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Australian Government

Department of Home Affairs

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Report on people detained and later released as not unlawful

1. Introduction

This report for the Commonwealth Ombudsman documents people detained who were later released during the period 1 July 2018 to 31 December 2018. The cases in the report are where people were released from immigration detention on the basis that reasonable suspicion could not be maintained that they were unlawful non-citizens, as required by section 189 of the *Migration Act 1958* (the Act). It sets out actions the Department of Home Affairs (the Department) has taken to improve quality controls and mitigate risks.

For this reporting period, there were a total of 3,142 people detained as suspected unlawful non-citizens. This figure excludes Unauthorised Maritime Arrivals (UMA). Of the 3,142 people detained, this reports documents 21 cases where people were detained and later released. This represents 0.67 per cent of the total number detained. The status of each case is current as at 29 May 2019.

Analysis of reporting periods 1 July 2017 to 31 December 2018 was undertaken, and identified three categories where errors broadly occurred. These were errors with visa cancellations, visa notifications and Administrative Appeals Tribunal (AAT) processes. Further detail regarding corrective actions implemented to address these errors is provided in this report.

2. Case risk assessments

In this report, each case was assessed to determine whether the detention was in accordance with the Act. Each case is assessed as high, medium or low risk. The Department identifies and implements remedial action for individual cases and across the system focusing its efforts where the risk of inappropriate detention is assessed as medium or high.

For the period 1 July 2018 to 31 December 2018, of the 21 cases identified, two have been assessed to be high risk and 19 as medium risk.

3. Corrective Actions Analysis – Reporting Period 1 July 2017 – 31 December 2018

For the previous reports the Department identified three categories where errors occurred resulting in a person's release from immigration detention. They cover the majority, but not all, errors identified over the reporting period. These categories are as follows:

Visa cancellation process errors

- cancellation on character grounds under section 501

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- general cancellations under sections 116 and 109.

Visa notification process errors

- Combined Partner (subclasses 309 and 100, and 820 and 801) visas
- Protection (subclass 866) visas
- Student (subclass 572) visas
- Errors resulting from visa application withdrawals

AAT process errors

- Delays in notification of AAT decisions to the Department

Corrective measures across the three categories were implemented to address these errors. Analysis of their effectiveness follows.

Visa Cancellation Errors

In the July to December 2017 and January to June 2018 reports the Department advised the Ombudsman of the following corrective actions:

- Establishing a revised training framework for officers working on cancellations in line with the Thom Review recommendations
- Improved quality assurance processes
- Template updates
- Network alerts addressing identified errors

These actions have assisted in reducing the number of jurisdictional errors in general cancellation decision processes made under section 116 and section 109 of the Act. The current reporting period includes three such errors, a significant reduction from seven in the January to June 2018 report.

There are five errors in character cancellation processes under section 501 in the current reporting period. This includes the cases of s. 47F(1) Australian citizens, s. 47F(1) who were erroneously identified as non-citizen visa holders because of incorrect information on departmental systems.

The Department has commenced additional corrective actions to address the ongoing cancellation process errors. These corrective actions include:

- Amending the Mandatory Control Point document to reflect the risks associated with systems deficiencies for citizenship (particularly for those who arrived as minors)
- Increased pre-cancellation contact for clients with high risk immigration history
- Refresher training for cancellation officers (who provide quality assurance checks) for more high-risk categories of visas
- The Department established a separate team to address visa, citizenship and identity issues prior to a client being placed on a cancellation pathway
- Increased use of departmental hard copy files recalled from archives
- Dissemination of a *Guide to Genuine and Proper Consideration – Section 116 Cancellation Decision Making* which provides delegates with examples on the ways a delegate can demonstrate proper and genuine consideration

Remedial actions such as training will take effect cumulatively as more staff complete courses.

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Visa Notification Errors

In the July to December 2017 and January to June 2018 reports the Department advised the Ombudsman of the following corrective actions:

- Improved quality assurance processes
- Creation and use of flowcharts
- Creation and use of checklists
- Revision of the Comprehensive Assessment Tool (CAT)
- 10% of all invalid protection visa applications checked on a weekly basis
- 5% of all applications are checked on a monthly basis

The Department has demonstrated improvement regarding this error type since the July to December 2017 report. That report included seven cases arising from Combined Partner visa application refusals, and a further seven arising from Protection visa processing errors. The current reporting period includes only one case arising from the refusal of a Combined Partner visa application, and two cases arising from Protection visa processing errors.

The remaining two cases in the current reporting period are historical Student visa auto-cancellations under section 137J of the Act, in which the errors date back to 2005 and 2008, after which the two individuals disengaged from the Department and remained in the community until being detained in August and December 2018 respectively. Student visas are no longer auto-cancelled under section 137J of the Act. The Department has introduced refresher training to alert officers to similar cases.

There has been three occurrences of notification process errors relating to Transitional (Permanent) visa cancellations in the current report which have not previously been identified. These three cases relate to Transitional (Permanent) visas that were granted prior to September 1994, where the individual has not travelled overseas since the visa was granted. The Department is examining why these have emerged and has introduced additional quality assurance activities in response to these cases.

AAT Process Errors

The Department liaises with the AAT on each occasion of delay in notification by the AAT of a decision that may have led to inappropriate detention. On each occasion, the Department requests an explanation and reiterate the importance of timely notification of Set Aside Cancellation decisions for persons in detention.

The Department has been working with the AAT to prevent any possible inappropriate detention instances occurring. The Department has arranged for the AAT to send an automated report every Friday, identifying all hearings listed for that day. The Department extracts the hearings relating to detention cases and monitors these cases, if necessary following up with the MRT.

On 17 April 2019, the AAT advised that they have taken a number of actions to reduce the time taken to alert the Department of these important decisions. Since this time, there have been no instances of inappropriate detention in relation to MRT reviews. The Department will continue to monitor detention cases.

Sensitive: Personal**1. Specific Cases**

Breakdown of cases for this reporting period follow.

Name	Release Descriptor	Attachment
High Risk		
s. 47F(1)	Record Incorrect Citizenship Acquired	Attachment A
	Record Incorrect Citizenship Acquired	Attachment B
	Process Incorrect Administrative Deficiency	Attachment C
	Process Incorrect Defective Notification	Attachment D
	Process Incorrect Administrative Deficiency	Attachment E
	Process Incorrect Defective notification	Attachment F
	Process Incorrect Administrative Deficiency	Attachment G
	Process Incorrect Defective notification	Attachment H
	Process Incorrect Defective notification	Attachment I
	Process Incorrect Defective notification	Attachment J
	Process Incorrect Defective notification	Attachment K
	Process Incorrect Defective notification	Attachment L
	Process Incorrect Defective notification	Attachment M
	Process Incorrect Administrative Deficiency	Attachment N
	Process Incorrect Defective notification	Attachment O
	Process Incorrect Administrative Deficiency	Attachment P
	Process Incorrect Defective notification	Attachment Q
	Process Incorrect Defective notification	Attachment R
	Process Incorrect Defective notification	Attachment S
	Process Incorrect Defective notification	Attachment T
	Process Incorrect Defective notification	Attachment U

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Sensitive: Personal**High Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT A****Record Incorrect****Citizenship Acquired****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release**

s. 47F(1)

**Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) September 2018, s. 47F(1) was located by ABF officers in s. 47F(1) upon s. 47F(1) release from criminal custody and detained under section 189 of the Act. Departmental systems showed s. 47F(1) as unlawful following the cancellation of s. 47F(1) visa under section 501 of the Act.

On s. 47F(1) September 2018, the Department confirmed that s. 47F(1) was an Australian citizen and s. 47F(1) had acquired citizenship s. 47F(1) application in s. 47F(1).

s. 47F(1) was released from detention as an Australian citizen on s. 47F(1) September 2018.

Background

On s. 47F(1) November 1982, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) s. 47F(1), aged s. 47F(1) years, s. 47F(1).

On s. 47F(1) March 1986, s. 47F(1), s. 47F(1) acquired Australian citizenship by conferral. s. 47F(1)

Only s. 47F(1) Australian citizenship was recorded on departmental systems at the time s. 47F(1) criminal history came to the Department's attention.

On s. 47F(1) November 1990, s. 47F(1) departed Australia, and returned on s. 47F(1) January 1991. s. 47F(1) has remained in Australia since this date. Departmental movement records erroneously indicate that s. 47F(1) travelled on a s. 47F(1).

On s. 47F(1) October 2016, s. 47F(1) was convicted of s. 47F(1) in the s. 47F(1) Supreme Court and sentenced to s. 47F(1), with the sentence to be suspended after s. 47F(1) had served a further s. 47F(1) days (post-conviction), having previously served s. 47F(1) on remand in 2014. s. 47F(1) was convicted of a range of other offences including s. 47F(1)

s. 47F(1) for which s. 47F(1) received s. 47F(1) both fully suspended for s. 47F(1)

On s. 47F(1) September 2018, the Department cancelled the s. 47F(1) visa that

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s. 47F(1) had erroneously been determined to hold under the mandatory cancellation provisions of section 501(3A) of the Migration Act 1958 (the Act), on the grounds that s. 47F(1) had a substantial criminal record. s. 47F(1) was erroneously determined to have held a s. 47F(1) granted by operation of law under the Migration Reform (Transitional Provisions) Regulations on 1 September 1994 based on s. 47F(1) visa history records on departmental systems.

On s. 47F(1) September 2018, s. 47F(1) Corrective Services provided the Department with s. 47F(1) request for revocation of the section 501 cancellation decision, which was dated s. 47F(1) September 2018. At the time s. 47F(1) was detained, s. 47F(1) request for revocation was still under consideration.

On s. 47F(1) September 2018, s. 47F(1) was released from the s. 47F(1) Correctional Centre in s. 47F(1) and detained by the ABF under section 189 of the Act. The ABF conducted an interview in which s. 47F(1) advised s. 47F(1) was a s. 47F(1) citizen, s. 47F(1). The interview also noted that s. 47F(1) had an expired s. 47F(1) passport in s. 47F(1) possession.

Actions

On s. 47F(1) September 2018, the Department assessed s. 47F(1) citizenship, s. 47F(1)

On s. 47F(1) September 2018, the Department confirmed s. 47F(1) was an Australian citizen, s. 47F(1). s. 47F(1) was released from immigration detention the same day.

In light of the processing and systems deficiencies surfaced by the case of s. 47F(1) the Department has implemented remedial actions to mitigate the risk of similar errors occurring. This includes:

- amending the Mandatory Control Point document to reflect the risks associated with systems deficiencies for citizenship (particularly for those who arrived as minors)
- a review of cases with similar profiles to identify errors
- new timeframes for registering and progressing cases to ensure cancellation occurs earlier than possible detention dates
- increased pre-cancellation contact for clients with high risk immigration history
- establishing controls and escalations for citizenship information received post cancellation
- updates to personal circumstances forms and questionnaires to better capture data in relation to citizenship risk, in particular around parental identity and citizenship
- increased use of departmental hard copy files recalled from archives
- refresher training and the development of competency testing for citizenship training (in development).

Current Status

s. 47F(1) continues to reside lawfully in the community as an Australian citizen. Departmental

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records have been updated to show that s. 47F(1)) acquired Australian citizenship on s. March 1986.

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Sensitive: Personal**High Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT B****Record Incorrect****Citizenship Acquired****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release**

s. 47F(1)

**Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) October 2018, s. 47F(1) was located by ABF officers in s. 47F(1) upon s. 47F(1) release from criminal custody and detained under section 189 of the Act. Departmental systems showed s. 47F(1) to be unlawful following the cancellation of s. 47F(1) visa under section 501 of the Act.

On s. 47F(1) October 2018, the Department confirmed s. 47F(1) was an Australian citizen s. 47F(1).

s. 47F(1) was released from detention as an Australian citizen on s. 47F(1) October 2018.

Background

On s. 47F(1) December 1977, s. 47F(1) arrived in Australia as permanent migrants. s. 47F(1) aged s. 47F(1).

On s. 47F(1) January 1980, s. 47F(1), returning on s. 47F(1) October 1980. s. 47F(1) has remained in Australia since this date.

On s. 47F(1) September 1980, s. 47F(1) acquired Australian citizenship by conferral. s. 47F(1). As s. 47F(1) were granted Australian citizenship s. 47F(1).

On s. 47F(1) August 1988, s. 47F(1) lodged an application for Australian citizenship by conferral. s. 47F(1) were listed on the application form and then crossed off by a departmental officer considering the application with the notation s. 47F(1). s. 47F(1), the primary applicant, was not consulted regarding the removal of s. 47F(1) and s. 47F(1) citizenship application.

On s. 47F(1) November 1988, s. 47F(1) application for citizenship was approved. On s. 47F(1) January 1989, s. 47F(1) acquired Australian citizenship by conferral.

It appears the error regarding the removal of s. 47F(1)

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citizenship application has come to light during the citizenship ceremony, and a departmental officer had subsequently hand written s. 47F(1), citizenship certificate. This action was not recorded in departmental systems. This is discussed further under 'Actions' below.

On s. 47F(1) August 2014, s. 47F(1) was issued with a pre-NOICC questionnaire whilst serving a term of imprisonment at s. 47F(1) Prison. The intent of the pre-NOICC questionnaire was to clarify citizenship status. s. 47F(1) provided a response on the same day in which s. 47F(1) listed citizenship as s. 47F(1) and ticked "no" in response to the question "Have you been granted Australian citizenship?" The Department when preparing s. 47F(1)' file noted s. 47F(1) had acquired Australian citizenship and that s. 47F(1) was listed in the application on a departmental database. Further checks were conducted on s. 47F(1) which produced results of s. 47F(1) and 'citizenship rejected' in respect of s. 47F(1).

On s. 47F(1) August 2014, s. 47F(1) was released from s. 47F(1) Prison.

On s. 47F(1) October 2014, s. 47F(1) was issued with a NOICC, to which s. 47F(1) responded on s. 47F(1) November 2014. s. 47F(1) response included a personal circumstances form on which there were a number of contradictory or incomplete responses. s. 47F(1) listed s. 47F(1) country of birth as s. 47F(1) and did not complete a question about s. 47F(1) citizenship. s. 47F(1) listed s. 47F(1), however, at the end of the form s. 47F(1).

The Department did not examine the claims of s. 47F(1) personal circumstances, or case at the time, most likely due to the re-prioritisation of the section 501 caseload following the introduction of the section 501(3A) mandatory cancellation legislation in December 2014.

On s. 47F(1) January 2018, s. 47F(1) was convicted in s. 47F(1) Magistrates Court of multiple offences and sentenced to an aggregate term of s. 47F(1).

On s. 47F(1) May 2018, the Department requested s. 47F(1) criminal history from the AFP. In addition to the convictions of s. 47F(1) January 2018, and the convictions which lead to the NOICC being issued on s. 47F(1) October 2014, s. 47F(1) had further convictions from s. 47F(1). The convictions included s. 47F(1).

On s. 47F(1) August 2018, the Department confirmed that there was no evidence of s. 47F(1) having acquired Australian citizenship by acquisition or operation of law.

On s. 47F(1) September 2018, the Department cancelled the Class s. 47F(1) visa which s. 47F(1) had been erroneously deemed to hold. s. 47F(1) accommodated at s. 47F(1) Prison, was notified of the cancellation on the same day via an email sent to the s. 47F(1) Department of Justice. On the same day, a signed acknowledgement of the mandatory cancellation decision was returned by email to the departmental mailbox.

On s. 47F(1) October 2018, s. 47F(1) was released from criminal custody and detained under section 189 of the Act.

Actions

On s. 47F(1) October 2018, s. 47F(1) case was referred for review. In its review the Department noted

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s. 47F(1) had been refused citizenship s. 47F(1) citizenship application, and had recently been found not to be an Australian citizen. The Department sought incoming passenger cards to ensure that the visa had been correctly described in the cancellation notice.

On s. 47F(1) October 2018, s. 47F(1) submitted s. 47F(1) request for revocation of the section 501(3A) mandatory cancellation decision. In s. 47F(1) request for revocation s. 47F(1) listed s. 47F(1) citizenship as s. 47F(1) s. 47F(1) did not claim to be an Australian citizen or dispute that s. 47F(1) had previously been the holder of a visa (at the time of the cancellation).

On s. 47F(1) October 2018, s. 47F(1) submitted further documents in support of s. 47F(1) revocation request. No claims about Australian citizenship were made in the subsequent submission.

On s. 47F(1) October 2018, the Department completed a Phase 2 review and flagged an additional review was required, pending receipt of further information. On the same day, a citizenship assessment, using the Citizenship Assessment Tool was undertaken. This found s. 47F(1) was not an Australian citizen as determined on s. 47F(1) August 2018.

On s. 47F(1) October 2018, s. 47F(1) submitted a detainee request form through Serco, asking to speak with the Department as s. 47F(1) believed s. 47F(1) "may have some proof" that s. 47F(1) became an Australian citizen s. 47F(1). s. 47F(1) noted in the form the basis for this belief was that given s. 47F(1) was under s. 47F(1) applied for and acquired Australian citizenship then s. 47F(1) too should have automatically become a citizen.

On s. 47F(1) October 2018, s. 47F(1) met with the Department and was advised s. 47F(1) should liaise with s. 47F(1) to obtain any paperwork that may serve to establish that s. 47F(1) was an Australian citizen.

On s. 47F(1) October 2018, s. 47F(1) advised the Department that s. 47F(1) had obtained a photo (electronically on s. 47F(1) phone) of s. 47F(1) names were handwritten on the reverse of the certificate. s. 47F(1) emailed the photo of the certificate to the Department.

On receipt of the email, the Department determined that it appeared that both s. 47F(1) were incorrectly removed from s. 47F(1) citizenship application, as it had believed that they had already acquired citizenship s. 47F(1) application. The Department determined that there was no evidence that s. 47F(1) from s. 47F(1) citizenship application, nor was there evidence that s. 47F(1) from the application.

s. 42(1)

On s. 47F(1) October 2018, the Department determined it was highly likely both s. 47F(1) and s. 47F(1) had acquired Australian citizenship s. 47F(1) on s. 47F(1) January 1989 and that it would recognise s. 47F(1) as an Australian citizen. s. 47F(1) was released from immigration detention on the same day.

In light of the processing and systems deficiencies surfaced in the case of s. 47F(1) the Department has implemented remedial actions to mitigate the risk of similar errors occurring.

Action taken at the pre-cancellation and cancellation stages include:

- amending the Mandatory Control Point document to reflect the risks associated with systems deficiencies in relation to citizenship (particularly for those who arrived as minors)

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- a review of cases with similar profiles to identify errors
- new timeframes for registering and progressing cases to ensure cancellation occurs earlier from possible detention dates
- increased pre-cancellation client contact for high risk immigration history
- establishment of controls and escalations for citizenship information received post cancellation
- updates to personal circumstances forms and questionnaires to better capture data in relation to citizenship risk, in particular around parental identity and citizenship
- Increased use of departmental hard copy files recalled from archives
- refresher training and the development of competency testing for citizenship training (in development).

It is noteworthy that existing the Department controls identified s. 47F(1) as a high risk cancellation, leading to escalation prior to the purported cancellation of s. 47F(1) visa.

Current Status

s. 47F(1) continues to reside lawfully in the community as an Australian citizen. Departmental records have been updated to show that s. 47F(1)) acquired Australian citizenship on s. January 1989.

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Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT C****Process Incorrect****Administrative deficiency****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release**

s. 47F(1)

**Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) February 2018, s. 47F(1) was located by the ABF s. 47F(1) at a police station. s. 47F(1) was unlawful at the time of detention as s. 47F(1) visa had been cancelled under section 116 of the Act on s. 47F(1) February 2018.

On s. 47F(1) August 2018, the AAT made a decision to set aside the cancellation of s. 47F(1). Due to an administrative error, s. 47F(1) was not notified of the AAT decision until s. 47F(1) August 2018.

s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa on s. 47F(1) August 2018.

Background

On s. 47F(1) October 2017, s. 47F(1) last arrived in Australia and was granted a s. 47F(1) visa on arrival.

On s. 47F(1) February 2018, s. 47F(1) was cancelled under section 116 of the Act. s. 47F(1) was detained under section 189 of the Act and accommodated at the s. 47F(1) Immigration Detention Centre (IDC).

Actions

On s. 47F(1) February 2018, s. 47F(1) lodged an application for review of the decision to cancel the s. 47F(1) visa with the AAT.

On s. 47F(1) August 2018, the AAT set aside the decision to cancel s. 47F(1). The AAT did not notify staff at s. 47F(1) IDC until s. 47F(1) August 2018. Departmental officers actioned the notification on s. 47F(1) August 2018 and s. 47F(1) was released from detention shortly after receipt of the notification. The Department (as part of the daily AAT checks conducted on s. 47F(1) August 2018) identified the delay in notification and also noted that while the decision date was s. 47F(1) August 2018, the notification letter was dated s. 47F(1) August 2018.

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The Department has ensured that the AAT is aware of the notification procedures following decisions of clients in immigration detention. The Department has confirmed the AAT are aware of the importance of, and issues surrounding, timely notification of set-aside decisions for clients in detention. The Department is establishing a joint protocol with the AAT to formalise the current agreement of notifying the department on the same day or as soon as possible thereafter of review decisions for clients in immigration detention. Arrangements for providing the Department of advanced notice will also be set out in the protocol. These measures will provide an understanding of the processes across both agencies and will assist relevant status resolution teams to make the necessary arrangements (for accommodation, travel and finances etc) to be in place in time for the applicant's release from detention.

Current status

On s. 47F(1) August 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa.

s. 47F(1) continues to reside lawfully in the community.

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Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT D****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release**

s. 47F(1)

**Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) August 2018, s. 47F(1) was located by ABFs. 47F(1) upon s. 47F(1) release from criminal custody and detained under section 189 of the Act. Departmental systems showed s. 47F(1) to be unlawful following the cancellation of s. 47F(1) visa under section 501 of the Act.

On s. 47F(1) September 2018, the Department identified that the decision to cancel s. 47F(1) visa under section 501 of the Act was affected by jurisdictional error.

s. 47F(1) was released from detention as the holder of s. 47F(1) visas on s. 47F(1) September 2018.

Background

On s. 47F(1) June 1991, s. 47F(1) arrived in Australia as a minor, travelling on a s. 47F(1) visa as a dependent applicant. This visa ceased on s. 47F(1) September 1991.

On s. 47F(1) August 1991, s. 47F(1) lodged a s. 47F(1) application as a dependent applicant.

On s. 47F(1) August 1991, s. 47F(1) was granted a s. 47F(1) permit as a dependent applicant and a s. 47F(1) visa.

On s. 47F(1) September 1994, both the s. 47F(1) permit and the s. 47F(1) visa converted to s. 47F(1) visas under the *Migration Reform Transitional Provisions Regulations*. Consequently, as at s. 47F(1) September 1994, s. 47F(1) held s. 47F(1) visas granted by operation of law on that date.

On s. 47F(1) July 2006, s. 47F(1) was issued with a Notice of Intention to Consider Cancellation (NOICC) of s. 47F(1) s. 47F(1) visa granted on s. 47F(1) September 1994.

On s. 47F(1) October 2006, s. 47F(1) visa was cancelled personally by the Minister under section 501(2) of the Act.

On s. 47F(1) December 2006, s. 47F(1) lodged an application for judicial review of the cancellation with

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the Federal Court.

On s. February 2007, the Minister withdrew from the judicial review proceedings as the cancellation was considered to be defective following a decision in the matter of *Sales v MIMA*, where the courts found that providing a period of 14 days to respond to a NOICC was not in keeping with the principles of procedural fairness.

On s. December 2015, s. 47F(1)) visa was cancelled under the mandatory cancellation provisions of section 501(3A) of the Act.

On s. December 2015, s. 47F(1) was detained under section 189 following s. 47F(1) release from criminal custody.

On s. December 2015, s. 47F(1) submitted a request for revocation of the decision to cancel s. 47F(1) s. 47F(1)) visa. The Department revoked the cancellation on s. October 2016.

On s. August 2018, s. 47F(1) visa was cancelled under section 501(3A) of the Act. The visa was incorrectly described in the cancellation notification letter and decision record as a Class s. 47F(1)) visa granted on s. August 1991.

On s. August 2018, s. 47F(1) was detained upon s. 47F(1) release from criminal custody.

Actions

On s. August 2018, the Department commenced a review of s. 47F(1) case. On the same day, the Department sought to confirm as to whether s. 47F(1) was the holder of s. visas and whether the visa had been correctly identified in the mandatory cancellation notification.

On s. September 2018, the Department identified the decision to cancel s. 47F(1) visa was affected by jurisdictional error. This was because the delegate cancelled a visa that s. 47F(1) did not hold. In the cancellation notification, the delegate identified the visa liable for cancellation as a Class s. 47F(1)) visa. However at law, s. 47F(1) had held a s. 47F(1)) entry permit that had converted to a s. 47F(1)) visa on s. September 1994. s. 47F(1) had also held a s. 47F(1)) visa which had also converted to a s. 47F(1)) visa as of s. September 1994. As the cancellation decision of s. August 2018 was affected by jurisdictional error, s. 47F(1) remained the holder of s. 47F(1) visas granted by operation of law on s. September 1994.

On s. September 2018, s. 47F(1) was released from immigration detention as the holder of s. 47F(1) visas.

The Department has reminded all cancellation officers of the requirement to correctly identify and describe visas liable for cancellation and the requirement to seek assistance in escalating and resolving complex cases. The Department has also held refresher training for cancellation officers and team leaders (who provide quality assurance checks) for s. 47E(d) . The Department has in place processes for additional checks for cases involving s. 47F(1) visa holders, (these visas were granted prior to s. September 1994), prior to allocation.

Supervisors who conduct quality assurance checks both prior to, and subsequent to, cancellation are required to use documents with mandatory control points to identify potential risks and conduct further investigation where necessary.

Current status

Sensitive: Personal

Sensitive: Personal

On September 2018, s. 47F(1) was released from immigration detention as the holder of s. 47F(1) visas. s. 47F(1) continues to reside lawfully in the community.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT E****Process Incorrect****Administrative deficiency**

Family Name
 Given Name
 Alias
 Nationality
 Country of Birth
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained while
 not unlawful

s. 47F(1)

Summary

On s. 47F(1) July 2018, s. 47F(1) was located by ABF s. 47F(1) upon s. 47F(1) release from criminal custody and detained under section 189 of the Act. s. 47F(1) was unlawful at the time of s. 47F(1) detention following the cancellation of s. 47F(1) s. 47F(1) visa on s. 47F(1) May 2018 under section 116 of the Act.

On s. 47F(1) December 2018, the AAT made a decision to set aside the cancellation of s. 47F(1) visa. s. 47F(1) authorised recipient was notified of the AAT decision on s. 47F(1) December 2018, but due to an administrative error, a copy of the AAT decision was not sent to the Department to release s. 47F(1) from detention.

s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa on s. 47F(1) December 2018.

Background

On s. 47F(1) December 2000, s. 47F(1) arrived Australia and was granted a s. 47F(1) visa on arrival.

On s. 47F(1) May 2018, s. 47F(1) visa was cancelled under section 116 of the Act. s. 47F(1) lodged an application for review of the decision at the AAT on s. 47F(1) May 2018.

On s. 47F(1) July 2018, s. 47F(1) was detained under section 189 of the Act and transferred to s. 47F(1) Immigration Detention Centre (IDC).

Actions

On s. 47F(1) May 2018, s. 47F(1) lodged an application for review of the cancellation decision with the AAT and the AAT interviewed s. 47F(1) whilst s. 47F(1) was detained at s. 47F(1) IDC in September 2018.

On s. 47F(1) December 2018, the AAT contacted departmental officers on s. 47F(1) to request further information from s. 47F(1). The AAT was advised on s. 47F(1) December 2018 that s. 47F(1) had

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Sensitive: Personal

Sensitive: Personal

been transferred to the s. 47F(1) IDC on s. October 2018. On s. December 2018, s. 47F(1) was transferred to s. 47F(1) IDC.

On s. December 2018 the AAT decided to set aside the decision to cancel s. 47F(1)) visa, s. 47F(1) visa back into effect immediately.

On s. December 2018, the Department updated s. 47F(1) records to show the cancellation decision had been set aside.

On s. December 2018, a daily check was conducted on departmental systems. These checks showed s. 47F(1) cancellation decision had been set aside by the AAT but s. 47F(1) remained in detention. The Department confirmed that contrary to usual practice, the AAT had not sent a copy of the cancellation set aside notification to it at any of the detention centres in which s. 47F(1) had been held.

On s. December 2018, the Department sought a copy of the cancellation notification from the AAT. The AAT confirmed s. 47F(1) authorised recipient had been notified of the AAT decision via email on s. December 2018. However in this instance, contrary to established procedure, a copy of the notification letter had not been provided to the Department.

On s. December 2018, the Department facilitated s. 47F(1) release from s. 47F(1) IDC on the same day.

The Department has ensured that the AAT is aware of the notification procedures following decisions of clients in immigration detention. The Department has confirmed the AAT are aware of the importance of, and issues surrounding, timely notification of set-aside decisions for clients in detention. The Department is establishing a joint protocol with the AAT to formalise the current agreement of notifying the department on the same day or as soon as possible thereafter of review decisions for clients in immigration detention. Arrangements for providing the Department of advanced notice will also be set out in the protocol. These measures will provide an understanding of the processes across both agencies and will assist relevant status resolution teams to make the necessary arrangements (for accommodation, travel and finances etc) to be in place in time for the applicant's release from detention.

Departmental staff at s. 47F(1) IDC have advised s. 47F(1) was transferred from s. 47F(1) IDC on s. December 2018 and a check list completed. The checklist requires the AAT to be kept informed of an applicant's transfer to a new IDC. Whilst updates are generally made within two working days, as s. 47F(1) was transferred on s. December 2018 to s. 47F(1) IDC (on the same day the AAT decision was made), the AAT had not been informed of the transfer. Management at s. 47F(1) IDC have advised the AAT has been advised of all subsequent transfers to that centre.

Current status

On s. December 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa. s. 47F(1) continues to reside lawfully in the community.

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Sensitive: Personal

~~Sensitive: Personal~~**Medium Risk Case 1 July 2018 – 31 December 2018****ATTACHMENT F****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Nationality
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as
 not unlawful

s. 47F(1)

Summary

On s. 47F(1) November 2018, s. 47F(1) i was located by the ABF s. 47F(1) upon s. 47F(1) release from criminal custody and detained under section 189 of the Act. Departmental systems showed s. 47F(1) to be unlawful following the cancellation of s. 47F(1) visa under section 501 of the Act on s. 47F(1) January 2018.

On s. 47F(1) December 2018, the Department determined that the decision to cancel s. 47F(1) s. 47F(1) visa was affected by jurisdictional error.

s. 47F(1) was released from detention as the holder of a s. 47F(1) visa on s. 47F(1) December 2018.

Background

On s. 47F(1) June 1991, s. 47F(1) arrived in Australia as s. 47F(1), travelling on a s. 47F(1)

On 1 September 1994, s. 47F(1) converted to a s. 47F(1) visa under the *Migration Reform (Transitional Provisions) Regulations*.

On s. 47F(1) July 2016, the s. 47F(1) visa was cancelled under the mandatory cancellation provisions of section 501(3A) of the Act.

On s. 47F(1) July 2016, s. 47F(1) submitted a request for revocation of the decision to cancel the s. 47F(1) visa. The Department decided to revoke the cancellation on s. 47F(1) January 2017.

On s. 47F(1) January 2018, s. 47F(1) visa was cancelled under section 501(3A) of the Act. The visa was described in the cancellation notification letter and decision record as a 'Class s. 47F(1) visa.

On s. 47F(1) February 2018, s. 47F(1) submitted a request for revocation of the decision to cancel s. 47F(1) visa.

On s. 47F(1) November 2018, s. 47F(1) was released from criminal custody and detained.

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Sensitive: Personal**Actions**

On s. 47F(1) November 2018, the Department commenced a review of s. 47F(1) case. On s. 47F(1) December 2018, the Department sought to confirm whether the visa had been correctly identified in the mandatory cancellation notification.

On s. December 2018, the Department determined the decision to cancel s. 47F(1) visa was affected by jurisdictional error. This was because the Department cancelled a visa that s. 47F(1) did not hold. In the cancellation notification, the Department identified the visa liable for cancellation as a s. 47F(1) visa. However, at law, s. 47F(1) held an entry permit that had converted to a s. 47F(1) visa on 1 September 1994. As the cancellation decision was affected by jurisdictional errors, s. 47F(1) remained the holder of a s. 47F(1) visa.

On s. December 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa.

The Department has reminded all cancellation officers of the requirement to correctly identify and describe visas liable for cancellation and the requirement to seek assistance in escalating and resolving complex cases. The Department has also held refresher training for cancellation officers and team leaders (who provide quality assurance checks) for more high-risk categories of visas including s. 47E(d) visas and s. 47E(d) visas. The Department has in place processes for additional checks for cases involving Class BF visa holders, (these visas were granted prior to s. September 1994), prior to allocation.

Supervisors who conduct quality assurance checks both prior to, and subsequent to, cancellation are required to use documents with mandatory control points to identify potential risks and conduct further investigation where necessary.

Current status

On s. December 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa. s. 47F(1) continues to reside lawfully in the community as the holder of this visa.

On s. December 2018, s. 47F(1) was sent a NOICC regarding the possible cancellation of s. 47F(1) visa under section 501 of the Act by registered mail.

On s. January 2019, s. 47F(1) sent s. 47F(1) response to the NOICC via email to the Department. Consideration of s. 47F(1) case is ongoing and a section 501 submission will be prepared in due course.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT G****Process Incorrect****Administrative deficiency****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release**

s. 47F(1)

**Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) September 2018, s. 47F(1) was located by the ABF s. 47F(1) during a joint police and ABF operation to employer premises. The purpose of the visit was employer awareness and s. 47F(1) was not targeted as part of this visit. s. 47F(1) showed as unlawful on departmental systems and was detained under section 189 of the Act.

On s. 47F(1) September 2018, the Department determined that the decision to refuse s. 47F(1) visa was affected by jurisdictional error. As a result, s. 47F(1) continued to hold the s. 47F(1) visa and was released from immigration detention.

s. 47F(1) was released from detention as the holder of a s. 47F(1) visa on s. 47F(1) September 2018.

Background

On s. 47F(1) December 2007, s. 47F(1) arrived in Australia on a s. 47F(1) visa granted on s. 47F(1) November 2007. Under the s. 47F(1) processing arrangements, applicants apply on the one combined application form for both a s. 47F(1) visa and a s. 47F(1) visa.

On s. 47F(1) August 2010, a decision was made to refuse s. 47F(1) visa application.

On s. 47F(1) August 2010, s. 47F(1) was granted a s. 47F(1) in association with s. 47F(1) application for a s. 47F(1) visa.

On s. 47F(1) August 2010, following the refusal of s. 47F(1) visa, departmental systems showed s. 47F(1) visa as ceased.

On s. 47F(1) September 2010, s. 47F(1) granted in association with s. 47F(1) visa ceased.

On s. 47F(1) September 2018, s. 47F(1) was taken into immigration detention.

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Sensitive: Personal**Actions**

On s. 47F(1) September 2018, the Department commenced a review of s. 47F(1) case. On s. 47F(1) September 2018, the Department sought to clarify as to whether the refusal of the s. 47F(1) visa was affected by jurisdictional error. It appeared that correspondence on the s. 47F(1) visa was sent to the incorrect authorised recipient as s. 47F(1) appointed a new migration agent as s. 47F(1) authorised recipient on s. 47F(1) August 2007. 47 F/1

On s. 47F(1) September 2018, the Department confirmed that adverse information provided by s. 47F(1) former migration agent was included in the refusal decision record. It was unclear whether this information was provided on the instruction of s. 47F(1). However, the information was not put to s. 47F(1) for comment and was subsequently noted in the refusal decision record. The Department also noted requests for further information were sent to s. 47F(1) former agent, instead of s. 47F(1) new agent. As a result, the section 56 requests for information did not comply with the Code of Procedure set out in the Act. The Department concluded that the refusal of s. 47F(1) visa was affected by jurisdictional error and that s. 47F(1) remained the holder of a s. 47F(1) visa and should be released from immigration detention.

On s. 47F(1) September 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa.

The Department has brought the errors in s. 47F(1) case to the attention of case officers and team leaders. Information relating to the Code of Procedures has been included in training material updates. A new checklist about authorised recipients was provided for case officers in 2018.

Systems updates introduced in November 2018, will ensure when holders of s. 47F(1) visas are sent requests via email and invited to provide further information in relation to their s. 47F(1) visa applications, they are also requested to provide information about the appointment of their authorised recipients.

The holder of a s. 47F(1) visa is required to hold this visa for at least s. 47F(1), to be eligible for the grant of a s. 47F(1) visa, as per the requirements of regulation 100.2211(2A) (c). Departmental correspondence sent after November 2018, prior to s. 47F(1) visa holders becoming eligible for a permanent visa (this is sent one month prior to the two year expiry period of the s. 47F(1) visa) will ensure that applicants are able to provide up to date information about their agents.

Current status

On s. 47F(1) September 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa. s. 47F(1) provided s. 47F(1) contact details prior to s. 47F(1) release.

On s. 47F(1) October 2018, the Department sent s. 47F(1) a letter, seeking further information about s. 47F(1) relationship status. The letter was sent to the address nominated by s. 47F(1) on s. 47F(1) September 2018. Prior telephone contact had been established with s. 47F(1) on s. 47F(1) October 2018 by the Department, to advise s. 47F(1) that a letter would be sent to s. 47F(1) nominated address. s. 47F(1) did not respond to the letter.

On s. 47F(1) January 2019, s. 47F(1) application for a s. 47F(1) visa was refused. s. 47F(1) was granted a further s. 47F(1) on this date so that s. 47F(1) would remain lawful during the period in which s. 47F(1) could seek merits review of the refusal of s. 47F(1) visa.

On s. 47F(1) January 2019, s. 47F(1) visa ceased on departmental systems.

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Sensitive: Personal

On s. 47F(1) February 2019, s. 47F(1) ceased and s. 47F(1) became unlawful. The period in which s. 47F(1) might seek merits review of the decision to refuse s. 47F(1) visa application has now also lapsed. s. 47F(1) remains unlawful in the community.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT H****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release**

s. 47F(1)

**Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) August 2018, s. 47F(1) was located by s. 47F(1) Police and referred to the Department's Immigration Status Service (ISS) for a visa status check. As departmental systems showed s. 47F(1) to be unlawful, s. 47F(1) was detained under section 189 of the Migration Act and transferred to the s. 47F(1) Immigration Transit Accommodation (ITA) facility.

On s. 47F(1) August 2018, a determination was made s. 47F(1) remained the holder of a s. 47F(1) granted in association with a s. 47F(1) via application lodged on s. 47F(1) December 2015.

s. 47F(1) was released from immigration detention on s. 47F(1) August 2018.

Background

On s. 47F(1) June 2015, s. 47F(1) arrived in Australia as the holder of an s. 47F(1) visa granted on s. 47F(1) May 2015. This visa ceased on s. 47F(1) September 2015.

On s. 47F(1) December 2015, s. 47F(1) lodged an application for a s. 47F(1) visa application and was granted an associated s. 47F(1)

On s. 47F(1) February 2016, s. 47F(1) visa application was refused and s. 47F(1) was notified of the refusal via email. On s. 47F(1) March 2016, s. 47F(1) granted in association with the s. 47F(1) visa application showed as ceased on departmental systems, subsequent to the refusal of this visa.

On s. 47F(1) August 2018, s. 47F(1) was located by s. 47F(1) Police and referred to ISS, who advised that s. 47F(1) was unlawful, and detained under section 189 of the Act.

Actions

On s. 47F(1) August 2018, Department identified a potential defect in the notification of the s. 47F(1) visa refusal, as s. 47F(1) had been notified of the decision via email when s. 47F(1) had not consented to receive documents via electronic communication.

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Sensitive: Personal

On s. 47F(1) August 2018, the Department confirmed the refusal notification of s. 47F(1) visa application was defective because s. 47F(1) had not consented that documents be sent to an email address provided on s. 47F(1) application form. As per the provisions of section 9(1)(d) of the *Electronic Transactions Act 1999*, a document can only be sent by email if the recipient has provided consent (express or implied) for documents to be sent to the email address. As s. 47F(1) had not consented to receive documents via email, the Department was unable to rely on the deemed receipt provisions of section 494C(5) of the Act, in respect of the notification of s. 47F(1) visa refusal.

As a result, s. 47F(1) continued to hold the associated s. 47F(1) granted on s. 47F(1) December 2015. On s. 47F(1) August 2018, s. 47F(1) was released from the s. 47F(1) ITA as the holder of a s. 47F(1)

The Department has updated visa finalisation checklists to ensure appropriate checks are made prior to selecting a notification method. Officers have been reminded that consent from the client is essential for communication which is dispatched via email. The error identified in s. 47F(1) case has been discussed with officers involved in s. 47F(1) case.

Current status

On s. 47F(1) August 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1)

On s. 47F(1) September 2018, s. 47F(1) was renotified of the decision to refuse s. 47F(1) visa, and s. 47F(1) associated s. 47F(1) ceased on s. 47F(1) November 2018.

On s. 47F(1) April 2019, s. 47F(1) was granted a s. 47F(1) valid until s. 47F(1) April 2019.

s. 47F(1) departed Australia on s. 47F(1) April 2019 and remains offshore.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT I****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release**

s. 47F(1)

**Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) July 2018, s. 47F(1) was located by the ABF s. 47F(1) upon s. 47F(1) release from criminal custody and detained under section 189 of the Act. s. 47F(1) was unlawful at the time of s. 47F(1) detention following the cancellation of s. 47F(1) visa under section 109 of the Act on s. 47F(1) June 2017.

On s. 47F(1) August 2018, the Department determined that the cancellation of s. 47F(1) visa was affected by jurisdictional error and should be revisited with s. 47F(1) consent.

On s. 47F(1) August 2018, s. 47F(1) consented to the cancellation decision being revisited and s. 47F(1) was released from immigration detention.

Background

s. 47F(1) last arrived Australia on s. 47F(1) March 2017, and was granted a s. 47F(1) visa on arrival.

On s. 47F(1) June 2017, s. 47F(1)) visa was cancelled under section 109 of the Act.

On s. 47F(1) July 2018, s. 47F(1) was detained upon s. 47F(1) release from criminal custody.

