



**Commonwealth of Australia**

*Migration Act 1958*

**INSTRUMENT OF ARRANGEMENT FOR USE OF COMPUTER PROGRAMS FOR  
DESIGNATED MIGRATION LAW PURPOSES 2016/020**

*(Section 495A)*

I, *PETER VARDOS*, Acting Secretary of the Department of Immigration and Border Protection, Delegate of the Minister of Immigration and Border Protection under the Instrument of Delegation 2015 (DEL 15/103) and acting under section 495A of the *Migration Act 1958* (the Act):

1. ARRANGE for the use, under my control, of the computer programs specified in Schedule A to this Instrument, to exercise the power to require a person to provide one or more personal identifiers under section 257A.

Details of the arrangement and a description of the relevant computer programs are set out in Schedule B and Schedule C to this Instrument.

This Instrument of Arrangement 2016/020, IMMI 16/020, commences immediately after signature.

Dated:

*17th February*

2016

*P Vardos*

**Acting Secretary of the Department of Immigration and Border Protection**

Released by Department of Home Affairs  
under the Freedom of Information Act 1982

## SCHEDULE A

SPECIFIED COMPUTER PROGRAMS
Integrated Client Service Environment (ICSE)
Immigration Records Information System (IRIS)
Enterprise Correspondence System (ECS)

## SCHEDULE B

### Arrangement under section 495A of the *Migration Act 1958* for the use of computer programs to require the provision of personal identifiers

#### Coverage of Arrangement

Section 257A of the Act was inserted into the Act by the *Migration Amendment (Strengthening Biometrics Integrity) Act 2015* (the Strengthening Biometrics Integrity Act). The Strengthening Biometrics Integrity Act amended the Act to:

- provide a single broad discretionary power to collect one or more personal identifiers from non-citizens and the same broad collection power with regard to citizens at the border;
- enable flexibility on the types of personal identifiers that may be required, the circumstances in which they may be collected, and the places where they may be collected;
- enable personal identifiers to be provided by an identification test or by another way specified by the Minister or an officer of the Department;
- enable personal identifiers to be collected from minors and incapable persons under the new broad collection power without the need to obtain consent, or require the presence of a parent, guardian or independent person during the collection; and
- remove redundant provisions resulting from the above amendments.

It is intended that the automated letter requiring personal identifiers from a visa applicant is taken to be an exercise by the Minister of his power under the new section 257A of the Act. This automated letter is sent out or generated by the computer programs specified in this Instrument.

A new paragraph 495A(3)(aa) of the Act was also inserted by the Strengthening Biometrics Integrity Act. This amendment adds section 257A to the definition of *designated migration law*. The effect of this amendment is that the Minister is empowered to make arrangements for the use of computer programs for the purposes of section 257A.

This Arrangement does not authorise the use of the specified computer programs to make decisions to refuse to grant a visa or refuse immigration clearance.

### **Description of Computer Programs**

The Integrated Client Services Environment (ICSE) and Immigration Records Information System (IRIS) are information technology platforms used for visa and citizenship processing. The Enterprise Correspondence System (ECS) is used to manage and update correspondence templates used to communicate with clients.

This Instrument is intended to cover minor changes or upgrades to these computer programs (for example, updating a correspondence template in ECS or updating maintenance processes).

## SCHEDULE C

### **Specific details of the arrangement under section 495A of the *Migration Act 1958* for the use of computer programmes to require the provision of personal identifiers**

For the purposes of section 257A of the Act, ICSE and IRIS provide:

- the ability to collect personal identifiers;
- the flexibility to collect (capture) personal identifiers from non-citizens, of a type authorised under the Act, where a legitimate purpose is engaged;
- the ability to collect and process personal identifiers from minors and incapable clients regardless of consent, or the presence during collection, of a guardian or independent person;
- the ability to record when personal identifiers are not collected from minors and/or incapable clients in the absence of consent or the presence during collection, of a guardian or independent person; and
- the ability to report the number of instances in which personal identifiers are not collected from minors and incapable clients in the absence of consent or the presence during collection, of a parent, guardian or independent person.

ECS manages correspondence templates such as the letter used by the Minister or the officers of the Department to require a citizen or non-citizen to provide one or more personal identifiers. This computer programme provides the Minister or the officer of the Department with an efficient and effective way of requiring a person to provide his or her personal identifiers pursuant to section 257A of the Act.

