided (see Request ID s. 47F(1)        ). I note the client's Medical Treatment visa expired on 10/10/2018 which could mean they are now unlawful(?).

Given the client's circumstances, if you could please respond as soon as possible, that would be greatly appreciated. Please keep myself in the loop also.

Thanks so much for your assistance.

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

Manager, TSS & 457 Program Delivery Support
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration & Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

**Sensitive**

**From:** s. 22(1)(a)(ii)
**Sent:** Thursday, 11 October 2018 9:30 AM
**To:** s. 22(1)(a)(ii) >
**Cc:** s. 22(1)(a)(ii)

>
**Subject:** FW: s. 47F(1) ) [DLM=Sensitive]

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

I refer you to the email from s. 22(1)(a)(ii).

It appears the applicant was able to lodge a 482 visa application on 03/10/2018 whilst the client held a UB602 visa with an 8503 condition.

An error message did not occur which should have prevented the applicant from continuing lodgement of the TSS.

The support officer assessed the associated BVA application and deemed it as valid. The 8503 condition imposed on the UB602 may not have been noted by the support officer.

Grateful if you can assist with a way forward with this application.

Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: (s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

**From:** s. 22(1)(a)(ii)

**Sent:** Wednesday, 10 October 2018 4:34 PM
**To:** s. 22(1)(a)(ii)                                                    >
**Subject:** s. 47F(1)                              ) [DLM=Sensitive]

<span style="color:red">Sensitive</span>

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

**Name:** s. 47F(1)                                    )
**RID:** s. 47F(1)                                     )

I was hoping to seek some assistance and clarification in regard to the above client who has recently lodged a request to waive the 8503 condition from their visa.

The client had a Medical Treatment Visa granted on 09/05/2018 and the 8503 condition was imposed meaning that the client is prevented from applying for a visa other than a Protection.

However, I note that the client made an application on 03 October for a 482 visa. The application was lodged online and was deemed valid as a BVA was granted.  I note that s. 22(1)(a)(ii) made a note that there was an error on the automated BVA grant and that the condition 8101 was imposed, however the application does not address the client having the 8503 No Further Stay on their current visa which, to my understanding, should prevent them from being able to make a valid application.

I wonder if you might be able to provide some clarification as to whether the client in fact allowed to lodge the 482 visa in accordance with the regulations despite the 8503 condition?

Many thanks for your time and assistance,

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

Qld Waiver Team
s. 22(1)(a)
(ii)

<span style="color:red">Sensitive</span>

This document may contain 'personal identifiers' and 'personal information' as defined under the Migration Act 1958 or Australian Citizenship Act 2007, and can only be used for purposes under these Acts.

| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a)(ii) |
| **Cc:** | s. 22(1)(a)(ii) |
| **Subject:** | RE: BVA entitlement for RID: s. 47F(1) ) [SEC=UNCLASSIFIED] |
| **Date:** | Wednesday, 14 November 2018 1:48:51 PM |
| **Attachments:** | C40189 - Questions regarding immigration status for s. 47F(1) family DLMSensitiveLegal.msg |

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

Please familiarise yourself with the legal advice attached.

**Next steps**

Engage with TRIPS DATA to have each family member's BVA (granted 01/09/2017) as having ceased **20 September 2018.**

Decide the BVA application made 9 October 2018 noting they are prima facie eligible.  If these visas are granted…

Suggest to the family they consider withdrawing the additional BVA applications made 19 October 2018 (or vice versa).


Regards


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

Sea, Air and Bridging ABC Visas Section

Temporary Visa Programme Branch | Immigration and Citizenship Services

Department of Home Affairs

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



**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 23 October 2018 4:53 PM
**To:** s. 22(1)(a)(ii)

**Cc:** s. 22(1)(a)(ii) >
**Subject:** BVA entitlement for RID: s. 47F(1) )
[SEC=UNCLASSIFIED]


UNCLASSIFIED

Hi There

I need the advice about the BV entitlements for this client. Client's BVA was incorrectly invalidated by an officer on 27.09.2018.