Actions

On s. 47F(1) August 2018, the Department sought to confirm that s. 47F(1) acknowledged receipt of the notice of cancellation sent to s. 47F(1) on s. 47F(1) June 2017 via email, whilst s. 47F(1) was in prison. It was confirmed that an acknowledgment of the notice of cancellation had not been obtained from s. 47F(1)

On s. 47F(1) August 2018, the Department determined that as the decision to cancel s. 47F(1) was affected by jurisdictional error, the cancellation decision should be revisited. The cancellation decision was affected by jurisdictional error because the Department had given no weight in the visa holder's favour in respect of many of the

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considerations against cancelling the visa which the delegate was obliged to consider.

The Department indicated in the decision record there were s. 47F(1) who would be affected by the decision to cancel. However, in s. 47F(1) response to the Notice of Intention to Consider Cancellation (NOICC), s. 47F(1) had stated s. 47F(1) wished to remain in Australia to raise s. 47F(1). In addition, the Department included within the cancellation decision information about breaches of the law subsequent to s. 47F(1) arrival to Australia that were not put to s. 47F(1) for comment in the NOICC.

The Department has reviewed errors in s. 47F(1) case and changes have been implemented. In May 2018, an instruction was issued to ensure consideration is given to weighing information in favour of the visa holder when a visa is liable for cancellation. Advice has been given to officers that visa holders must be given the opportunity to provide a response to all potentially adverse information, prior to a decision being made.

Current status

On s. 47F(1) August 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa.

On s. 47F(1) September 2018, s. 47F(1) was sent a NOICC concerning the possible cancellation of s. 47F(1) s. 47F(1) visa under section 109 of the Act. On s. 47F(1) October 2018, s. 47F(1) authorised representative provided a response to the NOICC via email.

On s. 47F(1) November 2018, s. 47F(1) was remanded at s. 47F(1) Prison in s. 47F(1) after being charged with s. 47F(1) s. 47F(1) next court appearance is a sentencing hearing scheduled for s. 47F(1) August 2019.

On s. 47F(1) December 2018, s. 47F(1) s. 47F(1) visa was cancelled under section 109 of the Act, and s. 47F(1) was notified of the cancellation decision through s. 47F(1) authorised representative.

s. 47F(1) is currently unlawful and is in correctional custody at s. 47F(1) Prison ins. s. 47F(1). The timeframe in which s. 47F(1) could seek merits review of the decision to cancel s. 47F(1) s. 47F(1) visa has now lapsed.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT J****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release****Days detained while
not unlawful**

s. 47F(1)

s. 47F(1)

Summary

On s. 47F(1) December 2018, s. 47F(1) was detained by s. 47F(1) Police in relation to criminal matters. s. 47F(1) was released pending charge on summons and was referred to ISS for a visa status check. Departmental systems showed s. 47F(1) as unlawful and s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) December 2018, a determination was made s. 47F(1) remained the holder of a s. 47F(1) granted on s. 47F(1) December 2015 in association with a s. 47F(1) visa application.

On s. 47F(1) December 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1)

Background

On s. 47F(1) August 2013, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa granted on s. 47F(1) July 2013. This visa ceased on s. 47F(1) December 2015.

On s. 47F(1) December 2015, s. 47F(1) lodged an application for a second s. 47F(1) visa and was granted an associated s. 47F(1). In the application form, s. 47F(1) provided details for a migration agent whom s. 47F(1) had appointed as s. 47F(1) authorised recipient.

Between s. 47F(1) July 2016 and s. 47F(1) December 2016, s. 47F(1) informed the Department verbally on three occasions s. 47F(1) wished to withdraw the appointment of s. 47F(1) authorised recipient, and this was recorded on departmental systems.

On s. 47F(1) April 2017, s. 47F(1) application for a s. 47F(1) visa was refused and s. 47F(1) migration agent was notified of the refusal via email and a copy of the notification was sent to s. 47F(1) by post.

On s. 47F(1) May 2017, s. 47F(1) associated s. 47F(1) was shown as ceased on departmental systems.

On s. 47F(1) May 2017, the notification of the s. 47F(1) visa application refusal was returned to the Department unclaimed.

On s. 47F(1) June 2017, s. 47F(1) was granted a s. 47F(1) on departure grounds. This visa ceased on s. 47F(1) June 2017.

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Sensitive: Personal

On s. 47F(1) June 2017, s. 47F(1) was granted a second s. 47F(1) on departure grounds. This visa ceased on s. 47F(1) June 2017.

On s. 47F(1) August 2018, s. 47F(1) was charged by s. 47F(1) Police with multiple offences arising from s. 47F(1) in December 2017 in which s. 47F(1)

On s. 47F(1) December 2018, s. 47F(1) was detained by s. 47F(1) Police in relation to the above charges, referred to ISS and then taken into immigration detention.

Actions

On s. 47F(1) December 2018, the Department commenced a review of s. 47F(1) case. The Department identified a potential defect in the notification of the s. 47F(1) visa as the notification had been sent to s. 47F(1) migration agent, although s. 47F(1) had advised by telephone on three occasions s. 47F(1) had withdrawn the appointment of s. 47F(1) agent.

On s. 47F(1) December 2018, the Department determined that the refusal notification of s. 47F(1) second s. 47F(1) application was defective as it was not sent to the correct recipient. Although s. 47F(1) had informed the Department of the withdrawal of the appointment of s. 47F(1) migration agent, the notification was incorrectly sent to the agent.

The Department identified that a copy of the refusal notification was sent to s. 47F(1) by mail, which was identical to the notification sent to the former migration agent by email. Given the different delivery methods, the notification to s. 47F(1) contained incorrect information regarding deemed receipt of the notification and timeframe for review. As the copy of the notification did not provide correct information it did not comply with the requirements of section 66(2)(d)(ii) of the Act.

As there was no evidence of actual notification because the letter had been returned to the Department, s. 47F(1) remained the holder of the s. 47F(1) granted in association with s. 47F(1) application. The Department noted that s. 47F(1) needed to be re-notified of the refusal of s. 47F(1) visa subsequent to s. 47F(1) release from detention.

Officers have received training on legislative and policy requirements relating to the withdrawal of appointment of an authorised recipient.

Current Status

On s. 47F(1) December 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1)

On s. 47F(1) December 2018, s. 47F(1) was re-notified of s. 47F(1) visa refusal via email and on the same day s. 47F(1) corresponded with the Department confirming receipt of the refusal notification. s. 47F(1) did not seek merits review of the refusal decision.

On s. 47F(1) January 2019, s. 47F(1) lodged an application for a s. 47F(1) visa. s. 47F(1) was granted an associated s. 47F(1) on s. 47F(1) January 2019.

On s. 47F(1) January 2019, s. 47F(1) s. 47F(1) granted on s. 47F(1) December 2015 in association with s. 47F(1) visa application, ceased.

On the same day, the Department initiated preliminary consideration regarding the possible cancellation of s. 47F(1) visa under section 116 of the Act, which remains ongoing pending the outcome of the charges laid against s. 47F(1) on s. 47F(1) August 2018. On s. 47F(1) February 2019, s. 47F(1) Police

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advised s. 47F(1) would next be in court on s. May 2019 for those charges. On s. March 2019, s. 47F(1) Police advised that s. 47F(1) may be subject to further charges arising from a separate incident in December 2018.

On s. May 2019, s. 47F(1) s. 47F(1) granted on s. January 2019, in association with s. 47F(1) s. 47F(1) visa application, ceased. On the same day s. 47F(1) was granted a further s. 47F(1) associated with this application.

s. 47F(1) remains lawfully in the community on the s. 47F(1) granted in association with s. 47F(1) s. 47F(1) visa application.

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Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT K****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release**

s. 47F(1)

**Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) October 2018, s. 47F(1) was located by the ABF in s. 47F(1) upon s. 47F(1) release from criminal custody and detained under section 189 of the Act. Departmental systems showed s. 47F(1) as unlawful following the cancellation of s. 47F(1) visa under section 501 of the Act.

On s. 47F(1) November 2018, the Department determined that the decision to cancel s. 47F(1) Visa was affected by jurisdictional error.

s. 47F(1) was released from detention as the holder of an s. 47F(1) Visa on s. 47F(1) November 2018.

Background

On s. 47F(1) November 1975, s. 47F(1) a s. 47F(1) citizen, arrived in Australia as a s. 47F(1) s. 47F(1). s. 47F(1) has not departed Australia since that date.

On s. 47F(1) February 2011, the Department commenced cancellation action in relation to s. 47F(1) Visa. On s. 47F(1) July 2013, a decision was made not to cancel s. 47F(1) visa.

On s. 47F(1) October 2015, the Australian Government Solicitor (AGS) found that s. 47F(1) is the holder of an s. 47F(1) Visa, acquired by operation of law on 1 September 1994 under the *Migration Reform (Transitional Provisions) Regulations*.

On s. 47F(1) August 2016, s. 47F(1) Visa was cancelled under the mandatory cancellation provisions of section 501(3A) of the Act.

On s. 47F(1) September 2016, s. 47F(1) submitted a request for revocation of the decision to cancel s. 47F(1) Visa. The Department decided to revoke the cancellation on s. 47F(1) May 2017 and s. 47F(1) Visa was reinstated.

On s. 47F(1) September 2018, s. 47F(1) visa was cancelled under the mandatory cancellation provisions of section 501(3A) of the Act. The visa was incorrectly described in the Notice of Cancellation (NOC) as a Class s. 47F(1) visa.

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On s. 47F(1) September 2018, s. 47F(1) submitted a request for revocation of the decision to cancel s. 47F(1) visa.

On s. 47F(1) October 2018, s. 47F(1) was detained under section 189 following s. 47F(1) release from criminal custody.

Actions

On s. 47F(1) October 2018, the Department reviewed s. 47F(1) case, which was completed on s. 47F(1) October 2018, without any findings. It noted that s. 47F(1) had been the holder of a s. 47F(1) visa.

On s. 47F(1) November 2018, the Department identified that the cancellation of s. 47F(1) visa appeared to be affected by jurisdictional error because the visa was incorrectly described in the NOC.

The error in s. 47F(1) case was identified because the Department was advised by the Ombudsman on s. 47F(1) November 2018 of a complaint from s. 47F(1) stated to the Ombudsman s. 47F(1) was an Australian citizen and the Ombudsman was seeking to understand measures taken by the Department to establish whether s. 47F(1) was an Australian citizen. On the same day, the Department reviewed s. 47F(1) immigration history, identified a potential error, and took steps to resolve it.

The s. 47F(1) Permanent Visa are both visas acquired by operation of law under the *Migration Reform (Transitional Provisions) Regulations* which came into effect on 1 September 1994. The Department's guide in LEGEND instructs officers to record the s. 47F(1) Visa in departmental systems with the s. 47F(1) code. However this code is also used to record other visas, due to limited codes available.

Initially, in its review of s. 47F(1) October 2018, the Department did not identify that the NOC sent to s. 47F(1) incorrectly referred to s. 47F(1) visa as a Class s. 47F(1) visa. To determine whether s. 47F(1) was the holder of a s. 47F(1) visa, checks of the incoming passenger card for s. 47F(1) first and only arrival to Australia, were required and did not occur.

At the time s. 47F(1) travelled to Australia on s. 47F(1) November 1975, s. 47F(1) citizens did not require visas to travel to Australia. In the event that s. 47F(1) had been issued with an s. 47F(1) in s. 47F(1) this may have converted to a s. 47F(1) visa on s. 47F(1) September 1994 under the *Migration Reform (Transitional Provisions) Regulations*. In such circumstances, s. 47F(1) could have held both s. 47F(1) Visa and s. 47F(1) visa, granted by operation of law on s. 47F(1) September 1994. Once the incoming passenger card was obtained, it was established that as s. 47F(1) travelled without a visa, when s. 47F(1) first arrived in Australia, s. 47F(1) could not have acquired a s. 47F(1) visa by operation of law on s. 47F(1) September 1994.

On s. 47F(1) November 2018, the Department retrieved s. 47F(1) incoming passenger card and identified s. 47F(1) had travelled to Australia without a visa, in accordance with the arrangements in place for s. 47F(1) citizens at the time. It was established that s. 47F(1) had not acquired a s. 47F(1) visa on s. 47F(1) September 1994 and that the Department had cancelled a visa which did not exist. The cancellation of s. 47F(1) visa was affected by jurisdictional error and s. 47F(1) remained the holder of an s. 47F(1) Visa.

On s. 47F(1) November 2018, s. 47F(1) was released from immigration detention.

The Department has reminded all cancellation officers of the requirement to correctly identify and

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describe visas liable for cancellation and the requirement to seek assistance in escalating and resolving complex cases. The Department has also held refresher training for cancellation officers and team leaders (who provide quality assurance checks) for more high-risk categories of visas including s. 47F(1) visas. The Department has in place processes for additional checks for cases involving s. 47F(1) (these visas were granted prior to s. 47F(1) September 1994), prior to allocation.

Additional levels of quality assurance were introduced in October 2018. Supervisors who conduct quality assurance checks both prior to, and subsequent to, cancellation are required to use documents with mandatory control points to identify potential risks and conduct further investigation where necessary. Supervisors cannot review the same cancellation at both the pre- and post-cancellation stage.

The Department has also commenced an internal review of s. 47F(1) case to evaluate whether quality control measures and procedural instructions were sufficiently robust to prevent misidentification of s. 47F(1) visas. As a result, the Department established a separate team in December 2018 to address visa, citizenship and identity issues prior to a client being placed on a cancellation pathway.

The Department has discussed the errors identified in s. 47F(1) case with the responsible officer and reminders have been communicated about actively obtaining incoming passenger cards for persons who arrived in Australia prior to 1994 and who have not departed since that date, which is routine practice for detention reviews. A helpcard has been prepared to assist in the identification of visas held by s. 47F(1) citizens who arrived Australia prior to s. 47F(1) September 1994.

A review in September 2018 identified 519 people, recorded as holding s. 47F(1) visas in departmental systems, whose visas were cancelled under section 501(3A) of the Act. 51 cases remained active at the time of review. The review prioritised individuals in criminal custody (noting that those in detention would have been reviewed by the Department upon being detained), a total of 26 cases. In each of these cases a review was undertaken of the original NOC, decision record and any internal departmental correspondence regarding citizenship status.

The review included 11 s. 47F(1) nationals who had cancellations in prison. s. 47F(1) nationals are the highest risk cohort given they are highly unlikely to actually hold a s. 47F(1) visa, unlike other nationals. The review identified one error for a client still in prison, with an earliest date of release (EDOR) of s. 47F(1). The review confirmed that the cancellation decision was affected by jurisdictional error and the client's visa will re-cancelled closer to s. 47F(1) EDOR. The review also identified the need for section 501 decision records and mandatory control points to better outline the reasoning process engaged in by cancellation delegates. Where any ambiguity exists the Department now records detailed case notes as to why a client holds the identified visa.

Current status

On s. 47F(1) November 2018, s. 47F(1) was released from immigration detention as the holder of an s. 47F(1) Visa. s. 47F(1) continues to reside lawfully in the community.

As s. 47F(1) has made claims that s. 47F(1) is an Australian citizen, the Department has completed citizenship assessments in 2011, 2015 and in both s. 47F(1) and s. 47F(1) 2018 and found in each assessment that s. 47F(1) is not an Australian citizen.

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Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT L****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release**

s. 47F(1)

**Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) December 2018, s. 47F(1) was located by s. 47F(1) Police and referred to ISS for a visa status check. Departmental systems showed s. 47F(1) as unlawful and was detained under section 189 of the Act.

On s. 47F(1) December 2018, the Department determined the decision to cancel s. 47F(1) visa under section 116 of the Act was affected by jurisdictional error.

s. 47F(1) was released from detention as the holder of a s. 47F(1) visa on s. 47F(1) December 2018.

Background

On s. 47F(1) May 2014, s. 47F(1) last arrived Australia and was granted a s. 47F(1) visa on arrival.

On s. 47F(1) February 2018, a NOICC regarding the possible cancellation of s. 47F(1) visa under section 116 of the Act was sent to s. 47F(1) at a residential address s. 47F(1). On s. 47F(1) February 2018, the NOICC was returned to the Department, unclaimed.

On s. 47F(1) March 2018, a NOC informing s. 47F(1) visa had been cancelled under section 116 of the Act was sent to the same address used for the NOICC. On s. 47F(1) April 2018, the NOC was returned to the Department, unclaimed.

On s. 47F(1) December 2018, s. 47F(1) was detained under section 189 of the Act.

Actions

On s. 47F(1) December 2018, the Department commenced an assessment of s. 47F(1) case and noted the number of the street address was incorrectly recorded in the NOICC.

On the same day, the Department identified the cancellation decision was affected by clear jurisdictional error because it had failed to take into account a relevant consideration prior to making a decision. The Office of Director of Public Prosecutions (DPP) had advised the

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Department via email that it would not be proceeding with the s. 47F(1) charges. While the Department received this advice after the issue of the NOICC, it was available prior to the cancellation decision. As a result the delegate should not have given any weight to the s. 47F(1) charges when deciding whether to cancel s. 47F(1) visa. Despite this, the Department considered the charges and referenced them in the cancellation decision record, rendering the cancellation decision defective.

On s. 47F(1) December 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa.

The Department has ensured that all case officers, team leaders and managers in the national cancellation network have been made aware of the error in s. 47F(1) case. All officers have also been instructed to update the Cancellations Assessment checklist (stored electronically in the cancellations file) contemporaneously when emails containing relevant information are received and subsequently stored in the cancellations file. Officers have also been instructed to ensure that address details in the NOICC and NOC are checked prior to dispatch.

On s. 47F(1) June 2019, the Department issued a network alert to advise the cancellation network of a policy change in the way delegates consider relevant matters and apply weighting when deciding whether to cancel a visa under section 116 of the Act. s. 47F(1)

Accompanying the network alert was also a *Guide to Genuine and Proper Consideration – Section 116 Cancellation Decision Making* which provides delegates with examples on the ways in which they can demonstrate proper and genuine consideration.

Current status

On s. 47F(1) December 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa. s. 47F(1) continues to reside in the community.

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Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT M****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release**

s. 47F(1)

**Days detained while
not unlawful**

s. 47F(1)

Summary

On s. November 2018, s. 47F(1) was located by the ABF s. at a business premises. The purpose of the visit was to raise employer awareness in relation to compliance with migration legislation and s. 47F(1) was not targeted as part of this visit. As s. 47F(1) was found to be working in breach of the 'no work' condition on s. 47F(1) visa, the s47F granted in association with s. 47F(1) application for a s. 47F(1) visa was cancelled under section 116 of the Act and s. 47F(1) was detained under section 189 of the Act.

On s. November 2018, a determination was made that s. 47F(1) remained the holder of a s47F as the cancellation decision of s. November 2018 was affected by jurisdictional error.

On s. November 2018, s. 47F(1) was released from immigration detention as the holder of a s47F

Background

On s. August 2009, s. 47F(1) first arrived in Australia as the holder of a s. 47F(1) visa granted on s. July 2009. This visa ceased on s. July 2012.

On s. July 2012, s. 47F(1) was granted a s. 47F(1) visa which ceased on s. August 2014.

Between s. November 2017 and s. November 2017, s. 47F(1) was granted s47F on departure grounds. The last s47F ceased on s. December 2017.

On s. November 2017, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s47F on s. December 2017. This visa ceased on s. January 2018.

On s. December 2017, s. 47F(1) applied for removal of condition 8101 ('no work') from s. 47F(1) s47F and on s. January 2018, s. 47F(1) was granted a further s47F with the 8101 condition still imposed on the visa. This visa ceased on s. May 2018.

On s. May 2018, s. 47F(1) applied for removal of condition 8101 ('no work') from s. 47F(1) s47F and on s. May 2018, s. 47F(1) was granted a further s47F with the 8101 condition still imposed on the visa.

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On s. 47F(1) October 2018, s. 47F(1) application for a s. 47F(1) visa was refused.

On s. 47F(1) November 2018, s. 47F(1) BVE6 was cancelled under section 116 of the Act by the ABF for breach of condition 8101 and s. 47F(1) was taken into immigration detention.

Actions

On s. 47F(1) November 2018, the Department commenced an assessment of the case. On the same day the Department identified that on cancelling the visa under section 116(1)(b) the incorrect box 116(1)(a) in the decision record (Part B section) was ticked.

On s. 47F(1) November 2018, the Department confirmed the decision to cancel s. 47F(1) s. 47F(1) was affected by jurisdictional error. This was because based on the information in Form 1099, there was insufficient evidence the mandatory legal consequences of the cancellation decision (including the fact that s. 47F(1) would be liable for detention and removal from Australia) had been considered.

The Department also found insufficient weight had been given to the relevant considerations against cancelling the visa, such as the mandatory legal consequences.

The Department has conducted training and information sessions to provide officers with up to date information about cancellation policy and processes. The Status Resolution Foundation Skills training courses have been developed and training (including refresher training) is currently being delivered. Further specialist training on cancellation policy and procedures is scheduled to be delivered during 2019. The Department has put in place consultation between key areas.

On 6 June 2019, the Department issued a network alert to advise the cancellation network of a policy change in the way delegates consider relevant matters and apply weighting when deciding whether to cancel a visa under section 116 of the Act. s. 42(1)

Accompanying the network alert was also a *Guide to Genuine and Proper Consideration – Section 116 Cancellation Decision Making* which provides delegates with some examples on the ways in which a delegate can demonstrate proper and genuine consideration.

Current Status

On s. 47F(1) November 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa. On the same day, s. 47F(1) lodged an application for review of the s. 47F(1) visa application refusal at the AAT.

On s. 47F(1) April 2019, s. 47F(1) withdrew s. 47F(1) application for review via email, with the AAT consequently finding that it had no jurisdiction to consider the case on s. 47F(1) April 2019.

On s. 47F(1) April 2019, s. 47F(1) departed Australia and s. 47F(1) s. 47F(1) ceased on departure.

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Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT N****Process Incorrect****Administrative deficiency****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release**

s. 47F(1)

**Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) April 2018, s. 47F(1) was located by the ABF at s. 47F(1) residence in s. 47F(1) as part of a targeted visit. s. 47F(1) visa was cancelled on s. 47F(1) April 2018 under section 109 of the Act.

On s. 47F(1) October 2018, the AAT made a decision to set aside the cancellation of s. 47F(1) visa. Due to an administrative error, s. 47F(1) was not notified of the AAT decision until s. 47F(1) October 2018.

s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa on s. 47F(1) October 2018.

Background

On s. 47F(1) March 2011, s. 47F(1) arrived Australia as an s. 47F(1).

On s. 47F(1) July 2011, s. 47F(1) made a request for a s. 47F(1) and on s. 47F(1) August 2011, a s. 47F(1) was made by the Department. s. 47F(1) case was referred for an s. 47F(1) on the same day.

On s. 47F(1) September 2012 the s. 47F(1) made a finding that s. 47F(1) met the criterion for a s. 47F(1) of the Act.

On s. 47F(1) October 2012, the s. 47F(1) to lodge an application for a s. 47F(1) visa. On s. 47F(1) October 2012, s. 47F(1) was granted a s. 47F(1) visa.

On s. 47F(1) April 2018, s. 47F(1) visa was cancelled under section 109 of the Act. s. 47F(1) was detained under section 189 of the Act on the same day and accommodated at the s. 47F(1) IDC. s. 47F(1) was subsequently transferred to immigration detention facilities at s. 47F(1) and s. 47F(1).

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Sensitive: Personal**Actions**

On s. 47F(1) April 2018, s. 47F(1) lodged an application for merits review of the decision to cancel s. 47F(1) visa with the AAT.

On s. 47F(1) October 2018, the AAT set aside the decision to cancel s. 47F(1) visa.

On s. 47F(1) October 2018, the AAT sent the notification to the Department and s. 47F(1) was released from immigration detention on the same day.

The Department has ensured that the AAT is aware of the notification procedures following decisions of clients in immigration detention. The Department has confirmed the AAT are aware of the importance of, and issues surrounding, timely notification of set-aside decisions for clients in detention. The Department is establishing a joint protocol with the AAT to formalise the current agreement of notifying the department on the same day or as soon as possible thereafter of review decisions for clients in immigration detention. Arrangements for providing the Department of advanced notice will also be set out in the protocol. These measures will provide an understanding of the processes across both agencies and will assist relevant status resolution teams to make the necessary arrangements (for accommodation, travel and finances etc) to be in place in time for the applicant's release from detention.

The Department has reminded officers to ensure that the AAT is kept informed of all persons who are transferred. In addition, subsequent to the 2018 mothballing of s. 47F IDC, a review has been conducted to ensure that the AAT has been advised of all persons transferred from s. 47F who have ongoing matters before the Tribunal. Auto-forwarding of all emails sent to the s. 47F Status Resolution mailbox has also been implemented.

Current status

On s. 47F(1) October 2018, s. 47F(1) was released from Immigration detention as the holder of a s. 47F(1) visa.

s. 47F(1) continues to reside lawfully in the community.

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Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT O****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release**

s. 47F(1)

**Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) November 2018, s. 47F(1) was located by the ABF s. 47F(1) at a Federal Magistrate's court where s. 47F(1) had pleaded guilty to offences including s. 47F(1). s. 47F(1) was issued with a s. 47F(1) probation order. s. 47F(1) s47F was cancelled under section 116 of the Act and s. 47F(1) was taken into immigration detention.

On s. 47F(1) November 2018, the Department determined that following the judgement in the case of *DBB16*, s. 47F(1) application for a s. 47F(1) visa (s. 47F(1)) was invalid. s. 47F(1) lodged the s. 47F(1) as a dependent applicant on s. 47F(1) October 2016, and on s. 47F(1) August 2017, s. 47F(1) submitted a form s. 47F(1). As s. 47F(1) withdrew an application that was invalid, the withdrawal was not effective and s. 47F(1) remained the holder of a s47F granted in association with the s. 47F(1) application.

On s. 47F(1) November 2018, s. 47F(1) was released from immigration detention as the holder of a s47F

Background

On s. 47F(1) April 2013, s. 47F(1) entered Australia at s47F

On s. 47F(1) September 2014, s. 47F(1) was granted a s. 47F(1) visa under section 195A of the Act. This visa ceased on s. 47F(1) September 2014.

On s. 47F(1) September 2014, s. 47F(1) was granted a s47F. This visa ceased on s. 47F(1) September 2015.

On s. 47F(1) May 2015, s. 47F(1) was granted another s47F. This visa ceased on s. 47F(1) May 2016.

On s. 47F(1) February 2016, the s. 47F(1)

On s. 47F(1) April 2016, s. 47F(1) was granted a s47F. This visa ceased on s. 47F(1) October 2016.

On s. 47F(1) September 2016, s. 47F(1) was granted a s47F. This visa ceased on s. 47F(1) January 2017.

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On s. 47F(1) October 2016, s. 47F(1) was granted a s. 47F(1) in association with this application.

On s. 47F(1) June 2017, s. 47F(1) lodged a second application for s. 47F(1) as a primary applicant.

On s. 47F(1) June 2017, s. 47F(1) was granted a s. 47F(1).

On s. 47F(1) July 2017 and s. 47F(1) July 2017, s. 47F(1) was requested to withdraw s. 47F(1) application.

On s. 47F(1) August 2017, s. 47F(1) submitted a form s. 47F(1) visa application. The form (as stored electronically on the department's electronic database TRIM) has missing pages, such that s. 47F(1) details as the applicant requesting withdrawal is not listed on the pages in the TRIM record

On s. 47F(1) September 2017, s. 47F(1) s. 47F(1) granted on s. 47F(1) October 2016, showed as ceased on departmental systems.

On s. 47F(1) November 2018, s. 47F(1) s. 47F(1) granted on s. 47F(1) June 2017 was cancelled and s. 47F(1) was taken into immigration detention.

Actions

On s. 47F(1) November 2018, the Department commenced a review of s. 47F(1) case. The Department identified a potential error as s. 47F(1) application appeared to be incomplete as Parts C and E of s. 47F(1) were not included in the withdrawal request.

On s. 47F(1) November 2018, the Department determined that because s. 47F(1) application was invalid, s. 47F(1) request to withdraw the s. 47F(1) application would not have triggered the associated s. 47F(1) cessation. s. 47F(1)

s. 47F(1). This meant s. 47F(1) had previously been granted.

On s. 47F(1) November 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1)

The Department is working on identifying the persons affected by the s. 47F(1) decision to determine what, if any, impact it has on their immigration status and visa applications. In order to mitigate the risk of an inappropriate detention because of the s. 47F(1) decision, the Department has taken the following steps:

- The Department has identified the 202 vessels that traversed s. 47F(1) before s. 47F(1) June 2013 and is progressively working through these vessels to identify which persons are and are not s. 47F(1)
- A detention sweep to identify all persons in immigration detention affected by this decision and confirmed there has been no change to their immigration status as a result of this decision;
- A portal search of all potentially affected persons to identify who may have purportedly

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withdrawn an invalid application. There were 40 cases identified as potentially in scope and all have been reviewed to ensure their immigration status is accurate in department systems;

- Advice was circulated to relevant officers on ^{s47F} December 2018 to set out the potential implications of the ^{s47F} decision and steps taken to identify the affected clients.

Current Status

On ^{s. 47F(1)} November 2018, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s47F} ^{s. 47F(1)} was issued with a NOICC upon ^{s. 47F(1)} release from immigration detention, ^{s. 47F(1)} visa was subsequently cancelled under section 116 of the Act and ^{s. 47F(1)} was re-detained on the same day.

On ^{s. 47F(1)} December 2018, ^{s. 47F(1)} lodged an application for review of the cancellation of ^{s47F} at the AAT.

On ^{s. 47F(1)} December 2018, the AAT affirmed the decision to cancel ^{s. 47F(1)} ^{s47F}. On ^{s. 47F(1)} January 2019, ^{s. 47F(1)} sought judicial review of this decision at the Federal Court.

On ^{s. 47F(1)} March 2019, ^{s. 47F(1)} application was refused and ^{s. 47F(1)} lodged an application for review of the refusal decision at the AAT on ^{s. 47F(1)} March 2019.

^{s. 47F(1)} is unlawful and remains in immigration detention while ^{s. 47F(1)} application for review of the refusal decision of ^{s. 47F(1)} ^{s. 47F(1)} application is ongoing.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT P****Process Incorrect****Administrative deficiency****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release****Days detained as not
an unlawful non-citizen**

s. 47F(1)

Summary

On s. 47F(1) October 2018, s. 47F(1) presented to the Department at the request of the ABF and was interviewed in relation to serious charges made against s. 47F(1) pending a court matter scheduled for March 2019. s. 47F(1) s47F granted in association with s. 47F(1) application for a s. 47F(1) was cancelled under section 116 of the Act and s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) October 2018, the AAT made a decision to set aside the cancellation of s. 47F(1) s47F. Due to an administrative error, s. 47F(1) was not notified of the AAT decision until s. 47F(1) October 2018.

s. 47F(1) was released from immigration detention as the holder of a s47F on s. 47F(1) October 2018.

Background

On s. 47F(1) July 2013, s. 47F(1) arrived Australia as a s47F and was detained under section 189 of the Act.

On s. 47F(1) September 2013, s. 47F(1) was granted s. 47F(1) and a s47F. The s. 47F(1) ceased on s. 47F(1) September 2013 and the s47F ceased on s. 47F(1) September 2014.

On s. 47F(1) February 2015, the Minister lifted the bar under section 46 of the Act to allow s. 47F(1) to lodge applications for specific visas in Australia.

Between s. 47F(1) March 2015 and s. 47F(1) December 2016, s. 47F(1) was granted s47F, the last of which ceased on s. 47F(1) April 2017.

On s. 47F(1) January 2017, s. 47F(1) lodged an application for a s. 47F(1) and was granted an associated s47F on s. 47F(1) February 2017.

On s. 47F(1) October 2018, s. 47F(1) s47F was cancelled under section 116 of the Act and s. 47F(1) was detained.

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Sensitive: Personal**Actions**

On s. 47F(1) October 2018, s. 47F(1) lodged an application for merits review of the decision to cancel s. 47F(1) with the AAT.

On s. 47F(1) October 2018, the AAT made a decision to set aside the decision to cancel s. 47F(1) BVE6.

On s. 47F(1) October 2018, the AAT notified the Department of its decision. On the same day, the Tribunal notified s. 47F(1) authorised recipient via email of the decision. The notification letter referred to a copy of the notification being sent to s. 47F(1).

On s. 47F(1) October 2018, the Department became aware of the AAT's notification and s. 47F(1) was released from immigration detention.

The Department has ensured that the AAT is aware of the notification procedures following decisions of clients in immigration detention. The Department has confirmed the AAT are aware of the importance of, and issues surrounding, timely notification of set-aside decisions for clients in detention. The Department is establishing a joint protocol with the AAT to formalise the current agreement of notifying the department on the same day or as soon as possible thereafter of review decisions for clients in immigration detention. Arrangements for providing the Department of advanced notice will also be set out in the protocol. These measures will provide an understanding of the processes across both agencies and will assist relevant status resolution teams to make the necessary arrangements (for accommodation, travel and finances etc) to be in place in time for the applicant's release from detention.

Current status

On s. 47F(1) October 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) continues to reside lawfully in the community.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT Q****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release****Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) August 2018, s. 47F(1) was located by s. 47F(1) Police and referred to ISS for a visa status check. As departmental systems showed s. 47F(1) to be unlawful s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) August 2018, a determination was made that s. 47F(1) remained the holder of a s. 47F(1) granted in association with a s. 47F(1) visa application lodged on s. 47F(1) November 2015.

s. 47F(1) was released from immigration detention on s. 47F(1) August 2018.

Background

On s. 47F(1) January 2012, s. 47F(1) arrived in Australia as the holder of an s. 47F(1) granted on s. 47F(1) January 2012. This visa ceased on s. 47F(1) April 2012.

On s. 47F(1) November 2015, s. 47F(1) lodged a first application for a s. 47F(1) visa as a dependent applicant, and was granted an associated s. 47F(1) (s. 47F(1)).

On s. 47F(1) February 2016, s. 47F(1) first s. 47F(1) visa application was determined to be invalid under section 46(2) of the Act, because s. 47F(1) had failed to provide personal identifiers. s. 47F(1) was notified via email that the application was invalid.

On s. 47F(1) March 2016, s. 47F(1) granted in association with the first s. 47F(1) visa application was shown as ceased on departmental systems.

On s. 47F(1) June 2016, s. 47F(1) lodged a second s. 47F(1) visa application as a dependent applicant and was granted an associated s. 47F(1) (s. 47F(1) 2).

On s. 47F(1) June 2016, the second s. 47F(1) visa application was refused.

On s. 47F(1) October 2016, s. 47F(1) lodged an application for review of the second s. 47F(1) visa refusal decision with the AAT.

On s. 47F(1) June 2017, the AAT affirmed the decision to refuse the s. 47F(1) visa and

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the associated s. 47F(1) ceased on s. 47F(1) July 2017.

On s. 47F(1) August 2018, s. 47F(1) was located by s. 47F(1) police, referred to ISS and detained.

Actions

On s. 47F(1) August 2018, the Department commenced a review of s. 47F(1) case.

On s. 47F(1) August 2018, the Department determined the notice requiring the provision of personal identifiers under section 257A was not given in accordance with section 494B(5) of the Act because it was not sent to the last email address provided by the applicant for the purpose of receiving documents.

As a result the first s. 47F(1) application was not invalid as the Department was unable to rely on the deemed receipt provisions seeking the personal identifiers. As a result the s. 47F(1) granted in association with the first s. 47F(1) visa application remained in effect.

The Department has centralised the function of recording and notification of invalid s. 47F(1) visa applications. Notifications for this subclass of visas has also been escalated to more senior officers.

Current status

On s. 47F(1) August 2018, s. 47F(1) was released from immigration detention as the holder of s. 47F(1) granted in association with s. 47F(1) first application for a s. 47F(1) visa.

On s. 47F(1) September 2018, s. 47F(1) was notified that s. 47F(1) first application for a s. 47F(1) visa was invalid.

On s. 47F(1) October 2018, s. 47F(1) s. 47F(1) granted in association with s. 47F(1) first application for a s. 47F(1) visa, ceased and s. 47F(1) became unlawful.

s. 47F(1) continues to remain unlawfully in the community.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT R****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release****Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) December 2018, s. 47F(1) was located by s. 47F(1) Police who referred s. 47F(1) to ISS for a visa status check. Departmental systems showed s. 47F(1) to be unlawful and s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) December 2018, a determination was made that s. 47F(1) remained the holder of a s. 47F(1) granted in association with a s. 47F(1) via application lodged on s. 47F(1) February 2011.

s. 47F(1) was released from immigration detention on s. 47F(1) December 2018.

Background

On s. 47F(1) March 2009, s. 47F(1) arrived in Australia as the holder a s. 47F(1) visa granted on s. 47F(1) February 2009. This visa ceased on s. 47F(1) March 2011.

On s. 47F(1) February 2011, s. 47F(1) lodged a second application for a s. 47F(1) visa as a dependent applicant, and was granted an associated s. 47F(1).

On s. 47F(1) March 2011, the primary applicant, s. 47F(1) former partner, contacted the Department to advise of a relationship breakdown. The primary applicant also advised s. 47F(1) wished to lodge a new s. 47F(1) application and had appointed a migration agent.

On s. 47F(1) March 2011, the Department advised the primary applicant to complete Form 1022 on s. 47F(1) change of circumstances and a Form 956 about the appointment of a migration agent. On the same day, the migration agent contacted the Department to advise s. 47F(1) client, s. 47F(1) former partner had been contacted by the Department and advised that a fresh s. 47F(1) application was not required and s. 47F(1) the dependent applicant would be removed from the s. 47F(1) application.

On s. 47F(1) March 2011, the Department sent correspondence to the migration agent confirming that s. 47F(1) was withdrawn from the second s. 47F(1) application.

On s. 47F(1) April 2011, the s. 47F(1) granted on s. 47F(1) February 2011 in association with the second application for a s. 47F(1) visa showed as ceased on departmental systems following the

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recording of the withdrawal of the second s. 47F(1) visa application on departmental systems.

On s. 47F(1) December 2018, s. 47F(1) was detained under section 189 of the Act.

Actions

On s. 47F(1) December 2018, the Department commenced a review of s. 47F(1) case. It identified a possible issue with the withdrawal of the second s. 47F(1) visa application, as it appeared to have been withdrawn by a migration agent acting on behalf of s. 47F(1) estranged partner and there was no evidence that the migration agent was authorised to act on s. 47F(1) behalf.

On s. 47F(1) December 2018, the Department determined that an application can be withdrawn provided the instructions for withdrawal are provided in writing, in clear and unambiguous terms. As s. 47F(1) had not provided written advice to withdraw s. 47F(1) second s. 47F(1) application, the application remained unfinalised and s. 47F(1) continued to hold the associated s. 47F(1) granted on s. 47F(1) February 2011.

s. 47F(1) was released from immigration detention on s. 47F(1) December 2018.

Officers in the s. 47F(1) visa network receive training on a regular basis and have a clear understanding of section 49 of the Act in relation to the withdrawal of an application.

Quality assurance processes are currently in place to ensure that errors are identified and appropriate training provided to minimise recurrence of such errors.

Current status

On s. 47F(1) December 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) s. 47F(1) withdrew s. 47F(1) s. 47F(1) application on s. 47F(1) January 2019.

On s. 47F(1) February 2019, s. 47F(1) lodged an application for s. 47F(1) visa. s. 47F(1) s. 47F(1) ceased on the same day.

On s. 47F(1) February 2019, s. 47F(1) was granted a s. 47F(1) in association with s. 47F(1) s. 47F(1) visa application and s. 47F(1) remains lawfully in the community on this visa.

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Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT S****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release****Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) September 2018, s. 47F(1) was located by the ABF s. 47F(1) following appearance in court. Departmental systems showed s. 47F(1) to be unlawful and s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) September 2018, a determination was made that s. 47F(1) remained the holder of a s. 47F(1) granted on s. 47F(1) August 2016 in association with s. 47F(1) first application for a s. 47F(1)

s. 47F(1) was released from immigration detention on s. 47F(1) September 2018.

Background

On s. 47F(1) September 2012, s. 47F(1) arrived in Australia as a s. 47F(1) and was detained. On s. 47F(1) March 2013, s. 47F(1) was granted as s. 47F(1) which ceased on s. 47F(1) March 2013, and a s. 47F(1) which ceased on s. 47F(1) September 2013.

On s. 47F(1) February 2014, s. 47F(1) lodged an application for a s. 47F(1) visa. On the same day, this application was determined to be invalid under section 91K.

On s. 47F(1) June 2014, s. 47F(1) was granted a s. 47F(1) which ceased on s. 47F(1) June 2015.

Between s. 47F(1) July 2015 and s. 47F(1) May 2016, s. 47F(1) was granted s. 47F(1), the last of which ceased on s. 47F(1) October 2016.

On s. 47F(1) September 2015, the section 46 bar was lifted and on s. 47F(1) July 2016, s. 47F(1) lodged a valid s. 47F(1) applications s. 47F(1) and was granted an associated s. 47F(1) on s. 47F(1) August 2016.

On s. 47F(1) December 2016, s. 47F(1) appointed a migration agent and lodged a s. 47F(1) application s. 47F(1) was granted an associated s. 47F(1) on s. 47F(1) February 2017.

On s. 47F(1) February 2017, s. 47F(1) agent corresponded with the Department via email

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advising that s. 47F(1) wished to withdraw s. 47F(1) application for a s. 47F(1) visa lodged on s. February 2014. A s. 47F(1) relating to the withdrawal, signed by s. 47F(1) and s. migration agent were sent to the Department via email.

On s. March 2017, s. granted on s. August 2016, in association with s. 47F(1) application, showed as ceased on departmental systems following the withdrawal of the s. application by the Department.

On s. March 2017, s. 47F(1) granted in association with s. 47F(1) was cancelled under Ministerial Direction s. 47F(1).

On s. September 2018, s. 47F(1) was detained under section 189 of the Act

Actions

On s. September 2018, the Department commenced reviewing s. 47F(1). The Department identified a potential error and noted an incorrect application may have been withdrawn by the Department as the forms sent by s. 47F(1) migration agent referred to the withdrawal of a s. 47F(1) application. This application was not valid.

On s. September 2018, the Department determined that in accordance with section 49 of the Act, an application can be withdrawn provided the instructions for withdrawal are provided in writing, in clear and unambiguous terms. Although it appeared that s. 47F(1) intention may have been to withdraw s. 47F(1) application, the instructions only clearly identified that a s. 47F(1) visa application was to be withdrawn. As s. 47F(1) application remained active, s. continued to hold the associated s. granted on s. August 2016 as there was no other event that could have triggered the cessation of s. 47F(1).

On s. September 2018, s. 47F(1) was released from immigration detention.