Released by Department of Home Affairs  
under the Freedom of Information Act 1982



Commonwealth of Australia

*Migration Act 1958*

**ARRANGEMENT FOR THE USE OF A COMPUTER PROGRAM 2016/030**

*(Section 495A)*

I, *RACHEL NOBLE PSM*, Senior Executive Service, Band 3 of the Policy Group in the Department of Immigration and Border Protection, acting under section 495A of the *Migration Act* (the Act) as the Minister's delegate, arrange for the use of the computer program, *eLodgement PLUS*, as detailed in the Attachment to this Instrument, for the following purposes:

1. to require, under subclause 500.213(1) of Schedule 2 to the *Migration Regulations 1994* (the Regulations), an applicant of a Subclass 500 (Student) visa to give to the Minister evidence that the applicant has a level of English language proficiency that meets the requirements specified in an instrument under paragraph 500.213(3)(a) of Schedule 2 to the Regulations;
2. to require, under subclause 500.214(3) of Schedule 2 to the Regulations, an applicant of a Subclass 500 (Student) visa to give to the Minister evidence of financial capacity that satisfies the requirement specified in an instrument under subclause 500.214(4) of Schedule 2 to the Regulations;
3. to require, under subclause 500.313(3), an applicant of a Subclass 500 (Student) visa to give to the Minister evidence of financial capacity that satisfies the requirement specified in an instrument under subclause 500.313(4) of Schedule 2 to the Regulations.

This Instrument of Arrangement for the use of a Computer Program 2016/030, IMMI 16/030 commences immediately after the commencement of Schedule 4 of the *Migration Legislation Amendment (2016 Measures No.1) Regulation 2016*.

Dated: 27.4.2016

2016

A handwritten signature in blue ink that reads "Rachel Noble".

RACHEL NOBLE PSM

Delegate of Minister for Immigration and Border Protection

Released by Department of Home Affairs  
under the Freedom of Information Act 1982

## Attachment

### Use of the eLodgment PLUS programme to request evidence under 500.213(1) and 500.214(3).

#### *Description of relevant computer programmes*

eLodgment PLUS is the Department's online lodgement service that allows visa applications to be prepared and lodged online into the Department's visa processing systems.

Through the eLodgment PLUS programme, applicants for a Subclass 500 (Student) visa complete an online application form, including details of the applicant's education provider and passport country.

The eLodgment PLUS programme sends details of the applicant's education provider and passport country to the CVOR system. The CVOR system determines whether an applicant needs to provide 'streamlined' or 'regular' evidence of financial capacity or English proficiency based on s. 47E(d)

CVOR then returns to the eLodgment PLUS programme a list of evidentiary requirements that need to be included in the application, including evidence of English proficiency and financial capacity, which are displayed to the applicant.

CVOR is a s. 47E(d) that determines whether a student visa applicant must provide documentary evidence of English proficiency and/or financial capacity according to the rules set out below.

#### *Determining whether an applicant must provide documentary evidence of English proficiency or financial capacity*

Under the simplified student visa framework (SSVF) each country and each Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) registered education provider is allocated an s. 47E(d) of one, two or three based on a statistical analysis of student visa

s. 47E(d) are then combined to guide financial and English evidentiary requirements for student visa applicants.

Table 1, below, identifies whether a student s. 47E(d) will generally need to provide streamlined or regular evidence of their financial and English proficiency.

s. 47E(d)		s. 47E(d)		
		One	Two	Three
s. 47E(d)	One	Streamlined	Streamlined	Streamlined
	Two	Streamlined	Streamlined	Regular
	Three	Streamlined	Regular	Regular

s. 47E(d)

The following categories of student visa applicants will get a default s. 47E(d) as they are not required to be associated with CRICOS registered education providers.

Category of student visa applicant	s. 47E(d)	
Foreign Affairs students		
Defence students		
Secondary exchange students		
Students required to remain in Australia for thesis marking		

**Table 2: Default s. 47E(d) for certain categories of student visa applicants**

Where regular evidentiary requirements apply, the applicant will be instructed to provide documentary evidence of their financial and English language capacity with their visa application, as specified in a legislative instrument under 500.213(1) and 500.214(3).

Where streamlined evidentiary requirements apply, the applicant will not be instructed to provide documentary evidence of their English proficiency or financial capacity by the eLodgement PLUS programme. If documentary evidence of English proficiency and/or financial capacity is required by a delegate of the Minister after the applicant has submitted the application through the eLodgement PLUS programme, the applicant will be requested to provide evidence in writing, in accordance with 500.213(1) and 500.214(3).



**Commonwealth of Australia**

*Migration Act 1958*

**ARRANGEMENT FOR THE USE OF COMPUTER PROGRAM TO MAKE  
DECISIONS TO GRANT BRIDGING VISAS  
(SECTION 495A)**

I, *JACKIE WILSON*, Deputy Secretary to the Department of Immigration and Citizenship ('DIAC'), acting under section 495A of the *Migration Act 1958* ('the Act') as the Minister's delegate:

1. REVOKE Instrument number 08/060 "Arrangement for the use of Computer Program to make Decisions to Grant Bridging Visas" signed on 12 December 2008; AND
2. ARRANGE, as provided in Attachment A, for the use, under my control, of computer programs for the purposes of considering applications for certain types of bridging visas and for making decisions to grant such visas under the Act.