Timeline of events reflecting in ICSE:-
18/06/2018  RID: s. 47F(1)    UC 457 refused for the client and his two dependants.
06/07/2018 Client lodged AAT review all applicants. AAT case ID **1819765**. Please note that initially, only PA and SA's review were recorded and only PA and SA were given BVA in

association with the AAT review. – The child s. 47F(1) AAT review was subsequently entered on 10/10/2018, with a back date of 06/07/2018. In theory, the family would have been given BVA for merit review.

02/07/2018 Another AAT review lodged case ID: 1819153 for all three applicants

17/08/2018 Decision for AAT case ID 1819153 has been finalised as 'No Jurisdiction". It would appear that this event triggers a cessation date for clients' BVA (21/09/2018)

18/09/2018 Paper BVA application received by the Department. Client requested to be considered for BVA for pending judicial review.

21/09/2018 Client became unlawful due to the AAT No Jurisdiction event in ICSE.

27/09/2018 Paper BVA application was invalidated by a CAT officer. The reason for invalidation being 'did not meet 1301(3)( C)(ii)'. At the time, there was no judicial review before the Department.

09/10/2018 Judicial review commenced against AAT's decision for case ID **1819765**. It (Case ID) may be a typo as this review case was still with AAT at the time. It would appear that the judicial review was for case ID: **1819153**. An email was sent to Litigation to amend ICSE details. (TRIM record no. s. 47F(1)      )

17/10/2018  AAT has affirmed Department's decision for AAT case ID**: 1819765**.

19/10/2018 Client has lodged another F1005 paper application for BVA pending judicial review for all three family members.


Considering the client's BVA should not have ceased on 21/09/2018; and the client's currently waiting for judicial review, I am of the view that a data fix should be applied to amend the BVA cessation date to 21/11/2018 and the client should be granted a Judicial BVA pending for the judicial review.


Please advise if my interpretation is correct and we can process the BVA grant.




Kind Regards


s. 22(1)(a)(ii)
A/g Team Leader– TSS CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
Telephone: (s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)


UNCLASSIFIED

| From: | s. 22(1)(a)(ii) |
|---|---|
| To: | s. 22(1)(a)(ii) |
| Cc: | s. 22(1)(a)(ii) |
| Subject: | C40189 - Questions regarding immigration status for s. 47F(1) family [DLM=Sensitive:Legal] |
| Date: | Wednesday, 14 November 2018 1:10:54 PM |

**Sensitive:Legal**

Legal Opinions ref: C40189

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

I refer to your request and background information provided below.

s. 42(1)

s. 42(1)

s. 42(1)

s. 42(1)

s. 42(1)

s. 42(1)

s. 42(1)

With kind regards

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

Senior Legal Officer
Legal Opinions Help Desk
Migration & Citizenship Branch
Ph: s. 22(1)(a)(ii)

My hours:
Mon & Thurs 9.00am-4.00pm
Tues & Wed 9.00am-5.00pm

**Legal Professional Privilege**
*This email may contain legal advice that is subject to legal professional privilege. Care should be taken to avoid unintended waiver of that privilege.  Legal Opinions should be consulted prior to any decision to disclose the existence or content of any advice contained in this email to a third party.*

s. 42(1)

s. 42(1)

s. 42(1)

s. 42(1)

s. 42(1)

Thank you in advance.

Regards

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

Sea, Air and Bridging ABC Visas Section
Temporary Visa Programme Branch | Immigration and Citizenship Services
Department of Home Affairs
Ph. s. 22(1)(a)(ii)

Sensitive:Legal

| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a)(ii) |
| **Subject:** | HPRM: FW: Further question regarding Legal advice (ref: C37812) - AAT set aside and reg 2.08 [DLM=Sensitive:Legal] [DLM=For-Official-Use-Only] |
| **Date:** | Tuesday, 4 December 2018 1 57:00 PM |

For-Official-Use-Only

FYI.