The Department conducts quality assurance checks on 5% of invalid and withdrawal notifications. The error identified in s. 47F(1) case has been brought to the attention of officers to mitigate against the recurrence of such errors.

Current status

On s. September 2018, s. 47F(1) was released from immigration detention as the holder of a s. Upon s. release s. 47F(1) was issued with a NOICC and s. was given the opportunity to respond to the notice. Once the Department had considered s. 47F(1) response to the NOICC, s. 47F(1) s. was cancelled under section 116 of the Act and s. 47F(1) was re-detained.

On s. October 2018, s. 47F(1) lodged an application for review of the decision to cancel s. 47F(1) s. at the AAT. On s. October 2018, the AAT affirmed the decision to cancel s. 47F(1) visa.

On s. October 2018, s. 47F(1) withdrew s. 47F(1) application in writing.

On s. May 2019, the Department sent a Notice of Intention to Consider Refusing (NOICR) s. 47F(1) application under section 501 of the Act to s. 47F(1) migration agent. As it was sent by registered post s. 47F(1) has 35 days in which to respond to the NOICR.

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s. 47F(1) is unlawful and remains in immigration detention while s. 47F(1) application is ongoing.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT T****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release****Days detained while
not unlawful**

s. 47F(1)

Summary

On s. 47F(1) August 2018, s. 47F(1) was detained by the ABF s. 47F(1) following s. 47F(1) release from criminal custody. At the time of s. 47F(1) detention, departmental systems showed s. 47F(1) to be unlawful because s. 47F(1) s. 47F(1) visa had ceased on s. 47F(1) March 2011.

On s. 47F(1) August 2018, a determination was made that s. 47F(1) remained the holder of a s. 47F(1) visas. 47F(1) granted in association with an application for revocation of the auto-cancellation of s. 47F(1) s. 47F(1) visa on s. 47F(1) June 2009.

On s. 47F(1) August 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1).

Background

On s. 47F(1) October 2007, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa granted on s. 47F(1) October 2007. This visa ceased on s. 47F(1) November 2007.

On s. 47F(1) November 2007 s. 47F(1) was granted a s. 47F(1) visa.

On s. 47F(1) September 2008, s. 47F(1) was issued a non-compliance notice by s. 47F(1).

On s. 47F(1) October 2008, s. 47F(1) via was auto-cancelled under section 137J of the Act. On s. 47F(1) June 2009, s. 47F(1) lodged an application for revocation of the auto-cancellation and was granted a s. 47F(1) in association with this application.

On s. 47F(1) July 2009, a decision was made not to revoke the auto-cancellation and s. 47F(1) was notified of this decision by registered mail.

On s. 47F(1) August 2009, the notification of the decision not to revoke the auto-cancellation of s. 47F(1) was returned to the Department 'unclaimed'. On the same day, s. 47F(1) granted in association with s. 47F(1) revocation application showed as ceased on departmental systems.

On s. 47F(1) October 2009, s. 47F(1) was granted a s. 47F(1) on departure grounds. This visa ceased on s. 47F(1) October 2009.

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On s. 47F(1) March 2010, the auto-cancellation of s. 47F(1) visa under section 137J, was reversed following the court's decision in the case of *Hossain/Mo*, which resulted in all section 20 notices issued by s. 47F(1) between 1 July 2007 and 16 December 2009, being deemed to be invalid. s. 47F(1) visa was re-enlivened as a consequence.

On s. 47F(1) March 2011, s. 47F(1) visa ceased and s. 47F(1) showed as unlawful on departmental systems.

On s. 47F(1) August 2018, s. 47F(1) was detained upon s. 47F(1) release from criminal detention.

Actions

On s. 47F(1) August 2018, the Department commenced a review of s. 47F(1) case and identified a potential defect in the notification of the decision not to revoke the cancellation. Whilst the revocation notification correctly stated that s. 47F(1) was required to lodge an application for merits review within seven working days after s. 47F(1) was taken to have received the notice, the letter did not specify the deemed receipt period, but instead calculated the entire period. The letter stated that an application for review must be lodged by 'close of business' on s. 47F(1) August 2009. The Department noted that in accordance with the relevant legislative provisions, s. 47F(1) had until the end of the day on s. 47F(1) August 2009 to lodge an application for review.

On s. 47F(1) August 2018, the Department determined that s. 47F(1) notification was defective because it did not comply with section 137M(2)(b)(ii) of the Act. Although the letter correctly stated the final date for lodgement of the application for review was s. 47F(1) August 2009, as the legislation provided for the application to be lodged by the end of s. 47F(1) August 2009, rather than by 'close of business' on s. 47F(1) August 2009, s. 47F(1) was provided with a shorter timeframe for review. As the notification was defective, s. 47F(1) remained the holder of s. 47F(1) granted on s. 47F(1) June 2009.

On s. 47F(1) August 2018, s. 47F(1) was released from immigration detention as the holder of s. 47F(1). The error in s. 47F(1) case has been brought to the attention of all relevant ABF and departmental officers. Officers have also been instructed to make further checks where bridging visas have been granted in association with applications for review of visas which have been auto-cancelled under section 137J. They have also been advised to escalate any cases involving the auto cancellation of Student visas under section 137J of the Act for advice. s. 47F(1) visas are no longer cancelled under section 137J of the Act.

Current Status

On s. 47F(1) August 2018, s. 47F(1) was released from immigration detention as the holder of s. 47F(1). s. 47F(1) was issued with a NOICC upon release, and s. 47F(1) visa was subsequently cancelled under section 116 of the Act and s. 47F(1) was re-detained on the same day.

On s. 47F(1) August 2018, s. 47F(1) lodged an application for a s. 47F(1) visa. s. 47F(1) is unlawful and remains in immigration detention whilst s. 47F(1) application for a s. 47F(1) visa is under consideration.

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Sensitive: Personal**Medium Risk Case****1 July 2018 – 31 December 2018****ATTACHMENT U****Process Incorrect****Defective Notification****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release****Days detained while
not unlawful**

s. 47F(1)

Summary

On s. December 2018, s. 47F(1) was located by s. police who referred s. 47F(1) to ISS for a visa status check. As departmental systems showed s. 47F(1) to be unlawful s. 47F(1) was taken into immigration detention.

On s. December 2018, a determination was made that s. 47F(1) remained the holder of a s. granted in association with an application for revocation of the auto-cancellation of s. 47F(1) s. 47F(1) visa on s. March 2005.

On s. December 2018, s. 47F(1) was released from immigration detention as the holder of a s. visa.

Background

On s. February 2012, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa granted on s. February 2002. This visa ceased on s. March 2002.

On s. March 2002, s. 47F(1) was granted a s. 47F(1) visa which ceased on s. March 2004.

On s. March 2004, s. 47F(1) was granted a s. 47F(1) visa.

On s. March 2005, s. 47F(1) visa was auto-cancelled under section 137 of the Act.

On s. March 2005, s. 47F(1) lodged an application for revocation of the auto-cancellation and was granted a s. 47F(1) in association with this application on s. March 2005. s. 47F(1) appointed a migration agent as s. 47F(1) authorised recipient in relation to the application for revocation.

On s. August 2005, s. 47F(1) migration agent sent a letter to the Department which stated that as no instructions had been received from s. 47F(1) for a considerable period, the migration agent was withdrawing their representation of s. 47F(1).

On s. August 2005, the Department decided not to revoke the cancellation.

On s. August 2005, the decision not to revoke the cancellation was found to be defective following

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the court's decision in *Uddin* where section 20 notices issued by education providers under section 20 of the Education Services for Overseas Student (ESOS) Act, 2000, were found to be defective because they did not set out the effect of sections 137J and K of the Migration Act. As a consequence the auto-cancellation was reversed and s. 47F(1) visa re-enlivened.

On s. 47F(1) August 2005, s. 47F(1) granted in association with s. 47F(1) application for revocation appeared to cease on departmental systems.

On s. 47F(1) May 2007, s. 47F(1) was granted a s. 47F(1) visa. This visa ceased on s. 47F(1) June 2009.

On s. 47F(1) June 2007, s. 47F(1) departed Australia on s. 47F(1) visa and returned on s. 47F(1) July 2007.

On s. 47F(1) May 2008, s. 47F(1) departed Australia on s. 47F(1) visa and returned on s. 47F(1) May 2008.

Between s. 47F(1) June 2009 and s. 47F(1) March 2013, s. 47F(1) was granted s. 47F(1) on departure grounds.

On s. 47F(1) March 2013, s. 47F(1) lodged an application for a s. 47F(1) visa. s. 47F(1) was granted an associated s. 47F(1) on s. 47F(1) March 2013 in relation to this application.

On s. 47F(1) September 2014, the s. 47F(1) visa applications were refused.

On s. 47F(1) October 2014, s. 47F(1) lodged an application for review with the AAT, only of the refusal of the s. 47F(1) visa application.

On s. 47F(1) October 2015, the AAT affirmed the decision to refuse s. 47F(1) application for a s. 47F(1) visa.

On s. 47F(1) November 2015, the s. 47F(1) granted in association with the s. 47F(1) visa applications ceased on departmental systems.

On s. 47F(1) December 2018, s. 47F(1) was detained.

Actions

On s. 47F(1) December 2018, the Department identified a potential defect in the notification of the decision not to revoke the cancellation. The migration agent appeared to have withdrawn s. 47F(1) representation without instruction from s. 47F(1) and that Department sent the notification directly to s. 47F(1) rather than the agent.

On the same day, the Department determined that the notification of the decision not to revoke the auto-cancellation was defective as it is not open to migration agents (in their capacity as authorised recipients) to abandon their appointment without specific instructions from their client. As the decision not to revoke the cancellation was not sent to s. 47F(1) migration agent, it was not sent in accordance with section 494(D) of the Act and was defective.

The Department also identified that the notification of the decision not to revoke the cancellation correctly stated that the final date for lodgement of the application for review was s. 47F(1) August 2009. As the legislation provided for the application to be lodged by the end of s. 47F(1) August 2009, rather than by 'close of business' on s. 47F(1) August 2009, as stated in the letter, s. 47F(1) was provided with

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a shorter timeframe for review. As such the notification of the decision not to revoke the cancellation did not satisfy statutory content requirement in section 137M(2)(b)(ii).

Student visas are no longer cancelled under section 137J of the Act. The Department has reminded its officers that migration agents are not able to abandon their appointment without specific instructions from the visa applicant. The Department is currently providing refresher training to relevant officers and the issues identified in s. 47F(1) case will also be included in training for freshly appointed processing officers.

Current Status

On s. December 2018, s. 47F(1) was released from immigration detention as the holder of s.

On s. December 2018, s. 47F(1) departed Australia and s. 47F(1) s. ceased on s. 47F(1) departure.

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Report on people detained and later released as not unlawful

1. Introduction

This report to the Commonwealth Ombudsman documents the number of people detained and later released as not unlawful during the period 1 July 2017 to 31 December 2017. People included in the report were released from immigration detention on the basis that reasonable suspicion could not be maintained, as required by section 189 of the *Migration Act 1958* (the Act), that they were unlawful non-citizens.

For this reporting period, there were a total of 4,319 people detained as suspected unlawful non-citizens (excluding Illegal Maritime Arrivals). Out of 4,319 people detained, 29 people are included in this report, which represents 0.67 of one per cent of the total people detained.

The 'current status' of each case is current as at 6 March 2018.

2. How cases are identified

The cases included in this report are identified through a system report and data entered into the Compliance Case Management Detention and Settlement (CCMDS) Portal.

There are nine release types that are used as descriptors to record the reasons for a person's release from immigration detention. This report includes cases where one of the five following descriptors has been used to record the circumstances surrounding a person's release from detention. The use of one of these descriptors by departmental officers may signify a risk that the detention of the person did not accord with the Act.

Identity confirmed	Reasonable suspicion that the person was an unlawful non-citizen was held, even though identity and/or immigration status could not be confirmed at the time of detention.
Litigation consequence	Person was released as a result of a court judgment.
Operation of law	Person was released as a result of a determination that the person is an absorbed person, or a determination that the person acquired Australian citizenship, or the person was granted a Bridging visa E through operation of law under section 75 of the Act.

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.

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Process incorrect The Department of Home Affairs (the Department) failed to properly administer the person's case, and/or failed to properly notify a person of a negative visa decision, resulting in a person showing incorrectly in departmental systems as unlawful.

Records incorrect The person was detained because of inaccurate or incorrect information on departmental systems.

Cases where the following four release descriptors are used are not included in the report as they do not signify a risk of unlawful detention:

- Change to detention power
- Departure from Australia
- Visa grant
- Other

3. Case risk assessments

In preparing this report, each case has been assessed to identify the likelihood that the detention did not occur and/or was not maintained in accordance with the Act. The likelihood is assessed as high, medium or low risk. The Department identifies and implements remedial action at both a case specific and systemic level where required and particularly where the risk of inappropriate detention is assessed as medium or high.

For the period 1 July 2017 to 31 December 2017, 29 cases have been identified where people have been released from immigration detention on the basis that reasonable suspicion could no longer be maintained that they were unlawful non-citizens (as required by section 189 of the Act). Of the 29 cases in this report, one has been assessed to be high risk and 28 have been assessed to be medium risk.

The last report covered the period 1 January 2017 to 30 June 2017, and included 13 cases where people had been released from immigration detention as reasonable suspicion could no longer be maintained that they were unlawful non-citizens. Three cases were considered to be high risk and 10 were considered to be medium risk.

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4. Specific Cases

Breakdown of cases for this reporting period follow.

Name	Release Descriptor	Attachment
High Risk		
s. 47F(1)	Process Incorrect Defective Notification	Attachment A
Medium Risk		
s. 47F(1)	Process Incorrect Administrative Deficiency	Attachment B
	Record Incorrect Administrative Deficiency	Attachment C
	Process Incorrect Defective notification	Attachment D
	Litigation Consequence Case Law Affected	Attachment E
	Process Incorrect Defective notification	Attachment F
	Process incorrect Defective notification	Attachment G
	Process incorrect Defective notification	Attachment H
	Process incorrect Defective notification	Attachment I
	Process incorrect Defective notification	Attachment J
	Litigation consequence Case law affected	Attachment K
	Process incorrect Defective notification	Attachment L
	Operation of Law Section 75 visa grant	Attachment M
	Process Incorrect Administrative Deficiency	Attachment N

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s. 47F(1)	Process incorrect Defective notification	Attachment O
	Process incorrect Defective notification	Attachment P
	Process incorrect Defective notification	Attachment Q
	Process incorrect Defective notification	Attachment R
	Process incorrect Defective notification	Attachment S
	Process incorrect Defective notification	Attachment T
	Process incorrect Defective notification	Attachment U
	Process incorrect Defective notification	Attachment V
	Process incorrect Defective notification	Attachment W
	Process incorrect Defective notification	Attachment X
	Process incorrect Defective notification	Attachment Y
	Process incorrect Administrative Deficiency	Attachment Z
	Process incorrect Administrative Deficiency	Attachment AA
	Process incorrect Defective notification	Attachment AB
	Process incorrect Administrative Deficiency	Attachment AC

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High Risk Case**1 July 2017 – 31 December 2017****ATTACHMENT A****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) October 2013, s. 47F(1) was detained under section 189 of the Act after attending the s. 47F(1) Regional Office. Compliance officers had contacted s. 47F(1) and requested that s. 47F(1) present to the Department as s. 47F(1) appeared to be unlawful on departmental systems and had disengaged with the Department.

On s. 47F(1) July 2017, s. 47F(1) was released from immigration detention as s. 47F(1) was identified as being the holder of a s. 47F(1) visa s. 47F(1) as a result of a notification defect. This s. 47F(1) was cancelled under section 116 of the Act and s. 47F(1) was again detained under section 189 of the Act. On s. 47F(1) July 2017, s. 47F(1) was removed from Australia and remains offshore.

Background

On s. 47F(1) November 2007, s. 47F(1) entered Australia as a s. 47F(1) according to departmental systems and was granted a s. 47F(1) visa s. 47F(1) under section 33(2) of the Act by operation of law. The s. 47F(1) visa provided for in the Act.

A s. 47F(1) is designed to provide lawful status to non-citizens who need to travel to, enter and remain in Australia but to whom Australia's standard visa regime and immigration clearance procedures are taken not to apply.

On s. 47F(1) November 2007, following a declaration by an official on the ship that s. 47F(1) had s. 47F(1), as per the provisions of section 33(9) of the Act, s. 47F(1) ceased and s. 47F(1) became unlawful.

Between s. 47F(1) November 2007 and s. 47F(1) October 2010, s. 47F(1) resided unlawfully in the community.

On s. 47F(1) October 2010, s. 47F(1) was located by s. 47F(1) police; referred to the Department and was granted a s. 47F(1) valid until s. 47F(1) October 2010. s. 47F(1) was granted s. 47F(1) on s. 47F(1) October 2010 and s. 47F(1) October 2010, with the latter s. 47F(1) ceasing on s. 47F(1) November 2010.

On s. 47F(1) November 2010, s. 47F(1) lodged an application for a s. 47F(1)

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s. 47F(1) visa and was granted a s. 47F(1), this time in association with an application.

On s. 47F(1) November 2010, s. 47F(1) visa ceased and s. 47F(1) was granted a s. 47F(1) again in association with the s. 47F(1) visa application.

On s. 47F(1) March 2011, s. 47F(1) application for a s. 47F(1) visa was refused.

On s. 47F(1) April 2011, s. 47F(1) lodged an application for review of the refusal of the s. 47F(1) visa with the then Refugee Review Tribunal (RRT). The RRT affirmed the primary refusal decision on s. 47F(1) September 2011 and the associated s. 47F(1) s. 47F(1), ceased on s. 47F(1) October 2011.

On s. 47F(1) December 2011, s. 47F(1) was granted a s. 47F(1). The s. 47F(1) s. 47F(1) ceased on s. 47F(1) January 2012, and a s. 47F(1) was granted on the same day.

On s. 47F(1) February 2012, s. 47F(1) lodged an application for a s. 47F(1) s. 47F(1) visa.

On s. 47F(1) February 2012, s. 47F(1) was granted an s. 47F(1). This s. 47F(1) was granted in association with the s. 47F(1) visa application and from this point onwards is referred to as s. 47F(1) visa s. 47F(1) s. 47F(1) ceased on s. 47F(1) February 2012.

On s. 47F(1) August 2013, s. 47F(1) application for a s. 47F(1) s. 47F(1) visa was refused.

On s. 47F(1) October 2013, s. 47F(1) visa s. 47F(1) granted in association with the s. 47F(1) visa appeared to cease according to departmental systems.

On s. 47F(1) October 2013, s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) November 2013, s. 47F(1) lodged an application for review of the s. 47F(1) application with the then Migration Review Tribunal (MRT), outside the prescribed timeframes for review.

On s. 47F(1) December 2013, s. 47F(1) lodged a s. 47F(1) application for a s. 47F(1) visa.

Between s. 47F(1) December 2013 and s. 47F(1) June 2015, whilst the application for the s. 47F(1) s. 47F(1) visa was being processed, and when applications for review were subsequently lodged at the tribunal and the courts, s. 47F(1) lodged s. 47F(1) applications for s. 47F(1), all of which were refused, with the s. 47F(1) application refused by the Department on s. 47F(1) June 2015. s. 47F(1) also sought review at the Tribunal in respect of s. 47F(1) refusal decisions. The Tribunal affirmed the refusal decision in all s. 47F(1) applications for which s. 47F(1) sought review.

On s. 47F(1) January 2014, the MRT made a s. 47F(1) finding in relation to the s. 47F(1) s. 47F(1) visa application as the application for review had been lodged outside the prescribed timeframes for review.

On s. 47F(1) September 2014, s. 47F(1) s. 47F(1) application for a s. 47F(1) visa was refused.

On s. 47F(1) September 2014, s. 47F(1) lodged an application for review of the

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refusal of the s. 47F(1) visa with the then RRT.

On s. 47F(1) October 2014, the RRT affirmed decision to refuse the s. 47F(1) application for a s. 47F(1) visa.

On s. 47F(1) December 2014, s. 47F(1) lodged an application for review of the RRT decision with the Federal Court. On s. 47F(1) February 2015, the Minister withdrew from the Federal Court proceedings, and the matter was remitted back to the RRT on s. 47F(1) March 2015.

On s. 47F(1) June 2015, the RRT again affirmed the decision to refuse the second application for a s. 47F(1) visa.

On s. 47F(1) July 2015, s. 47F(1) lodged an application for review of the RRT decision with the Federal Court, with the Federal Court finding the Minister's favour on s. 47F(1) December 2016.

On s. 47F(1) July 2017, the Australian Border Force (ABF) Removals team referred s. 47F(1) case to the Status Resolution Operational Support Section, as there appeared to be a defect in the notification of the s. 47F(1) visa.

On s. 47F(1) July 2017, Status Resolution Operational Support Section confirmed there was a defect in the notification of the s. 47F(1) visa refusal and that s. 47F(1) continued to hold the s. 47F(1) visa s. 47F(1) granted on s. 47F(1) October 2013 in association with the s. 47F(1) visa application.

On s. 47F(1) July 2017, s. 47F(1) was released from s. 47F(1) Immigration Detention Centre (IDC) as the holder of a s. 47F(1).

Actions

At the time s. 47F(1) was detained on s. 47F(1) October 2013, particular content defects in relation to notification of s. 47F(1) visa application refusals had not been identified.

These defects related to the refusal notification for the s. 47F(1) visa applications, as the decision records did not adequately address the criteria that had not been met or provide reasons why the criteria were not satisfied. Consequently the notification did not comply with section 66(2)(a) and section 66(2)(c) of the Act. These errors had not been identified by the Department's Legal Division and drawn to the attention of departmental Status Resolution and Compliance officers until March 2014.

At the time officers detained s. 47F(1) it was on the basis that s. 47F(1) had been properly notified of the refusal of s. 47F(1) visa application without adequate consideration as to whether the s. 47F(1) visa application had been properly notified.

In March 2014, when the issues were identified by the Department in the s. 47F(1) visa caseload, there were checks conducted of the detention caseload to identify cases that were potentially affected. Although systematic searches were conducted and caseloads identified and actioned appropriately, s. 47F(1) case was not identified at the time.

The visa processing and compliance network were alerted to the errors in notification in the s. 47F(1) visa caseload in 2014 and 2015. Appropriate instructions were distributed, training implemented

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and templates corrected. This facilitated the identification of notification errors for combined s. 47F(1) visa cases for persons subsequently liable for detention.

s. 47F(1) case demonstrates multiple failures of the Department's control framework. All persons in detention have their cases reviewed on a monthly basis by a status resolution officer and the circumstances of their case are discussed at monthly detention review committee (DRC) meetings, often with a focus on longer term detainees. Despite this level of scrutiny it was not identified that s. 47F(1) s. 47F(1) visa application refusal was affected by a notification error.

As removal was delayed in s. 47F(1) case due to outstanding litigation proceedings, an additional status assessment and notification review was not conducted subsequent to October 2013, and this led to delays in identifying the error in s. 47F(1) case. Such reviews involve a more comprehensive assessment of an individual's status and immigration history than the monthly review conducted by a status resolution officer. They would usually be conducted where a suspected unlawful non-citizen is nearing removal, or is in corrective services custody and nearing their earliest date of release, or the ABF receives a tipoff regarding disengaged unlawful non-citizens in the community.

Current Status

On s. 47F(1) July 2017, s. 47F(1) was released from immigration detention as the holder of a s. 47E(4). This s. 47E(4) was cancelled under section 116 of the Act and s. 47F(1) was again detained under section 189 of the Act.

On s. 47E(4) July 2017, s. 47F(1) lodged an application for review of the cancellation of the s. 47E(4) with the Administrative Appeals Tribunal (AAT). This review was not an impediment to removal.

On s. 47E(4) July 2017, s. 47F(1) was removed from Australia. s. 47F(1) remains offshore.

On s. 47E(4) August 2017, the AAT affirmed the decision to cancel the s. 47E(4).

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT B****Process Incorrect****Administrative deficiency**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On s. 47F(1) May 2017, s. 47F(1) attended the Compliance Status Resolution counter in s. 47F(1) s. 47F(1) appeared to be an unlawful non-citizen on departmental systems and s. 47F(1) was detained under section 189 of the Act.

At the time of s. 47F(1) detention, s. 47F(1) showed as being unlawful on departmental systems as s. 47F(1) s. 47F(1) visa had been cancelled under section 116 of the Act on s. 47F(1) May 2017. s. 47F(1) had lodged an application for merits review of the cancellation decision with the AAT on s. 47F(1) May 2017.

On s. 47F(1) August 2017, s. 47F(1) was released from immigration detention as s. 47F(1) was identified as the holder of a s. 47F(1) visa as a result of a notification defect.

s. 47F(1) visa came into effect subsequent to the AAT's decision to set aside the cancellation of the visa on s. 47F(1) August 2017. This occurred because the refusal of s. 47F(1) visa was defective.

Background

On s. 47F(1) August 2014, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa granted on s. 47F(1) May 2014.

On s. 47F(1) August 2016, s. 47F(1) was charged with s. 47F(1)

On s. 47F(1) May 2017, s. 47F(1) visa was cancelled under section 116(1)(e) of the Act and s. 47F(1) became unlawful.

On s. 47F(1) May 2017, s. 47F(1) lodged an application for review of the decision to cancel the s. 47F(1) visa with the AAT.

On s. 47F(1) May 2017, s. 47F(1) attended the Compliance Status Resolution Counter of the s. 47F(1) State Office in relation to an application for a s. 47F(1) application was referred to the Visa Application Character Consideration Unit (VACCU) for character consideration and s. 47F(1) was

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detained under section 189 of the Act.

On s. 47F(1) July 2017, s. 47F(1) application was refused on the basis that s. 47F(1) was not the holder of a s. 47F(1) visa.

In accordance with the Code of Procedure, Subdivision AB, Division 3 of Part 2 of the Act, the delegate was required to seek s. 47F(1) comments and advise s. 47F(1) that the reason for the refusal to grant the s. 47F(1) visa was that s. 47F(1) did not hold a s. 47F(1) visa, as this visa had been cancelled.

As s. 47F(1) had not been advised, and s. 47F(1) comment was not sought prior to the refusal of the s. 47F(1) visa, the decision to refuse that visa was affected by jurisdictional error. As the s. 47F(1) visa would not have ceased in accordance with clause 309.511 of the *Migration Regulations 1994* (the Regulations), where a decision to refuse to grant a s. 47F(1) visa is affected by jurisdictional error, s. 47F(1) continued to hold the s. 47F(1) visa.

On s. 47F(1) July 2017, s. 47F(1) lodged an application for review with the AAT of the decision to refuse s. 47F(1) application. On s. 47F(1) July 2017, the AAT set aside the decision to cancel s. 47F(1) visa.

Action

At the time of the initial detention on s. 47F(1) May 2017, s. 47F(1) visa had been cancelled under section 116(1)(e) on s. 47F(1) May 2017, making s. 47F(1) unlawful.

On s. 47F(1) August 2017, a Status Resolution officer in s. 47F(1) referred s. 47F(1) case to the Status Resolution Operational Support Section for advice regarding the decision to refuse s. 47F(1) visa application. On the same day the Status Resolution Operational Support Section advised that the decision to refuse s. 47F(1) visa application was tainted by error and the decision had to be revisited with s. 47F(1) consent.

As s. 47F(1) provided consent for the decision in s. 47F(1) s. 47F(1) visa application to be revisited, s. 47F(1) visa came back into effect. On s. 47F(1) August 2017, s. 47F(1) withdrew s. 47F(1) application for a s. 47F(1), and s. 47F(1) was released from detention.

On s. 47F(1) August 2017, the AAT determined that it did not have jurisdiction to review the refusal of the s. 47F(1) application on the basis that there was no decision to review.

The s. 47F(1) processing section have advised that it is now standard procedure for a delegate to issue a section 57 letter to request comment from a visa applicant, in the event that an applicant's s. 47F(1) visa is to be considered for refusal on the basis of a s. 47F(1) cancellation. In addition, delegates now await the outcome of an AAT review for a s. 47F(1) visa, prior to making a decision on a s. 47F(1) visa.

Team leaders in the s. 47F(1) processing Section also check refusal decisions to ensure that delegates have complied with the Code of Procedure prior to refusing an application.

Current Status

On s. 47F(1) August 2017, the AAT determined that it did not have jurisdiction to review the refusal of the s. 47F(1) application on the basis that there was no decision to review.

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s. 47F(1) is currently in the community as the holder of a s. 47F(1) visa.
s. 47F(1) application for a s. 47F(1) has not been finalised at this time.

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT C****Record incorrect****Administrative Deficiency**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On s. 47F(1) August 2017, s. 47F(1) was detained by the ABF, following s. 47F(1) release from s. 47F(1) and transferred to s. 47F(1) IDC. s. 47F(1) appeared to be unlawful on departmental systems as s. 47F(1) s. 47F(1) visa was cancelled on s. 47F(1) October 2015 under the mandatory cancellation provisions of section 501(3A) of the Act.

On s. 47F(1) August 2017, the Department confirmed that s. 47F(1) had held an s. 47F(1) visa, and not a s. 47F(1) visa. At the time of cancellation in October 2015, and subsequent detention in August 2017, departmental officers incorrectly formed the view that s. 47F(1) was the holder of a s. 47F(1) visa, granted by operation of law on s. 47F(1) September 1994. As the incorrect visa was identified in the cancellation decision, the cancellation decision was invalid and s. 47F(1) continued to be the holder of an s. 47F(1) visa, at the time of s. 47F(1) detention.

s. 47F(1) was subsequently released from immigration detention on s. 47F(1) August 2017.

Background

On s. 47F(1) was born in s. 47F(1) to an s. 47F(1) citizen mother and a s. 47F(1) citizen father.

On s. 47F(1) first arrived in Australia as a s. 47F(1) citizen, and departed again on s. 47F(1)

On s. 47F(1) s. 47F(1) last arrived in Australia as a s. 47F(1) citizen. s. 47F(1) has remained in Australia since this date.

On s. 47F(1) September 1994, s. 47F(1) was granted an s. 47F(1) visa by operation of law under the *Migration Reform (Transitional Provisional) Regulations*.

On s. 47F(1) August 2011, s. 47F(1) was sentenced to s. 47F(1) imprisonment for criminal offences.

On s. 47F(1) November 2014, the National Character Consideration Centre (NCCC) requested that a determination be made by the Australian Government Solicitor as to whether s. 47F(1) was the

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holder of an s. 47F(1) Visa. On s. 47F(1) January 2015, advice was received from the Australian Government Solicitor and a determination was made that s. 47F(1) was the holder of an s. 47F(1) visa.

On s. 47F(1) October 2015, a decision was made under the mandatory cancellation provisions of section 501(3A) to cancel s. 47F(1) visa. This visa was recorded on departmental systems as a s. 47F(1) visa held by operation of law since s. 47F(1) September 1994. s. 47F(1) subsequently appeared as unlawful on departmental systems.

On s. 47F(1) February 2016, s. 47F(1) lodged a revocation request outside the prescribed timeframe, with the result that s. 47F(1) request for revocation of the cancellation was not considered by the Department.

Actions

On s. 47F(1) August 2017, s. 47F(1) was detained under section 189 of the Act by the ABF following s. 47F(1) release from criminal custody and transferred to s. 47F(1) IDC.

On s. 47F(1) August 2017, the Department identified evidence that s. 47F(1) may have been the holder of an s. 47F(1) visa.

On s. 47F(1) August 2017, the Department confirmed that the decision to cancel s. 47F(1) visa under section 501(3A) of the Act on s. 47F(1) October 2015 was invalid, as the delegate incorrectly identified the visa held by s. 47F(1) in the cancellation notification letter as a s. 47F(1) visa'. As a result, s. 47F(1) continued to hold an s. 47F(1) visa.

s. 47F(1) was released from immigration detention on s. 47F(1) August 2017. s. 47F(1) provided a written request to remain in the detention facilities, as s. 47F(1) wished to depart Australia without delay, and did not wish to seek alternate accommodation arrangements prior to s. 47F(1) departure the following day.

The NCCC has been advised of the case and appropriate training has been implemented to ensure that checks are made prior to cancellation of a visa. A comprehensive document in relation to Transitional Provisional visas has also been made available to NCCC staff and other relevant areas of the Department. From November 2017, mandatory cancellation cases will be processed in the CanX (ICUE) portal where a Mandatory Control Point requires that the Character Liability and Assessment Checklist is completed before a cancellation can proceed. Following this case, an audit was conducted of all mandatory cancellation decisions involving former visa holders who were s. 47F(1) nationals and had entered Australia before 1984. s. 47F(1) were identified, no further jurisdictional errors were found.

Current Status

On s. 47F(1) August 2017, s. 47F(1) departed Australia as the holder of an s. 47F(1) visa, which ceased upon s. 47F(1) departure. s. 47F(1) is deceased and s. 47F(1) death is subject to a s. 47F(1) coronial process.

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT D****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) August 2017, s. 47F(1) was located by the ABF as an untargeted individual during the execution of a warrant issued under section 251 of the Act.

s. 47F(1) appeared as unlawful on departmental systems at the time of location. s. 47F(1) visa s. 47F(1) granted in association with a s. 47F(1) visa application, appeared to have ceased as of s. 47F(1) April 2017.

s. 47F(1) was subsequently transferred to the s. 47F(1) Immigration Transit Accommodation (ITA) facility.

On s. 47F(1) August 2017, it was confirmed that s. 47F(1) remained the holder of a s. 47F(1) granted in association with a s. 47F(1) visa application lodged on s. 47F(1) October 2016.

s. 47F(1) was released from immigration detention on s. 47F(1) August 2017.

Background

On s. 47F(1) July 2016, s. 47F(1) arrived in Australia as the holder of an s. 47F(1) granted on s. 47F(1) June 2016. On s. 47F(1) October 2016, s. 47F(1) ceased and s. 47F(1) became unlawful.

On s. 47F(1) October 2016, s. 47F(1) lodged a s. 47F(1) visa application. s. 47F(1) was granted a s. 47F(1) in association with the s. 47F(1) visa application. When completing the application form s. 47F(1) selected 'No' in response to the question asking whether s. 47F(1) consented to the Department communicating with s. 47F(1) via email.

On s. 47F(1) March 2017, s. 47F(1) application for a s. 47F(1) visa was refused. The refusal notification was sent to s. 47F(1) by email to the email address provided on s. 47F(1) application form.

On s. 47F(1) April 2017, the s. 47F(1) granted to s. 47F(1) in association with the s. 47F(1) visa application appeared to cease.

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~~**Sensitive: Personal**~~**Actions**

On ¹⁷s. August 2017, s. 47F(1) was located by the ABF and detained under section 189 of the Act. The ABF officer indicated in the interview notes that the paper file would need to be reviewed to confirm s. 47F(1) was effectively notified of the refusal of the application for the s. 47F(1) visa. The relevant file was retrieved from storage the following day.

On ¹⁷s. August 2017, a notification error was identified as the s. 47F(1) visa application refusal notification was sent to an email address that was not authorised by s. 47F(1) for receiving written correspondence from the Department. As a consequence, s. 47F(1) continued to hold the associated s. 47F(1).

s. 47F(1) did not consent to receiving correspondence from the Department in relation to s. 47F(1) visa application. A refusal notification must be given in accordance with section 494B of the Act to ensure that the Department is able to rely on the deemed receipt provisions outlined in section 494C of the Act. As per the provisions of section 494B(5) of the Act, a document can be emailed to the last email address provided to the Minister for the purpose of receiving documents. However a document, must not, as a matter of law, be sent by email unless the recipient has consented to receive electronic communications. Section 9(1)(d) of the *Electronic Transactions Act 1999*, requires that the recipient must provide their consent (express or implied), for documents to be sent to an email address.

On ¹⁷s. August 2017, s. 47F(1) was re-notified of the s. 47F(1) visa application refusal and released from immigration detention, as the holder of a s. 47F(1).

s. 47F(1) visa processing areas have been informed of the error and training has been implemented in relation to notification procedures.

Current Status.

s. 47F(1) was released from immigration detention on ¹⁷s. August 2017 as the holder of a s. 47F(1).

s. 47F(1) s. 47F(1) was cancelled, at s. 47F(1) request, under section 116 of the Act on the same day and s. 47F(1) was detained under section 189 of the Act to facilitate s. 47F(1) voluntary removal to s. 47F(1).

s. 47F(1) was removed from Australia on ¹⁷s. August 2017.

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Medium Risk Case

1 July 2017 – 31 December 2017

ATTACHMENT E

Litigation Consequence Case Law Affected

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Note: Released from detention on the day s. 47F(1) became lawful

Summary

On s. 47E May 2016, s. 47F(1) lodged an application with the Federal Circuit Court (FCC) to seek review of a decision by the AAT to affirm the refusal of s. 47F(1) application for a s. 47F(1) visa. On s. 47E June 2016, s. 47F(1) was granted a s. 47F(1) in association with that application.

On s. 47E October 2016, the FCC handed down a decision to dismiss the application for judicial review. On s. 47E November 2016, s. 47F(1) ceased as a result of that decision.

On s. 47E April 2017, s. 47F(1) Police located s. 47F(1) following the execution of a *Crimes Act* search warrant at s. 47E place of residence. s. 47F(1) was confirmed to be unlawful on departmental systems and was detained under section 189 of the Act.

On 2 August 2017, a decision was reached in the matter of *Minister for Immigration and Border Protection v BJC16 & Anor (BJC16 & Anor)*, which meant that s. 47F(1) FCC appeal was ongoing. As a result, on s. 47E August 2017, the day of the court outcome, s. 47F(1) was reinstated and was released from immigration detention.

Background

On s. 47E July 2010, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa. On s. 47E February 2012, s. 47F(1) visa was cancelled under section 116 of the Act.

On s. 47E February 2012, s. 47F(1) lodged an application for review of the s. 47F(1) visa cancellation with the then MRT, which affirmed the decision on s. 47E April 2013.

On s. 47E January 2014, s. 47F(1) lodged an application for a s. 47F(1) visa which was determined to be invalid on s. 47E February 2014.

On s. 47E March 2014, s. 47F(1) lodged a second application for a s. 47F(1) visa, which was also determined to be invalid on s. 47E May 2014.

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On s. 47F(1) May 2014, s. 47F(1) lodged an application for a s. 47F(1) visa, this time the application was deemed to be valid. s. 47F(1) was granted a s. 47F(1) in association with the application on s. 47F(1) May 2014. On s. 47F(1) October 2014, s. 47F(1) application for a s. 47F(1) visa was refused.

On s. 47F(1) November 2014, s. 47F(1) lodged an application for review of the refusal of the s. 47F(1) visa application with the then RRT, which affirmed the decision on s. 47F(1) April 2016.

On s. 47F(1) May 2016, s. 47F(1) granted in association with the s. 47F(1) visa application ceased.

On s. 47F(1) May 2016, s. 47F(1) lodged an application for judicial review with the FCC to appeal the RRT decision. On s. 47F(1) June 2016, s. 47F(1) was granted a s. 47F(1) in association with s. 47F(1) application for judicial review of the RRT decision.

On s. 47F(1) October 2016, the FCC dismissed s. 47F(1) case.

On s. 47F(1) December 2016, s. 47F(1) granted in association with s. 47F(1) judicial review ceased and s. 47F(1) became unlawful.

On s. 47F(1) April 2017, s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) April 2017, s. 47F(1) filed an application to seek reinstatement of the appeal which had been dismissed at the FCC on s. 47F(1) October 2016. s. 47F(1) case was listed for an interlocutory hearing on s. 47F(1) May 2017.

On s. 47F(1) May 2017, s. 47F(1) lodged an application for a s. 47F(1), which was refused on s. 47F(1) May 2017. On s. 47F(1) May 2017, s. 47F(1) lodged an application for review of the refusal of the s. 47F(1) with the AAT, which affirmed the decision on s. 47F(1) May 2017.

On s. 47F(1) May 2017, the Federal Magistrate's Court ordered that the matter previously dismissed on s. 47F(1) October 2016 be reinstated.

On s. 47F(1) June 2017, s. 47F(1) lodged an application for a s. 47F(1) which was refused on s. 47F(1) June 2017. On s. 47F(1) June 2017, s. 47F(1) lodged an application for review of the refusal of the s. 47F(1) with the AAT, which affirmed the decision on s. 47F(1) July 2017.

On 2 August 2017, the FCC dismissed the Minister's appeal in *BJC16 & Anor*. The Federal Court unanimously found that Registrars did not have the power to dismiss a matter where an applicant failed to appear at the first court date. Therefore, in matters where a Registrar had dismissed an application for non-appearance during the period between s. 4 February 2006 and s. 4 August 2017, the dismissal was deemed to be void and the relevant proceedings therefore remained ongoing.

As s. 47F(1) application for judicial review had been dismissed on s. 47F(1) June 2016 by a Registrar as a result of s. 47F(1) failure to appear at the first court date, the findings in *BJC16 & Anor* were applicable in s. 47F(1) case. s. 47F(1) application for judicial review, as a consequence was still ongoing and s. 47F(1) continued to hold the associated s. 47F(1) which was granted on s. 47F(1) November 2014.

s. 47F(1) was released from detention as the holder of a s. 47F(1) on s. 47F(1) August 2017.

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Actions

At the time of s. 47F(1) initial detention, there was no evidence available to the detaining officer that s. 47F(1) was affected by defective notification, as the decision in *BJC16 & Anor* was not yet made.

Following the decision of *BJC16 & Anor*, the Department's Litigation Branch identified approximately 500 cases that were affected by the decision, including many where the applicants' associated s. 47F(1) wrongly ceased as a result of a dismissal by a Registrar.

The Litigation Branch identified only s. 47F(1) persons who were in immigration detention as a result of an associated s. 47F(1) having wrongly ceased. The s. 47F(1) were re-instated following the decision of the court and s. 47F(1) persons were released from detention on s. 47F(1) August 2017, the date the decision was handed down by the Federal Court.

In addition to s. 47F(1) case, s. 47F(1) case was also identified following the decision of the Federal Court and s. 47F(1) case is also included in this report (at **Attachment** s. 47F(1)).

Current Status

On s. 47F(1) October 2017, the Federal Court found in favour of the Minister. s. 47F(1) that was granted on s. 47F(1) June 2016 in association with s. 47F(1) application for judicial review ceased on s. 47F(1) November 2017, and s. 47F(1) became unlawful.

On s. 47F(1) December 2017, s. 47F(1) was taken into immigration detention at the s. 47F(1) IDC.
On s. 47F(1) January 2018, s. 47F(1) was involuntarily removed from Australia.