Kind regards,

s. 22(1)(a)(ii)
Team Leader -- PESE CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

---

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 4 December 2018 1:56 PM
**To:** s. 22(1)(a)(ii)                                                              >
**Cc:** s. 22(1)(a)(ii)

                                                                          >
**Subject:** Further question regarding Legal advice (ref: C37812) - AAT set aside and reg 2.08 [DLM=Sensitive:Lega ]

Sensitive:Legal

Good afternoon all!

s. 42(1)

Kind regards,

s. 22(1)(a)
Team Leader -- PESE CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)
E: s. 22(1)(a)(ii)

Sensitive:Legal

---

**From:** s. 22(1)(a)
**Sent:** Tuesday, 28 August 2018 5:17 PM
**To:** s. 22(1)(a)(ii)

                                                                          >
**Subject:** FW: Legal advice (ref: C37812) - AAT set aside and reg 2.08 [DLM=Sensitive:Legal]

Sensitive:Legal

Hello CAT leaders,

s. 42(1)

Regards

s. 22(1)(a)(ii)
A/g SV Centralised Administration Team Manager
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)
E: s. 22(1)(a)(ii)

Sensitive:Legal

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 28 August 2018 3:51 PM
**To:** s. 22(1)(a)(ii)                                                          >
**Subject:** FW: Legal advice (ref: C37812) - AAT set aside and reg 2.08 [DLM=Sensitive:Legal]

Sensitive:Legal

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

Please find attached below legal advice regarding s. 47F(1) eligibility for the subclass 457 visa.

Please let me know if further assistance is required from Employer Sponsored Program Management.

Thank you

Kind Regards

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

Employer Sponsored Network Support Section
Skilled and Family Visa Program Branch | Immigration and Visa Services Division
Immigration and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

Sensitive:Legal

**From:** s. 22(1)(a)(ii)
**Sent:** Tuesday, 28 August 2018 2:12 PM
**To:** s. 22(1)(a)(ii)                                          >
**Cc:** s. 22(1)(a)(ii)                                    >
**Subject:** Legal advice (ref: C37812) - AAT set aside and reg 2.08 [DLM=Sensitive:Lega ]

Sensitive:Legal

Dear s. 22(1)(a ,

Thank you for your request for advice copied below.

s. 42(1)

Regards,

s. 22(1)
Senior Legal Officer
Legal Opinions Help Desk
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)

*This email may contain legal advice that is subject to legal professional privilege.  Care should be taken to avoid unintended waiver of that privilege.  Legal Opinions should be consulted prior to any decision to disclose the existence or content of any advice contained in this email to a third party.*

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Sensitive
Good afternoon LOHD,

I would appreciate your advice as to whether s. 47F(1)                    (child) is eligible for the grant of a 457 visa.  Please refer to timelin                    her information in the email below.

17/03/2017 – 187 TRT visa application lodged  (RID: s. 47F(1)      )

128

```
12/12/2017 – 457 visa cancelled (RID: [s. 47F(1)]   )
15/12/2017 – AAT review commenced in r_____o the 457 cancellation
19/12/2017 – BVE granted
16/04/2018 – 187 visa applica____fused
24/05/2018 – New born child ([s. 47F(1)]) added to 187 visa application
06/06/2018 – BVE granted to n_____ child
07/06/2018 – AAT set-aside the decision – 457 visa not cancelled
```

[s. 47F(1)]                        are holders of a 457 visa, [s. 47F(1)] (child) still holds a BVE.

Please let me know if you require further information. I look forward to your advice.

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

[s. 22(1)(a)(ii)]
_____ored Network Support Section
Skilled and Family Visa Program Branch | Immigration and Visa Services Division
Immigration and Citizenship Services Group
Dep
[s. 22(1)(a)(ii)]

[s. 22(1)(a)(ii)]                                                              >

Sensitive

From: [s. 22(1)(a)(ii)]
Sent
To: [s. 22(1)(a)(ii)]                              >
Subj                                      tive]

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

From my experience, the following persons can be reinstated BVAs only if they lodge a new
F1005 as they were holders of a substantive visa at the time of RN187 visa application, and
the cancellation of their 457 visa has been set aside by the tribunal.

[s. 47F(1)]                      [s. 47F(1)]   Holder of 457
[s. 47F(1)]                  Rid[s. 47F(1)]   f 457
[s. 47F(1)]                  Ri_[s. 47F(1)]   Holder of 457

As mentioned by the TRIPS team, the BVAs ceased correctly for the family on cancellation of
the 457 visas under reg 010.511(1)(b)(vi). The set aside decision of the 457 cancellation is
not meant to enliven the BVAs again, and they would be required to lodged a new BVA
application and meet all relevant requirements for the grant of the new BVAs.

As for the child [s. 47F(1)]                    ), she was born to parents who were only holding
BVEs at the time                           before the set aside decision). Hence, it would
seem that the child was granted 2 x BVEs by virtue of section 78.

Now that the 457 cancellation has been set aside, it would be interesting to see if legal
supports that the parents were actually holders of 457 visas at the time the child was born.
If the answer is no - the child was not a holder of 457 at time of birth and at the time of
RN187 visa application, then the child may not be able to make a valid BVA application under
Item 1301(3)(d).

Item 1301   Bridging A (Class WA)<https://legend.border.gov.au/migration/2017-2020/2018/01-
06-
2018/regs/Pages/_document00000/_level%20100007/_level%20200073/legend_current_mrpop02239.aspx>

(3)  Other:

(a)  An  application must be made at the place, and in the manner, (if any) specified by the
Minister in a legislative instrument <https://www.legislation.gov.au/Details/F2018L00289>
made for this item under subregulation 2.07(5)<https://legend.border.gov.au/migration/2017-
2020/2018/01-06-2018/regs/Pages/_document00000/_level%20100002/level%20200016.aspx#2075>.

(b)  Applicant must be in Australia<https://legend.border.gov.au/migration/2017-2020/2018/01-
06-2018/regs/Pages/_document00000/_level%20100001/_level%20200001/level%20200002.aspx#JD_103-
inAustralia> but not in immigration clearance<https://legend.border.gov.au/migration/2017-
2020/2018/01-06-
2018/acts/Pages/_document00000/_level%20100005/level%20200013.aspx#JD_17240241-
Immigrationclearance>.

(c)  Either:

(i)  the applicant has made a valid application for a substantive
visa<https://legend.border.gov.au/migration/2017-2020/2018/01-06-
2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-
substantivevisadefinition> that has not been finally
determined<https://legend.border.gov.au/migration/2017-2020/2018/01-06-
2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_540941-Interpretation-
FinallyDetermined>; or

(ii)  application has been made, within statutory time limits, for judicial
review<https://legend.border.gov.au/migration/2017-2020/2018/01-06-
2018/regs/Pages/_document00000/_level%20100008/level%20200081.aspx#JD_050212404A41-
Criteriatobesatisfiedattimeofapplication> of a decision in relation to the applicant's
substantive visa<https://legend.border.gov.au/migration/2017-2020/2018/01-06-
2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-
substantivevisadefinition> application, and the judicial review
proceeding<https://legend.border.gov.au/migration/2017-2020/2018/01-06-
2018/acts/Pages/_document00000/level%20100014.aspx#JD_486D40541judicialreviewproceeding>
(including proceedings on appeal, if any) have not been completed.

(d)  Applicant must:

(i)  hold a substantive visa<https://legend.border.gov.au/migration/2017-2020/2018/01-06-
2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-

substantivevisadefinition>; or

(ii)  hold a Bridging A (Class WA) or Bridging B (Class WB) visa<https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/regs/Pages/_document00000/_level%20100007/level%20200073.aspx#JD_1302-BridgingB40ClassWB41> and have held a substantive visa<https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition> when he or she made the substantive visa<https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition> application; or

(iii)  have held a substantive visa<https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition> when he or she made the substantive visa<https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition> application referred to in paragraph (c); or

(iv)  have previously held a Bridging A (Class WA) visa granted under regulation 2.21A<https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/regs/Pages/_document00000/_level%20100002/level%20200023.aspx#JD_221A-GrantofBridgingA40ClassWA41visaswithoutappln> in respect of the substantive visa<https://legend.border.gov.au/migration/2017-2020/2018/01-06-2018/acts/Pages/_document00000/_level%20100002/level%20100003.aspx#JD_5-substantivevisadefinition> referred to in paragraph (c).


Hope this helps!