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT F****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On s. 47F(1) July 2017, s. 47F(1) was located by s. 47F(1) Police and referred to the Department's Immigration Status Service (ISS) for a visa status check. s. 47F(1) appeared as unlawful on departmental systems. Based on this information, a s. 47F(1) police officer held reasonable suspicion that s. 47F(1) was an unlawful non-citizen and s. 47F(1) was detained under section 189 of the Act and transferred to the s. 47F(1) ITA.

On s. 47F(1) July 2017, the Department confirmed that s. 47F(1) remained the holder of a s. 47F(1) visa granted in association with a s. 47F(1) visa application lodged on s. 47F(1) June 2016.

s. 47F(1) was released from detention on s. 47F(1) July 2017.

Background

On s. 47F(1) February 2016, s. 47F(1) arrived in Australia as the holder of an s. 47F(1) visa granted on s. 47F(1) February 2016, with a maximum of three month stay on each entry, enabling s. 47F(1) to travel to Australia on multiple occasions for a period of up to 12 months from the date of grant.

On s. 47F(1) May 2016, s. 47F(1) ceased.

On s. 47F(1) May 2016, s. 47F(1) lodged an application for a s. 47F(1) visa s. 47F(1), and was granted an associated s. 47F(1) visa s. 47F(1).

On s. 47F(1) June 2016 s. 47F(1) was effectively notified via post that s. 47F(1) s. 47F(1) was determined to be invalid because s. 47F(1) had failed to provide personal identifiers.

On s. 47F(1) July 2016, a s. 47F(1) was granted in association when the s. 47F(1) ceased.

On s. 47F(1) July 2016, s. 47F(1) lodged a s. 47F(1) visa application s. 47F(1).

On s. 47F(1) July 2016, s. 47F(1) was granted a s. 47F(1) in association with this application s. 47F(1).

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s. 47F(1) This s. 47F(1) is henceforth referred to as s. 47F(1)

On s. 47F(1) July 2016, s. 47F(1) was notified via registered post that s. 47F(1) was invalid.

On s. 47F(1) August 2016, s. 47F(1) visa granted in association with s. 47F(1) appeared to cease on departmental systems.

On s. 47F(1) August 2016, s. 47F(1) lodged a s. 47F(1) application for a s. 47F(1) visa application s. 47F(1)

On s. 47F(1) August 2016, s. 47F(1) was granted a s. 47F(1) in association with s. 47F(1). This s. 47F(1) is henceforth referred to as s. 47F(1)

On s. 47F(1) September, 2016 the notification in relation to s. 47F(1) was 'returned to sender'.

On s. 47F(1) March 2017, s. 47F(1) was refused. This notification was effective.

On s. 47F(1) April 2017, s. 47F(1) granted in association with s. 47F(1) ceased.

On s. 47F(1) July 2017, s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) July 2017, advice was provided that the Department was unable to rely on the presumption of delivery provided by the *Evidence Act 1995*, in respect of the invalid notification in relation to s. 47F(1), sent on s. 47F(1) July 2017. (1)

As s. 47F(1) had not been informed by the Department (orally or in writing), that s. 47F(1) was invalid or that s. 47F(1) associated s. 47F(1) had ceased, s. 47F(1) continued to hold s. 47F(1) granted on s. 47F(1) July 2016.

The same day s. 47F(1) was notified that s. 47F(1) lodged on s. 47F(1) July 2016 was invalid and that s. 47F(1) remained the holder of s. 47F(1) s. 47F(1) was provided with a copy of the invalid notification and released from immigration detention the same day.

Actions

The relevant s. 47F(1) visa processing area has been informed of the error. Information about this error has also been provided to the Status Resolution network.

Current Status

s. 47F(1) was released from immigration detention on s. 47F(1) July 2017 as the holder of s. 47F(1) granted in association with s. 47F(1)

s. 47F(1) s. 47F(1) ceased on s. 47F(1) July 2017, after s. 47F(1) departed Australia.

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Medium Risk Case

1 July 2017 – 31 December 2017

ATTACHMENT G

Process Incorrect

Defective Notification

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

 Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) October 2017, s. 47F(1) was released from criminal detention, after serving a sentence for convictions for s. 47F(1) and s. 47F(1). s. 47F(1) appeared to be unlawful on departmental systems, and on s. 47F(1) release s. 47F(1) was located by the ABF in s. 47F(1) and detained under section 189 of the Act.

On s. 47F(1) October 2017, s. 47F(1) was released from immigration detention as the Department found that s. 47F(1) continued to hold as s. 47F(1) as a result of notification defect in relation to a withdrawal of a visa application.

Background

On s. 47F(1) January 2013, s. 47F(1) arrived in Australia on a s. 47F(1) visa.

On s. 47F(1) April 2013, s. 47F(1) visa ceased and s. 47F(1) became an unlawful non-citizen.

On s. 47F(1) December 2015, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s. 47F(1).

On s. 47F(1) April 2016, s. 47F(1) ceased. On the same day, s. 47F(1) was granted a further s. 47F(1) in association with the s. 47F(1) visa application.

On s. 47F(1) July 2016, s. 47F(1) ceased and s. 47F(1) was granted a further s. 47F(1) in association with the s. 47F(1) visa application.

On s. 47F(1) July 2016, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s. 47F(1) visa on s. 47F(1) July 2016.

On s. 47F(1) October 2016, s. 47F(1) in association with the s. 47F(1) visa application ceased. On the same day, s. 47F(1) was granted a further s. 47F(1) in association with the s. 47F(1) visa application.

On s. 47F(1) October 2016, s. 47F(1) migration agent sent an email to the Department, attaching a duly completed Form 1446 (Withdrawal of a visa application) signed by s. 47F(1) withdrawing

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s. 47F(1) application.

On s. 47F(1) October 2016, the Department notified s. 47F(1) through s. 47F(1) migration agent that the withdrawal of s. 47F(1) visa application, instead of the s. 47F(1) application, had been received and actioned.

On s. 47F(1) November 2016, s. 47F(1) granted on s. 47F(1) July 2016, appeared to cease following recording on departmental system of the withdrawal of the s. 47F(1) visa application.

On s. 47F(1) December 2016, s. 47F(1) ss. 47F(1) visa application was refused.

On s. 47F(1) December 2016, s. 47F(1) lodged an application for merits review of the refusal decision of the s. 47F(1) visa with the AAT.

On s. 47F(1) October 2017, s. 47F(1) in association with s. 47F(1) Combined s. 47F(1) visa application was cancelled under section 116(1)(g) of the Act due to s. 47F(1) conviction and imprisonment for a period of s. 47F(1) for s. 47F(1) and s. 47F(1).

On s. 47F(1) October 2017, following s. 47F(1) release from criminal detention, the ABF detained s. 47F(1) under section 189 of the Act and transferred to the s. 47F(1) IDC.

On s. 47F(1) October 2017, s. 47F(1) case was referred to the Detention Review Manager (DRM) for review. The DRM found that s. 47F(1) withdrawal request Form 1446 was in relation to a s. 47F(1) application and not for the s. 47F(1) visa application. On the same day, the DRM requested advice from the Status Resolution Operational Support Section.

On s. 47F(1) October 2017, the Status Resolution Operational Support Section confirmed that as s. 47F(1) visa application was not withdrawn, s. 47F(1) continued to hold the s. 47F(1) granted on s. 47F(1) July 2006 in association with s. 47F(1) visa application. s. 47F(1) was released from immigration detention on this date as holder of a s. 47F(1).

Actions

Section 49 of the Act stipulates that a visa application may be withdrawn, provided the instruction is given in writing in clear and unambiguous terms.

s. 47F(1) duly accomplished and signed Form 1446 specified the withdrawal relating to the s. 47F(1) application. However, the Department issued s. 47F(1) with a notification of receipt of the withdrawal of s. 47F(1) visa application, instead of the s. 47F(1) application. As the application for the s. 47F(1) visa was not withdrawn, s. 47F(1) continued to hold a s. 47F(1) visa in association with s. 47F(1) visa application.

Relevant areas across the Department and the ABF were informed of s. 47F(1) case to prevent recurrence of similar error in the future. The Status Resolution Operational Support Section provided the Criminal Cases team in the ABF with detailed guidelines on how to assess withdrawal of a visa application. In the event that the withdrawal of an application had been unclear and ambiguous, the case should be escalated to the Status Resolution Operational Support Section for assessment.

Visa processing officers were advised of this error to ensure they are cautious when issuing notification to applicants and in recording entries on departmental systems. Instructions on how to

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assess a request for a withdrawal of a visa application are also on departmental electronic database LEGEND.

Current Status

On ^{s. 47F(1)} October 2017, ^{s. 47F(1)} was released from immigration detention as the holder of an associated ^{s. 47F(1)} in association with ^{s. 47F(1)} ^{s. 47F(1)} visa application.

On ^{s. 47F(1)} December 2017, ^{s. 47F(1)} application for a ^{s. 47F(1)} visa was refused. ^{s. 47F(1)} did not seek review of this decision.

On ^{s. 47F(1)} December 2017, ^{s. 47F(1)} was granted a further ^{s. 47F(1)} in association with ^{s. 47F(1)} merits review application with the AAT of the ^{s. 47F(1)} ^{s. 47F(1)} visa application decision. This visa will remain in effect, pending the finalisation of ^{s. 47F(1)} review application with the AAT.

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Medium Risk Case

1 July 2017 – 31 December 2017

ATTACHMENT H**Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On s. 47F(1) December 2017, s. 47F(1) was detained by the ABF at s. 47F(1) Magistrate's court upon s. 47F(1) release from criminal custody. The s. 47F(1) Police had located s. 47F(1) on s. 47F(1) December 2017, and detained s. 47F(1) on charges of s. 47F(1) and s. 47F(1). s. 47F(1) appeared to be unlawful according to information on departmental systems and was detained under section 189 of the Act.

On s. 47F(1) December 2017, s. 47F(1) was released from immigration detention as s. 47F(1) was identified as being the holder of a s. 47F(1) visa as a result of a notification defect.

Background

On s. 47F(1) December 2004, s. 47F(1) arrived in Australia on a s. 47F(1) visa.

On s. 47F(1) December 2005, s. 47F(1) lodged a s. 47F(1) visa application and was granted a s. 47F(1) in association with this application.

On s. 47F(1) December 2005, s. 47F(1) s. 47F(1) visa ceased, and s. 47F(1) s. 47F(1) came into effect.

On s. 47F(1) January 2006, s. 47F(1) visa application was refused. s. 47F(1) migration agent was notified of the refusal of both the s. 47F(1) visa and s. 47F(1) visa applications.

On s. 47F(1) February 2006, s. 47F(1) lodged an application for review of refusal of the s. 47F(1) visa application with the then MRT. On s. 47F(1) October 2006, the MRT remitted the s. 47F(1) visa application decision 'with direction' to the Department. s. 47F(1) was granted a s. 47F(1) visa on s. 47F(1) November 2006.

On s. 47F(1) September 2012, s. 47F(1) was sent a request for further information under section 56 of the Act regarding s. 47F(1) visa application, and requested to provide 'documents'. This request did not stipulate the nature of the documents to be provided. On s. 47F(1) November 2012, the section 56 request sent to s. 47F(1) was 'returned to sender'.

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On s. 47F(1) November 2012, s. 47F(1) application for a s. 47F(1) visa was refused. Notification was sent to s. 47F(1) residential address. As s. 47F(1) visa would cease at midnight on the same day as the refusal of s. 47F(1) visa application, s. 47F(1) was granted a s. 47F(1) on s. 47F(1) November 2012 so that s. 47F(1) would remain lawful during the period in which s. 47F(1) could apply for merits review of the refusal decision.

On s. 47F(1) January 2013, as s. 47F(1) did not seek review of the decision to refuse s. 47F(1) visa application, the s. 47F(1) granted on s. 47F(1) November 2012 in association with the application, appeared to cease on departmental systems.

On s. 47F(1) January 2013, the refusal notification letter and decision record sent to s. 47F(1) residential address was 'returned to sender'.

On s. 47F(1) December 2017, s. 47F(1) was detained by s. 47F(1) Police on charges of s. 47F(1) and s. 47F(1).

On s. 47F(1) December 2017, s. 47F(1) was detained by the ABF at s. 47F(1) Magistrate's Court upon s. 47F(1) release on bail from criminal custody.

On s. 47F(1) December 2017, s. 47F(1) case was referred to a DRM. On s. 47F(1) December 2017, the DRM recalled s. 47F(1) file from offsite storage and sent a request for advice to the Status Resolution Operational Support Section.

On s. 47F(1) December 2017, on receipt of the file, the DRM sent a second request for advice to the Status Resolution Operational Support Section, advising that a letter for further information sent on s. 47F(1) November 2012 to s. 47F(1) requesting that documents be provided, did not stipulate the nature of information and/or documents to be provided. The DRM sought clarification as to whether the refusal decision was affected by jurisdictional error.

On s. 47F(1) December 2017, the Status Resolution Operational Support Section confirmed there was a defect in the notification of the s. 47F(1) visa application refusal and that s. 47F(1) continued to hold a s. 47F(1) visa.

s. 47F(1) also continued to hold the s. 47F(1) granted on s. 47F(1) November 2012 as a consequence of the defective notification of the s. 47F(1) visa application refusal. The refusal of this application was the event which determined that the s. 47F(1) would expire on s. 47F(1) January 2013. As the refusal notification was defective the s. 47F(1) did not cease on s. 47F(1) January 2013, but was instead 'out of effect' while s. 47F(1) held the s. 47F(1) visa.

On s. 47F(1) December 2017, s. 47F(1) was released from detention from the s. 47F(1) ITA facility as the holder of a s. 47F(1) visa and an out of effect s. 47F(1).

Actions

The visa processing section advised that the errors identified in this case were discussed at team meetings and during weekly updates to ensure that delegates comply with their obligations under section 56 of the Act. In addition, supervisors in the visa processing section currently review cases to ensure compliance with section 56 obligations and to check that notification is effective.

As a result of errors identified in s. 47F(1) case, existing checklists have been modified by the visa processing section to identify relevant issues, where cases may be considered for refusal.

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As prison releases often occur with minimal notice, the ABF is not always able to recall files prior to detaining a person. Where prior notice is provided of an impending release from prison, the ABF have been advised to recall files relevant to s. 47F(1) visa refusals, and to make a referral to the Status Resolution Operational Support Section where necessary.

s. 47F(1) consent was required to make a new decision in relation to s. 47F(1) visa application. s. 47F(1) provided s. 47F(1) consent for a new decision to be made in relation to s. 47F(1) application on s. 47F(1) December 2017.

Current status

On s. 47F(1) February 2018, s. 47F(1) application for a s. 47F(1) visa was refused, as s. 47F(1) did not satisfy the criteria for grant. As a consequence of this refusal decision, s. 47F(1) visa ceased at midnight on the same day, and the s. 47F(1) granted on s. 47F(1) November 2012 came back into effect.

s. 47F(1) ceased on s. 47F(1) March 2018 and s. 47F(1) is now unlawful in the community. s. 47F(1) is now outside the timeframe to seek merits review of the decision to refuse s. 47F(1) application for a s. 47F(1) and has no other ongoing matters before the Department.

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT I****Process Incorrect****Defective Notification**

Family Name
Given Name
Alias
Country of Citizenship
DOB
ICSE Client ID
Date of detention
Date of release

**Days detained as not
an unlawful non-citizen**

s. 47F(1)

Summary

On s. 47F(1) July 2017, s. 47F(1) was located by s. 47F(1) Police and referred to the Department's ISS for a visa status check. ISS advised that s. 47F(1) (and s. 47F(1) partner s. 47F(1) also in this report at **Attachment s. 47F(1)**) appeared to be unlawful according to departmental systems. Based on information from the Department, a s. 47F(1) Police officer held reasonable suspicion that s. 47F(1) was an unlawful non-citizen. s. 47F(1) was detained under section 189 of the Act and transferred to the s. 47F(1) ITA.

On s. 47F(1) July 2017, the Status Resolution Operational Support Section confirmed that s. 47F(1) remained the holder of a s. 47F(1) granted in association with a s. 47F(1) visa application lodged on s. 47F(1) November 2015. s. 47F(1) was released from immigration detention on the same day.

Background

On s. 47F(1) January 2014, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa granted on s. 47F(1) December 2013, which ceased on s. 47F(1) August 2015 and s. 47F(1) became unlawful.

On s. 47F(1) November 2015, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s. 47F(1). An authorised recipient was not appointed in relation to the s. 47F(1) visa application.

On s. 47F(1) September 2016, an application for a change of condition of s. 47F(1) (seeking permission to work) and notification of appointment of an authorised recipient was received by the Department. The authorised recipient was solely appointed in relation to the application for a change of condition to the s. 47F(1).

On s. 47F(1) September 2016, s. 47F(1) was granted a further s. 47F(1) in association with the s. 47F(1) visa application. The notification of visa grant was sent to the authorised recipient via email.

On s. 47F(1) February 2017, s. 47F(1) application for a s. 47F(1) visa was refused. The refusal notification was sent by email to the authorised recipient who had been appointed

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solely in relation to the application to change a work condition on a s. 47E(1)

On s. 47E(1) March 2017, the s. 47E(1) granted to s. 47F(1) in association with the s. 47F(1) visa application appeared to cease and s. 47F(1) appeared unlawful in departmental systems.

On s. 47E(1) July 2017 s. 47F(1) was located by s. 47F(1) Police, who contacted ISS to establish s. 47F(1) immigration status. ISS advised that s. 47F(1) appeared to be unlawful on departmental systems and s. 47F(1) was detained under section 189 of the Act.

On s. 47E(1) July 2017, s. 47F(1) case was referred to a DRM, who recalled the s. 47F(1) visa application file on s. 47E(1) July 2017.

On s. 47E(1) July 2017, the DRM identified a possible error as the refusal notification for the s. 47F(1) visa application was sent to an authorised recipient instead of directly to the applicant. The DRM referred the matter to Status Resolution Operational Support Section on the same day.

On s. 47E(1) July 2017, the DRM received advice from Status Resolution Operational Support Section that the notification of the s. 47F(1) visa refusal was given to an incorrect person, as the authorised recipient was not appointed in accordance with section 494D(1) of the Act. In the absence of actual notification, s. 47F(1) was not effectively notified of the s. 47F(1) visa refusal decision. As a result the s. 47E(1) granted in association with the application had not ceased.

s. 47F(1) was released from immigration detention on s. 47E(1) July 2017 as the holder of a s. 47E(1)

Actions

Visa processing areas have been informed of the error and training has been implemented.

Current Status

s. 47F(1) was released from immigration detention as the holder of an associated s. 47E(1) on s. 47E(1) July 2017 s. 47F(1) was re-notified of the s. 47F(1) visa refusal decision on the same day.

s. 47F(1) lodged an appeal of the refusal decision with the AAT on s. 47E(1) July 2017. s. 47F(1) was granted a further s. 47E(1) with permission to work on s. 47E(1) January 2018 and is residing in the community pending the outcome of the AAT review.

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Medium Risk Case

1 July 2017 – 31 December 2017

ATTACHMENT J

Process Incorrect

Defective Notification

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) September 2017, s. 47F(1) Police located s. 47F(1) and referred s. 47F(1) to the Department's ISS for a visa status check. ISS confirmed that s. 47F(1) appeared to be unlawful according to departmental systems. s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) September 2017, s. 47F(1) was released from immigration detention as s. 47F(1) was identified as being the holder of a s. 47F(1) visa as a result of a notification defect.

Background

On s. 47F(1) October 2008, s. 47F(1) arrived in Australia as the holder of an s. 47F(1) visa s. 47F(1), granted on s. 47F(1) October 2008. On s. 47F(1) May 2009, s. 47F(1) visa ceased.

On s. 47F(1) September 2011, s. 47F(1) lodged a s. 47F(1) visa application and was granted a s. 47F(1) in association with this application.

On s. 47F(1) February 2012, s. 47F(1) ceased. On the same day, s. 47F(1) was granted a s. 47F(1) in association with the s. 47F(1) visa application. The s. 47F(1) is henceforth referred to as s. 47F(1)

On s. 47F(1) December 2012, s. 47F(1) visa application was refused and the notification was sent to s. 47F(1) authorised recipient.

On s. 47F(1) January 2013, s. 47F(1) lodged an application for review of the refusal of the s. 47F(1) visa application with the then MRT. On s. 47F(1) March 2014, the MRT affirmed the Department's decision to refuse the s. 47F(1) visa application.

On s. 47F(1) April 2014, the s. 47F(1) granted in association with the s. 47F(1) visa application appeared to cease according to departmental systems.

On s. 47F(1) September 2017, s. 47F(1) Police located s. 47F(1) and referred s. 47F(1) to ISS for a visa status check. ISS confirmed that s. 47F(1) appeared unlawful on departmental systems, and

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s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) September 2017, s. 47F(1) case was referred to a DRM. After recalling the file, the DRM identified that reasons for the refusal of the s. 47F(1) visa application were not provided in the notification package.

On s. 47F(1) September 2017, the Status Resolution Operational Support Section confirmed there was a defect in the notification of the s. 47F(1) visa application refusal and that s. 47F(1) continued to hold the s. 47F(1) granted in association with the visa application.

On s. 47F(1) September 2017, s. 47F(1) was released from s. 47F(1) IDC as the holder of a s. 47F(1)

Actions

The visa application refusal decision in this case was made in December 2012. The notification templates used at the time were incorrect. This error was subsequently identified and the templates were revised accordingly. It is also current practice that s. 47F(1) visa application refusal decisions are reviewed by team leaders prior to dispatch.

Current Status

On s. 47F(1) September 2017, s. 47F(1) was released from immigration detention as the holder of an associated s. 47F(1). On s. 47F(1) October 2017, s. 47F(1) was re-notified of s. 47F(1) visa application refusal decision.

On s. 47F(1) November 2017, s. 47F(1) lodged an application for review of the refusal decision with the AAT. s. 47F(1) is currently residing in the community as the holder of a s. 47F(1) pending the outcome of the review.

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Medium Risk Case 1 July 2017 – 31 December 2017

ATTACHMENT K

Litigation Consequence Case Law Affected

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Note: Released from detention on the day s. 47F(1) became lawful

Summary

On s. 47F(1) October 2014, s. 47F(1) lodged an application with the FCC to seek review of a decision by the RRT to affirm the refusal of s. 47F(1) application for a s. 47F(1) visa.

On s. 47F(1) November 2014, s. 47F(1) was granted a s. 47F(1) which was granted in association with the application s. 47F(1) lodged with the FCC. s. 47F(1) ceased on s. 47F(1) July 2015. s. 47F(1) ceased as a result of an FCC decision which was handed down on s. 47F(1) June 2016, dismissing the application for judicial review.

On s. 47F(1) May 2017, ABF located s. 47F(1) at a residential address in s. 47F(1) s. 47F(1) was confirmed to be an unlawful non-citizen on departmental systems and was detained under section 189 of the Act.

On 2 August 2017, a decision was reached in the matter of *Minister for Immigration and Border Protection v BJC16 & Anor (BJC16 & Anor)*, which meant that s. 47F(1) FCC appeal was ongoing. As a result, on 2 August 2017, the day of the court outcome, s. 47F(1) was reinstated and s. 47F(1) was released from immigration detention.

Background

On s. 47F(1) February 2011, s. 47F(1) first arrived in Australia on a s. 47F(1) visa, which ceased on s. 47F(1) October 2011. s. 47F(1) became an unlawful non-citizen and remained in the community.

On s. 47F(1) August 2013, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s. 47F(1). On s. 47F(1) February 2014, s. 47F(1) application for a s. 47F(1) visa was refused.

On s. 47F(1) April 2014, s. 47F(1) lodged an application for review of the decision to refuse s. 47F(1) s. 47F(1) application with the then RRT.

On s. 47F(1) September 2014, the RRT affirmed the decision to refuse s. 47F(1) application. s. 47F(1) associated s. 47F(1) ceased following notification by the Tribunal.

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On s. 47E(1) October 2014, s. 47E(1) lodged an application for review with the FCC to appeal the RRT's decision. On s. 47E(1) November 2014, s. 47E(1) was granted a s. 47F(1) in association with s. 47E(1) appeal.

On s. 47E(1) June 2016, a registrar from the FCC dismissed s. 47F(1) appeal. s. 47E(1) s. 47E(1) ceased on s. 47E(1) July 2016.

On s. 47E(1) May 2017, ABF located s. 47E(1) and subsequently detained s. 47F(1) under section 189 of the Act.

On 2 August 2017, the Federal Court dismissed the Minister's appeal in *BJC16 & Anor*. The Federal Court unanimously found that Registrars did not have the power to dismiss a matter where an applicant failed to appear at the first court date. Therefore, in matters where a Registrar had dismissed an application for non-appearance during the period between s. 47E(1) February 2006 and s. 47E(1) August 2017, the dismissal was deemed to be void and the relevant proceedings therefore remained ongoing.

As s. 47F(1) application for judicial review had been dismissed on s. 47E(1) June 2016 by a Registrar as a result of s. 47F(1) failure to appear at the first court date, the findings in *BJC16 & Anor* were applicable in s. 47F(1) case s. 47F(1) application for judicial review, as a consequence was still ongoing and s. 47F(1) continued to hold the associated s. 47F(1) which was granted on s. 47E(1) November 2014.

s. 47E(1) was released from detention as the holder of a s. 47E(1) on s. 47E(1) August 2017.

Actions

At the time of s. 47F(1) initial detention, there was no evidence available to the detaining officer that s. 47F(1) was affected by defective notification, as the decision in *BJC16 & Anor* was not yet made.

Following the decision of *BJC16 & Anor*, the Litigation Branch identified approximately 500 cases that were affected by the decision, including many where the applicants' associated s. 47F(1) wrongly ceased as a result of a dismissal by a Registrar.

The Litigation Branch identified only s. 47F(1) persons who were in immigration detention as a result of an associated s. 47E(1) having wrongly ceased. The s. 47E(1) of both persons were re-instated following the decision of the court and both persons were released from detention on s. 47E(1) August 2017, the date the decision was handed down by the Federal Court.

In addition to s. 47F(1) case, s. 47F(1) case was also identified following the decision of the Federal Court and s. 47F(1) case is also included in this report (at **Attachment s. 47E(1)**).

Current Status

s. 47E(1) is currently in the community as the holder of a s. 47E(1) s. 47F(1) application for judicial review is still ongoing. s. 47E(1) applied for a change of conditions for s. 47E(1) s. 47F(1) and was granted a further s. 47E(1) on s. 47E(1) November 2017.

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Medium Risk Case 1 July 2017 – 31 December 2017

ATTACHMENT L

Process Incorrect

Defective Notification

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) September 2017, s. 47F(1) was located by s. 47F(1) Police and referred to the Department's ISS for a visa status check. ISS advised that s. 47F(1) appeared to be unlawful according to departmental systems, and s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) September 2017, s. 47F(1) was released from immigration detention as s. 47F(1) was identified as being the holder of a s. 47F(1) as a result of a notification defect.

Background

On s. 47F(1) July 2015, s. 47F(1) arrived in Australia as the holder of an s. 47F(1) visa s. 47F(1) which was valid for multiple entries and a stay of up to three months on each arrival.

On s. 47F(1) September 2015, s. 47F(1) lodged an application for a s. 47F(1) visa as a dependent applicant and was granted an associated s. 47F(1).

On s. 47F(1) October 2015, s. 47F(1) ceased, and s. 47F(1) s. 47F(1) came into effect.

On s. 47F(1) June 2017, s. 47F(1) application for a s. 47F(1) was refused. The notification was sent by registered post to the primary applicant, with a copy of the notification sent to the migration agent by email.

On s. 47F(1) July 2017, the s. 47F(1) granted in association with the s. 47F(1) application appeared to cease according to departmental systems.

On s. 47F(1) July 2017, s. 47F(1) refusal notification letter, which was sent to the primary applicant, was returned to sender.

On s. 47F(1) September 2017, s. 47F(1) was located by s. 47F(1) Police who contacted the Department's ISS service. ISS advised that s. 47F(1) appeared to be unlawful on departmental systems and s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) September 2017, the DRM wrote to the Status Resolution Operational Support Section

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seeking advice as the copy of the notification sent to the migration agent also appeared defective as it made reference to deemed receipt provisions for mail sent by registered post, whereas the notification to the migration agent was sent via email.

On ^{s. 47F(1)} September 2017, Status Resolution Operational Support Section confirmed that there was a defect in the refusal notification of the ^{s. 47F(1)} visa application and that ^{s. 47F(1)} continued to hold ^{s. 47F(1)} granted in association with this application. ^{s. 47F(1)} was released from ^{s. 47F(1)} IDC the same day.

Actions

The Manager of the relevant ^{s. 47F(1)} processing section has advised that, following the identification of the error in ^{s. 47F(1)} case, officers in the section have been provided with instructions in relation to the legislative and policy provisions relating to the cessation of the appointment of authorised recipients. Training sessions have also been planned for existing staff and notification training will be provided to all new recruits in the section.

Current Status

^{s. 47F(1)} departed Australia on ^{s. 47F(1)} November 2017.

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT M****Operation of Law****Section 75 visa grant**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On s. 47F(1) August 2017, s. 47F(1) was located by officers of ABF s. 47F(1) following s. 47F(1) release from criminal custody on bail and detained under section 189 of the Act.

On s. 47F(1) August 2017, s. 47F(1) made an application for a s. 47F(1) which was sighted by the Detention Review Officer (DRO) on the same day and referred to the Visa Application Character Consideration Unit (VACCU) for assessment under section 501 of the Act. A decision by the VACCU was required within 90 days.

On s. 47F(1) November 2017, s. 47F(1) had s. 47F(1) bail revoked due to a withdrawal of surety and was transferred from an immigration detention facility to prison.

On s. 47F(1) November 2017, s. 47F(1) was granted a s. 47F(1) by operation of law under section 75 of the Act, as a decision had not been made on s. 47F(1) application within the 90 day timeframe. s. 47F(1) continued to be held in criminal custody at the time of the grant of s. 47F(1). Although s. 47F(1) was the holder of a valid s. 47F(1) s. 47F(1) was held concurrently in immigration detention from s. 47F(1) November 2017 to s. 47F(1) November 2017.

On s. 47F(1) November 2017, s. 47F(1) agent was notified that s. 47F(1) was the holder of a s. 47F(1) and s. 47F(1) was released from immigration detention, although s. 47F(1) continued to be held in criminal custody.

Background

On s. 47F(1) February 2012, s. 47F(1) first arrived to Australia as the holder of a s. 47F(1) visa granted on s. 47F(1) January 2012. On s. 47F(1) March 2015, s. 47F(1) visa ceased.

On s. 47F(1) March 2015, s. 47F(1) was granted a s. 47F(1) visa.

On s. 47F(1) March 2017, s. 47F(1) visa was cancelled under section 116 of the Act and s. 47F(1) became an unlawful non-citizen. The cancellation notification was sent to s. 47F(1) Prison, s. 47F(1) where s. 47F(1) was being held on remand.

On s. 47F(1) March 2017, s. 47F(1) lodged an application for review of the cancellation of the s. 47F(1) visa with the AAT.

On s. 47F(1) April 2017, s. 47F(1) was granted a s. 47F(1) to maintain s. 47F(1) lawful status while in criminal custody.

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On s. 47F(1) August 2017, s. 47F(1) ceased when s. 47F(1) was released from prison and s. 47F(1) was subsequently detained under section 189 of the Act.

On s. 47F(1) August 2017, s. 47F(1) lodged an application for a s. 47F(1) which was sighted by an officer appointed under Regulation 2.10A(2) as a DRO for the State of s. 47F(1) where s. 47F(1) was detained.

For the purposes of lodging a valid application as per the requirements of section 46 of the Act, when an application for a s. 47F(1) is made by a person who is in immigration detention, written notice must be provided to the DRO.

The DRO signed a declaration within two working days after the application was made wherein it was stated that the DRO believed that s. 47F(1) may not pass the character test under section 501(6) of the Act. The application was referred on the same day to the VACCU for assessment. For the purposes of section 75(1)(b) of the Act such an application must be decided within 90 days from the date of lodgment.

On s. 47F(1) November 2017, s. 47F(1) had s. 47F(1) bail revoked due to a withdrawal of surety and s. 47F(1) was transferred from an immigration detention facility to prison. s. 47F(1) was held concurrently in immigration detention and criminal custody.

On s. 47F(1) November 2017, s. 47F(1) was granted a s. 47F(1) under section 75 of the Act.

On s. 47F(1) November 2017, advice was received from the Status Resolution Operational Support Section confirming s. 47F(1) was the holder of a s. 47F(1) migration agent was informed that s. 47F(1) was taken to have been granted a s. 47F(1) on s. 47F(1) November 2017, by operation of law under section 75 of the Act, and that s. 47F(1) was released from immigration detention. They were also informed that the s. 47F(1) would cease 5 working days after the date of grant in accordance with clause 050.516 of Schedule 2 of the Regulations.

On s. 47F(1) December 2017, s. 47F(1) ceased.

On s. 47F(1) December 2017, the AAT affirmed the Department's decision to cancel s. 47F(1) visa under section 116 of the Act.

On s. 47F(1) December 2017, s. 47F(1) was granted a s. 47F(1) on criminal detention grounds for the duration of s. 47F(1) criminal custody.

Actions

The VACCU's standard procedure is that when a visa application is referred for consideration it is triaged by an administrative support officer. Applications from clients in detention are recorded on a specific spreadsheet maintained by the VACCU manager and assistant manager so that '90 day s. 47F(1) applications' are monitored from receipt to completion.

s. 47F(1) application was incorrectly triaged as a 'non 90 day case', and in this instance the standard checks to ensure cases are correctly triaged were not conducted by the VACCU assistant manager.

On s. 47F(1) September 2017, s. 47F(1) case was allocated to a case manager. Standard VACCU procedures are such that a Notice of Intention to Consider Refusal (NOICR) of the visa would usually be issued shortly after a case has been allocated, with each NOICR being checked by a team leader. Had the NOICR been issued this would have brought the triaging error to light.

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Unfortunately a significant increase in the number of s. 47E(1) applications referred to the VACCU meant that a NOICR was not issued at this stage.

Subsequent to the error being identified in s. 47F(1) case, an audit has been undertaken in the VACCU of all s. 47F(1) visa applications on hand to ensure that they were correctly triaged and recorded on departmental systems. Further, the VACCU conducted mandatory training sessions for all VACCU officers on s. 47E(1) regulations and VACCU processes. The VACCU advised that this is the first instance in the past six years that an application has not been processed within the 90 day timeframe.

Current status

s. 47E(1) was continues to hold a s. 47E(1) on criminal detention grounds and remains in criminal custody.

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT N****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

s. 47F(1) last arrived in Australia on s. 47F(1) July 2017 on a s. 47F(1) visa granted on s. 47F(1) July 2017. s. 47F(1) visa was cancelled in immigration clearance on the basis that the ABF officer at s. 47F(1) Airport formed the view that s. 47F(1) passport was fraudulently altered because irregularities were identified with the document.

s. 47F(1) was refused immigration clearance under section 172(3) of the Act and s. 47F(1) was detained under section 189 of the Act.

Checks with s. 47F(1) authorities subsequently confirmed that s. 47F(1) passport was genuinely issued and not a counterfeit document. As the cancellation decision was affected by jurisdictional error, s. 47F(1) remained the holder of the s. 47F(1) visa and was released from immigration detention on s. 47F(1) July 2017.

Background

Between s. 47F(1) November 2015 and s. 47F(1) February 2017, s. 47F(1) visited Australia on two occasions as the holder of a s. 47F(1) visa. On both occasions, s. 47F(1) departed Australia before s. 47F(1) visa expired.

On s. 47F(1) July 2017, s. 47F(1) last arrived in Australia as the holder of a s. 47F(1) visa granted on s. 47F(1) July 2017. When s. 47F(1) arrived at the primary line at s. 47F(1) Airport, an Australian Border Force (ABF) officer referred the passport to a forensic document examiner from the Department, for examination because of the creased appearance of the laminate.

The forensic document examiner identified a list of features in relation to the manufacture of the passport (including the lack of security features), which were consistent with fraudulent alteration on 'manipulated' passports. In particular, the identity page of the passport was an overlay page on top of a genuine page.

The Forensic Document Examiner made a determination that the passport was fraudulently altered as s. 47F(1) considered it an untenable proposition that an issuing authority would produce a secure document in a manner that was consistent with fraudulently produced documents.

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s. 47F(1) visa was cancelled by an ABF officer under section 116(1)(d) for non-compliance with section 103, as it was determined that s. 47F(1) had provided an officer performing a function under the Act with a bogus document.

An Australian departmental officer based overseas liaised with s. 47F(1) authorities, advising them that inconsistent printing practices were noted on the biodata page of s. 47F(1) passport and seeking information as to whether the passport had been altered.

On s. 47F(1) July 2017, an officer from the Department of Immigration and Passport Services in s. 47F(1) confirmed that s. 47F(1) passport was issued in 2015 at a time when the office was out of stock of passports. The passport was issued only for the purpose of travel in the s. 47F(1) and s. 47F(1) was advised that s. 47F(1) could be issued with an electronic passport at a later date. As s. 47F(1) was travelling at short notice, the Department of Immigration and Passport Services in s. 47F(1) issued s. 47F(1) with a passport from 'old stock', as 'new stock' was not available.

On s. 47F(1) July 2017, the ABF informed the Cancellation Support Section that s. 47F(1) passport was genuinely issued. The Cancellation Support Section provided advice that the cancellation was affected by jurisdictional error, as the cancellation power in section 116(1)(d) is only enlivened when the visa holder gives incorrect information (in this instance a bogus document). As s. 47F(1) passport was genuinely issued, the power in section 116(1)(d) was not enlivened and s. 47F(1) remained the holder of the s. 47F(1) visa.

On s. 47F(1) July 2017, s. 47F(1) was released from s. 47F(1) IDC.

Actions

The details of s. 47F(1) case has been made available to ABF officers and forensic document examiners for training purposes.

Current status

On s. 47F(1) November 2017, s. 47F(1) departed Australia as the holder of the s. 47F(1) visa, which ceased on s. 47F(1) February 2018.

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT O****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) July 2017, s. 47F(1) was located by s. 47F(1) Police officers following allegations that s. 47F(1) had harassed and intimidated a co-tenant in a shared residential property. A s. 47F(1) was issued by the s. 47F(1) Police against s. 47F(1) was referred to the Department's ISS for a visa status check. The ISS confirmed that s. 47F(1) appeared to be unlawful according to departmental systems. Based on information provided by ISS a s. 47F(1) police officer formed reasonable suspicion that s. 47F(1) was an unlawful non-citizen and s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) July 2017, s. 47F(1) was released from immigration detention as s. 47F(1) was identified as being the holder of a s. 47F(1) visa s. 47F(1) as a result of a notification defect.

Background

On s. 47F(1) July 2009, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa granted on s. 47F(1) July 2009.

On s. 47F(1) August 2011, s. 47F(1) lodged a s. 47F(1) visa and was granted a s. 47F(1) visa s. 47F(1) in association with this application.

On s. 47F(1) August 2011, s. 47F(1) visa ceased.

On s. 47F(1) October 2011, s. 47F(1) was granted a s. 47F(1) in association with the s. 47F(1) visa application. The s. 47F(1) has a travel authority and the s. 47F(1) granted on s. 47F(1) August 2011 ceased upon the grant of the s. 47F(1).

On s. 47F(1) October 2011, s. 47F(1) departed Australia on the s. 47F(1) and returned Australia on s. 47F(1) November 2011 on the same visa.

On s. 47F(1) June 2012, s. 47F(1) application for a s. 47F(1) visa was refused and s. 47F(1) was notified of the refusal.

On s. 47F(1) July 2012, s. 47F(1) lodged an application for review of the refusal of the s. 47F(1) visa with the then MRT.

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On s. 47F(1) October 2012, the MRT made a finding that it had no jurisdiction to review the refusal of the s. 47F(1) visa as the application for review was lodged outside the prescribed timeframe.

On s. 47F(1) July 2013, s. 47F(1) appeared to cease on departmental systems.

On s. 47F(1) May 2013, s. 47F(1) notification by the MRT was found to be *SZJDS* affected by a Compliance Officer. Following the decision of the Full Federal Court in the case of *SZJDS*, tribunal notices which were invalid and were given to an authorised recipient prior to s. 47F(1) November 2012 were found to be defective subject to certain exceptions. The Compliance Officer had resent s. 47F(1) a copy of the MRT notice by mail.

On s. 47F(1) June 2013, the re-notification of the MRT decision was 'returned to sender'.

On s. 47F(1) July 2017, s. 47F(1) was detained and s. 47F(1) case was referred to a DRM, who recalled s. 47F(1) visa file from offsite storage.

On s. 47F(1) July 2017, the DRM requested advice from the Status Resolution Operational Support Section, noting that s. 47F(1) appeared to have been *SZJDS* affected, and that a copy of the MRT notification sent by the Department to s. 47F(1) had been 'returned to sender'.

On s. 47F(1) July 2017, the DRM sent a request to the Migration and Refugee Division of the AAT (the former MRT) to determine whether, in addition to s. 47F(1) authorised recipient being notified of the decision, the Tribunal had sent a copy of the notification documents directly to s. 47F(1). The Tribunal responded that a copy of the documents had not been provided to s. 47F(1).

On s. 47F(1) July 2017, the Status Resolution Operational Support Section advised that as s. 47F(1) had not received the original MRT notification or a copy of the notification sent by the Department on s. 47F(1) May 2013, s. 47F(1) continued to hold the s. 47F(1) granted in association with the application. s. 47F(1) was released from s. 47F(1) IDC as the holder of a s. 47F(1). s. 47F(1) was provided a copy of the MRT notification dated s. 47F(1) October 2012, prior to being released from immigration detention.

Actions

The Status Resolution Operational Support Section has reiterated the necessity of re-notifying applicants in person (where Tribunal notification is *SZJDS* affected) during training courses and in relevant training material.

The ISS officer who provided advice on s. 47F(1) status to the s. 47F(1) Police did not identify the error despite being required to complete a Comprehensive Assessment Tool (CAT), which provides detailed guidance as to how an *SZJDS* error can be identified.

The Director of ISS has advised that this error was discussed with officers in the team and the issues identified in the case were outlined in written advice distributed to all team members in order to mitigate against the recurrence of similar errors in the future.

They also advised that ISS officers complete a CAT independently and do not rely on previous assessments undertaken by other officers in the network. In the CAT, when assessing an *SZJDS* type error, the ISS officers now make note of whether a file needs to be recalled (for example by a DRM to whom the case will be referred), and also note whether there is evidence of actual notification for cases which may be affected by an *SZJDS* error. Evidence of actual notification can remedy an *SZJDS* error.