Regards

s. 22(1)(a)(ii)
                    – PESE CAT
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Dep           e Affairs
     s. 22(1)(a)(ii)

                                                    on' as defined under
the Migration Act 1958 or Australian Citizenship Act 2007, and can only be used for purposes under these Acts.


Sensitive:Legal

| From: | s. 22(1)(a)(ii) |
| To: | s. 22(1)(a)(ii) |
| Subject: | FW: Merge request queries and escalations [DLM=For-Official-Use-Only] |
| Date: | Wednesday, 5 December 2018 12:57:07 PM |
| Importance: | High |

For-Official-Use-Only

Hi all,

FYI. Please ensure you follow the appropriate escalation channel for all merge enquiries.


Kind regards,

s. 22(1)(a)(ii)
Team Leader -- PESE CAT
Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)


For-Official-Use-Only


**From:** s. 22(1)(a)(ii)
**Sent:** Wednesday, 5 December 2018 12:20 PM
**To:** s. 22(1)(a)(ii) >
**Cc:** s. 22(1)(a)(ii)


>
**Subject:** Merge request queries and escalations [DLM=For-Official-Use-Only]
**Importance:** High


For-Official-Use-Only

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

I am writing to request that members of your team contact my team only via our group mailbox.

Until recently, we had 1.7 ASL on the merging desk but have just hired two new starters to join our team. Despite this, we will still not be able to return to a 10 day turnaround for majority of the caseload of "Medium" priority merges as the backlog is quite extensive. If a case becomes urgent, you can contact us via email to escalate the merge request for urgent processing.

Like the rest of the network, your VPO's use the system generated merging emails to gain a contact name to query merge requests. Our new staff are unable to assist at this point in time but it does highlight that the network is unaware that we have a group mailbox.

Can you please advise your staff to use the group mailbox
s. 22(1)(a)(ii) — I like to point out that unlike me, the mailbox does
not take time off. ☺

Thank you for your assistance in this matter and Merry Christmas!


Kind regards,

s. 22(1)(a)(ii)
Senior Data Analyst
Client Data Integrity Helpdesk | Channel Support Section
Channel Management Branch | Visa Delivery Transformation Division
Immigration and Citizenship Services Group
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)



For-Official-Use-Only

| | |
|---|---|
| **From:** | s. 22(1)(a)(ii) |
| **To:** | s. 22(1)(a) |
| **Cc:** | s. 22(1)(a)(ii) |
| **Subject:** | FW: s. 47F(1) . [SEC=UNCLASSIFIED] |
| **Date:** | Monday, 17 December 2018 3:14:04 PM |

UNCLASSIFIED

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

Thank you for your swift reply.

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

Please reverse the 457 granted for the baby and grant it with effect from current date.

Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

UNCLASSIFIED

**From:** s. 22(1)(a)(ii) >
**Sent:** Monday, 17 December 2018 2:57 PM
**To:** s. 22(1)(a)(ii) >
**Subject:** RE: s. 47F(1) . [SEC=UNCLASSIFIED]

UNCLASSIFIED

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

Let us do what is most beneficial for the client – it isn't their fault and we are not going to split a family unnecessarily. If it means granting a 457 from today's date, then so be it.

Cheers,

s. 22(1)(a)(ii)
Manager, TSS & 457 Program Delivery Support
Skilled and Family Visa Program
Immigration and Visa Services Division
Immigration & Citizenship Services
Department of Home Affairs
P: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

UNCLASSIFIED

**From:** s. 22(1)(a)(ii)
**Sent:** Monday, 17 December 2018 2:34 PM
**To:** s. 22(1)(a)(ii)
**Cc:** s. 22(1)(a)(ii)
**Subject:** FW: s. 47F(1) . [SEC=UNCLASSIFIED]

UNCLASSIFIED

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

I am writing about s. 47F(1) ) who was born onshore. At time of
the baby's birth the parents were holding a 457 visa that was granted on 29/06/2017 valid until
29/06/2021.  The baby is deemed to be the holder of a 457 visa under s78.

The parents wrote to the department on 23/07/2018 requesting for the baby to be added to
their 457 visa.  Unfortunately the baby was not added before they travelled overseas on
13/07/2018.