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Subsequent to the identification of the error in this case, ISS officers have also attended training on 'Determining Immigration Status' conducted by Status Resolution Operational Support Section.

Current Status

On ^{s. 47F(1)} August 2017, ^{s. 47F(1)} granted in association with ^{s. 47F(1)} application for a ^{s. 47F(1)} ^{s. 47F(1)} ceased, subsequent to ^{s. 47F(1)} being provided with a copy of the MRT notification on ^{s. 47F(1)} July 2017.

On ^{s. 47F(1)} August 2017, ^{s. 47F(1)} lodged an application for review of the MRT decision in relation to ^{s. 47F(1)} visa with the Federal Court.

On ^{s. 47F(1)} September 2017, ^{s. 47F(1)} was granted a ^{s. 47E(4)} in association with ^{s. 47F(1)} application for judicial review.

^{s. 47F(1)} is currently residing in the community as the holder of a ^{s. 47E(4)} pending the outcome of ^{s. 47F(1)} application for judicial review.

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT P****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On s. 47F(1) July 2017, s. 47F(1) was located by s. 47F(1) Police and referred to the Department's ISS for a visa status check. ISS confirmed that s. 47F(1) appeared to be unlawful according to departmental systems. Based on information provided by the Department, a s. 47F(1) Police officer held reasonable suspicion that s. 47F(1) was an unlawful non-citizen. s. 47F(1) was detained under section 189 of the Act and transferred to s. 47F(1) IDC.

On s. 47F(1) July 2017, the Status Resolution Helpdesk confirmed that s. 47F(1) remained the holder of a s. 47F(1) visa, and a s. 47F(1) granted in association with the s. 47F(1) visa application (that was lodged on s. 47F(1) September 2014).

s. 47F(1) was released from immigration detention s. 47F(1) July 2017.

Background

On s. 47F(1) July 2008, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa which ceased on s. 47F(1) October 2008.

On s. 47F(1) July 2014, s. 47F(1) was granted a s. 47F(1) with a cease date of s. 47F(1) August 2014. s. 47F(1) was subsequently granted s. 47F(1) further s. 47F(1) with the latest ceasing on s. 47F(1) September 2014. s. 47F(1) departed Australia on the same day.

On s. 47F(1) September 2014, s. 47F(1) lodged a s. 47F(1) visa application offshore. s. 47F(1) nominated an authorised recipient to represent s. 47F(1) for this application. On s. 47F(1) July 2015, s. 47F(1) was granted a s. 47F(1) visa.

On s. 47F(1) October 2015, s. 47F(1) last entered Australia holding a s. 47F(1) visa.

On s. 47F(1) August 2016, s. 47F(1) application for a s. 47F(1) visa application was refused and s. 47F(1) was notified directly of the refusal.

On s. 47F(1) August 2016, s. 47F(1) was granted a s. 47F(1) without application under Regulation 2.21A(1)(c) and (d) in association with the s. 47F(1) application refusal. This is because

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immediately prior to the refusal of the s. 47F(1) visa, s. 47F(1) was the holder of a s. 47F(1) visa.

On s. 47E(1) September 2016, the s. 47E(1) granted in association with the s. 47F(1) visa appeared to cease according to departmental systems.

On s. 47E(1) September 2016, s. 47F(1) appeared as unlawful on departmental systems.

On s. 47E(1) July 2017, s. 47F(1) was located by s. 47E(1) Police, who contacted ISS to establish s. 47F(1) immigration status. On advice that s. 47F(1) appeared unlawful, s. 47F(1) was detained under section 189 of the Act.

On s. 47E(1) July 2017, s. 47F(1) case was referred to a DRM. The DRM recalled the file to conduct a review of the s. 47F(1) visa application refusal and received the files on s. 47E(1) July 2017.

On s. 47E(1) July 2017, the DRM identified a possible error in the s. 47F(1) visa application refusal as the notification was sent directly to the primary applicant, not the authorised recipient. The DRM referred the case to Status Resolution Operational Support Section.

On s. 47E(1) July 2017, Status Resolution Operational Support Section advised that the natural justice letter (section 57 notification) sent to s. 47F(1) to seek s. 47F(1) response in relation to the relationship breakdown should have been sent to s. 47F(1) authorised recipient. As a result of the defective notification, s. 47F(1) continued to hold the s. 47F(1) and s. 47F(1) visa that was granted without application, in accordance with Regulation 2.21A.

s. 47F(1) was released from immigration detention on s. 47E(1) July 2017, as the holder of a s. 47F(1) visa and a s. 47E(1).

Actions

The visa processing areas are provided with ongoing advice and updates from Status Resolution Operational Support Section and relevant training to ensure that the scope of appointment of the authorised recipient is closely examined and clarified (where necessary) prior to despatch of notification.

Current Status

Prior to s. 47F(1) release from immigration detention s. 47E(1) signed an updated 929 form with s. 47F(1) address details and provided written consent for the Department to revisit the s. 47F(1) visa application decision.

s. 47F(1) was released from immigration detention as the holder of both the s. 47F(1) visa and a s. 47E(1) on s. 47E(1) July 2017.

Both the s. 47F(1) visa and s. 47E(1) continue to remain in effect pending a new decision being made on the s. 47F(1) application.

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT Q****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On s. 47F(1) November 2017, s. 47F(1) was located by the s. 47F(1) Police and was referred to the Department's ISS for a visa status check. As s. 47F(1) appeared to be an unlawful non-citizen on departmental system, s. 47F(1) was detained under section 189 the Act.

On s. 47F(1) November 2017, s. 47F(1) was released from immigration detention as the Department found that s. 47F(1) continued to hold a s. 47F(1) due to a notification defect of the refusal decision of s. 47F(1) s. 47F(1) visa application.

Background

On s. 47F(1) November 2008, s. 47F(1) arrived in Australia on a s. 47F(1) visa, as a dependant of s. 47F(1) s. 47F(1).

On s. 47F(1) March 2011, s. 47F(1) lodged a s. 47F(1) visa application. On s. 47F(1) March 2011, s. 47F(1) was granted a s. 47F(1) in association this s. 47F(1) visa application.

On s. 47F(1) March 2011, s. 47F(1) visa ceased.

On s. 47F(1) December 2011, s. 47F(1) lodged a s. 47F(1) visa application to enable s. 47F(1) to travel overseas to visit s. 47F(1) family. s. 47F(1) was granted a s. 47F(1) in association with s. 47F(1) s. 47F(1) visa application. Following the grant of s. 47F(1) s. 47F(1) s. 47F(1) ceased.

On s. 47F(1) December 2011, s. 47F(1) departed Australia on a s. 47F(1) s. 47F(1) returned to Australia on s. 47F(1) February 2012.

On s. 47F(1) April 2012, s. 47F(1) visa application was refused. s. 47F(1) was notified of the refusal decision through email. s. 47F(1) did not applied for merits review of the refusal decision.

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On ^{s. 47F(1)} May 2012, ^{s. 47F(1)} associated ^{s. 47F(1)} appeared to cease on departmental system, as a consequence of the refusal of ^{s. 47F(1)} ^{s. 47F(1)} visa.

On ^{s. 47F(1)} November 2017, ^{s. 47F(1)} was located by ^{s. 47F(1)} Police (in relation to a ^{s. 47F(1)} ^{s. 47F(1)}). ^{s. 47F(1)} was referred to ISS for an immigration status check. As ^{s. 47F(1)} appeared to be an unlawful non-citizen on departmental system, ^{s. 47F(1)} was detained under section 189 of the Act and transferred to an IDC.

On ^{s. 47F(1)} November 2017, ^{s. 47F(1)} case was referred to a DRM for review.

On ^{s. 47F(1)} November 2017, following investigation of relevant paper files, the DRM found that the refusal notification of ^{s. 47F(1)} ^{s. 47F(1)} visa application was sent to an incorrect email address. On the same day, the DRM referred ^{s. 47F(1)} case to the Status Resolution Operational Support Section for advice.

The Status Resolution Operational Support Section confirmed that there was a defect in the refusal decision notification of ^{s. 47F(1)} ^{s. 47F(1)} visa application and that ^{s. 47F(1)} continued to hold the ^{s. 47F(1)} granted in association with the application.

On ^{s. 47F(1)} November 2017, ^{s. 47F(1)} was released from immigration detention, as the holder of a ^{s. 47F(1)} ^{s. 47F(1)}.

Actions

The visa processing network has been informed of the case of ^{s. 47F(1)} to prevent similar recurrence in the future. Strategies have been implemented, including the use of a case note generator that prompts visa processing officers to verify critical information such as the preferred method of correspondence nominated by the applicant. Standard Operating Procedures and training packages have been amended to emphasise that non-compliance of content requirements specified under section 66 of the Act will result to a defective notification. Notification letters are now reviewed by visa processing team leaders before they are sent to applicants.

Current Status

On ^{s. 47F(1)} November 2017, the Department re-notified ^{s. 47F(1)} of the refusal decision of ^{s. 47F(1)} ^{s. 47F(1)} visa application.

On ^{s. 47F(1)} November 2017, ^{s. 47F(1)} departed Australia on a ^{s. 47F(1)} which subsequently ceased upon ^{s. 47F(1)} departure.

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Medium Risk Case

1 July 2017 – 31 December 2017

ATTACHMENT R

Process Incorrect

Defective Notification

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On s. 47F(1) December 2017, s. 47F(1) was detained by officers of the ABF at the s. 47F(1) in s. 47F(1) under section 189 of the Act, upon s. 47F(1) release from criminal custody.

On s. 47F(1) December 2017, s. 47F(1) was released from immigration detention as s. 47F(1) was identified as being the holder of a s. 47F(1) as a result of a notification defect.

Background

On s. 47F(1) February 2009, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa granted on s. 47F(1) February 2009. This visa ceased on s. 47F(1) March 2011.

On s. 47F(1) March 2011, s. 47F(1) lodged an application for a further s. 47F(1) visa, which was granted on s. 47F(1) May 2011.

On s. 47F(1) October 2012, s. 47F(1) lodged a s. 47F(1) visa application and was granted a s. 47F(1) in association with this application.

On s. 47F(1) October 2012, s. 47F(1) s. 47F(1) visa ceased and s. 47F(1) came into effect.

On s. 47F(1) September 2014, s. 47F(1) visa application was refused. Notification was sent to s. 47F(1) authorised recipient.

On s. 47F(1) October 2014, the s. 47F(1) granted in association with the s. 47F(1) visa appeared to cease and s. 47F(1) appeared to be unlawful according to departmental systems.

On s. 47F(1) May 2016, an officer from the Criminal Cases team in the ABF, wrote to the Status Resolution Operational Support Section seeking advice as to whether the notification of the refusal of the s. 47F(1) visa was correctly addressed to the authorised recipient. In this instance, the notification refusal letter was addressed directly to the client and was sent to the authorised recipient via email. There was no cover letter addressed directly to the agent.

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On ^{s. 47F(1)} May 2016, the Status Resolution Operational Support Section advised that as the agent had provided a personal email address and as the letter had been sent to the last email address provided for the purposes of receiving communication, the notification was effective.

The notification refusal letter was correctly addressed to the client, and as the letter had been sent via email, a cover letter did not have to be sent to the authorised recipient. The Status Resolution Operational Support Section confirmed that there was no *Veau*-type case law error, where a notification addressed 'care of' an agent is held to be defective. The Status Resolution Operational Support Section confirmed that the notification was effective and had led to the cessation of the associated ^{s. 47F(1)} granted on ^{s. 47F(1)} October 2014.

On ^{s. 47F(1)} December 2017, ^{s. 47F(1)} was located by the ABF and detained under section 189 of the Act and ^{s. 47F(1)} case was referred to a DRM.

On ^{s. 47F(1)} December 2017, the DRM liaised with the Status Resolution Operational Support Section in relation to the advice provided on ^{s. 47F(1)} May 2016 and was advised to recall ^{s. 47F(1)} file.

On ^{s. 47F(1)} December 2017, the DRM received an electronic copy of the partner visa file and identified a potential defect as it appeared that the authorised recipient had been appointed in relation to the ^{s. 47F(1)} visa application, but not in relation to the ^{s. 47F(1)} visa application. The DRM wrote to the Status Resolution Operational Support Section seeking advice in relation to this issue. The Status Resolution Operational Support Section confirmed there was a defect in the notification of the ^{s. 47F(1)} visa refusal and that ^{s. 47F(1)} continued to hold the ^{s. 47F(1)} granted in association with ^{s. 47F(1)} visa application. ^{s. 47F(1)} was released from ^{s. 47F(1)} IDC on the same day.

Actions

The Partner Processing section has advised that the issues highlighted in ^{s. 47F(1)} case have been discussed within the section and referred to the Family Program Management policy section in order to facilitate a considered and consistent strategy across Temporary Partner processing officers around Australia, to mitigate against the recurrence of such errors.

Current Status

On ^{s. 47F(1)} December 2017, ^{s. 47F(1)} was released from immigration detention as the holder of an associated ^{s. 47F(1)}

On ^{s. 47F(1)} December 2017, ^{s. 47F(1)} associated ^{s. 47F(1)} was cancelled under s116(1)(g) of the Act as ^{s. 47F(1)} had been convicted in relation to ^{s. 47F(1)} and ^{s. 47F(1)} on ^{s. 47F(1)} May 2017 and sentenced to ^{s. 47F(1)} imprisonment. ^{s. 47F(1)} was re-detained under section 189 of the Act on the same day.

^{s. 47F(1)} was re-notified of the ^{s. 47F(1)} visa refusal on ^{s. 47F(1)} December 2017.

^{s. 47F(1)} did not seek review of this decision, and signed a 'Request for Removal' form on ^{s. 47F(1)} December 2017. ^{s. 47F(1)} was removed from Australia on ^{s. 47F(1)} December 2017.

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Medium Risk Case 1 July 2017 – 31 December 2017

ATTACHMENT S

Process Incorrect

Defective Notification

Family Name
Given Name
Alias
Country of Citizenship
DOB
ICSE Client ID
Date of detention
Date of release

s. 47F(1)

Days detained as not
an unlawful non-citizen

Summary

On s. 47F(1) October 2017, s. 47F(1) was located by s. 47F(1) Police for s. 47F(1) and referred to the ISS for a visa status check. ISS advised that s. 47F(1) appeared to be unlawful according to departmental systems. Based on information provided by ISS a s. 47F(1) Police officer formed reasonable suspicion that s. 47F(1) was an unlawful non-citizen and s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) October 2017, s. 47F(1) was released from immigration detention as s. 47F(1) was identified as being the holder of a s. 47F(1) as a result of a notification defect.

Background

On s. 47F(1) October 2008, s. 47F(1) arrived Australia as the holder of a s. 47F(1) visa granted on s. 47F(1) August 2008. s. 47F(1) was granted this visa as a dependent applicant.

On s. 47F(1) January 2011, s. 47F(1) lodged an application for a s. 47F(1) visa as a dependent applicant. This application was found to be invalid on s. 47F(1) January 2011.

On s. 47F(1) March 2011, s. 47F(1) lodged a s. 47F(1) application for a s. 47F(1) visa as a dependent applicant. s. 47F(1) was granted this visa on s. 47F(1) July 2011.

On s. 47F(1) April 2012, s. 47F(1) departed Australia.

On s. 47F(1) June 2012, s. 47F(1) lodged an application for a s. 47F(1) visa as a dependent applicant, whilst offshore.

On s. 47F(1) July 2012, s. 47F(1) arrived in Australia as the holder of the s. 47F(1) visa.

On s. 47F(1) November 2012, s. 47F(1) lodged a s. 47F(1) application for a s. 47F(1)

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s. 47F(1) visa, as a dependent applicant and was granted a s. 47F(1) in association with this application.

On s. 47F(1) November 2012, s. 47F(1) visa granted on s. 47F(1) July 2011 ceased and s. 47F(1) came into effect.

On s. 47F(1) March 2013, s. 47F(1) application for a s. 47F(1) visa was refused. s. 47F(1) sought review of this decision at the MRT on s. 47F(1) April 2013.

On s. 47F(1) September 2013, s. 47F(1) application for a s. 47F(1) visa was refused. s. 47F(1) sought review of this decision at the MRT on s. 47F(1) September 2015.

On s. 47F(1) December 2014, the MRT affirmed the refusal of the s. 47F(1) visa. On the same date, the MRT also affirmed the refusal of the s. 47F(1) visa.

On s. 47F(1) January 2015, s. 47F(1) granted in association with the s. 47F(1) application for the s. 47F(1) visa ceased.

On s. 47F(1) January 2015, s. 47F(1) lodged an application for a s. 47F(1) visa.

On s. 47F(1) February 2015, s. 47F(1) was granted a s. 47F(1) in association with this application (referred to as s. 47F(1)). On s. 47F(1) November 2015, s. 47F(1) ceased.

On s. 47F(1) November 2015, s. 47F(1) was granted a s. 47F(1) in association with s. 47F(1) application for a s. 47F(1) visa (referred to as s. 47F(1)).

On s. 47F(1) January 2017, s. 47F(1) application for a s. 47F(1) visa was refused.

On s. 47F(1) February 2017, s. 47F(1) appeared to cease and s. 47F(1) appeared to be unlawful on departmental systems.

On s. 47F(1) October 2017, s. 47F(1) was located by s. 47F(1) Police who contacted the Department's ISS service. ISS confirmed that s. 47F(1) appeared to be unlawful on departmental systems, and s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) October 2017, s. 47F(1) case was referred to a DRM.

On s. 47F(1) October 2017, the DRM recalled s. 47F(1) file which was stored offsite. The DRM noted that s. 47F(1) had informed the Department on s. 47F(1) November 2015 that the email address s. 47F(1) had provided earlier on s. 47F(1) February 2015, at the time of lodgment of s. 47F(1) application, was not working and was no longer in use. s. 47F(1) provided an updated email address on s. 47F(1) November 2015 for the purpose of receiving correspondence from the Department. The DRM sought clarification as to whether s. 47F(1) continued to hold s. 47F(1) in the event that the notification was defective.

On s. 47F(1) October 2017, the Status Resolution Operational Support Section confirmed there was a defect in the notification of the s. 47F(1) visa refusal and that s. 47F(1) continued to hold s. 47F(1) granted in association with the visa application.

On s. 47F(1) October 2017, s. 47F(1) was released from s. 47F(1) IDC as the holder as s. 47F(1).

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Actions

Status Resolution Operational Support Section has provided detailed information to the management team in the Protection visa processing section, to ensure that visa processing officers are aware that files and departmental systems have to be carefully checked to ensure that the last email address provided by an applicant for the purpose of receiving communication is used. As in s. 47F(1) case, this address is often provided subsequent to the lodgement of the initial application.

Managers in the Protection visa processing section have ensured that the feedback from the Status Resolution Operational Support Section has been made available to visa processing officers and that regular audits are conducted, to mitigate against the recurrence of similar errors in future.

Current Status

On s. 47F(1) November 2017, s. 47F(1) was re-notified of the refusal of s. 47F(1) application for a s. 47F(1) visa. s. 47F(1) lodged an application for review of the refusal of the s. 47F(1) visa with the AAT on s. 47F(1) November 2017.

s. 47F(1) is currently residing in the community as the holder of a s. 47F(1).

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Medium Risk Case

1 July 2017 – 31 December 2017

ATTACHMENT T

Process Incorrect

Defective Notification

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release
 Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) August 2017, s. 47F(1) was located at a private residence in s. 47F(1) following the issue of a warrant by the ABF, under section 251 of the Act. The ABF were not aware that s. 47F(1) resided at the address prior to the visit and they had issued the warrant to locate a third party. s. 47F(1) appeared to be unlawful on departmental systems at the time of location.

On s. 47F(1) August 2017, s. 47F(1) was released from immigration detention as s. 47F(1) was identified as being the holder of a s. 47F(1) as a result of a notification defect.

Background

On s. 47F(1) April 2009, s. 47F(1) arrived in Australia as the holder of s. 47F(1) visa granted on s. 47F(1) March 2009. s. 47F(1) visa ceased on s. 47F(1) June 2011.

On s. 47F(1) June 2011, s. 47F(1) lodged an application for a s. 47F(1) visa. s. 47F(1) was granted a s. 47F(1) in association with this application.

On s. 47F(1) February 2012, s. 47F(1) ceased upon grant of a s. 47F(1). In s. 47F(1) application for the s. 47F(1) s. 47F(1) withdrew consent for the Department to communicate with s. 47F(1) electronically. However, s. 47F(1) provided a new email address in the form. On s. 47F(1) February 2012, s. 47F(1) departed Australia.

On s. 47F(1) April 2012, s. 47F(1) was sent a letter by the s. 47F(1) processing area requesting further information. This request was sent via email, using an older email address (henceforth referred to as the 'old email address') and not the latest address provided by s. 47F(1) on s. 47F(1) February 2012.

On s. 47F(1) April 2012, s. 47F(1) returned to Australia. s. 47F(1) did not provide a response to the request for further information.

On s. 47F(1) July 2012, s. 47F(1) s. 47F(1) visa application was refused and the notification was sent to the old email address, and not the new email address provided on s. 47F(1) February 2012.

On s. 47F(1) April 2013, the s. 47F(1) processing area began re-processing s. 47F(1)

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s. 47F(1) visa application. s. 47F(1) was sent a request for further information to both the old email address and the new email address. s. 47F(1) did not provide a response to this request.

On s. 47F(1) May 2013, s. 47F(1) visa application refused initially on s. 47F(1) July 2012, was refused for a second time. The notification was again sent to the old email address.

On s. 47F(1) June 2013, s. 47F(1) granted in association with the s. 47F(1) visa, appeared to cease.

On s. 47F(1) March 2014, s. 47F(1) lodged a first application for a s. 47F(1) visa, and was granted a s. 47F(1) in association with this application. On s. 47F(1) April 2014, s. 47F(1) was notified that s. 47F(1) first s. 47F(1) visa application was found to be invalid.

On s. 47F(1) May 2014, s. 47F(1) granted in relation to the invalid s. 47F(1) visa application ceased.

On s. 47F(1) June 2014, s. 47F(1) lodged a s. 47F(1) visa application and was granted a further s. 47F(1) in association with this application. (referred to as s. 47F(1) visa).

On s. 47F(1) October 2014, s. 47F(1) s. 47F(1) visa application was refused. The s. 47F(1) visa granted in relation to this application ceased on s. 47F(1) December 2014, and s. 47F(1) appeared to be unlawful on departmental systems.

On s. 47F(1) August 2017, s. 47F(1) was located by the ABF and detained under section 189 of the Act.

On s. 47F(1) August 2017, s. 47F(1) case was referred to a DRM. The DRM identified a potential defect in the notification of the s. 47F(1) refusal, as it had been sent to an email address although s. 47F(1) had withdrawn consent for the Department to communicate with s. 47F(1) via email. The s. 47F(1) referred the case to Status Resolution Operational Support Section on the same day.

On s. 47F(1) August 2017, the Status Resolution Operational Support Section confirmed that there was a defect in the notification and the decision of the s. 47F(1) visa, and that s. 47F(1) continued to hold the s. 47F(1) granted in association with the visa application.

On s. 47F(1) August 2017, s. 47F(1) was released from the s. 47F(1) ITA as the holder of a s. 47F(1).

Actions

The Manager in the visa processing has noted that across the Skilled Provisional network, strategies have been implemented including the use of a case note generator which prompts visa processing officers to check critical information such as the preferred method of correspondence, nominated by the applicant.

The Manager of the business team advised that the initial error in this case which compounded to a jurisdictional error were discussed at team meetings. Standard Operating Procedures and training packages have also been refined to ensure that officers are aware that non-compliance with the content requirement of section 66 of the Act, lead to notification defects.

Current Status

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On s. January 2018, s. 47F(1) visa application was refuse.
s. 47F(1) applied for review of this decision at the AAT on s. February 2018.

s. 47F(1) continues to reside in the community as the holder of a s. .

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Medium Risk Case

1 July 2017 – 31 December 2017

ATTACHMENT U

Process Incorrect

Administrative deficiency

Family Name

Given Name

Alias

Country of Citizenship

DOB

ICSE Client ID

Date of detention


Date of release

Days detained as not
an unlawful non-citizen

s. 47F(1)



s42, s47F

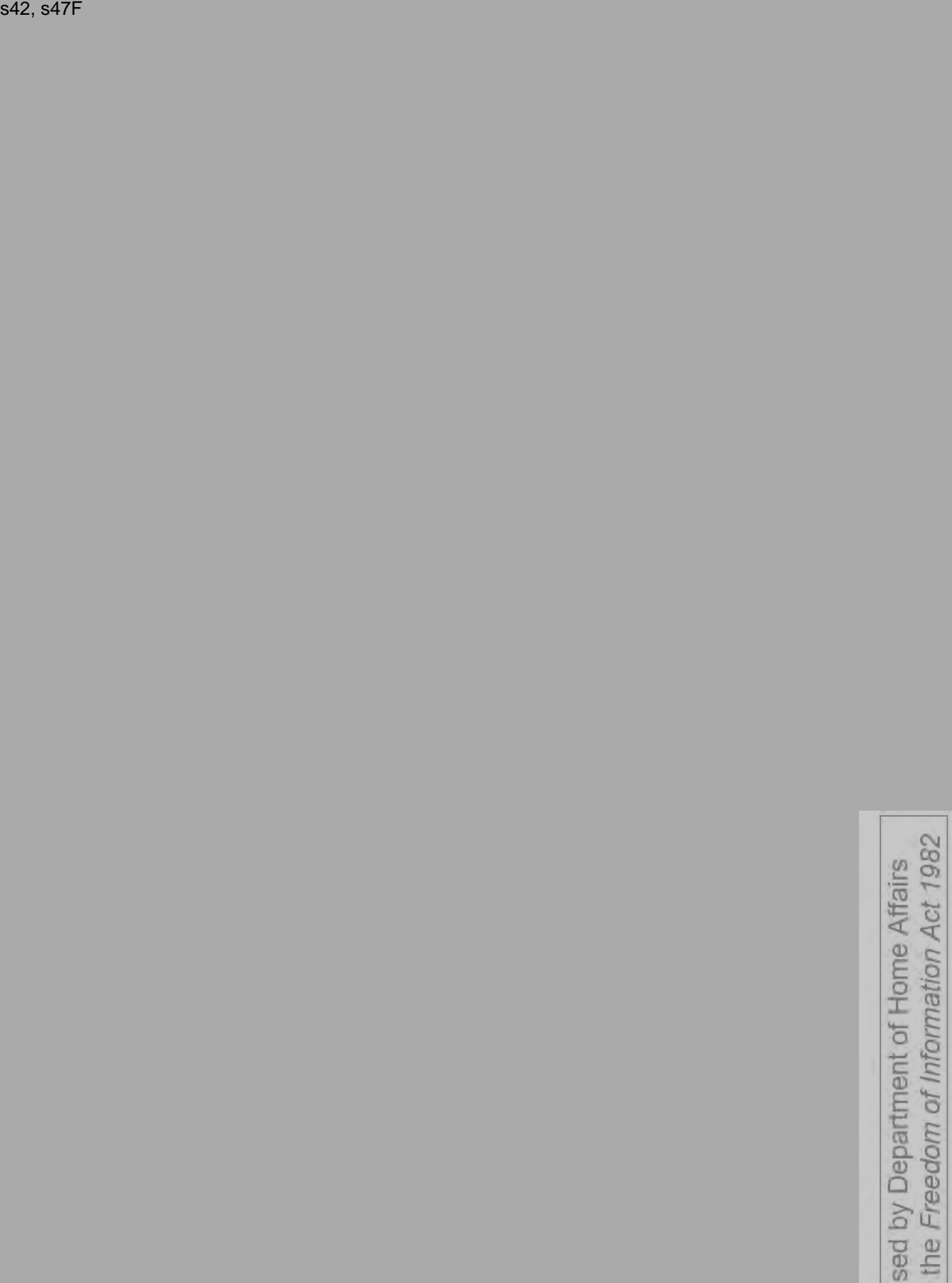


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s42, s47F




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~~Sensitive: Personal~~

~~Sensitive: Personal~~

s42, s47F



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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT V****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On s. 47F(1) July 2017, s. 47F(1) was located by the AFP. The AFP contacted the Department's ISS who advised that s. 47F(1) appeared to be an unlawful non-citizen according to departmental systems. Based on information provided by the Department, an AFP officer held reasonable suspicion that s. 47F(1) was an unlawful non-citizen. s. 47F(1) was detained under section 189 of the Act and transferred to s. 47F(1) IDC.

On s. 47F(1) July 2017, it was confirmed that s. 47F(1) continued to hold a s. 47F(1) visa granted in association with s. 47F(1) s. 47F(1) visa application lodged on s. 47F(1) August 2015.

On s. 47F(1) July 2017, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) s. 47F(1).

Background

On s. 47F(1) May 2012, s. 47F(1) was granted a s. 47F(1) visa offshore. On s. 47F(1) May 2012, s. 47F(1) arrived in Australia on that visa, valid until s. 47F(1) November 2012. During the validity of this visa, s. 47F(1) made multiple movements. s. 47F(1) last arrived in Australia on s. 47F(1) August 2012.

On s. 47F(1) November 2012, s. 47F(1) lodged a s. 47F(1) visa application and was granted an associated s. 47F(1) s. 47F(1). This visa was granted on s. 47F(1) January 2013 and was valid until s. 47F(1) September 2013.

On s. 47F(1) August 2013, s. 47F(1) lodged a s. 47F(1) visa application. This visa was granted on s. 47F(1) August 2013, ceasing s. 47F(1) s. 47F(1) visa. The visa was valid until s. 47F(1) August 2015.

On s. 47F(1) February 2014, s. 47F(1) departed Australia, returning on s. 47F(1) February 2014.

On s. 47F(1) August 2015, s. 47F(1) applied for a s. 47F(1) visa and was granted an associated s. 47F(1) s. 47F(1).

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On ^{s. 47F(1)} May 2017, ^{s. 47F(1)} application for a ^{s. 47F(1)} visa was refused. The refusal notification letter was sent to the business address, not the postal address of ^{s. 47F(1)} migration agent. The business address had not been provided for the purpose of receiving communication.

On ^{s. 47F(1)} June 2017, the ^{s. 47F(1)} held by ^{s. 47F(1)} in association with ^{s. 47F(1)} ^{s. 47F(1)} visa application appeared to cease in departmental systems.

On ^{s. 47F(1)} July 2017, the AFP located ^{s. 47F(1)}. The AFP contacted ISS who advised that departmental systems showed ^{s. 47F(1)} as an unlawful non-citizen. ^{s. 47F(1)} was detained under section 189 of the Act and transferred to ^{s. 47F(1)} IDC. The DRM recalled the recall of ^{s. 47F(1)} visa file the following day.

On ^{s. 47F(1)} July 2017, the DRM received advice from Status Resolution Operational Support Section that ^{s. 47F(1)} visa refusal notification was defective. The appointment of ^{s. 47F(1)} authorised recipient was not effective to receive correspondence and the refusal notification was sent to an incorrect address. As a consequence, ^{s. 47F(1)} continued to hold ^{s. 47F(1)} ^{s. 47F(1)} granted in association with ^{s. 47F(1)} ^{s. 47F(1)} visa application.

^{s. 47F(1)} was released from immigration detention on ^{s. 47F(1)} July 2017, as the holder of a ^{s. 47F(1)}.

Actions

The relevant visa processing area was advised on ^{s. 47F(1)} July 2017 that ^{s. 47F(1)} should be re-notified of the visa application decision. Status Resolution Operational Support Section has provided direction to relevant visa processing areas to seek advice from the section in all instances relating to defective notification for persons in immigration detention, in addition to providing contact details for notification enquiries and training.

Current Status

^{s. 47F(1)} was re-notified of the refusal of ^{s. 47F(1)} ^{s. 47F(1)} visa refusal decision on ^{s. 47F(1)} August 2017. On ^{s. 47F(1)} August 2017, ^{s. 47F(1)} lodged an application for review of the decision to refuse ^{s. 47F(1)} ^{s. 47F(1)} visa at the AAT.

^{s. 47F(1)} continues to reside in the community as the holder of a ^{s. 47F(1)} pending the outcome of the review at the AAT.

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT W****Process Incorrect****Defective Notification**

Family Name
 Given Name
 DOB
 Country of Citizenship
 ICSE Client ID
 Date of detention
 Date of release
 Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47E August 2017, s. 47F(1) was located by s. 47E Police and referred to the Department's ISS for a visa status check. ISS advised that s. 47F(1) appeared to be unlawful on departmental systems. A s. 47E Police officer held reasonable suspicion that s. 47F(1) was an unlawful non-citizen, s. 47E was detained under section 189 of the Act and transferred to s. 47F(1) IDC.

On s. 47E August 2017, s. 47F(1) was released from immigration detention as s. 47F(1) was identified as holding a s. 47E as a result of a notification defect.

Background

On s. 47E December 2015, s. 47F(1) arrived in Australia as the holder of an s. 47F(1) visa s. 47E, granted on s. 47E November 2015 which was valid for multiple entries and a stay of up to three months on each arrival. s. 47F(1) ceased on s. 47E March 2016.

On s. 47E May 2016, s. 47F(1) lodged s. 47F(1) an application for a s. 47F(1) visa and was granted a s. 47E in association with this application (referred to as s. 47F(1)).

On s. 47E June 2016, s. 47F(1) visa application was assessed as invalid as section 46(2A) requirements had not been complied with, as s. 47F(1) had not provided personal identifiers in relation to s. 47F(1) application. s. 47F(1) had been informed in writing previously that s. 47F(1) was required to provide this information.

On s. 47E July 2016, s. 47F(1) lodged a s. 47F(1) application for a s. 47F(1) visa and was granted a further s. 47E in association with this application (referred to as s. 47F(1)). An authorised recipient was not appointed in relation to the application for this visa.

On s. 47E July 2016, s. 47F(1) granted to s. 47F(1) in association with s. 47F(1) s. 47F(1) visa application ceased.

On s. 47E November 2016, s. 47F(1) application for a s. 47F(1) visa was refused. The refusal notification was sent by email to s. 47F(1) had not provided written consent for the Department to communicate with s. 47F(1) electronically in s. 47F(1) application form or in subsequent correspondence.

On s. 47E December 2016, the s. 47F(1) granted to s. 47F(1) in association with s. 47F(1) s. 47F(1)

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s. 47F(1) visa application appeared to cease on departmental systems. s. 47F(1) appeared as unlawful on departmental systems.

On s. 47F(1) August 2017, s. 47F(1) was located by s. 47F(1) Police. s. 47F(1) Police contacted ISS to establish s. 47F(1) immigration status. ISS advised that s. 47F(1) appeared to be unlawful on departmental systems. s. 47F(1) was detained under section 189 of the Act and transferred to s. 47F(1) IDC. s. 47F(1) case was referred to a DRM.

On s. 47F(1) August 2017, after reviewing s. 47F(1) visa applications and associated paperwork on departmental systems and physical files, the DRM identified a possible notification error as the refusal notification for the s. 47F(1) application for a s. 47F(1) visa was sent by email to s. 47F(1) although s. 47F(1) had not provided consent to the Department to receive correspondence electronically. The DRM sought advice from Status Resolution Operational Support Section as to whether this constituted a defective notification.

On s. 47F(1) August 2017, the Status Resolution Operational Support Section confirmed there was a defect in the notification of the second application for a s. 47F(1) visa, and that s. 47F(1) continued to hold s. 47F(1) granted in association with this application.

On s. 47F(1) August 2017, s. 47F(1) was released from s. 47F(1) IDC as the holder of a s. 47F(1)

Actions

The s. 47F(1) visa processing section has advised that the error has been brought to the attention of visa processing officers and team leaders to mitigate against the risk of recurrence of such errors. In addition notification workshops are conducted within the visa processing section to ensure officers are effectively trained in relation to notification matters.

Current Status

On s. 47F(1) October 2017, s. 47F(1) was re-notified of s. 47F(1) refusal of the s. 47F(1) visa application. s. 47F(1) visa granted in association with the application ceased on s. 47F(1) November 2017.

s. 47F(1) has no ongoing process and is currently unlawful in the community.

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT X****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) August 2017, s. 47F(1) was located and detained by the ABF officers in s. 47F(1) as part of a targeted location. s. 47F(1) was subsequently transferred to s. 47F(1) IDC. At the time of location, s. 47F(1) appeared to be unlawful on departmental systems.

On s. 47F(1) August 2017, Status Resolution Operational Support Section confirmed that s. 47F(1) remained the holder of a s. 47F(1) granted in association with a s. 47F(1) visa application lodged on s. 47F(1) July 2007.

On s. 47F(1) August 2017, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1)

Background

On s. 47F(1) March 2007, s. 47F(1) was granted an s. 47F(1) visa s. 47F(1) offshore. s. 47F(1) arrived in Australia on this s. 47F(1) on s. 47F(1) April 2007. s. 47F(1) ceased on s. 47F(1) July 2007.

On s. 47F(1) July 2007, s. 47F(1) lodged a s. 47F(1) visa application electronically. An authorised recipient was appointed in relation to this application. s. 47F(1) was granted a s. 47F(1) in association with the s. 47F(1) visa application on s. 47F(1) July 2007.

On s. 47F(1) March 2008, s. 47F(1) application for a s. 47F(1) visa was refused. The refusal notification was sent by registered mail to s. 47F(1) authorised recipient.

On s. 47F(1) May 2008, the s. 47F(1) granted in association with the s. 47F(1) visa application appeared to cease on departmental systems. s. 47F(1) appeared to be unlawful.

On s. 47F(1) June 2012, s. 47F(1) was added as an unaccompanied family member to s. 47F(1) spouse's s. 47F(1) visa application. This application was refused on s. 47F(1) September 2012 and affirmed by the then MRT on s. 47F(1) June 2014. s. 47F(1) spouse subsequently departed Australia.

On s. 47F(1) August 2017, s. 47F(1) was located by ABF officers, detained under section 189 of the Act and transferred to s. 47F(1) IDC.

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On ^{s. 47F(1)} August 2017, ^{s. 47F(1)} case was referred to a DRM.

On ^{s. 47F(1)} August 2017, after reviewing ^{s. 47F(1)} electronic ^{s. 47F(1)} visa applications and associated records on departmental systems and electronic files, the DRM identified a possible content error.

The DRM made a request for advice to Status Resolution Operational Support Section, which advised on the same day that ^{s. 47F(1)} visa refusal notification was defective, as it was affected by a *Pomare* error and that ^{s. 47F(1)} continued to hold the ^{s. 47F(1)} granted in association with this application.

On ^{s. 47F(1)} August 2013, ^{s. 47F(1)} was then released from immigration detention as the holder of a ^{s. 47F(1)}.

Actions

Pomare is one of numerous legal precedents impacting upon effective notification which is covered in the *Visa Compliance Essentials* training course, an in-house departmental training course designed to provide ABF officers, Status Resolution officers and other departmental staff with the base level knowledge required for their roles.

In this instance, the ABF field team conducted an assessment of the notification of the decision to refuse ^{s. 47F(1)} ^{s. 47F(1)} visa application prior to locating and detaining ^{s. 47F(1)} but did not adequately consider the possibility that the refusal notification could be *Pomare* affected. Status Resolution Operational Support Section has provided written feedback to the ^{s. 47F(1)} ABF field team and emphasised the importance of consulting with the section prior to effecting targeted locations.

Current Status

^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} on ^{s. 47F(1)} August 2017. ^{s. 47F(1)} was re-notified of the ^{s. 47F(1)} visa refusal decision on ^{s. 47F(1)} August 2017.

^{s. 47F(1)} lodged an application for review of the refusal decision at the AAT on ^{s. 47F(1)} September 2017. The AAT affirmed the delegate's decision on ^{s. 47F(1)} October 2017.

^{s. 47F(1)} commenced judicial review of the refusal decision in the Federal Court on ^{s. 47F(1)} November 2017.

^{s. 47F(1)} ceased on ^{s. 47F(1)} November 2017 and ^{s. 47F(1)} is currently unlawful in the community.

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~~Sensitive: Personal~~

Medium Risk Case

1 July 2017 – 31 December 2017

ATTACHMENT Y

Process Incorrect

Defective Notification

Family Name

Given Name

Alias

Country of Citizenship

DOB

ICSE Client ID

Date of detention

Date of release

Days detained as not
an unlawful non-citizen

s. 47F(1)

Summary

On s. 47E s. 47F(1) July 2017, s. 47F(1) was located by s. 47F(1) police and referred to the Department's ISS for a visa status check. ISS advised that s. 47F(1) (and s. 47F(1) partner s. 47F(1) also in this report at Attachment s. 47E appeared to be unlawful according to departmental systems. Based on information from the Department, a s. 47F(1) police officer held reasonable suspicion that s. 47F(1) was an unlawful non-citizen. s. 47F(1) was detained under section 189 of the Act and transferred to the s. 47F(1) ITA.

On s. 47E s. 47F(1) July 2017, Status Resolution Operational Support Section confirmed that s. 47F(1) remained the holder of a s. 47E/47F(1) granted in association with a s. 47F(1) visa application lodged on s. 47E November 2015.

s. 47F(1) was released from immigration detention on s. 47E s. 47F(1) July 2017 as the holder of a s. 47E/47F(1).

Background

On s. 47E s. 47F(1) January 2014, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa granted on s. 47E December 2013 with a cease date of s. 47E August 2015. On s. 47E August 2015, the s. 47F(1) visa ceased and on s. 47E s. 47F(1) appeared unlawful on departmental systems.

On s. 47E s. 47F(1) November 2015, s. 47F(1) was included as a dependent applicant on a s. 47F(1) visa application and was granted a s. 47E/47F(1) in association with the application. An authorised recipient was not appointed in relation to the s. 47E/47F(1) application.

On s. 47E s. 47F(1) September 2016, an application for a s. 47E/47F(1) and notification of appointment of an authorised recipient was received by the Department from s. 47F(1). The authorised recipient was appointed in relation to the application for a change of condition to the s. 47E/47F(1) (to seek permission to work).

On s. 47E s. 47F(1) September 2016, s. 47F(1) was granted a further s. 47E/47F(1) in association with the s. 47F(1) visa application. The notification of visa grant was sent to the authorised recipient via email.

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On ^{s. 47F(1)} February 2017, ^{s. 47F(1)} application for a ^{s. 47F(1)} visa was refused. The refusal notification was sent by email to the authorised recipient, who had been solely appointed in relation to the application for the ^{s. 47F(1)}.

On ^{s. 47F(1)} March 2017, the ^{s. 47F(1)} granted in association with the ^{s. 47F(1)} visa application appeared to cease according to departmental systems.

On ^{s. 47F(1)} July 2017, ^{s. 47F(1)} was located by ^{s. 47F(1)} police. ^{s. 47F(1)} police contacted ISS to establish ^{s. 47F(1)} immigration status, ^{s. 47F(1)} appeared unlawful and was detained under section 189 of the Act.

On ^{s. 47F(1)} July 2017, ^{s. 47F(1)} case was referred to a DRM who recalled the file for the application of the ^{s. 47F(1)} visa. The DRM received the requested files on ^{s. 47F(1)} July 2017.

On ^{s. 47F(1)} July 2017, the DRM identified a possible error as the refusal notification for the ^{s. 47F(1)} visa application was sent to an authorised recipient instead of directly to the applicant. The DRM referred the matter to Status Resolution Operational Support Section on the same day.

On ^{s. 47F(1)} July 2017, the DRM received advice from Status Resolution Operational Support Section that the notification of the ^{s. 47F(1)} visa refusal was given to an incorrect person, as the authorised recipient was not appointed in accordance with section 494D(1) of the Act. In the absence of actual notification, ^{s. 47F(1)} was not effectively notified of the ^{s. 47F(1)} visa refusal decision, and the ^{s. 47F(1)} granted in association with the application had not ceased.

^{s. 47F(1)} was released from immigration detention on ^{s. 47F(1)} July 2017 as the holder of a ^{s. 47F(1)}.

Actions

The visa processing areas have been informed of the error and training has been implemented.

Current Status

^{s. 47F(1)} was released from immigration detention as the holder of an associated ^{s. 47F(1)} on ^{s. 47F(1)} July 2017. ^{s. 47F(1)} was re-notified of the ^{s. 47F(1)} refusal decision on the same day.

^{s. 47F(1)} lodged an appeal of the refusal decision with the AAT on ^{s. 47F(1)} July 2017. ^{s. 47F(1)} was granted a further ^{s. 47F(1)} with permission to work on ^{s. 47F(1)} January 2018 and is residing in the community pending the outcome of the AAT review.

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under the Freedom of Information Act 1982

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT Z****Process incorrect****Administrative deficiency**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On s. 47F(1) October 2017, s. 47F(1) was located by the ABF in s. 47F(1) following the execution of a warrant, issued under section 251 of the Act, at s. 47F(1) place of residence. s. 47F(1) appeared to be unlawful on departmental systems and s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) October 2017, s. 47F(1) was found to be the holder of a s. 47E(1) and was released from immigration detention.

Background

On s. 47F(1) March 2002, s. 47F(1) arrived in Australia on a s. 47F(1) visa, which ceased on s. 47F(1) April 2002.

On s. 47F(1) April 2002, s. 47F(1) lodged a s. 47F(1) visa application and was granted an associated s. 47F(1). The Department refused s. 47F(1) s. 47F(1) visa application on s. 47F(1) June 2002.

On s. 47F(1) July 2002, s. 47F(1) lodged an application for merits review of the refusal decision of the s. 47F(1) application with the then RRT, which affirmed the Department's decision on s. 47F(1) July 2003.

On s. 47F(1) August 2003, s. 47F(1) appealed the RRT's affirmation of the Department's decision to refuse s. 47F(1) application for a s. 47F(1) visa at the Federal Magistrates Court (FMC).

On s. 47F(1) August 2003, s. 47F(1) ceased and s. 47F(1) became an unlawful non-citizen.

On s. 47F(1) November 2003, the FMC dismissed s. 47F(1) appeal, as s. 47F(1) failed to appear or be represented at a directions hearing. The outcome of s. 47F(1) judicial review application with the FMC was not entered on departmental systems until s. 47F(1) September 2004.

On s. 47F(1) August 2004, s. 47F(1) was granted a s. 47E(1) on departure grounds, valid until s. 47F(1) August 2004.

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On s. 47E/41 August 2004, s. 47F(1) was erroneously granted a s. 47E/41 visa in association with the judicial review application with the FMC. This s. 47E/41 appeared to cease on the same day according to departmental systems.

On s. 47E/41 August 2004, s. 47F(1) ceased.

On s. 47E/41 September 2004, the finalisation of s. 47F(1) FMC appeal on s. 47E/41 November 2003 was recorded on departmental systems.

On s. 47E/41 January 2007, the Department's TRIPS Helpdesk actioned a request to manually cease s. 47F(1) on departmental systems. It is not clear which area within the Department requested that the TRIPS Helpdesk cease the s. 47F(1) appeared as unlawful on departmental systems once the s. 47E/41 was manually ceased. It should be noted that the cease date was backdated to s. 47E/41 August 2004, so s. 47F(1) appeared to have been unlawful since s. 47E/41 August 2004 on departmental systems (the day after s. 47E/41 s. 47F(1) ceased).

On s. 47E/41 October 2017, s. 47F(1) was located by the ABF. As s. 47F(1) appeared to be unlawful on departmental systems s. 47E/41 was detained under section 189 of the Act.

On s. 47E/41 October 2017, s. 47F(1) case was referred to a DRM, who noted that the s. 47E/41 granted on s. 47E/41 August 2004 in association with s. 47F(1) FMC appeal, had been granted subsequent to the finalisation of the FMC appeal on s. 47E/41 November 2003. The DRM referred the case to the Status Resolution Operational Support Section to seek advice whether the s. 47E/41 granted on s. 47E/41 August 2004, after the finalisation of court proceedings, had ceased.

s. 47E/41 October 2017, the Status Resolution Operational Support Section confirmed that s. 47F(1) continued to hold the s. 47E/41 granted in association with s. 47F(1) FMC appeal on s. 47E/41 August 2004 as no event had occurred to trigger the cessation of the s. 47F(1) was released from immigration detention as holder of a s. 47E/41 on the same day.

Action

ABF staff have undertaken training on how to review immigration history of an individual. The Litigation Branch has introduced regular checks by cross-referencing the weekly reports provided by external legal service providers on matters finalised in the courts and the General Division of the Administrative Appeals Tribunal with departmental systems to ensure all finalised matters have been promptly and correctly reflected in departmental systems.

Legal Officers in the Litigation Branch also undertake six-monthly caseload audits. These audits require legal officers to ensure all relevant events, including court outcomes have been recorded and communicated. The Litigation Branch is satisfied that it now has robust systems in place to ensure that if any errors occur they are identified and resolved quickly.

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Current Status

On s. 47F(1) October 2017, following s. 47F(1) release from immigration detention, s. 47F(1) was cancelled under section 116(1)(aa) of the Act. s. 47F(1) became an unlawful non-citizen and s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) October 2017, s. 47F(1) lodged an application for a s. 47F(1)

On s. 47F(1) October 2017, s. 47F(1) was granted a s. 47F(1) on departure grounds, following payment of a security bond of s. 47F(1). On the same day, s. 47F(1) was released from immigration detention.

On s. 47F(1) October 2017, s. 47F(1) departed Australia and s. 47F(1) s. 47F(1) ceased upon departure.

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Medium Risk Case

1 July 2017 – 31 December 2017

ATTACHMENT AA

Process Incorrect

Administrative deficiency

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On ^{s. 47F(1)} September 2017, ^{s. 47F(1)} arrived in Australia holding ^{s. 47F(1)} visas, one of which was in effect (^{s. 47F(1)}) and the other, out of effect ^{s. 47F(1)}. While ^{s. 47F(1)} was in immigration clearance, ^{s. 47F(1)} was cancelled under section 116 of the Act by ABF officers, based on the finding that ^{s. 47F(1)} was not a genuine ^{s. 47F(1)}. ^{s. 47F(1)} was considered to be an unlawful non-citizen and detained under section 189 of the Act.

On ^{s. 47F(1)} September 2017, a determination was made that ^{s. 47F(1)} remained the holder of ^{s. 47F(1)} which came into effect following the cancellation of ^{s. 47F(1)}. ^{s. 47F(1)} was released from immigration detention on ^{s. 47F(1)} September 2017, as the holder of ^{s. 47F(1)}.

Background

On ^{s. 47F(1)} May 2013, ^{s. 47F(1)} was granted a ^{s. 47F(1)} visa ^{s. 47F(1)} on the basis of being an ^{s. 47F(1)} holder. This visa was valid for multiple entries and a stay of up to three months on each entry.

Between ^{s. 47F(1)} March, 2014 and ^{s. 47F(1)} September 2016, ^{s. 47F(1)} made multiple entries and departures to and from Australia, as the holder of ^{s. 47F(1)}.

On ^{s. 47F(1)} May 2017, ^{s. 47F(1)} was granted a ^{s. 47F(1)} visa (henceforth known as ^{s. 47F(1)}) on the basis of being an ^{s. 47F(1)} holder. ^{s. 47F(1)} was out of effect at the time of grant as ^{s. 47F(1)} was still in effect.

On ^{s. 47F(1)} September 2017, ^{s. 47F(1)} last arrived in Australia. ^{s. 47F(1)} was cancelled under section 116 of the Act in immigration clearance and ^{s. 47F(1)} was detained under section 189 of the Act. Prior to issuing a Notice of Intention to Consider Cancellation (NOICC) to ^{s. 47F(1)} an ABF officer sought advice from the Cancellations Helpdesk as to whether cancellation of ^{s. 47F(1)} under section 116 of the Act would result in the consequential cancellation of ^{s. 47F(1)}.

On the same day the Cancellations Helpdesk provided incorrect advice that if ^{s. 47F(1)} was cancelled under section 116 of the Act, ^{s. 47F(1)} would cease. Following receipt of this advice an ABF officer provided ^{s. 47F(1)} with a NOICC in respect of ^{s. 47F(1)}. The ABF officer subsequently cancelled ^{s. 47F(1)}. Based on the incorrect advice provided by the Cancellations

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Helpdesk regarding the consequential cancellation of s. 47F(1) the ABF officer formed reasonable suspicion that s. 47F(1) was now an unlawful non-citizen and detained s. 47F(1) under section 189 of the Act.

On s. 47F(1) September 2017, a DRM conducted a daily check to identify persons recorded as being in immigration detention and also the holder of a visa. The check identified s. 47F(1) as in detention and the holder of s. 47F(1). It was determined that s. 47F(1) had not ceased upon cancellation of s. 47F(1). As s. 47F(1) remained the holder of s. 47F(1) s. 47F(1) was released from s. 47F(1) IDC on s. 47F(1) September 2017.

Actions

The departmental officer who provided the incorrect advice in relation to the consequential cancellation of s. 47F(1) has been counselled. This specific error has been discussed within the team and appropriate training has been provided to all officers in the team to mitigate against the recurrence of such errors in the future.

The ABF officers who were provided with incorrect advice by the Cancellations Helpdesk have been provided with corrected advice as to the operation of section 116 of the Act in respect to s. 47F(1) visas.

Current Status

s. 47F(1) departed Australia on s. 47F(1) November 2017. s. 47F(1) remains the holder of a s. 47F(1) visa, which will remain in effect until s. 47F(1) May 2023.

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~~Sensitive: Personal~~**Medium Risk Case****1 July 2017 – 31 December 2017****ATTACHMENT AB****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On s. 47F(1) August 2017, s. 47F(1) was located by s. 47F(1) Police following a domestic disturbance. s. 47F(1) Police visited s. 47F(1) residence to serve s. 47F(1) with an s. 47F(1) s. 47F(1) was referred to the Department's ISS for a visa status check. ISS advised that s. 47F(1) appeared to be unlawful according to departmental systems. A s. 47F(1) Police officer formed reasonable suspicion that s. 47F(1) was an unlawful non-citizen and s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) September 2017, s. 47F(1) was released from immigration detention as s. 47F(1) was identified as being the holder of a s. 47F(1) as a result of a notification defect.

Background

On s. 47F(1) November 1997, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa granted on s. 47F(1) October 1997.

On s. 47F(1) September 2001, s. 47F(1) lodged a s. 47F(1) visa application and was granted an associated s. 47F(1).

On s. 47F(1) November 2001, s. 47F(1) visa ceased naturally and s. 47F(1) s. 47F(1) granted in association with the s. 47F(1) visa application came into effect.

On s. 47F(1) December 2002, s. 47F(1) was granted a s. 47F(1) in association with s. 47F(1) application. The grant of the s. 47F(1) ceased s. 47F(1).

On s. 47F(1) June 2003, s. 47F(1) was granted a s. 47F(1) visa and the s. 47F(1) appeared to cease on departmental systems due to the grant of the s. 47F(1) visa.

On s. 47F(1) November 2005, s. 47F(1) visa was cancelled under section 109 of the Act as s. 47F(1) had provided bogus documents (relating to s. 47F(1) education and relationship status) to support s. 47F(1) application.

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On s. 47F(1) November 2005, s. 47F(1) lodged an application for review of the cancellation of the s. 47F(1) visa with the then MRT. On s. 47F(1) May 2006, the MRT affirmed the decision to cancel s. 47F(1) visa.

On s. 47F(1) August 2006, s. 47F(1) visa application was refused. Notification was sent by mail. On s. 47F(1) October 2006, the s. 47F(1) visa application refusal notification letter was 'returned to sender'.

On s. 47F(1) August 2017, s. 47F(1) was located by s. 47F(1) police and detained under section 189 of the Act.

On s. 47F(1) August 2017, s. 47F(1) case was referred to a DRM. The DRM identified a potential defect and noted that there was no evidence on file that s. 47F(1) had been provided with information relating to the street addresses of the review tribunals at the time of the refusal of s. 47F(1) visa application.

On s. 47F(1) August 2017, the DRM referred s. 47F(1) case to the Status Resolution Operational Support Section to seek confirmation of whether the refusal notification of the s. 47F(1) visa application was effective.

On s. 47F(1) September 2017, the Status Resolution Operational Support Section confirmed that there was a defect in the refusal notification of the s. 47F(1) visa application.

The refusal notification of the s. 47F(1) visa was defective because it did not comply with section 66(2)(d)(iv) of the Act as it did not specify where an application for review can be made. The decision was affected by a *Pomare* type error as it did not specify the street address of the Review Tribunal, it only provided the post box addresses of the Tribunal, and there was no discrete reference in the content of the letter to indicate that a Review Tribunal brochure had been included with the notification letter.

As a consequence s. 47F(1) continued to hold the s. 47F(1) granted in association with the application, and s. 47F(1) was released from s. 47F(1) IDC.

Actions

Notification letters across the visa processing network have been altered subsequent to the findings in *Pomare's* case and from 2008 onwards, departmental letters and Forms where appropriate, provide information in relation to the street addresses of the tribunals. In addition, visa processing sections also include a tribunal brochure with the notification correspondence.

s. 47F(1) was notified of the refusal of s. 47F(1) visa in August 2006, prior to the *Pomare* outcome. s. 47F(1) had not engaged with the Department between 2006 and s. 47F(1) detention in 2017.

Current Status

s. 47F(1) was re-notified of the s. 47F(1) visa refusal on s. 47F(1) December 2017. As of s. 47F(1) March 2018, s. 47F(1) had not lodged an application for review with the AAT and is now out of time to do so.

s. 47F(1) ceased on s. 47F(1) January 2018 and s. 47F(1) is currently unlawful in the community.

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Medium Risk Case

1 July 2017 – 31 December 2017

ATTACHMENT AC**Process Incorrect****Administrative deficiency**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

Summary

On s. 47F(1) September 2017, s. 47F(1) arrived in Australia holding s. 47F(1) visas, one of which was in effect s. 47F(1) and the other, out of effect s. 47F(1). While s. 47F(1) was in immigration clearance, s. 47F(1) was cancelled by ABF officers based on the finding that s. 47F(1) was not a genuine s. 47F(1)s. 47F(1) was considered to be an unlawful non-citizen and detained under section 189 of the Act.

On s. 47F(1) September 2017, a determination was made that s. 47F(1) remained the holder of s. 47F(1) which came into effect following the cancellation of s. 47F(1) s. 47F(1) was released from immigration detention on s. 47F(1) September 2017, as the holder of s. 47F(1)

Background

On s. 47F(1) August 2013, s. 47F(1) was granted a s. 47F(1) visa s. 47F(1) on the basis of being an APEC card holder. This visa was valid for multiple entries and a stay of up to three months on each entry.

Between s. 47F(1) May 2014 and s. 47F(1) December 2016, s. 47F(1) made multiple entries and departures to and from Australia, as the holder of s. 47F(1)

On s. 47F(1) June 2017, s. 47F(1) was granted a s. 47F(1) visa s. 47F(1) on the basis of being an APEC card holder.

On s. 47F(1) September 2017, s. 47F(1) last arrived in Australia. s. 47F(1) was cancelled under section 116 of the Act in immigration clearance and s. 47F(1) was detained under section 189 of the Act. Prior to issuing a Notice of Intention to Consider Cancellation (NOICC) to s. 47F(1) an ABF officer sought advice from the Cancellations Helpdesk as to whether cancellation of s. 47F(1) under section 116 of the Act would result in the consequential cancellation of s. 47F(1)

On the same day the Cancellations Helpdesk provided incorrect advice that if s. 47F(1) was cancelled under section 116 of the Act, s. 47F(1) would cease.

Following receipt of this advice an ABF officer provided s. 47F(1) with a NOICC in respect of s. 47F(1). The ABF officer subsequently cancelled s. 47F(1). Based on the advice provided by the s. 47F(1)

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Cancellations Helpdesk regarding the consequential cancellation of s. 47F(1) the ABF officer formed reasonable suspicion that s. 47F(1) was now an unlawful non-citizen and detained s. 47F(1) under section 189 of the Act.

On s. 47F(1) September 2017, a DRM conducted a daily check to identify persons recorded as being in immigration detention and also the holder of a visa. The check identified s. 47F(1) as in detention and the holder of s. 47F(1). It was determined that s. 47F(1) had not ceased upon cancellation of s. 47F(1). As s. 47F(1) remained the holder of s. 47F(1) s. 47F(1) was released from s. 47F(1) IDC on s. 47F(1) September 2017.

Actions

The departmental officer who provided the advice in relation to the consequential cancellation of s. 47F(1) has been counselled. This specific error has been discussed within the team and appropriate training has been provided to all officers in the team to mitigate against the recurrence of such errors in the future.

The ABF officers who were provided with advice by the Cancellations Helpdesk have been provided with corrected advice as to the operation of section 116 of the Act in respect to s. 47F(1) visas.

Current Status

s. 47F(1) departed Australia on s. 47F(1) November 2017. s. 47F(1) holds a s. 47F(1) visa, in effect until s. 47F(1) June 2023.

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Department of Home Affairs

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Report on people detained and later released as not unlawful

1. Introduction

This report to the Commonwealth Ombudsman documents the number of people detained and later released as not unlawful non-citizens during the period 1 January 2018 to 30 June 2018. People included in the report were released from immigration detention on the basis that reasonable suspicion could not be maintained, as required by section 189 of the *Migration Act 1958* (the Act), that they were unlawful non-citizens.

For this reporting period, there were a total of 3,707 people detained as suspected unlawful non-citizens (excluding Illegal Maritime Arrivals). Out of 3,707 people detained, 23 people are included in this report, which represents 0.0062 of one per cent of the total people detained.

The status of each case is current as at 23 August 2018.

2. How cases are identified

The cases included in this report are identified through a system report and data entered into the Compliance Case Management Detention and Settlement (CCMDS) Portal.

There are nine release types that are used as descriptors to record the reasons for a person's release from immigration detention. This report includes cases where one of the five following descriptors has been used to record the circumstances surrounding a person's release from detention. The use of one of these descriptors by departmental officers may signify a risk that the detention of the person did not accord with the Act.

Identity confirmed	Reasonable suspicion that the person was an unlawful non-citizen was held, even though identity and/or immigration status could not be confirmed at the time of detention.
Litigation consequence	Person was released as a result of a court judgment.
Operation of law	Person was released as a result of a determination that the person is an absorbed person, or a determination that the person acquired Australian citizenship, or the person was granted a Bridging visa E through operation of law under section 75 of the Act.

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.

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Process incorrect	The Department of Home Affairs (the Department) failed to properly administer the person's case, and/or failed to properly notify a person of a negative visa decision, resulting in a person showing incorrectly in departmental systems as unlawful.
Records incorrect	The person was detained because of inaccurate or incorrect information on departmental systems.

Cases where the following four release descriptors are used are not included in the report as they do not signify a risk of unlawful detention:

- Change to detention power
- Departure from Australia
- Visa grant
- Other

3. Case risk assessments

In preparing this report, each case has been assessed to identify the likelihood that the detention did not occur and/or was not maintained in accordance with the Act. The likelihood is assessed as high, medium or low risk. The Department identifies and implements remedial action at both a case specific and systemic level where required and particularly where the risk of inappropriate detention is assessed as medium or high.

For the period 1 January 2018 to 30 June 2018, 23 cases have been identified where people have been released from immigration detention on the basis that reasonable suspicion could no longer be maintained that they were unlawful non-citizens (as required by section 189 of the Act). Of the 23 cases in this report, none have been assessed to be high risk and 23 have been assessed to be medium risk.

The last report covered the period 1 July 2017 to 31 December 2017, and included 29 cases where people had been released from immigration detention as reasonable suspicion could no longer be maintained that they were unlawful non-citizens. One case was considered to be high risk and 28 were considered to be medium risk.

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4. Specific Cases

Breakdown of cases for this reporting period follow.

Name	Release Descriptor	Attachment
Medium Risk		
s. 47F(1)	Process Incorrect Defective Notification	Attachment A
	Process Incorrect Defective Notification	Attachment B
	Process Incorrect Defective notification	Attachment C
	Process Incorrect Defective notification	Attachment D
	Process Incorrect Defective notification	Attachment E
	Process Incorrect Defective notification	Attachment F
	Process incorrect Administrative Deficiency	Attachment G
	Process Incorrect Defective notification	Attachment H
	Process incorrect Defective notification	Attachment I
	Process incorrect Administrative Deficiency	Attachment J
	Process Incorrect Defective notification	Attachment K
	Process incorrect Administrative Deficiency	Attachment L
	Process incorrect Administrative Deficiency	Attachment M
	Process incorrect Administrative Deficiency	Attachment N
	Process incorrect Defective notification	Attachment O
	Process incorrect Defective notification	Attachment P
	Other AAT – Migration Decision	Attachment Q
	Process incorrect Defective notification	Attachment R
	Process incorrect Defective notification	Attachment S
	Process incorrect Defective notification	Attachment T
	Process incorrect Administrative Deficiency	Attachment U
	Process incorrect Defective notification	Attachment V
	Process incorrect Defective notification	Attachment W

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Medium Risk Case**1 January 2018 – 30 June 2018****ATTACHMENT A****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) December 2017, s. 47F(1) was located by s. 47F(1) Police, who referred s. 47F(1) to the Department's Immigration Status Service (ISS) for a visa status check. As s. 47F(1) appeared to be unlawful on departmental systems, s. 47F(1) was detained under section 189 of the *Migration Act 1958* (the Act).

On s. 47F(1) January 2018, a determination was made that the cancellation of s. 47F(1) s. 47F(1) visa under section 116 of the Act on s. 47F(1) February 2017 was affected by jurisdictional error and that the decision should be re-visited with s. 47F(1) consent. s. 47F(1) provided consent for the cancellation decision to be revisited on s. 47F(1) January 2018 and s. 47F(1) visa was reinstated.

On s. 47F(1) January 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa.

Background

On s. 47F(1) October 2013, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa, granted on s. 47F(1) October 2013.

On s. 47F(1) January 2017, a Notice of Intention to Consider Cancellation (NOICC) was sent to s. 47F(1) s. 47F(1) appeared not to have complied with condition s. 47F(1) on s. 47F(1) s. 47F(1) visa, as s. 47F(1) had s. 47F(1) s. 47F(1). The notice was sent to an address obtained from the s. 47F(1) database checked by the departmental officer.

There were two addresses provided in the s. 47F(1) and the departmental delegate did not seek verification of the address directly from the s. 47F(1) prior to dispatch of the NOICC. s. 47F(1) had not updated s. 47F(1) address with the Department subsequent to s. 47F(1) arrival in Australia.

On s. 47F(1) February 2017, s. 47F(1) visa was cancelled under section 116 of the Act and s. 47F(1) appeared to be unlawful on departmental systems.

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Sensitive: Personal**Actions**

On ^{s. 47F(1)} December 2017, ^{s. 47F(1)} was detained under section 189 of the Act.

On ^{s. 47F(1)} December 2017, the Detention Review Manager (DRM) identified a possible error in the NOICC because the delegate had not sought confirmation of the ^{s. 47F(1)} from the ^{s. 47F(1)}. On ^{s. 47F(1)} December 2017, the DRM sent a request for advice to the Status Resolution Operational Support Section.

On ^{s. 47F(1)} January 2018, the Status Resolution Operational Support Section provided advice that the cancellation decision was affected by jurisdictional error and that ^{s. 47F(1)} consent should be sought to re-visit the cancellation decision.

In order to benefit from deemed receipt provisions for notices provided in relation to a section 116 cancellation, the NOICC has been given in accordance with Regulation 2.55 (3)(c)(ii) which stipulates that mail is to be provided to the last residential or business address known to the Minister. Where an address has been provided, by a third party, it must be reasonable in the circumstances to rely on this address. This requires the cancellations officer to have regard to the currency of the information, and the reliability of the source.

As the cancellations officer did not verify ^{s. 47F(1)} address, the Department was unable to rely on deemed receipt of the NOICC, in accordance with section 119 of the Act. As the NOICC had not been 'given' under section 119 of the Act, the decision to cancel was affected by a jurisdictional error.

The manager and directors of the cancellation co-ordination team for the General Cancellation Network (GCN) have explained that the cancellations network is currently establishing a revised training framework for GCN cancellation officers (in line with the Thom review recommendations) and that 'last known address' assessments and notification requirements are a key focus of the revised training framework.

Current status

On ^{s. 47F(1)} January 2018, ^{s. 47F(1)} provided consent for the decision to be re-visited and this resulted in ^{s. 47F(1)} visa being reinstated. ^{s. 47F(1)} was released from immigration detention. Prior to ^{s. 47F(1)} release, ^{s. 47F(1)} provided the Department with ^{s. 47F(1)} updated contact details.

On ^{s. 47F(1)} January 2018, a NOICC was sent to ^{s. 47F(1)} by registered post. ^{s. 47F(1)} provided a response to the NOICC via email on ^{s. 47F(1)} January 2018 and ^{s. 47F(1)} January 2018.

On ^{s. 47F(1)} February 2018, ^{s. 47F(1)} visa was cancelled under section 116 of the Act and ^{s. 47F(1)} became unlawful. ^{s. 47F(1)} did not seek review of the cancellation decision at the Administrative Appeals Tribunal (AAT).

^{s. 47F(1)} has been residing in the community as an unlawful non-citizen since ^{s. 47F(1)} February 2018.

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Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT B****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) February 2018, s. 47F(1) was located by s. 47F(1) Police who referred s. 47F(1) to the Department's Immigration Status Service (ISS) for a visa status check. As s. 47F(1) appeared to be unlawful on departmental systems, s. 47F(1) was detained under section 189 of the Act and transferred to the s. 47F(1) Immigration Transit Accommodation (ITA).

On s. 47F(1) February 2018, a determination was made that s. 47F(1) remained the holder of a s. 47F(1) visa s. 47F(1) granted in association with a s. 47F(1) visa application lodged on s. 47F(1) September 2016.

s. 47F(1) was released from immigration detention on s. 47F(1) February 2018 as the holder of a s. 47F(1).

Background

On s. 47F(1) November 2015, s. 47F(1) arrived in Australia as the holder of an s. 47F(1) visa granted on s. 47F(1) November 2015. This visa ceased on s. 47F(1) June 2016.

On s. 47F(1) September 2016, s. 47F(1) lodged an application for a s. 47F(1) visa application and was granted an associated s. 47F(1).

On s. 47F(1) October 2016, s. 47F(1) visa application was determined to be invalid. s. 47F(1) was notified via post that the application was invalid. On s. 47F(1) November 2016, the notification letter was returned to the Department.

On s. 47F(1) November 2016, s. 47F(1) associated s. 47F(1) granted on s. 47F(1) September 2016, appeared to cease.

On s. 47F(1) February 2018, s. 47F(1) was located by s. 47F(1) Police, s. 47F(1) was referred to ISS who advised that s. 47F(1) was unlawful on departmental systems and detained under section 189 of the Act. s. 47F(1) case was referred to a DRM on the same day.

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Sensitive: Personal**Actions**

On s. 47F(1) February 2018, the DRM conducted a review of s. 47F(1) case, and noted that s. 47F(1) visa application notification had been returned to sender. The DRM noted in the Phase 1 review that the file would have to be recalled as it was not possible to make an assessment without the file. The DRM marked the file for a Phase 2 review, but erroneously did not recall the file. The DRM has been counselled and instructed to ensure that files are recalled without delay at the time of completion of the Phase 1 review. Other DRM team members have also been reminded of the process.

On s. 47F(1) February 2018, a Removals officer also noted that the invalid notification had been 'returned to sender' and sent a request for advice to the Status Resolution Operational Support Section.

On s. 47F(1) February 2018, the Status Resolution Operational Support Section confirmed that the notification of the invalid determination of s. 47F(1) visa application was defective and that s. 47F(1) continued to hold the s. 47F(1) granted in association with the application.

Although there is no express requirement in the Act or *the Migration Regulations 1994* (the Regulations) to notify an applicant of an invalid application, it is the Department's policy to notify an applicant of an invalid application in writing by one of the methods set out in section 494B. Where a s. 47F(1) visa has been granted in association with an application prior to s. 47F(1) November 2016, actual notification is required to trigger the cessation of the s. 47F(1) visa. As s. 47F(1) notification was returned to sender, the Department could not rely on deemed notification provisions and s. 47F(1) did not cease.

The Director has also advised that the function of registering cases (recording applications and contact details for applicants, migration agents, etc, on departmental systems) has now been centralised in one processing centre and is now undertaken by officers at a higher classification level. In addition, a quality assurance measure has been introduced to ensure that a ten per cent random sample of invalid applications are checked by team leaders on a weekly basis and that 5% of all applications are checked on a monthly basis. This measure has been introduced to prevent the recurrence of similar errors.

Current Status

On s. 47F(1) February 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa.

On s. 47F(1) February 2018, s. 47F(1) lodged a valid application for a s. 47F(1) visa which is currently being processed.

s. 47F(1) is currently residing in the community as the holder of a s. 47F(1) visa.

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Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT C****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) June 2018, s. 47F(1) was located by s. 47F(1) Police and referred to ISS for a visa status check. As s. 47F(1) appeared to be unlawful on departmental systems, s. 47F(1) was detained under section 189 of the Act and transferred to s. 47F(1) Immigration Detention Centre (IDC).

On s. 47F(1) June 2018, a determination was made that s. 47F(1) remained the holder of a s. 47F(1) visa s. 47F(1) granted in association with an s. 47F(1) application lodged on s. 47F(1) November 2002.

s. 47F(1) was released from immigration detention on s. 47F(1) June 2018.

Background

On s. 47F(1) October 2002, s. 47F(1) arrived in Australia as the holder of an s. 47F(1) visa, which ceased on s. 47F(1) January 2003.

On s. 47F(1) October 2002, s. 47F(1) lodged a s. 47F(1) visa application as a dependent applicant and was granted an associated s. 47F(1) On s. 47F(1) November 2002, s. 47F(1) visa application was refused.

On s. 47F(1) December 2002, s. 47F(1) lodged an application for an s. 47F(1) visa application as a dependent applicant and was granted an associated s. 47F(1) On s. 47F(1) March 2003, s. 47F(1) visa application was refused.

On s. 47F(1) April 2003, s. 47F(1) lodged an application for review of the s. 47F(1) visa refusal decision with the then Migration Review Tribunal (MRT). On s. 47F(1) June 2003, the MRT found that it had no jurisdiction to review the refusal of the s. 47F(1) application as it was lodged outside the prescribed timeframes.

On s. 47F(1) July 2003, s. 47F(1) granted in association with the s. 47F(1) visa application appeared to cease.

Between s. 47F(1) May 2005 and s. 47F(1) September 2005, s. 47F(1) was granted multiple s. 47F(1) on departure and Ministerial Intervention grounds, the last of which ceased on s. 47F(1) November 2005.

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On ^{s. 47F(1)} November 2005, ^{s. 47F(1)} lodged an application for a ^{s. 47F(1)} visa and was granted an associated ^{s. 47F(1)} on ^{s. 47F(1)} November 2005. On ^{s. 47F(1)} January 2006, ^{s. 47F(1)} visa application was refused and ^{s. 47F(1)} associated ^{s. 47F(1)} ceased on ^{s. 47F(1)} March 2006.

On ^{s. 47F(1)} March 2006, ^{s. 47F(1)} lodged an application for review of the refusal of the ^{s. 47F(1)} visa with the then Refugee Review Tribunal (RRT). On ^{s. 47F(1)} May 2006, the RRT affirmed the decision to refuse the ^{s. 47F(1)} visa.

On ^{s. 47F(1)} June 2006, ^{s. 47F(1)} lodged an application for review of the RRT decision with the Federal Magistrates Court (FMC). On ^{s. 47F(1)} October 2006, the FMC found in favour of the Minister.

On ^{s. 47F(1)} May 2008, ^{s. 47F(1)} was re-notified of the decision to refuse ^{s. 47F(1)} visa as it was affected by defective notification.

On ^{s. 47F(1)} June 2008, ^{s. 47F(1)} lodged an application for review of the refusal of the ^{s. 47F(1)} visa refusal decision with the MRT.

On ^{s. 47F(1)} August 2008, the MRT found it had no jurisdiction to review the refusal of the ^{s. 47F(1)} visa.

On ^{s. 47F(1)} October 2008, ^{s. 47F(1)} lodged an application for judicial review of the MRT decision at the FMC. On ^{s. 47F(1)} November 2008, the Minister withdrew from the FMC matter in relation to the ^{s. 47F(1)} visa and the case was remitted to the MRT.

On ^{s. 47F(1)} March 2009, the MRT affirmed the decision to refuse the ^{s. 47F(1)} visa. On ^{s. 47F(1)} April 2009, ^{s. 47F(1)} granted on ^{s. 47F(1)} October 2002 in association with the ^{s. 47F(1)} visa application ceased.

On ^{s. 47F(1)} December 2009, the last ^{s. 47F(1)} granted to ^{s. 47F(1)} on departure grounds ceased.

On ^{s. 47F(1)} June 2018, ^{s. 47F(1)} was located by ^{s. 47F(1)} Police, referred to ISS and detained.

Actions

On ^{s. 47F(1)} June 2018, ^{s. 47F(1)} case was referred to a DRM for review. On ^{s. 47F(1)} June 2018, the DRM referred the case to the Status Resolution Operational Support Section for advice.

On ^{s. 47F(1)} June 2018, the Status Resolution Operational Support Section confirmed that as the MRT's notification in relation to affirming the decision to refuse the ^{s. 47F(1)} visa application was not effective, ^{s. 47F(1)} continued to hold the associated ^{s. 47F(1)} granted on ^{s. 47F(1)} December 2002.

The Status Resolution Operational Support Section advised that the MRT review application form, made provision for ^{s. 47F(1)} to appoint ^{s. 47F(1)} as ^{s. 47F(1)} authorised recipient. However, as the MRT found that it had no jurisdiction to review the application, the case was *SZJDS* affected. The Court made the finding in the case of *SZJDS* in 2012 that the MRT has no legal obligation to give documents to an authorised recipient if the review application is not properly made and is invalid. In ^{s. 47F(1)} case the application lodged by ^{s. 47F(1)} was invalid as it was lodged outside the prescribed timeframe for review. In such circumstances, as the 'no jurisdiction' notification was given to ^{s. 47F(1)} in ^{s. 47F(1)} capacity as 'authorised recipient', the review applicant, ^{s. 47F(1)} is not taken to have received the notification.

In the absence of evidence that there was separate notification or actual notification of the Tribunal

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notice by s. 47F(1) the Department is unable to rely on deemed receipt provisions to trigger the cessation of the associated s. 47F(1) s. 47F(1) was unable to confirm receipt of a copy of the Tribunal notification and continued to hold the associated s. 47F(1)

Following the *SZJDS* court case in 2012, the MRT amended its practice and commenced sending 'no jurisdiction' notifications to both the authorised recipient and the review applicant from 16 November 2012. The MRT also amended its legislation on 25 September 2014 which means that as of this date onwards, 'no jurisdiction' determinations, regardless of whether they are sent to authorised recipients only, will be outside the scope of an *SZJDS* type error.

On s. 47F(1) June 2018, s. 47F(1) was released from immigration detention as the holder of s. 47F(1)

Current Status

On s. 47F(1) June 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) s. 47F(1) was provided with a copy of the MRT decision by hand and advised that s. 47F(1) associated s. 47F(1) would cease in s. 47F(1) days.

s. 47F(1) ceased on s. 47F(1) July 2018, s. 47F(1) is currently unlawful in the community.

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Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT D****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) March 2018, s. 47F(1) was located by s. 47F(1) Police and referred to the Department's ISS for a visa status check. As s. 47F(1) appeared to be unlawful on departmental systems, s. 47F(1) was detained under section 189 of the Act, before being transferred to s. 47F(1) IDC the following day.

On s. 47F(1) March 2018, a determination was made that s. 47F(1) remained the holder of a s. 47F(1) granted in association with a s. 47F(1) visa application lodged on s. 47F(1) November 2016.

s. 47F(1) was released from immigration detention on s. 47F(1) March 2018, as the holder of a s. 47F(1)

Background

On s. 47F(1) April 2016, s. 47F(1) arrived in Australia as the holder of an s. 47F(1) visa granted on s. 47F(1) April 2016. This visa ceased on s. 47F(1) July 2016.

On s. 47F(1) November 2016, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s. 47F(1). On s. 47F(1) March 2017, s. 47F(1) visa application was refused and the notification was sent to s. 47F(1) via email.

On s. 47F(1) April 2017, s. 47F(1) associated s. 47F(1) visa appeared to cease on departmental systems.

On s. 47F(1) March 2018, s. 47F(1) was located by s. 47F(1) Police, and was referred to ISS for a visa status check. ISS advised s. 47F(1) was an unlawful non-citizen and s. 47F(1) was detained under section 189 of the Act.

Actions

On s. 47F(1) March 2018, the DRM recalled the file which was received on s. 47F(1) March 2018. The DRM identified a potential defect in the notification of the s. 47F(1) visa refusal, as the email address used contained a typographical error. The DRM referred the case to the Status Resolution Operational Support Section on the same day.

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On s. 47F(1) March 2018, the Status Resolution Operational Support Section confirmed that the notification of s. 47F(1) visa application refusal notification was defective, as it contained a typographical error.

As s. 47F(1) was not effectively notified of the decision to refuse s. 47F(1) visa, s. 47F(1) continued to hold the associated s. 47F(1) granted on s. 47F(1) November 2016. On s. 47F(1) March 2018, s. 47F(1) was released from s. 47F(1) IDC.

The manager of the relevant area has advised that following identification of the error, all registration officers have been counselled on the importance of accurate data entry and case officers have been reminded to cross reference contact details with original documentation prior to dispatch of correspondence.

In addition, managers in the visa processing area conduct quality assurance checks including notification checks post-decision, and provide feedback to officers on a regular basis.

Current Status

On s. 47F(1) March 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa. Prior to s. 47F(1) release s. 47F(1) provided the Department with s. 47F(1) updated contact details.

On s. 47F(1) April 2018, s. 47F(1) was re-notified of the decision to refuse s. 47F(1) visa, and on s. 47F(1) April 2018, s. 47F(1) lodged an application for review at the Administrative Appeals Tribunal (AAT).

s. 47F(1) is currently residing in the community as the holder of a s. 47F(1) pending the outcome of s. 47F(1) application for merits review.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT E****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) December 2017, s. 47F(1) presented to a s. 47F(1) in s. 47F(1) stated that s. 47F(1) was destitute and that s. 47F(1) did not have a passport and requested assistance to return to s. 47F(1). Police referred s. 47F(1) case to the Australian Border Force (ABF). As s. 47F(1) appeared to be unlawful on departmental systems s. 47F(1) was detained under section 189 of the Act.

On s. 47F(1) January 2018, a determination was made that the cancellation of s. 47F(1) visa on s. 47F(1) April 2016 was affected by jurisdictional error and that the decision should be revisited with s. 47F(1) consent. s. 47F(1) provided consent for the cancellation decision to be revisited on s. 47F(1) January 2018.

On s. 47F(1) January 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa.

Background

On s. 47F(1) December 2013, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa.

On s. 47F(1) April 2016, a Notice of Intention to Consider Cancellation (NOICC) was sent to s. 47F(1) the grounds that s. 47F(1) appeared not to have complied with s. 47F(1) on s. 47F(1) s. 47F(1) visa and had s. 47F(1). The notice incorrectly stated that the deemed receipt period for the notice was 21 calendar days from the date of the letter. The deemed receipt period of 21 calendar days is for overseas addresses, the delegate should have used the deemed receipt period of seven working days for addresses in Australia.

On s. 47F(1) April 2016, s. 47F(1) visa was cancelled under section 116 of the Act. s. 47F(1) had not provided a response to the NOICC by this date. The timeframe for response to the NOICC of five working days the following incorrectly applied deemed receipt period of 21 calendar days had not passed at the time of cancellation.

Actions

On s. 47F(1) December 2017, the DRM commenced a review of the case and identified a possible error in the NOICC, and the case was referred to the Status Resolution Operational Support Section for advice.

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Sensitive: Personal

On s. 47F(1) January 2018, the Status Resolution Operational Support Section provided advice that s. 47F(1) consent should be sought to re-visit the cancellation decision. The decision to cancel the visa was affected by jurisdictional error as the delegate proceeded to make a decision to cancel the visa before the timeframe to respond to the NOICC had passed.

s. 47F(1) provided consent on the same day for the decision to be re-visited, which resulted in s. 47F(1) visa being reinstated and s. 47F(1) was released from immigration detention. A second NOICC was given to s. 47F(1) by hand on the same day.

The manager of the cancellation co-ordination (GCN) team has explained that letters generated from the Enterprise Correspondence Service (ECS) system which is used to produce letters will on occasion default to the deemed receipt provision for overseas mail, even when correspondence is dispatched to addresses in Australia. This error in the system has been identified and flagged with the ECS team to address. The manager explained that the error in the NOICC in s. 47F(1) case occurred before this system error was identified. The GCN has established protocols to ensure that letters comply with legislative requirements. The manager advised that the network also has a well-established quality control framework to identify issues and errors, with ongoing feedback provided to cancellation officers.