In order to return to Australia the baby was granted a TV 651 visa on 15/08/2018 and travelled
back to Australia on  16/08/2018.  The TV 651 ceased on 16/11/2018, three months from date of
arrival.

The grant of the 651 visa caused the 457 visa that was granted subsequently on 20/08/2018 (457
grant date backdated to the baby's date of birth), this 457 visa naturally ceased due to the TV651
being in effect.

I am seeking confirmation that this situation falls within the ambit of administrative error.
Grateful for your advice about a way forward with the 457 visa for the baby.

Kind Regards

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

Team Leader – Skilled Visa Centralised Administration Team
Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services

Department of Home Affairs
P: ( s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

UNCLASSIFIED

**From:** s. 22(1)(a)(ii) >
**Sent:** Monday, 17 December 2018 1:41 PM
**To:** s. 22(1)(a)(ii) >
**Subject:** FW: s. 47F(1) . [SEC=UNCLASSIFIED]

UNCLASSIFIED

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

Please check below the email from client regarding the baby's UC 457 visa got ceased when we backdated it to the date of birth of the child because child was granted a TV 651 from offshore.

As per client's email they were suggested by our office to apply for this TV 651 to travel back to Australia. I cannot see any notes to confirm this. This is technically incorrect information provided to the client.

On 20/08/2018 when decision support officer granted this visa the child was holding a TV 651 and was onshore. So the officer should have paid attention and not changed the grant date to date of birth of the child. I spoke to the officer and as she was not aware of this typical situation she accidently granted it and didn't realise that the UC 457 got ceased.

Please advise if I can reverse this grant and re grant it with in effect from today's date, it can be categorised as administrative error.

Kind Regards

s. 22(1)(a)(ii)
Supervisor – TSS CAT
Skilled Visa Centralised Administration Team
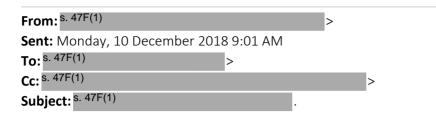Skilled and Family Visa Program | Immigration and Visa Services Division
Immigration and Citizenship Services
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)

UNCLASSIFIED

**From:** s. 47F(1)                                    >
**Sent:** Monday, 10 December 2018 9:01 AM
**To:** s. 47F(1)                              >
**Cc:** s. 47F(1)                                        >
**Subject:** s. 47F(1)                          .

Dear Sir / Madam

We write to find an urgent solution to our current situation we find ourselves in. Our son
s. 47F(1)                      , passport number s. 47F(1)        . Born s. 47F(1)      in Australia ( s. 4
                  ) needs to be added to our 457 visa. Parents s. 47F(1)                              .
We applied for this back in July 2018 as we were all on a short visit to the UK and waited
for an answer.

However as we had not heard anything for 3 weeks from yourselves we called again for a
resolution and were told by your office to apply for an ETA for s. 47F(1)    as we were now
due to fly back to Australia and did not want any problems regarding his entry. So we did
this.

In the following weeks after, we then called again to see how the original application was
progressing, only to be now told by another agent that because we had applied for the ETA
that we had now been knocked off the application to add him to the 457 visa? As you can
imagine this was very disappointing as we were only doing as we were told by your office.
Furthermore we our now in a position having just been informed that s. 47F(1)  ETA has
now expired and did so on Nov 16th. We contacted yourselves via phone only to be now
told that this is a complex situation and that they did not know what advice to now give us.
Furthermore they had added that we may not even be able to add him now to a 457 he may
need his own as he is now s. 47F(1)    old?They have said we had to send an email
explaining the situation to yourselves in the hope that someone will understand our
problem and will help find a timely solution.
This has quickly become a stressful issue for us where we do not now know what to be
applying for? Or What we need to do in the meantime on expired visa? (Ie bridging visa/
leave etc).
We hope that someone can resolve this in a timely manner so as we can get what is needed
as soon as possible and do not find ourselves in breach of any overstay etc.

Ps. We can be contacted also on s. 47F(1)              .

Yours Sincerely

s. 47F(1)

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