It appears the visa cancellation delegate inadvertently issued a Notice of Decision (NOD) to cancel s. 47F(1) visa within the prescribed five working days, as a result of the ECS system error. If the NOICC template had defaulted to the onshore mail deemed receipt provisions (of seven working days), the NOD issued by the visa cancellation delegate on s. 47F(1) April 2016 would have afforded s. 47F(1) an additional 5 working days to respond to the NOICC.

Cancellation and Character Support has been engaging with the Department's Immigration and Citizenship Law Branch on messaging to all visa cancellation delegates. A network alert has been drafted (and is currently being legally reviewed) that reiterates the requirements under regulation 2.55 and 2.44 in managing related visa cancellation notifications. That is, a summary on the delivery timeframes of NOICC/NODs to ensure deemed receipt the response timeframes for non-citizens invitation to comment on the NOICC. The alert will also include a process (flowchart) by which cancellation delegates can follow to assist in identifying a client's 'last known address'.

Cancellation and Character Support is reviewing how best to implement a more streamlined and scheduled review process of cancellation templates to ensure they remain up-to-date across all platforms.

Current status

On s. 47F(1) January 2018, s. 47F(1) was released from immigration detention. Prior to s. 47F(1) release s. 47F(1) provided the Department with s. 47F(1) updated contact details. s. 47F(1) was provided with a NOICC prior to s. 47F(1) release from detention.

On s. 47F(1) January 2018, s. 47F(1) visa was cancelled under section 116 of the Act and s. 47F(1) became unlawful. s. 47F(1) did not seek review of the cancellation decision at the AAT.

s. 47F(1) has been residing in the community as an unlawful non-citizen since s. 47F(1) January 2018.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT F****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) March 2018, s. 47F(1) police contacted the Department's ISS for a visa status check for s. 47F(1). As s. 47F(1) appeared to be unlawful on departmental systems, ISS established contact with the ABF who detained s. 47F(1) under section 189 of the Act and transferred s. 47F(1) to s. 47F(1) IDC.

On s. 47F(1) March 2018, a determination was made that s. 47F(1) remained the holder of a s. 47F(1) visa s. 47F(1) granted in association with a s. 47F(1) visa application lodged on s. 47F(1) August 2015.

s. 47F(1) was released from immigration detention on s. 47F(1) March 2018.

Background

On s. 47F(1) August 2012, s. 47F(1) arrived in Australia as the holder of s. 47F(1) visa, valid to s. 47F(1) August 2015.

On s. 47F(1) August 2015, s. 47F(1) lodged a s. 47F(1) visa application as a secondary applicant and was granted an associated s. 47F(1) valid to s. 47F(1) May 2018.

On s. 47F(1) November 2016, s. 47F(1) lodged a s. 47F(1) visa application as a primary applicant and on s. 47F(1) November 2016, s. 47F(1) was granted a s. 47F(1) in association with this application, valid until s. 47F(1) June 2017.

On s. 47F(1) March 2017, s. 47F(1) s. 47F(1) visa application, lodged as a secondary applicant was refused and the primary applicant was notified of the refusal. On s. 47F(1) April 2017, s. 47F(1) granted in association with the s. 47F(1) application appeared to cease on departmental systems.

On s. 47F(1) June 2017, s. 47F(1) granted in association with the s. 47F(1) visa ceased and s. 47F(1) was granted a s. 47F(1) on the same day.

On s. 47F(1) July 2017, s. 47F(1) s. 47F(1) application for a s. 47F(1) visa was refused. s. 47F(1) lodged an application for review of the s. 47F(1)

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visa refusal at the AAT on s. 47F(1) August 2017.

On s. 47F(1) November 2017, the AAT made a 'no jurisdiction' finding in relation to s. 47F(1) application for review.

On s. 47F(1) December 2017, s. 47F(1) granted in association with the s. 47F(1) visa ceased, subsequent to the outcome of the AAT review. s. 47F(1) appeared to be unlawful on departmental systems

On s. 47F(1) March 2018, s. 47F(1) was taken into immigration detention.

Actions

On s. 47F(1) March 2018, the ABF referred s. 47F(1) case to the Status Resolution Operational Support Section for advice as a potential defect was identified in the notification of the refusal of the second application for the s. 47F(1) visa. On the same day s. 47F(1) case was referred to a DRM, who was informed that further advice was being sought in relation to s. 47F(1) case.

On s. 47F(1) March 2018, the DRM was advised by the Status Resolution Operational Support Section that the notification of s. 47F(1) s. 47F(1) visa application was defective and that s. 47F(1) remained the holder of an associated s. 47F(1). The notification was defective as it was addressed to the primary applicant and did not explicitly state that s. 47F(1) could seek review of the refusal.

On s. 47F(1) March 2018, s. 47F(1) was released from immigration detention as the holder of an associated s. 47F(1)

The manager of the visa processing area has advised that subsequent to the identification of the error in s. 47F(1) case, team leaders have introduced additional quality control measures and now check that review rights are included in notification letters to ensure that applicants are correctly notified of their review rights. The manager also explained that decision makers are provided with a detailed two page flow chart which provides guidelines for review.

Current Status

On s. 47F(1) March 2018, s. 47F(1) was released from immigration detention. Prior to s. 47F(1) release s. 47F(1) provided the Department with s. 47F(1) updated contact details.

On s. 47F(1) March 2018, s. 47F(1) was re-notified of the decision to refuse s. 47F(1) s. 47F(1) visa, and s. 47F(1) lodged an application for review at the AAT on s. 47F(1) March 2018.

s. 47F(1) is currently residing in the community as the holder of a s. 47F(1) pending the outcome of s. 47F(1) application for merits review.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT G****Process Incorrect****Administrative deficiency**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) May 2018, s. 47F(1) was located by the ABF upon s. 47F(1) release from s. 47F(1) after appearing in court. s. 47F(1) was unlawful at the time of s. 47F(1) detention following the cancellation of s. 47F(1) visa on s. 47F(1) February 2018, under section 116 of the Act.

On s. 47F(1) June 2018, the AAT set aside the decision to cancel s. 47F(1) visa. Due to an administrative error, s. 47F(1) was not notified of the decision until s. 47F(1) June 2018.

s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa on s. 47F(1) June 2018.

Background

s. 47F(1) last arrived in Australia on s. 47F(1) January 2007, and was granted a s. 47F(1) visa.

On s. 47F(1) November 2017, the Department received information in relation to s. 47F(1) criminal history. On s. 47F(1) January 2018, s. 47F(1) was issued with a NOICC concerning the possible cancellation of s. 47F(1) visa under section 116 of the Act.

On s. 47F(1) February 2018, s. 47F(1) visa was cancelled under section 116 of the Act. s. 47F(1) lodged an application for review of the cancellation decision at the AAT on s. 47F(1) February 2018.

On s. 47F(1) June 2018, the AAT set aside the decision to cancel s. 47F(1) visa and substitute it with a decision not to cancel the visa, with the consequence that s. 47F(1) again became the holder of this visa.

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Actions

On ^{s. 47F(1)} June 2018, the AAT sent an email to the ^{s. 47F(1)} Status Resolution mailbox requesting that ^{s. 47F(1)} be notified of the decision. Status Resolution made immediate arrangements for ^{s. 47F(1)} release and ^{s. 47F(1)} was released from immigration detention.

The Legal Systems and Tribunal Liaison (LSTL) Section liaised with the AAT following the identification of the delay in ^{s. 47F(1)} case. The AAT confirmed that standard procedure was not followed in ^{s. 47F(1)} case and that the matter was raised with the officer and team concerned to ensure timely notifications to the Department concerning decisions which may impact on the immigration status of persons in held detention.

The LSTL Section is currently liaising with the AAT to strengthen the protocol between the Department and the AAT to prevent the recurrence of such administrative errors.

Current Status

On ^{s. 47F(1)} June 2018, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} ^{s. 47F(1)} visa. ^{s. 47F(1)} continues to reside lawfully in the community as the holder of this visa.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT H****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) June 2018, s. 47F(1) presented to the Status Resolution counter in s. 47F(1) as s. 47F(1) had received a letter from s. 47F(1) s. 47F(1) advising s. 47F(1) that s. 47F(1) visa had been cancelled. s. 47F(1) was detained under section 189 of the Act by the ABF as s. 47F(1) appeared as unlawful on departmental systems following the cancellation of s. 47F(1) s. 47F(1) visa on s. 47F(1) June 2018.

On s. 47F(1) June 2018, a determination was made that the cancellation of s. 47F(1) s. 47F(1) visa was affected by jurisdictional error and should be revisited with s. 47F(1) consent.

On s. 47F(1) June 2018, s. 47F(1) provided consent for the cancellation decision to be revisited and s. 47F(1) was released from immigration detention.

Background

On s. 47F(1) November 2016, s. 47F(1) first arrived in Australia as the holder of a s. 47F(1) s. 47F(1) visa granted on s. 47F(1) October 2016.

On s. 47F(1) November 2017, s. 47F(1) Police provided information to the Department that s. 47F(1) s. 47F(1) had been charged with s. 47F(1)

On s. 47F(1) April 2018, the AFP provided the Department with a criminal history report for s. 47F(1) This report provided an alias for s. 47F(1) and purported to provide information in relation to other offences allegedly committed by s. 47F(1) on s. 47F(1) September 2015 in Australia. The charges attributed to s. 47F(1) by the AFP were not correct and the incidents had occurred prior to s. 47F(1) arrival in Australia.

On s. 47F(1) May 2018, a NOICC was sent to s. 47F(1) The NOICC made reference to charges of indecent assault as well as charges in relation to offences allegedly committed by s. 47F(1) on s. 47F(1) September 2015. s. 47F(1) did not respond to the NOICC. On s. 47F(1) June 2018, s. 47F(1) s. 47F(1) visa was cancelled under section 116 of the Act. On s. 47F(1) June 2018, the NOICC was returned to the Department unclaimed.

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On s. 47F(1) June 2018, s. 47F(1) presented to the Status Resolution counter of the Department in s. 47F(1) and was detained under section 189 of the Act.

Actions

On s. 47F(1) June 2018, s. 47F(1) case was referred to a DRM. The DRM completed a review of s. 47F(1) case, and noted that the cancellation was sent to the last known address in accordance with regulation 2.55 of the Regulations and that there was confirmation of dispatch of the NOICC and the NOC. The DRM concluded that s. 47F(1) was effectively notified of the cancellation.

On s. 47F(1) June 2018, s. 47F(1) lodged an application for a s. 47F(1) visa and s. 47F(1) application for an associated s. 47F(1) was referred to a Status Resolution officer. On s. 47F(1) June 2018, the Status Resolution officer assessing s. 47F(1) application for a s. 47F(1) identified that some of the convictions attributed to s. 47F(1) and included on the NOICC had occurred prior to s. 47F(1) arrival in Australia. The Status Resolution officer escalated the case to the Director Status Resolution s. 47F(1) and the case was referred for advice to the Status Resolution Operational Support Section.

On s. 47F(1) June 2018, s. 47F(1) application for a s. 47F(1) in association with s. 47F(1) s. 47F(1) visa application was refused.

On s. 47F(1) June 2018, the Status Resolution Operational Support Section advised that the decision to cancel s. 47F(1) visa was affected by jurisdictional error and should be revisited with s. 47F(1) consent. The NOICC sent to s. 47F(1) outlined charges in relation to offences which were incorrectly attributed to s. 47F(1). While the charges were given to the Department by the AFP as part of a criminal history report and the mistake of fact may have occurred on the part of the AFP, the cancellation delegate relied on this information in their decision. This resulted in the decision being affected by a clear jurisdictional error as the delegate took into account irrelevant considerations in cancelling s. 47F(1) visa.

On s. 47F(1) June 2018, s. 47F(1) consent was obtained to revisit the cancellation decision, s. 47F(1) visa was reinstated and s. 47F(1) was released from detention at the holder of a s. 47F(1) visa.

Current Status

On s. 47F(1) June 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa. Upon s. 47F(1) release, s. 47F(1) was issued with a NOICC, which did not include the convictions previously incorrectly attributed to s. 47F(1) and s. 47F(1) was given an opportunity to respond. Once the delegate had considered s. 47F(1) response to the NOICC, s. 47F(1) s. 47F(1) visa was cancelled under section 116 of the Act.

On s. 47F(1) June 2018, s. 47F(1) lodged an application for review of the decision to cancel s. 47F(1) visa at the AAT.

On s. 47F(1) July 2018, s. 47F(1) visa application was refused. s. 47F(1) lodged an application for review of the refusal decision at the AAT on s. 47F(1) July 2018. On s. 47F(1) July 2018, s. 47F(1) lodged an application for a s. 47F(1) which was sighted by the Detention Review Officer (DRO) on s. 47F(1) August 2018. The DRO refused s. 47F(1) application on s. 47F(1) August 2018, and s. 47F(1) did not seek merits review of this decision.

s. 47F(1) is currently detained at the s. 47F(1) ITA as an unlawful non-citizen, pending the outcome of the AAT reviews of the decision to cancel s. 47F(1) s. 47F(1) visa, and the decision to refuse s. 47F(1) application for a s. 47F(1) visa.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT I****Process Incorrect****Defective Notification**

Family Name
Given Name
Alias
Country of Citizenship
DOB
ICSE Client ID
Date of detention
Date of release

s. 47F(1)

**Days detained as not
 an unlawful non-citizen**

s. 47F(1)

Summary

On s. 47F(1) March 2018, s. 47F(1) was detained under section 189 of the Act by the ABF following s. 47F(1) release from a correctional facility and transferred to s. 47F(1) IDC. s. 47F(1) appeared to be unlawful on departmental systems at the time s. 47F(1) was detained.

On s. 47F(1) March 2018, a determination was made that s. 47F(1) remained the holder of a s. 47F(1) visa as the refusal of s. 47F(1) visa on s. 47F(1) February 2014 was affected by jurisdictional error.

s. 47F(1) was released from immigration detention on s. 47F(1) March 2018.

Background

On s. 47F(1) February 2008, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa valid until s. 47F(1) March 2012. On s. 47F(1) June 2011, s. 47F(1) visa was cancelled under section 116 of the Act.

On s. 47F(1) July 2011, s. 47F(1) lodged an application for a s. 47F(1) and was granted an associated s. 47F(1).

On s. 47F(1) May 2012, s. 47F(1) was granted a s. 47F(1) visa and a s. 47F(1) in association with s. 47F(1) ongoing application for a s. 47F(1) visa.

On s. 47F(1) May 2013, the Department wrote to s. 47F(1) at s. 47F(1) last known address seeking information regarding the current status of s. 47F(1), for consideration in regard to s. 47F(1) visa application. s. 47F(1) did not respond to this request, nor to an email from the Department on s. 47F(1) January 2014.

On s. 47F(1) February 2014, s. 47F(1) was remanded in criminal custody after being charged with s. 47F(1). On s. 47F(1) February 2014, s. 47F(1) visa application was refused as s. 47F(1) had not responded to the Department's request for further information.

On s. 47F(1) March 2014, s. 47F(1) associated s. 47F(1) ceased on departmental systems, subsequent to the

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recording of the refusal of the s. 47F(1) visa on the Department's electronic database on s. 47F(1) February 2014. s. 47F(1) visa appeared to cease on departmental systems on the on the same day that s. 47F(1) s. 47F(1) visa application was refused.

On s. 47F(1) March 2014, s. 47F(1) appeared as unlawful on departmental systems.

On s. 47F(1) April 2014, s. 47F(1) was convicted and sentenced to a term of imprisonment of s. 47F(1). On s. 47F(1) March 2015, s. 47F(1) was granted a s. 47F(1) to maintain s. 47F(1) lawful status while s. 47F(1) was in criminal custody. s. 47F(1) visa ceased on s. 47F(1) March 2015, prior to s. 47F(1) impending release from criminal custody.

On s. 47F(1) March 2018, s. 47F(1) was released from criminal custody and taken into immigration detention. At the time of s. 47F(1) detention, s. 47F(1) appeared to be unlawful on departmental systems.

Actions

On s. 47F(1) March 2018, the DRM requested advice from the Status Resolution Operational Support Section, as it is standard practice in cases where the holder of a s. 47F(1) visa has their application for a s. 47F(1) visa refused and does not seek merits review of the refusal decision.

On s. 47F(1) March 2018, the Status Resolution Operational Support Section advised that the decision to refuse s. 47F(1) visa application was affected by jurisdictional error, and s. 47F(1) remained the holder of the s. 47F(1) visa. Further, s. 47F(1) application remained on foot.

The manager of the relevant s. 47F(1) section has advised that following the error identified in s. 47F(1) case, the issues were discussed in team meetings and weekly updates. This was to ensure that officers are aware of their obligations under the Code of Procedure when requesting information under section 56 of the Act. The manager also advised that team leaders regularly check refusal decisions prior to notification. In addition, a new checklist was introduced for visa processing officers in March 2018 to assist in identifying relevant issues prior to refusal of an application.

Current Status

On s. 47F(1) March 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa. s. 47F(1) was also notified that a decision on s. 47F(1) s. 47F(1) visa would be re-visited by the Department.

On s. 47F(1) March 2018, s. 47F(1) visa was cancelled under section 116 of the Act because of s. 47F(1) criminal conviction for s. 47F(1) and s. 47F(1) was re-detained. s. 47F(1) did not seek review of the cancellation decision.

On s. 47F(1) April 2018, a decision was made to refuse s. 47F(1) visa as s. 47F(1) was no longer s. 47F(1) with the sponsor of s. 47F(1) application and s. 47F(1) was notified of this decision whilst in detention. s. 47F(1) did not seek review of this decision. s. 47F(1) remained in immigration detention until s. 47F(1) departure from Australia on s. 47F(1) April 2018.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT J****Process Incorrect****Administrative deficiency**

Family Name
Given Name
Alias
Country of Citizenship
DOB
ICSE Client ID
Date of detention
Date of release

s. 47F(1)

**Days detained as not
 an unlawful non-citizen**

s. 47F(1)

Summary

On s. 47F(1) January 2018, s. 47F(1) was detained by the ABF upon s. 47F(1) release from a correctional facility. s. 47F(1) was unlawful at the time of s. 47F(1) detention, following the cancellation of s. 47F(1) s. 47F(1) visa on s. 47F(1) January 2017 under the mandatory cancellation provisions of section 501(3A) of the Act.

On s. 47F(1) February 2018, a departmental delegate revoked the cancellation of s. 47F(1) visa and s. 47F(1) visa was reinstated.

Due to an administrative error, s. 47F(1) was not notified of the revocation decision until s. 47F(1) February 2018. On the same day s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa.

Background

s. 47F(1) last arrived Australia on s. 47F(1) June 2012, and was granted a s. 47F(1) visa.

On s. 47F(1) November 2017, s. 47F(1) visa was cancelled under the mandatory cancellation provisions of section 501(3A) of the Act. s. 47F(1) submitted a request for revocation of the cancellation of s. 47F(1) s. 47F(1) visa on s. 47F(1) December 2017.

On s. 47F(1) January 2018, s. 47F(1) was detained upon s. 47F(1) release from criminal custody.

On s. 47F(1) February 2018, a departmental delegate revoked the cancellation of s. 47F(1) visa under section 501CA(4) of the Act.

Actions

On s. 47F(1) February 2018, the cancellation delegate in s. 47F(1) emailed the manager of the National Character Consideration Centre (NCCC) to advise of the revocation. The text of the email also addressed the NCCC case officer assigned to s. 47F(1) case, however, the case officer was not copied into the email. The manager of the NCCC was on leave at the time.

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On s. 47F(1) February 2018, when the manager of the NCCC returned from leave, they informed the NCCC case officer of the revocation decision. The case officer in turn informed s. 47F(1) Status Resolution officers that s. 47F(1) visa had been reinstated on s. 47F(1) February 2018, following the revocation decision and that s. 47F(1) should be released from detention.

On s. 47F(1) February 2018, the NCCC case manager emailed the revocation notification to s. 47F(1) legal representative. s. 47F(1) was notified of the revocation decision at s. 47F(1) on s. 47F(1) February 2018. Although s. 47F(1) was at liberty to leave the detention facility from s. 47F(1), as s. 47F(1) flight from s. 47F(1) Airport to s. 47F(1) was scheduled for s. 47F(1) February 2018 in the evening, s. 47F(1) elected to remain at s. 47F(1) IDF until s. 47F(1), when s. 47F(1) left for s. 47F(1) airport.

The manager in the NCCC has advised that remedial processes to mitigate against the recurrence of this error were implemented following s. 47F(1) case, and that these measures were further enhanced since s. 47F(1) June 2018, following the identification of s. 47F(1) case (Attachment s. 47F(1)).

Departmental revocation delegates located in the NCCC in s. 47F(1) are required to provide all decisions by hand to the NCCC manager on the day that the decision has been made. For revocation decisions that are forwarded to the NCCC by the revocations delegate electronically, the decisions are sent to the NCCC manager via email and a copy of the decision is sent to the NCCC director, and the NCCC mailbox.

At the end of each day, the departmental revocations delegate sends an email to all NCCC managers with a list of all revocation decisions made on that day. The revocations managers cross reference the decisions on the revocation delegate's list against the cases listed on their spreadsheet.

The revocations delegate is also provided with a list of outstanding cases by the NCCC, to cross check against their records.

All outstanding decisions were checked following the error identified in s. 47F(1) case, ensuring there were no unaccounted decisions.

The NCCC Standard Operating Procedures 'Post Decision Procedures' for revocation requests is currently being updated to reflect the new procedures. The NCCC has also advised that quarterly quality assurance checks are conducted on sample caseloads to ensure that notification is effective and that record keeping is accurate and up to date.

Current Status

On s. 47F(1) February 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa.

s. 47F(1) continues to reside lawfully in the community as the holder of this visa.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT K****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) December 2017, s. 47F(1) was detained under section 189 of the Act by the ABF, when s. 47F(1) reported to the s. 47F(1) office at the request of the Cancellations team. s. 47F(1) was unlawful at the time of detention as s. 47F(1) had been cancelled under section 116 of the Act on s. 47F(1) December 2017.

At the time s. 47F(1) was detained, advice had been obtained that the cancellation was affected by jurisdictional error, however, s. 47F(1) had commenced merits review of the decision at the AAT. It is the Department's position that a defective decision will not be revisited, where an application for review has been lodged by a tribunal or a court.

On s. 47F(1) January 2018, the AAT determined that it did not have the jurisdiction to review the cancellation as s. 47F(1) had not paid the requisite fee. As such, the defective cancellation decision required to be revisited.

Due to medical advice that s. 47F(1) was not mentally capable, there was a delay in seeking s. 47F(1) consent to revisit cancellation decision. Following advice that s. 47F(1) was mentally stable on s. 47F(1) February 2018, s. 47F(1) consent was obtained to revisit the cancellation and s. 47F(1) was released that day as the holder of a s. 47F(1).

Background

On s. 47F(1) March 2008, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa granted on s. 47F(1) March 2008. This visa ceased on s. 47F(1) May 2009. On s. 47F(1) May 2009, s. 47F(1) was granted a s. 47F(1) visa onshore which ceased on s. 47F(1) May 2010.

On s. 47F(1) June 2010, s. 47F(1) lodged an application for a s. 47F(1) visa. s. 47F(1) was granted this visa on s. 47F(1) September 2011, and it ceased on s. 47F(1) March 2013.

On s. 47F(1) January 2013, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s. 47F(1). On s. 47F(1) September 2014, s. 47F(1) visa was refused and s. 47F(1) associated s. 47F(1) ceased on s. 47F(1) October 2014.

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On ^{s. 47F(1)} September 2016, ^{s. 47F(1)} lodged an application for a ^{s. 47F(1)} and was granted an associated ^{s. 47F(1)} which ceased on ^{s. 47F(1)} December 2016. On the same day, ^{s. 47F(1)} was granted a ^{s. 47F(1)} in association with the ^{s. 47F(1)} visa application.

On ^{s. 47F(1)} September 2017, ^{s. 47F(1)} Police contacted ISS for a visa status check and advised that they had ^{s. 47F(1)} in custody. ISS advised that ^{s. 47F(1)} was currently lawful on a ^{s. 47F(1)} and requested information relating to any criminal charges and pending court appearances.

On ^{s. 47F(1)} September 2018, ^{s. 47F(1)} Police advised ISS that ^{s. 47F(1)} had been charged with one count of ^{s. 47F(1)} had been identified as the offender in a further ^{s. 47F(1)} instances with charges to follow, and had been bailed to appear in ^{s. 47F(1)} Magistrates Court on ^{s. 47F(1)} October 2017. On ^{s. 47F(1)} September 2018, ^{s. 47F(1)} Police advised that ^{s. 47F(1)} had been charged with six counts of ^{s. 47F(1)} with the offences committed within a ^{s. 47F(1)} period.

On ^{s. 47F(1)} November 2017, ^{s. 47F(1)} was issued with a NOICC in relation to ^{s. 47F(1)} ^{s. 47F(1)} given ^{s. 47F(1)} serious criminal charges. ^{s. 47F(1)} did not respond to the NOICC and ^{s. 47F(1)} ^{s. 47F(1)} was cancelled under section 116 of the Act on ^{s. 47F(1)} December 2017.

On ^{s. 47F(1)} December 2017, a team leader in the General Cancellations team conducted a systems check and identified that the cancellation decision appeared to be flawed. ^{s. 47F(1)} had updated ^{s. 47F(1)} address on ^{s. 47F(1)} October 2016, and an incorrect, earlier address had been used in the NOICC, which was returned unclaimed to the Department on ^{s. 47F(1)} November 2017. The team leader referred the case for advice to the Status Resolution Operational Support Section. ABF advised that they would not detain ^{s. 47F(1)} as the cancellation was defective.

On ^{s. 47F(1)} December 2017, the Status Resolution Operational Support Section sought further advice in relation to ^{s. 47F(1)} case. On ^{s. 47F(1)} December 2017, it was determined that the decision to cancel ^{s. 47F(1)} visa was affected by jurisdictional error as the NOICC was not sent to the last known address as required by regulation 2.55.

On ^{s. 47F(1)} December 2017, the Status Resolution Operational Support Section provided advice to the Cancellations team in ^{s. 47F(1)} that ^{s. 47F(1)} permission should be sought to revisit the cancellation decision. On the same day, ^{s. 47F(1)} attended the Department's ^{s. 47F(1)} office at the request of the Cancellations team.

The Cancellations team contacted the Cancellations Helpdesk to advise that during the interview, ^{s. 47F(1)} stated that ^{s. 47F(1)} had lodged an application for review of the cancellation decision at the AAT, which was confirmed with the AAT. The Cancellations team contacted the Status Resolution Operational Support Section who advised that as ^{s. 47F(1)} had lodged an application for review within the prescribed timeframe, and a review would be conducted by the AAT, it was no longer necessary to obtain ^{s. 47F(1)} consent to revisit the cancellation.

On ^{s. 47F(1)} December 2017, ABF officers detained ^{s. 47F(1)} under section 189 of the Act.

Actions

On ^{s. 47F(1)} January 2018, the AAT found that it had no jurisdiction to review the application as ^{s. 47F(1)} had not paid the prescribed fee. ^{s. 47F(1)} had been contacted by the AAT via email and advised of the requirement for the application fee on ^{s. 47F(1)} December 2017. As per standard processes, ^{s. 47F(1)} was afforded internet access following ^{s. 47F(1)} initial induction into immigration detention.

On ^{s. 47F(1)} January 2018, the DRM received advice from the Status Resolution Helpdesk that the AAT had determined on ^{s. 47F(1)} January 2018, that it did not have the jurisdiction to review the ^{s. 47F(1)}.

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cancellation decision. As the merits review process did not remedy the jurisdictional error, s. 47F(1) consent would have to be sought to revisit the decision to cancel s. 47F(1) s. 47F(1)

On s. 47F(1) January 2018, the DRM received advice from IHMS that s. 47F(1) was refusing to take medication (in relation to a mental health issue) and would be unable to participate in an interview with the Department to revisit the cancellation decision.

On s. 47F(1) February 2018, IHMS advised the Department that s. 47F(1) was mentally capable of consenting to revisiting the decision to cancel s. 47F(1) visa. On s. 47F(1) February 2018, s. 47F(1) provided consent to revisit the cancellation and was released from immigration detention.

Upon s. 47F(1) release from detention, s. 47F(1) was provided a further NOICC and the opportunity to respond to the NOICC. s. 47F(1) was cancelled under section 116 of the Act on s. 47F(1) February 2018 and s. 47F(1) was re-detained under section 189 of the Act. s. 47F(1) did not seek merits review of the cancellation decision at the AAT.

On s. 47F(1) April 2018, s. 47F(1) application for a s. 47F(1) visa was refused. s. 47F(1) did not seek merits review of the refusal decision. s. 47F(1)

The decision to cancel s. 47F(1) visa was affected by jurisdictional error as the NOICC was not sent to the last known address as required by regulation 2.55. As the NOICC had not been 'given' in accordance with the requirements of regulation 119 of the Act, the timeframe for providing a response had not started, and could not have ceased. The decision to cancel was flawed as the Act requires the cancellation to be made after the time for responding to the notice has passed.

The manager of the Cancellations team has advised that delegates have been instructed to check that the last known address is correctly identified. In s. 47F(1) case, the cancellation Team leader identified the error shortly after the decision was made and sought advice from both the Status Resolution Operational Support section and the Cancellation Helpdesk prior to s. 47F(1) being detained.

Current status

On s. 47F(1) July 2018, s. 47F(1) was escorted to s. 47F(1) Magistrate's Court, where s. 47F(1) bail was revoked and s. 47F(1) was transferred to the custody of Corrections s. 47F(1). On s. 47F(1) July 2018, s. 47F(1) was granted a s. 47F(1) in order to maintain s. 47F(1) lawful status while s. 47F(1) is in criminal custody.

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under the Freedom of Information Act 1982

Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT L****Process Incorrect****Administrative deficiency**

Family Name
Given Name
Alias
Country of Citizenship
DOB
ICSE Client ID
Date of detention
Date of release

s. 47F(1)

**Days detained as not
 an unlawful non-citizen**

s. 47F(1)

Summary

On s. 47F(1) December 2017, s. 47F(1) was detained by the ABF following release from a correctional facility. s. 47F(1) was unlawful at the time of s. 47F(1) detention as s. 47F(1) visa had been mandatorily cancelled under section 501(3A) of the Act.

On s. 47F(1) May 2018, a decision was made by a departmental delegate to revoke the cancellation of s. 47F(1) visa and as a consequence s. 47F(1) was considered to hold the s. 47F(1) visa from this date onwards.

Due to an administrative error, s. 47F(1) was not notified of the decision until s. 47F(1) May 2018. s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa on the same day.

Background

On s. 47F(1) June 1992, s. 47F(1) arrived in Australia (aged s. 47F(1) years old). At this time, s. 47F(1) citizens did not require a visa to enter Australia.

On s. 47F(1) September 1994, s. 47F(1) was granted a s. 47F(1) under regulation 17 of the *Migration Reform (Transitional Provisions)*.

On s. 47F(1) December 2017, s. 47F(1) visa was cancelled under the mandatory cancellation provisions of section 501(3A) of the Act. s. 47F(1) was detained upon release from criminal custody on s. 47F(1) December 2017.

On s. 47F(1) January 2018, s. 47F(1) submitted a request for revocation of the decision to cancel the s. 47F(1) visa. A departmental delegate made a decision to revoke the cancellation on s. 47F(1) May 2018.

On s. 47F(1) May 2018, s. 47F(1) case officer in the National Character and Consideration Centre (NCCC) contacted the departmental delegate seeking an update on s. 47F(1) revocation request. In response the departmental delegate advised that the cancellation decision had been revoked on s. 47F(1) May 2018. However, a copy of the revocation decision had not been provided to

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either the NCCC, nor to Status Resolution or ABF staff at s. 47F(1) IDC where s. 47F(1) was accommodated.

Actions

On s. 47F(1) May 2018, the NCCC sent notification of the revocation decision to s. 47F(1) authorised recipient and a copy of the decision was handed to s. 47F(1), and s. 47F(1) was released from detention as the holder of a s. 47F(1) visa.

The manager in the NCCC has advised that remedial processes to mitigate against the recurrence of this situation, in which advice regarding a revocation decision made by a departmental delegate was not passed on to the NCCC, were implemented on s. 47F(1) June 2018.

Departmental revocation delegates located in the NCCC in s. 47F(1) are required to provide all decisions by hand to the NCCC manager on the day that the decision has been made. For revocation decisions that are forwarded to the NCCC by the revocations delegate electronically, the decisions are sent to the NCCC manager via email and a copy of the decision is sent to the NCCC director, and the NCCC mailbox.

At the end of each day, the departmental revocations delegate sends an email to all NCCC managers with a list of all revocation decisions made on that day. The revocations managers cross reference the decisions on the revocation delegate's list against the cases listed on their spreadsheet.

The revocations delegate is also provided with a list of outstanding cases by the NCCC, to cross check against their records.

All outstanding decisions were checked following the error identified in s. 47F(1) case, ensuring there were no unaccounted decisions.

The NCCC Standard Operating Procedures 'Post Decision Procedures' for revocation requests is currently being updated to reflect the new procedures. The NCCC has also advised that quarterly quality assurance checks are conducted on sample caseloads to ensure that notification is effective and that record keeping is accurate and up to date.

Current Status

On s. 47F(1) May 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa.

s. 47F(1) continues to reside lawfully in the community as the holder of this visa.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT M****Process Incorrect****Administrative deficiency**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) February 2018, s. 47F(1) was located by the ABF at s. 47F(1) residence in s. 47F(1) as part of a targeted visit. s. 47F(1) appeared to be unlawful on departmental systems and s. 47F(1) was detained under section 189 of the Act and transferred to s. 47F(1) IDC.

On s. 47F(1) February 2018, a determination was made that s. 47F(1) remained the holder of a s. 47F(1) visa s. 47F(1) granted in association with an application for a s. 47F(1) visa.

s. 47F(1) was released from immigration detention on s. 47F(1) February 2018.

Background

On s. 47F(1) April 2013, s. 47F(1) entered Australia as an illegal maritime arrival and was detained under section 189 of the Act. On s. 47F(1) June 2013, s. 47F(1) was granted a s. 47F(1) visa s. 47F(1) which ceased on s. 47F(1) July 2013, and a s. 47F(1) which ceased on s. 47F(1) December 2013. s. 47F(1) was granted a s. 47F(1) on s. 47F(1) June 2015 ceasing on s. 47F(1) 2016.

On s. 47F(1) June 2016, s. 47F(1) lodged an application for a s. 47F(1) and on s. 47F(1) July 2016, s. 47F(1) was granted a s. 47F(1) this one in association with the s. 47F(1) application.

On s. 47F(1) April 2017, s. 47F(1) application was refused and s. 47F(1) was sent a notification of the refusal decision by post. This notification letter contained an incorrect time frame for the deemed receipt provisions and as a consequence was defective.

On s. 47F(1) April 2017, s. 47F(1) was sent a second notification of the refusal of s. 47F(1) application. The second notification which was sent via post was also defective, this time because the incorrect timeframe for review was provided in the letter. A copy of this same notification was sent to s. 47F(1) on s. 47F(1) June 2017, however, it did not correct the error in relation to the timeframe for review hence it was also defective.

On s. 47F(1) August 2017, s. 47F(1) submitted an application to request an extended timeframe for lodgment of review at the General Division of the AAT before the s. 47F(1) granted in association with the s. 47F(1) application had naturally ceased.

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On ^{s. 47F(1)} February 2018, ^{s. 47F(1)} was detained.

Actions

On ^{s. 47F(1)} February 2018, the DRM commenced review of ^{s. 47F(1)} case. The DRM sent a request for advice to the Status Resolution Operational Support Section on ^{s. 47F(1)} February 2018, to confirm whether the notification of the ^{s. 47F(1)} refusal was effective.

On ^{s. 47F(1)} February 2018, the Status Resolution Operational Support Section advised ^{s. 47F(1)} had lodged an application with the Administrative Appeals Tribunal (AAT) seeking an extension of time to make an application for review. The application was lodged before the ^{s. 47F(1)} granted with the ^{s. 47F(1)} had naturally ceased, this meant that ^{s. 47F(1)} continued to hold the associated ^{s. 47F(1)}

The Department had not been informed by the AAT that ^{s. 47F(1)} migration agent had requested an extension of time to lodge the application for review. Contrary to established procedure, the AAT omitted to notify the Department that ^{s. 47F(1)} had lodged an application for review because the application had been lodged at the General division of the AAT instead of the Migration and Refugee Division, and an incorrect form had been used.

The manager of the ^{s. 47F(1)} processing team has advised that errors in relation to incorrect information in the notification letters were brought to the attention of officers and team leaders. The manager also explained that the error occurred in part, because standard templates created in the Enterprise Correspondence System, (ECS) incorrectly default to provide a timeframe for deemed receipt for applicants outside Australia, although the letters include addresses for dispatch in Australia.

The manager of the visa processing unit has written to the ECS team to advise of this error. Requests for system-related updates are prioritized according to urgency and pending an update of the templates, visa processing officers have been alerted to the error in the template, and have been instructed to check all system-generated templates to ensure that the correct deemed receipt provisions are included in notification letters.

Current Status

On ^{s. 47F(1)} February 2018, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)}

On ^{s. 47F(1)} March 2018, ^{s. 47F(1)} withdrew ^{s. 47F(1)} application for review at the AAT and on ^{s. 47F(1)} April 2018, ^{s. 47F(1)} associated ^{s. 47F(1)} ceased.

^{s. 47F(1)} has been residing in the community as an unlawful non-citizen since ^{s. 47F(1)} April 2018.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT N****Process Incorrect****Administrative deficiency**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) February 2018, s. 47F(1) was detained by the ABF upon s. 47F(1) release from a correctional facility. s. 47F(1) was unlawful at the time of s. 47F(1) detention, following the cancellation of s. 47F(1) s. 47F(1) visa on s. 47F(1) January 2018, under the mandatory cancellation provisions of section 501(3A) of the Act.

On s. 47F(1) April 2018, the AAT set aside the decision to cancel s. 47F(1) visa. Due to an administrative error, s. 47F(1) was not notified of the AAT set-aside decision until s. 47F(1) April 2018.

s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa on s. 47F(1) April 2018.

Background

s. 47F(1) last arrived in Australia on s. 47F(1) January 2015, and was granted a s. 47F(1) visa.

On s. 47F(1) November 2017, s. 47F(1) was issued with a NOICC concerning the possible cancellation of s. 47F(1) s. 47F(1) visa under section 116 of the Act.

On s. 47F(1) January 2018, s. 47F(1) visa was cancelled under section 116 of the Act. On s. 47F(1) February 2018, s. 47F(1) lodged an application for review of the cancellation decision with the AAT.

On s. 47F(1) February 2018, s. 47F(1) was detained upon s. 47F(1) release from criminal custody.

On s. 47F(1) April 2018, the AAT set aside the decision to cancel s. 47F(1) visa. In accordance with legislative provisions, s. 47F(1) authorised representative was notified of the decision, with a courtesy copy sent to s. 47F(1). The AAT also sent a courtesy copy of the notification letter and the cancellation set-aside decision to the s. 47F(1) Status Resolution mailbox. The email from the AAT concerning s. 47F(1) case arrived in the Status Resolution mailbox at approximately s. 47F(1) April 2018, but the departmental officer monitoring the mailbox did not immediately sight and action the email.

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Sensitive: Personal**Actions**

On ^{s. 47F(1)} April 2018, a Serco officer from the ^{s. 47F(1)} ITA contacted an ABF Detention Operations officer to advise that ^{s. 47F(1)} had provided them with the cover page of an AAT decision to set aside the decision to cancel ^{s. 47F(1)} visa.

The ABF officer obtained a copy of the cover page of the decision and checked departmental systems but was unable to find a record of the AAT decision. The ABF officer also checked the Detention Operations mailbox for advice on ^{s. 47F(1)} case before contacting a Status Resolution officer who was also not aware of the AAT decision. Neither the ABF officer nor the Status Resolution officer escalated the matter.

On ^{s. 47F(1)} April 2018, the DRM conducted a daily check of the AAT outcome spreadsheet on departmental systems. The DRM's checks showed that ^{s. 47F(1)} cancellation decision had been set aside by the AAT but that ^{s. 47F(1)} remained in detention. The DRM liaised with the ABF and Status Resolution officers at the ^{s. 47F(1)} ITA and informed them that ^{s. 47F(1)} cancellation decision had been set aside. A Status Resolution officer retrieved the AAT notification letter and decision record from the Status Resolution mailbox and ^{s. 47F(1)} was released from immigration detention on ^{s. 47F(1)} April 2018.

The Director of Status Resolution in ^{s. 47F(1)} has advised that guidance has been provided to the Status Resolution team as a whole to assist in the timely identification, action and escalation of AAT decisions which may impact on a person's immigration status.

Status Resolution and ABF in ^{s. 47F(1)} have also established 'mailbox rules' to ensure that the AAT set-aside decisions sent to the Status Resolution mailbox are now also automatically sent to managers in the Status Resolution and the ABF. In the event that an AAT set-aside decision is identified or received afterhours, a procedure has been established to ensure that the manager in Status Resolution will liaise with the manager in the ABF to ensure that appropriate action is taken to ensure the timely release of a person after hours, where required.

The Superintendent of ABF Detention Operations has advised that following the error identified in ^{s. 47F(1)} case, ABF Detention Operations officers have been instructed to escalate any claims by detainees of decisions which impact on their immigration status to ABF Inspectors.

Current Status

On ^{s. 47F(1)} April 2018, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} visa. ^{s. 47F(1)} continues to reside lawfully in the community as the holder of this visa.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT O****Process Incorrect****Defective Notification**

Family Name
Given Name
Alias

s. 47F(1)

Country of Citizenship
DOB
ICSE Client ID
Date of detention
Date of release

**Days detained as not
 an unlawful non-citizen**

s. 47F(1)

Summary

On s. 47F(1) May 2018, s. 47F(1) was detained by the ABF under section 189 of the Act, when s. 47F(1) voluntarily presented to the Department's office in s. 47F(1) appeared to be unlawful on departmental systems at the time of s. 47F(1) detention.

On s. 47F(1) May 2018, a determination was made that the cancellation of s. 47F(1) visa on s. 47F(1) January 2018, was affected by jurisdictional error, and should be revisited with s. 47F(1) consent.

On s. 47F(1) May 2018, s. 47F(1) provided consent for the cancellation decision to be revisited and s. 47F(1) was released from immigration detention.

Background

On s. 47F(1) June 2010, s. 47F(1) last arrived in Australia as the holder of a s. 47F(1) visa granted offshore on s. 47F(1) June 2010. This visa was granted under the identity of s. 47F(1) (date of birth s. 47F(1)).

s. 47F(1) had previously been onshore in Australia from s. 47F(1) April 2005 to s. 47F(1) July 2008, having arrived as the holder of a s. 47F(1) visa which ceased on s. 47F(1) July 2005. While onshore s. 47F(1) lodged an unsuccessful application for a s. 47F(1) visa under an assumed identity, using the name s. 47F(1) unsuccessfully sought both merits review and judicial review of the refusal decision before departing Australia on s. 47F(1) July 2008. s. 47F(1) remained lawful during these processes through the grant of multiple s. 47F(1).

On s. 47F(1) November 2012, s. 47F(1) was granted a s. 47F(1) visa.

On s. 47F(1) February 2013, s. 47F(1) provided the Department with a request for an amendment to personal records claiming a change of family surname from s. 47F(1). The amendment to the change of name was accepted by the Department on s. 47F(1) March 2013.

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On s. 47F(1) August 2014, s. 47F(1) lodged an application for Australian citizenship which was determined to be invalid. On s. 47F(1) February 2015, s. 47F(1) lodged a s. 47F(1) application for citizenship which was refused on character grounds on s. 47F(1) May 2016. On s. 47F(1) August 2017, s. 47F(1) lodged a s. 47F(1) application for citizenship which was determined to be invalid.

On s. 47F(1) January 2018, s. 47F(1) visa was cancelled under section 109 of the Act. On s. 47F(1) February 2018, s. 47F(1) lodged an application for review of the cancellation decision with the AAT. On s. 47F(1) April 2018, the AAT found that it had no jurisdiction to review the decision to cancel s. 47F(1) visa.

On s. 47F(1) May 2018, s. 47F(1) was detained under section 189 of the Act.

Actions

On s. 47F(1) May 2018, the ABF detaining officer referred s. 47F(1) case to the General Cancellation Support Section seeking confirmation whether the Notice of Cancellation was correctly addressed to s. 47F(1) given that it appeared to be addressed to an alias used by s. 47F(1) s. 47F(1) visa was cancelled after the Identity team made its findings in relation to s. 47F(1) primary identity which were detailed in an Identity Assessment report on s. 47F(1) January 2018.

On s. 47F(1) May 2018, s. 47F(1) case was referred to a DRM and on s. 47F(1) May 2018, the DRM liaised with the Department's Legal Systems and Tribunal and Liaison section (LSTL) to seek confirmation from the AAT whether s. 47F(1) was correctly notified by the AAT. The DRM also contacted the General Cancellation Support Section and asked to be informed of any advice arising from the ABF detaining officer's query of s. 47F(1) May 2018.

On s. 47F(1) May 2018, the DRM was informed that the General Cancellation Support Section was seeking further advice in relation to s. 47F(1) case. On s. 47F(1) May 2018, it was determined that the decision to cancel s. 47F(1) visa was affected by jurisdictional error as the delegate had not weighed up all the information to consider whether the grounds in favour of cancellation outweighed the reasons for not cancelling the visa.

On s. 47F(1) May 2018, s. 47F(1) consent was obtained to revisit the cancellation decision and was released from detention as the holder of a s. 47F(1) visa.

The Director of the GCN has advised that staff have been reminded of their obligations to correctly weight the matters under regulation 2.41. Since identification of the error a network instruction has been distributed to all staff detailing how to apply weight correctly. General Cancellation Support Section is currently drafting further instructions including further examples of correct weighting, which will be distributed once cleared.

Additionally delegates in the network have been reminded of their obligations to ensure that decision records are accurate and free from error. Team leaders are reviewing all section 109 cancellation NOICCs, decision records and NOCs prior to dispatch to visa holders. Additionally quarterly QA checking is currently undertaken as per our Quality Assurance Framework in order to identify problems, patterns or trends that may point to systemic failures and to drive best practice.

Current Status

s. 47F(1) is currently residing in the community as the holder of a s. 47F(1) visa.

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Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT P****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) February 2018, s. 47F(1) was detained by the ABF upon s. 47F(1) release from a correctional facility. s. 47F(1) appeared to be unlawful on departmental systems, following the cancellation of s. 47F(1) visa under section 116 of the Act.

On s. 47F(1) February 2018, a determination was made that the decision to cancel s. 47F(1) visa was affected by jurisdictional error.

s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa on s. 47F(1) February 2018.

Background

s. 47F(1) last arrived in Australia on s. 47F(1) January 2015 and was granted a s. 47F(1) visa.

On s. 47F(1) July 2017, s. 47F(1) was sent a Notice of Intention to Consider Cancellation (NOICC) of s. 47F(1) visa under section 116 of the Act. The first NOICC was sent to an address in s. 47F(1). This address had been obtained by the Department from a bail undertaking signed by s. 47F(1).

On s. 47F(1) August 2017, as a response had not been provided to the NOICC, s. 47F(1) was sent another copy of the original NOICC, dated s. 47F(1) July 2017, to a different address in s. 47F(1) also obtained from a bail undertaking.

On s. 47F(1) September 2017, the NOICC dated s. 47F(1) July 2017 was returned to the Department unclaimed.

On s. 47F(1) November 2017, a departmental officer obtained confirmation from the s. 47F(1) Department of Corrective Services that s. 47F(1) was in criminal custody at the s. 47F(1) Correctional Centre (CC). On s. 47F(1) November 2017, the NOICC dated s. 47F(1) July 2017 was sent a third time by registered post to the s. 47F(1) CC.

On s. 47F(1) December 2017, the Department received an email from the s. 47F(1) CC with a covering email from the officers at the correctional facility stating that s. 47F(1) response to the NOICC

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was attached. The attachment within the email included a 'Personal Particulars' form completed by s. 47F(1) but did not appear to include a response to the NOICC.

On s. 47F(1) December 2017, s. 47F(1) visa was cancelled under section 116 of the Act. The cancellation notification was sent by registered post to the s. 47F(1) CC. The cancellation notification letter listed the NOICC issue date as s. 47F(1) July 2017. However, the cancellation decision record listed the NOICC issue date as s. 47F(1) November 2017.

On s. 47F(1) December 2017, the Department received an email from Sentence Management Services at the s. 47F(1) CC on s. 47F(1) behalf. The email advised the Department that a NOICC had been received by s. 47F(1) CC on s. 47F(1) December 2017 and s. 47F(1) had responded to the NOIC by emailing the department on s. 47F(1) December 2017 via the Visa Cancellations mailbox.

On s. 47F(1) December 2017, Sentences Management Services from the s. 47F(1) CC contacted the ABF on behalf of s. 47F(1) and reiterated that a response had been provided to the NOICC. However, it was not included in the decision record. The ABF advised the Sentence Management Services officers that a 'Personal Particulars' form had been received, but there was no record of a response to the NOICC being received.

On s. 47F(1) December 2017, Sentence Management Services from the s. 47F(1) CC sent a further email to the Visa Cancellations mailbox and included as an attachment an undated, three page handwritten response to the NOICC from s. 47F(1). It is not known when this response was written and if correctional staff received the NOICC response from s. 47F(1) prior to or after the s. 47F(1) December 2017 email sent to the Department.

On s. 47F(1) January 2018, the Department's General Cancellations team based in s. 47F(1) sent a request for advice to the Department's Cancellations, Allocations and Support Team (CAST), in relation to s. 47F(1) visa cancellation. The CAST team, which has oversight for the cancellation network, escalated the case to the Cancellation Support Section. However a response for advice was not provided prior to s. 47F(1) release from criminal custody on s. 47F(1) February 2018.

On s. 47F(1) February 2018, s. 47F(1) was released from criminal custody. At the time of release s. 47F(1) appeared to be an unlawful non-citizen on departmental systems, and s. 47F(1) was detained.

Actions

On s. 47F(1) February 2018, ABF s. 47F(1) forwarded the request for advice to the CAST team (sent on s. 47F(1) January 2018), to the Status Resolution Operational Support Section, to seek advice as to whether the cancellation of the s. 47F(1) visa was effective. s. 47F(1) case was also allocated to the DRM for review on this day.

On s. 47F(1) February 2018, the Status Resolution Operational Support Section advised the DRM that the cancellation of s. 47F(1) visa was defective, as the NOICC sent s. 47F(1) November 2017 was incorrectly dated s. 47F(1) July 2017 and did not meet effective notification requirements as per Section 119 of the Act. As a result, the decision of s. 47F(1) December 2017 to cancel the visa was affected by jurisdictional error.

On s. 47F(1) February 2018, s. 47F(1) was interviewed by Status Resolution officers and provided consent for the cancellation to be re-visited. On the same day, s. 47F(1) was released from detention as the holder of a s. 47F(1) visa.

The manager in the visa cancellation unit has advised that subsequent to the error being identified in s. 47F(1) case, managers, team leaders and cancellation delegates in the network have been reminded that when a NOICC is re-issued that the new date of issue must be included in the new NOICC. They have also been reminded that a failure to include the correct date in a NOICC will

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result in incorrect information being provided in relation to a timeframe for review which will in turn lead to the cancellation being affected by jurisdictional error. The manager in the visa cancellation unit has also advised that when conducting quality assurance of cancellations, team leaders have been instructed to ensure that the correct date has been included in the NOICC and the NOC.

Current Status

On s. 47F(1) March 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa.

s. 47F(1) continues to reside in the community as the holder of a s. 47F(1) visa.

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Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT Q****Other****AAT - Migration decision**

Family Name
Given Name
Alias
Country of Citizenship
DOB
ICSE Client ID
Date of detention
Date of release

s. 47F(1)

**Days detained as not
 an unlawful non-citizen**

s. 47F(1)

Summary

On s. 47F(1) February 2018, s. 47F(1) was detained by an ABF officer at the Department's s. 47F(1) office, subsequent to the cancellation of s. 47F(1) on the same day.

On s. 47F(1) April 2018, the AAT set aside the decision to cancel s. 47F(1) on s. 47F(1) January 2018 under section 116 of the Act s. 47F(1) had been granted in association with a s. 47F(1) visa application.

On s. 47F(1) April 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa s. 47F(1)

s. 47F(1) was not released on s. 47F(1) April 2018 at the time the AAT set aside the decision, because it had been initially considered that the s. 47F(1) would not have been re-enlivened at the time of the AAT decision as the s. 47F(1) would have naturally ceased upon grant of a s. 47F(1) in association with the same application. On obtaining legal advice, s42, s47F

Background

On s. 47F(1) December 2016, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa, granted on s. 47F(1) September 2016 and valid to s. 47F(1) December 2017.

On s. 47F(1) October 2017, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s. 47F(1)

On s. 47F(1) October 2017, s. 47F(1) application for a s. 47F(1) visa was refused. s. 47F(1) did not seek review of the refusal of the s. 47F(1) visa application and s. 47F(1) associated s. 47F(1) ceased on s. 47F(1) December 2017.

On s. 47F(1) December 2017, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s. 47F(1) This application is still ongoing.

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On s. 47F(1) January 2018, s. 47F(1) granted in association with the s. 47F(1) visas was cancelled under section 116 of the Act and appeared unlawful on departmental systems.

On s. 47F(1) January 2018, s. 47F(1) was granted a s. 47F(1) application in association with the s. 47F(1) application.

On s. 47F(1) January 2018, s. 47F(1) lodged an application for review of the s. 47F(1) cancellation at the AAT.

On s. 47F(1) January 2018, the Department emailed s. 47F(1) requesting that s. 47F(1) report to the s. 47F(1) office on s. 47F(1) February 2018, in accordance with condition s. 47F(1) of s. 47F(1) granted on s. 47F(1) January 2018. s. 47F(1) was informed in the email that as s. 47F(1) faced criminal charges, in accordance with Ministerial Direction 63, s. 47F(1) s. 47F(1) would be considered for cancellation under section 116 of the Act. s. 47F(1) was also advised that s. 47F(1) would have the opportunity to provide relevant information in relation to the matter.

Actions

On s. 47F(1) February 2018, s. 47F(1) granted in association with the s. 47F(1) application was cancelled under section 116 of the Act and s. 47F(1) was detained at the s. 47F(1) ITA.

On s. 47F(1) February 2018, s. 47F(1) lodged an application for review of the cancellation decision of the associated s. 47F(1). On s. 47F(1) February 2018, the AAT found that it had no jurisdiction to review the cancellation of the s. 47F(1) as the application for review was not lodged within the prescribed timeframes.

On s. 47F(1) April 2018, the AAT set aside the decision to cancel s. 47F(1). On the same day, s. 47F(1) case was referred to the Status Operational Support Section to determine whether s. 47F(1) immigration status had changed.

On s. 47F(1) April 2018, the Status Resolution Operational Support Section advised that s. 47F(1) immigration status was not affected because the s. 47F(1) granted on s. 47F(1) December 2017 in association with the s. 47F(1) which was cancelled on s. 47F(1) January 2018, would have otherwise ceased naturally on s. 47F(1) January 2018 when a s. 47F(1) was granted in association with the same s. 47F(1) visa application.

Section 82 of the Act sets out a series of alternative reasons which determine when a visa, including a bridging visa will cease. The determination of which subsection applies to a particular visa will depend on the facts of a case and may change over the life of a case. The Status Resolution Operational Support Section was of the view that the s. 47F(1) would not be re-enlivened following the AAT decision to set aside the cancellation, because in the event that it had not been cancelled, in accordance with the provisions of Schedule 2 of the s. 47F(1) it would nevertheless have ceased upon grant of the s. 47F(1).

On s. 47F(1) April 2018, s. 47F(1) migration agent made written representation to the Department that s. 47F(1) had not ceased. This information was forwarded to the Status Resolution Operational Support Section on the same day. On s. 47F(1) April 2018, the Status Resolution Operational Support Section wrote to the Department's legal section to seek further advice.

On s. 47F(1) April 2018, the legal section confirmed that s. 47F(1) was the holder of a s. 47F(1).

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under the Freedom of Information Act 1982

Sensitive: Personal

Sensitive: Personal

s. 47F(1) was released from immigration detention on the same day.

The Department's legal section was of the view that s. 47F(1) ceased on s. 47F(1) January 2018 when it was cancelled in accordance with the provisions of section 82 of the Act. This means that at the time when s. 47F(1) was granted a s. 47F(1) on s. 47F(1) January 2018, the s. 47F(1) could not have ceased in accordance with the Schedule 2 provisions of s. 47F(1) s. 47F(1), because s. 47F(1) was not the holder of the s. 47F(1) at the time of the grant of the s. 47F(1). As the s. 47F(1) was neither in effect or out of effect at the time of the grant of the s. 47F(1) it was not possible for the s. 47F(1) to cease.

The legal section advised that when the AAT set aside the decision to cancel the s. 47F(1) the s. 47F(1) came into effect. The legal section also advised that the AAT decision did not retrospectively change s. 47F(1) status, because the effect of the AAT decision is not that the visa is taken to never have been cancelled. The visa remained cancelled between s. 47F(1) January 2018 and s. 47F(1) April 2018. When the AAT set aside the decision on s. 47F(1) April 2018, s. 47F(1) became the holder of a s. 47F(1).

Current Status

On s. 47F(1) April 2018, s. 47F(1) was released from immigration detention.

s. 47F(1) is currently residing in the community as the holder of a s. 47F(1) while s. 47F(1) s. 47F(1) visa application is being processed.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT R****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) May 2018, s. 47F(1) was located by the ABF at a private residence in s. 47F(1) and detained under section 189 of the Act.

s. 47F(1) was considered to be unlawful since the refusal of s. 47F(1) s. 47F(1) visa application under section 501 of the Act on s. 47F(1) March 2018.

In accordance with the provisions of section 501F of the Act, all other visas held by s. 47F(1) were taken to be cancelled, and all other ongoing applications refused.

On s. 47F(1) May 2018 advice was received that the refusal of s. 47F(1) s. 47F(1) visa was affected by jurisdictional error, and had to be revisited. As a result, the consequential effect of section 501F no longer applied and s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa; an associated s. 47F(1) granted with a s. 47F(1) visa application and an associated s. 47F(1) visa granted with a s. 47F(1) visa application.

s. 47F(1) was released from immigration detention on the same day.

Background

On s. 47F(1) August 2014, s. 47F(1) last arrived in Australia on a s. 47F(1) visa.
 On s. 47F(1) August 2015, s. 47F(1) was granted a s. 47F(1) valid to s. 47F(1) August 2019, resulting in s. 47F(1) visa ceasing.

On s. 47F(1) April 2016, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s. 47F(1).

On s. 47F(1) May 2016, s. 47F(1) visa application was refused.
 s. 47F(1) lodged an application for review of the refusal with the AAT on s. 47F(1) May 2016.

On s. 47F(1) October 2016, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s. 47F(1) appointed a migration agent as s. 47F(1) authorised representative for the purpose of this application.

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 under the Freedom of Information Act 1982
Sensitive: Personal

Sensitive: Personal

On ^{s. 47F(1)} August 2017, a Notice of Intention to Consider Refusal (NOICR) of the application for the ^{s. 47F(1)} visa under section 501 of the Act was thought to be sent to ^{s. 47F(1)} migration agent via email. As there was a typographical error in the email address used, there was a failure of transmission of the email, however the Department's Visa Application Character Consideration Unit (VACCU) which was processing the visa application, was not aware of this at the time.

On ^{s. 47F(1)} August 2017, the AAT made a decision to set aside the refusal of the ^{s. 47F(1)} visa application and remitted this application with direction to the Department.

On ^{s. 47F(1)} March 2018, ^{s. 47F(1)} visa application was refused under section 501 of the Act. In accordance with the provisions of section 501F of the Act, ^{s. 47F(1)} ongoing application for a ^{s. 47F(1)} visa was also taken to be refused, and ^{s. 47F(1)} granted in association with ^{s. 47F(1)} ^{s. 47F(1)} visa and ^{s. 47F(1)} applications respectively, were also taken to be cancelled.

In addition, ^{s. 47F(1)} visa which ^{s. 47F(1)} held at the time the ^{s. 47F(1)} visa was refused, was also taken to be cancelled.

Actions

On ^{s. 47F(1)} May 2018, ^{s. 47F(1)} was located at a private residence by the ABF in ^{s. 47F(1)} and ^{s. 47F(1)} was provided with the Notification of Refusal (NOR) by hand, and detained under section 189 of the Act. The VACCU also emailed the NOR to ^{s. 47F(1)} migration agent on the same day using as the same, incorrect email address which was used to notify ^{s. 47F(1)} agent of the NOICR. There was a failure of transmission of the NOR, which was not detected by the VACCU at the time.

On ^{s. 47F(1)} May 2018, ^{s. 47F(1)} migration agent contacted an officer in the VACCU, and raised concerns regarding the non-receipt of the NOICR. The agent advised that there was a typographical error in the email address used for the purposes of the NOICR and as a consequence, the NOICR had not been received by the agent. The agent included attachments in the NOR as evidence that an incorrect email address had been used. The agent requested that the decision be vacated as ^{s. 47F(1)} had not been afforded natural justice prior to the refusal of ^{s. 47F(1)} visa application.

The Act does not make specific provision as to how a NOICR should be provided, however the provisions of section 494A to 494D are generally applied. ^{s. 47F(1)} agent should have been provided with the NOICR. As ^{s. 47F(1)} agent was not provided with the NOICR, ^{s. 47F(1)} was not provided with a reasonable opportunity to provide information prior to the refusal decision being made.

The VACCU manager has advised that after the NOICR and the NOR were prepared by the visa processing officer, checks were also conducted by the team leader. On both occasions, both officers failed to identify the typographical error. The officers have been counselled and team leaders and officers have been reminded of the importance of checking address details to ensure successful transmission of emails. Officers have also been reminded of the importance of affording natural justice to visa applicants.

On ^{s. 47F(1)} May 2018, it was determined that ^{s. 47F(1)} was not afforded natural justice and as result the decision to refuse ^{s. 47F(1)} ^{s. 47F(1)} visa was affected by jurisdictional error. The VACCU informed Status Resolution at ^{s. 47F(1)} IDC that ^{s. 47F(1)} refusal decision was affected by jurisdictional error and that ^{s. 47F(1)} must be released from immigration detention. ^{s. 47F(1)} was released on the same day.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Sensitive: Personal

Sensitive: Personal**Current Status**

On ^{s. 47F(1)} May 2018, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} visa which was in effect, and ^{s. 47F(1)} which were 'out of effect', as ^{s. 47F(1)} was the holder of a ^{s. 47F(1)} visa.

On ^{s. 47F(1)} May 2018, a NOICR of the application for the ^{s. 47F(1)} visa was sent to ^{s. 47F(1)} migration agent's correct email address. ^{s. 47F(1)} migration agent provided a response to the NOICR on ^{s. 47F(1)} May 2018.

On ^{s. 47F(1)} July 2018, a delegate of the Minister refused ^{s. 47F(1)} application for a ^{s. 47F(1)} visa under section 501 of the Act. In accordance with the provisions of section 501F of the Act, all other visas held by ^{s. 47F(1)} were taken to be cancelled, and all other ongoing applications refused.

^{s. 47F(1)} resided unlawfully in the community from ^{s. 47F(1)} July 2018, until ^{s. 47F(1)} August 2018, when ^{s. 47F(1)} was located at a private residence in ^{s. 47F(1)} by ABF, detained under section 189 of the Act and transferred to ^{s. 47F(1)} IDC.

On ^{s. 47F(1)} August 2018, ^{s. 47F(1)} lodged an application for review of the decision to refuse ^{s. 47F(1)} application for a ^{s. 47F(1)} visa at the AAT, which is ongoing. On the same day, ^{s. 47F(1)} lodged an application for an associated ^{s. 47F(1)}. On ^{s. 47F(1)} August it was determined that ^{s. 47F(1)} application for a ^{s. 47F(1)} was invalid because of the provisions of section 501E of the Act. ^{s. 47F(1)} migration agent was notified via email and ^{s. 47F(1)} was provided with a copy of the notification by ^{s. 47F(1)} SRO at ^{s. 47F(1)} IDC on the same day.

 Released by Department of Home Affairs
under the Freedom of Information Act 1982
Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT S****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47E April 2018, s. 47F(1) was located by s. 47F(1) Police and referred to the Department's ISS for a status check. As s. 47F(1) appeared to be unlawful on departmental systems, s. 47F(1) was detained under section 189 of the Act and transferred to the s. 47F(1) ITA.

On s. 47E April 2018, a determination was made that s. 47F(1) remained the holder of a s. 47E(1) granted in association with a s. 47F(1) visa application lodged on s. 47E October 2015, which was subsequently found to be invalid.

s. 47F(1) was released from immigration detention on s. 47E April 2018.

Background

On s. 47E April 2011, s. 47F(1) last entered Australia on a s. 47F(1) visa s. 47E(1) granted in association with an application for a s. 47F(1) visa lodged on s. 47E March 2011. On s. 47E June 2011, s. 47F(1) visa application was refused.

On s. 47E July 2011, s. 47F(1) sought review of the refusal of s. 47F(1) application for a s. 47F(1) visa with the then Migration Review Tribunal (MRT).

On s. 47E April 2013, the MRT affirmed the decision to refuse s. 47F(1) visa application. On s. 47E May 2013, the s. 47E(1) granted in association with the s. 47F(1) visa application ceased.

On s. 47E May 2013, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s. 47E(1) on s. 47E May 2013.

On s. 47E June 2013, s. 47F(1) visa application was refused. s. 47F(1) did not seek merits review of this decision and on s. 47E July 2013, the associated s. 47E(1) ceased.

On s. 47E September 2015, s. 47F(1) lodged an application for a s. 47F(1) visa which was determined to be invalid on s. 47E October 2015. An associated s. 47F(1) visa was not granted in relation to this application.

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 under the Freedom of Information Act 1982
Sensitive: Personal

Sensitive: Personal

On s. 47F(1) October 2015, s. 47F(1) lodged a s. 47F(1) visa application and was granted an associated s. 47F(1) on s. 47F(1) October 2015.

On s. 47F(1) January 2016, s. 47F(1) s. 47F(1) visa application was determined to be invalid. The Department sent a notification letter via email, however, the notification was sent to an incorrect email address.

On s. 47F(1) February 2016, s. 47F(1) granted in association with s. 47F(1) s. 47F(1) visa application appeared to cease. On s. 47F(1) February 2016, s. 47F(1) appeared to be unlawful on the departmental systems.

On s. 47F(1) April 2018, s. 47F(1) was located by s. 47F(1) Police and was detained under section 189 of the Act.

Actions

On s. 47F(1) April 2018, the DRM identified a typographical error in the email address used in the notification of the invalid s. 47F(1) visa application and sent a request for advice to the Status Resolution Operational Support Section.

On s. 47F(1) April 2018, the Status Resolution Operational Support Section confirmed that the notification of the invalid determination of s. 47F(1) visa was defective. This is because the notification was sent to an incorrect email address and there was no evidence of an actual notification to s. 47F(1).

As s. 47F(1) was not effectively notified in relation to the invalid determination of s. 47F(1) s. 47F(1) application for a s. 47F(1) visa, s. 47F(1) continued to hold the associated s. 47F(1) granted on s. 47F(1) October 2015.

As the Department's request for biometrics had also been sent to the incorrect email address, the Status Resolution Operational Support Section advised that the s. 47F(1) visa application did not appear to be invalid for the reasons provided, and that the invalidity should be re-assessed. The Director of the s. 47F(1) Section has advised that the 'invalid' event in the Department's electronic database has been reversed.

The Director has also advised that the function of registering cases (recording applications and contact details for applicants, migration agents, etc, on departmental systems) has now been centralised in one processing centre and is now undertaken by officers at a higher classification level. In addition, a quality assurance measure has been introduced to ensure that a ten per cent random sample of invalid applications are checked by team leaders on a weekly basis and that 5% of all applications are checked on a monthly basis. This measure has been introduced to prevent the recurrence of similar errors.

Current Status

On s. 47F(1) April 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1). Prior to s. 47F(1) release s. 47F(1) provided the Department with s. 47F(1) updated contact details.

s. 47F(1) is currently residing in the community as the holder of a s. 47F(1).

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT T****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) March 2018, s. 47F(1) was detained by the ABF upon s. 47F(1) release from a correctional facility. s. 47F(1) appeared to be unlawful on departmental systems following the cancellation of s. 47F(1) visa under section 116 of the Act.

On s. 47F(1) March 2018, a determination was made that the decision to cancel s. 47F(1) visa was affected by jurisdictional error.

s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa on s. 47F(1) March 2018.

Background

On s. 47F(1) July 1993, s. 47F(1) last arrived in Australia. At this time s. 47F(1) citizens did not require a visa to enter Australia. On s. 47F(1) September 1994, s. 47F(1) was granted a s. 47F(1) visa under regulation 17 of the *Migration Reform (Transitional Provisions)*.

On s. 47F(1) April 2017, s. 47F(1) was sent a NOICC at the correctional facility where s. 47F(1) was held, concerning the possible cancellation of s. 47F(1) s. 47F(1) visa under section 116 of the Act. The NOICC specified an incorrect period of deemed receipt of 14 days rather than seven, and did not stipulate a timeframe in which s. 47F(1) needed to provide a response.

On s. 47F(1) May 2017, s. 47F(1) visa was cancelled under section 116 of the Act and s. 47F(1) appeared to be unlawful on departmental systems. On s. 47F(1) June 2017, s. 47F(1) lodged an application for review of the decision to cancel s. 47F(1) s. 47F(1) visa at the AAT.

On s. 47F(1) November 2017, the AAT found that it had no jurisdiction to review the cancellation decision as the application was lodged outside the prescribed timeframe for review.

On s. 47F(1) March 2018, s. 47F(1) was detained upon s. 47F(1) release from criminal custody.

 Released by Department of Home Affairs
 under the Freedom of Information Act 1982
Sensitive: Personal

Sensitive: Personal**Actions**

On ^{s. 47F(1)} March 2018, the ^{s. 47F(1)} referred ^{s. 47F(1)} case to the Status Resolution Operational Support Section for advice as the Department's mail service provider was unable to confirm dispatch of ^{s. 47F(1)} cancellation notification by registered mail.

On ^{s. 47F(1)} March 2018, the Status Resolution Operational Support Section advised ABF that the decision to cancel ^{s. 47F(1)} visa was affected by jurisdictional error, and should be revisited with ^{s. 47F(1)} consent. The jurisdictional error occurred because the NOICC did not provide ^{s. 47F(1)} with a timeframe within which to respond to the notice as required by sections 119 and 121(2) of the Act, nor did the letter provide the correct deemed receipt information. ^{s. 47F(1)} consent to revisit the cancellation decision was obtained and ^{s. 47F(1)} was released from detention as the holder of a ^{s. 47F(1)} visa on ^{s. 47F(1)} March 2018.

The manager of the cancellations team has advised that although an appropriate, legally cleared template was used in ^{s. 47F(1)} case and the prescribed timeframe for response to the NOICC (five working days) was correctly stipulated in the NOICC, this was deleted in error by the delegate. The manager also advised that a team leader checked the NOICC prior to dispatch to ensure that the possible grounds for cancellation were correctly articulated, however, the system-generated template would not ordinarily be checked to ensure that the content is correct. Subsequent to the error identified in ^{s. 47F(1)} case, team leaders in the cancellation network have been instructed to also check that delegates have used the most updated, legally cleared, cancellation templates which refer to the correct deemed receipt provisions and timeframes for response.

Current Status

On ^{s. 47F(1)} March 2018, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} visa.

^{s. 47F(1)} continues to reside in the community as the holder of this visa.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT U****Process Incorrect****Administrative deficiency**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) March 2018, s. 47F(1) was located by s. 47F(1) Police who referred s. 47F(1) to ISS for a visa status check. ISS confirmed that s. 47F(1) was unlawful subsequent to the cancellation of s. 47F(1) s. 47F(1) visa under section 116 of the Act on s. 47F(1) March 2018.

On s. 47F(1) June 2018, the AAT set aside the decision to cancel s. 47F(1) visa. Due to an administrative error, s. 47F(1) was not notified of the AAT decision until s. 47F(1) June 2018.

s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa on s. 47F(1) June 2018.

Background

On s. 47F(1) February 1988, s. 47F(1) arrived in Australia as a s. 47F(1). At the time s. 47F(1) citizens did not require a visa to enter Australia. On s. 47F(1) September 1994, s. 47F(1) was granted a s. 47F(1) under regulation 17 of the *Migration Reform (Transitional Provisions)*.

On s. 47F(1) March 2018, s. 47F(1) visa was cancelled under section 116 of the Act. s. 47F(1) was detained under section 189 of the Act on s. 47F(1) March 2018, and accommodated at the s. 47F(1) ITA.

Actions

On s. 47F(1) April 2018, s. 47F(1) lodged an application for review of the decision to cancel the s. 47F(1) visa with the AAT.

On s. 47F(1) April 2018, s. 47F(1) was transferred to s. 47F(1) IDC from the s. 47F(1) ITA.

On s. 47F(1) May 2018, the AAT sent information to s. 47F(1) in relation to the AAT hearing and confirmed that it had received correspondence from the Department on s. 47F(1) May 2018, advising that s. 47F(1) had been transferred to s. 47F(1) IDC.

 Released by Department of Home Affairs
 under the Freedom of Information Act 1982
Sensitive: Personal

Sensitive: Personal

On ^{s. 47F(1)} June 2018, the AAT set aside the decision to cancel ^{s. 47F(1)} visa. The AAT sent the notification to ^{s. 47F(1)} legal representative and a courtesy copy of the notification was sent to ^{s. 47F(1)}. The notification to ^{s. 47F(1)} was emailed shortly after 5pm to two Status Resolution mailboxes in ^{s. 47F(1)} which are not monitored outside of business hours. The notification was not emailed to the ^{s. 47F(1)} IDC where ^{s. 47F(1)} had been transferred.

On ^{s. 47F(1)} June 2018, the DRM conducted the daily check of the AAT outcome report sent each weeknight to the DRM mailbox. However, the decision for ^{s. 47F(1)} was not included on the AAT spreadsheet.

On ^{s. 47F(1)} June 2018, the team leader in ^{s. 47F(1)} Status Resolution checked the ^{s. 47F(1)} Case Management mailbox and located the AAT notification letter and decision record. The team leader forwarded the AAT decision and notification to the Assistant Director, Status Resolution ^{s. 47F(1)} who made immediate arrangements for ^{s. 47F(1)} release.

The AAT erroneously sent the courtesy copy of the AAT notification and decision record to an immigration detention facility where ^{s. 47F(1)} was previously detained. The AAT has been contacted by the Department's Legal Systems and Tribunal Liaison Section (LSTLS) following the error identified in ^{s. 47F(1)} case and the AAT has confirmed that an error occurred as the AAT had been informed that ^{s. 47F(1)} was at ^{s. 47F(1)} IDC.

The AAT has a courtesy agreement in place with the Department to ensure that where a set-aside decision is made in relation to a cancellation, this is not made after 1600 hours on a Friday, as there is insufficient time for departmental officers to make the necessary accommodation, health care and financial arrangements for persons released from detention, immediately prior to the weekend.

The AAT has confirmed that all Tribunal members will be reminded of the courtesy arrangement with the Department in relation to a cut-off time of 1600 hours for cancellation set-aside decisions on Fridays. In addition the AAT has reminded AAT Registry officers of the importance of sending all notifications as early as possible during the day where the outcome results in the set-aside of a visa refusal or the reinstatement of a visa.

The LTSTL is currently liaising with the AAT to strengthen the protocol between the Department and the AAT to prevent the recurrence of cases of inappropriate detention.

Current Status

On ^{s. 47F(1)} June 2018, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} visa.

^{s. 47F(1)} continues to reside lawfully in the community as the holder of this visa.

 Released by Department of Home Affairs
under the Freedom of Information Act 1982
Sensitive: Personal

Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT V****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47F(1) February 2018, s. 47F(1) was located by the ABF at s. 47F(1) residence in s. 47F(1) as part of a targeted operation. s. 47F(1) appeared to be unlawful on departmental systems and s. 47F(1) was detained under section 189 of the Act and transferred to the s. 47F(1) ITA.

On s. 47F(1) March 2018, a determination was made that s. 47F(1) remained the holder of a s. 47F(1) granted in association with an application for a s. 47F(1) visa s. 47F(1).

s. 47F(1) was released from immigration detention on s. 47F(1) March 2018.

Background

On s. 47F(1) August 2012, s. 47F(1) entered Australia as an s. 47F(1) on s. 47F(1) and was detained under section 189 of the Act on s. 47F(1).

On s. 47F(1) January 2013, s. 47F(1) was granted a s. 47F(1) and a s. 47F(1) through Ministerial Intervention under section 195A of the Act. s. 47F(1) ceased on s. 47F(1) February 2013 and s. 47F(1) ceased on s. 47F(1) July 2013.

On s. 47F(1) February 2015, the Minister intervened and lifted the bar under section 91L of the Act to allow s. 47F(1) to lodge a valid application for a visa in Australia. On s. 47F(1) March 2015, s. 47F(1) was granted a s. 47F(1) which ceased on s. 47F(1) March 2016.

On s. 47F(1) November 2015, s. 47F(1) lodged a valid application for a s. 47F(1). On s. 47F(1) December 2015, s. 47F(1) was granted a s. 47F(1) this one in association with the s. 47F(1) application.

On s. 47F(1) October 2016, s. 47F(1) application was refused. On s. 47F(1) October 2016, the review of the refusal of s. 47F(1) application commenced at the Immigration Assessment Authority (IAA).

On s. 47F(1) April 2017, the IAA affirmed the primary refusal decision and on s. 47F(1) May 2017, s. 47F(1) granted in association with the s. 47F(1) application, appeared to cease on departmental systems.

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Sensitive: Personal**Actions**

On ^{s. 47F(1)} February 2018, ^{s. 47F(1)} was detained and ^{s. 47F(1)} case was referred to a DRM for review. On ^{s. 47F(1)} February 2018, the DRM commenced a review of ^{s. 47F(1)} case and finalised an initial review pending receipt of the physical ^{s. 47F(1)} application file.

On ^{s. 47F(1)} March 2018, the DRM contacted Status Resolution Operational Support Section to ask that they review whether ^{s. 47F(1)} had been effectively notified of the IAA's affirmation of the primary refusal decision.

On ^{s. 47F(1)} March 2018, advice was received that as the IAA had not sent ^{s. 47F(1)} notification to the last residential address provided to the IAA, ^{s. 47F(1)} continued to hold a ^{s. 47F(1)} granted in association with ^{s. 47F(1)} ^{s. 47F(1)} application. As the associated ^{s. 47F(1)} was granted prior to ^{s. 47F(1)} November 2016, only effective notification of the IAA decision would have triggered its cessation.

The Status Resolution Operational Support Section has advised that in the wake of ^{s. 47F(1)} case, the Comprehensive Assessment Tool (CAT) is currently being modified to alert the ABF and Status Resolution network that IAA notices have to be referred to the Status Resolution Operational Support Section where a person was granted an associated ^{s. 47F(1)} prior to 19 November 2016, has not sought judicial review and there is no evidence of actual notification. The Status Resolution Operational Support Section has included the requirement for referral of IAA cases in notifications training conducted in state offices across the network in May and June 2018. The revision of the CAT has not been finalised as a second more recent case (in the July to December 2018 reporting period) has highlighted the need for further amendments, distinct to those brought about by ^{s. 47F(1)} case.

Current status

On ^{s. 47F(1)} March 2018, ^{s. 47F(1)} was provided with a copy of the IAA notification and decision record and was released from immigration detention.

On ^{s. 47F(1)} April 2018, ^{s. 47F(1)} granted in association with ^{s. 47F(1)} ^{s. 47F(1)} application ceased. ^{s. 47F(1)} is currently residing unlawfully in the community.

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Sensitive: Personal**Medium Risk Case****1 January 2018 – 30 June 2018****ATTACHMENT W****Process Incorrect****Defective Notification**

Family Name
 Given Name
 Alias
 Country of Citizenship
 DOB
 ICSE Client ID
 Date of detention
 Date of release

s. 47F(1)

Days detained as not
 an unlawful non-citizen

s. 47F(1)

Summary

On s. 47E January 2018, s. 47F(1) reported to s. 47F(1) Police as s. 47F(1) was the subject of an ongoing investigation. s. 47E Police referred s. 47F(1) to the Department's ISS for a visa status check. ISS confirmed that s. 47F(1) appeared to be unlawful according to departmental systems and s. 47F(1) was detained under section 189 of the Act.

On s. 47E January 2018, a determination was made that s. 47F(1) remained the holder of a s. 47E visa granted in association with a s. 47F(1) visa application, lodged on s. 47E August 2015.

s. 47F(1) was released from immigration detention on s. 47E January 2018.

Background

On s. 47E December 2008, s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa granted on s. 47E December 2008. On s. 47E March 2009, s. 47F(1) visa ceased.

On s. 47E May 2010, s. 47F(1) was granted a s. 47E on departure grounds, which ceased on s. 47E June 2010. A further s. 47F(1) were granted in 2010, with the s. 47F(1) granted on s. 47E September 2010 and ceasing on s. 47E October 2010.

On s. 47E October 2010, s. 47F(1) became unlawful and resided unlawfully in the community until s. 47E July 2015, when s. 47F(1) was granted a s. 47E on the grounds that s. 47F(1) would apply for a s. 47F(1) visa, which ceased on s. 47E July 2015. On s. 47E July 2015, s. 47F(1) was granted a s. 47E which ceased on s. 47E August 2015.

On s. 47E August 2015, s. 47F(1) lodged an application for a s. 47F(1) visa and was granted an associated s. 47E. On s. 47E February 2016, s. 47F(1) s. 47F(1) visa application was refused and the notification was sent to s. 47F(1) migration agent via post.

On s. 47E March 2016, s. 47F(1) associated s. 47E appeared to cease on departmental systems, subsequent to the recording of the refusal of the s. 47F(1) visa

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on departmental systems on s. 47F(1) February 2016. On s. 47F(1) March 2016, s. 47F(1) appeared as unlawful on departmental systems.

On s. 47F(1) January 2018, s. 47F(1) was detained under section 189 of the Act.

Actions

On s. 47F(1) January 2018, s. 47F(1) case was referred to a DRM. On the following day the DRM recalled the file and also sent a request for confirmation of dispatch of mail by registered post to the Department's mail service provider, Decipha. As Decipha was unable to locate a record of dispatch of mail for the refusal of the s. 47F(1) visa application, the DRM identified a possible defect and sent a request to the Status Resolution Operational Support Section. The DRM also sought advice in relation to the scope of the appointment of the authorised recipient from the Status Resolution Operational Support Section.

As Section 494B(4)(a) requires the notification to be sent within three working days of the date of the letter and there was no confirmation of dispatch, the Status Resolution Operational Support Section confirmed that the notification was defective and that s. 47F(1) continued to hold an associated s. 47F(1).

The Status Resolution Operational Support Section also confirmed that the scope of the authorised recipient's appointment was limited to the s. 47F(1) visa application and that even in the event that the notification had been dispatched within three working days, it would have still been defective in respect of the s. 47F(1) visa application refusal as it had been sent to the wrong recipient (that is, the migration agent instead of the visa applicant).

On s. 47F(1) January 2018, the Status Resolution Operational Support Section confirmed that there was a defect in the refusal notification of the s. 47F(1) visa application and that s. 47F(1) continued to hold the associated s. 47F(1) granted on s. 47F(1) August 2015. On the same day, s. 47F(1) was released from the s. 47F(1) IDC as the holder of a s. 47F(1).

The manager of the relevant s. 47F(1) area has advised that following identification of the error, it has been brought to the attention of team leaders and officers to ensure that the scope of appointment of the migration agent is checked and clarified prior to notification. In addition, officers have been reminded that notification by mail is to be dispatched by registered post and that evidence of dispatch must be recorded on Departmental systems and electronic files to ensure that the Department is able to rely on the deemed receipt provisions, for notification dispatched by post.

Current Status

On s. 47F(1) January 2018, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1). Prior to s. 47F(1) release, s. 47F(1) provided the Department with s. 47F(1) updated contact details.

On s. 47F(1) January 2018, s. 47F(1) was re-notified of the decision to refuse s. 47F(1) visa application and on s. 47F(1) February 2018, s. 47F(1) lodged an application for review at the AAT of the s. 47F(1) visa application refusal only.

s. 47F(1) is currently residing in the community as the holder of a s. 47F(1) pending the outcome of s. 47F(1) application for merits review.

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