The visas covered under this arrangement are:

1. Class WA; and
2. Class WC.


The Class WA visa and Class WC visa can be

- autograntable where the applicant is in Australia and has lodged a valid online application for one of the following visa types:
  - Business Skills
  - Permanent Employer Nomination
  - General Skilled Migration
  - Spouse
  - Students
  - Temporary Business
  - Visitor
  - Working Holiday

- autogrant where the applicant is in Australia and has lodged a valid paper application for a visa for one of the following types:
  - General Skilled Migration
  - Temporary Business

This Arrangement, IMMI 12/028, comes into effect on 1 July 2012 immediately after the commencement of *Migration Amendment Regulation 2012 (No.2)*.

Dated 2 June 2012

  
 Deputy Secretary  
 BUSINESS SERVICES

[NOTE: Subsections 495A(1) and (2) of the Act provide that the Minister may arrange for the use, under the Minister's control, of computer programs for any purposes for which the Minister may, or must, under the designated Migration Law

- (a) make a decision; or
- (b) exercise any power, or comply with any obligation; or
- (c) do anything else related to making a decision, exercising a power, or complying with an obligation.

AND

The Minister is taken to have:

- (a) made a decision; or
- (b) exercised a power, or complied with an obligation; or
- (c) done something else related to the making of a decision, the exercise of a power, or the compliance with an obligation;

that was made, exercised, complied with, or done (as the case requires) by the operation of a computer programme under an arrangement made under subsection (1).]

## Attachment A

### Arrangement under section 495A of the *Migration Act 1958* for the use of computer program to make decisions to grant visas

#### Coverage of Arrangement

1. DIAC provides an Internet-based service for clients, permitting electronic lodgement of visa applications. This service allows clients, or their agents, to lodge electronic visa applications through the DIAC website. Some of the electronic visas applications lodged through this service can be automatically processed and granted by the operation of a computer, without direct human intervention. This process is referred to as the 'autogrant' process. This Arrangement covers the grant, through the autogrant process, of visas of the following kinds:
  - Class WA; and
  - Class WC.
2. In addition to online lodgement services, DIAC has a system of combined human processing and automated electronic processing of visa applications. This system allows for an authorised person to electronically record the information supplied by the applicant on a paper form for a visa application. The application then goes through the autogrant process in respect to validity of the application. This Arrangement covers the grant, through the autogrant process, of visas of the following kinds:
  - Class WA; and
  - Class WC.
3. It is intended that computer programs covered by this Arrangement will only grant visas where the criteria or grant are straightforward and objective in that they do not require assessment of subjective or discretionary criteria. The Arrangement does not authorise the use of computer programs to make decisions to refuse to grant a visa.

#### Description of Relevant Computer Programs

4. DIAC's visa processing systems support online lodgement of applications by providing a database with visa processing and decision-recording functions. They also track the process of visa applications and integrate the decision process with entry, alert lists and management reporting systems. Decisions to grant visas can be designed to occur manually or automatically through the visa processing systems.
5. DIAC's online lodgement service is a comprehensive visa application receipting system that allows complete and valid applications to be prepared and lodged via the Internet into DIAC's visa processing systems.
6. DIAC's visa processing systems include programs that can evaluate assessment criteria for those visa categories listed in paragraph 1 above and automatically grant visas where the assessment criteria are met. These autogrant programs operate in conjunction with, and where necessary draw and rely upon, data in other departmental systems such as:
  - The eBusiness (e-visa) Server, available to clients through DIAC's Homepage;

s. 47E(d)

- Entry Documentation (ED) and Travel and Immigration Processing System (TRIPS) systems.

s. 47E(d)

8. The assessment criteria which the visa processing systems autogrant programs consider in reaching the point of autogrant vary with visa type, depending on criteria contained in the *Migration Regulations 1994*. The following matters are relevant to and need to be satisfied under Class WA and Class WC visa autogrant arrangements:

- valid application made while in Australia for a kind of substantive visa specified in the covering arrangement;
- the substantive visa applied for has not been autogrant;
- if the applicant holds a substantive visa at the time of applying for the kind of visa specified in the covering arrangement – Class WA is the appropriate Bridging visa;
- if the applicant does not hold a substantive visa at the time of applying for the kind of visa specified in the covering arrangement – Class WC is the appropriate Bridging visa;

s. 47E(d)

- no ED concerns.

### **My Control of Relevant Computer Programs**

#### **Future Changes to those Computer Programs**

9. The following information outlines how I, as the Minister's delegate under section 495A of the Act, control relevant computer programs and, in doing so, control changes to those programs. This includes changes that may or may not require changes to this Arrangement. Computer programs require levels of change, including flexibility and speed of change such that no single delegate can physically endorse every change ahead of their occurrence. For this reason, tiers of administration exist, which enable creation of and changes to detailed design specification, the testing and the monitoring of systems and their performance. It is my expectation that a new section 495A Arrangement would not be required in circumstances where for example, there are changes to the form fields that have to be completed, or to the location at time of lodgement. However, if all form fields no longer needed completion, or location at time of lodgement was no longer a criteria for any applicant, a new Arrangement would be required.

10. In order to ensure that the use of the abovementioned computer programs for considering visa applications and making autogrants of visas remains under my control, systems changes impacting on such programs in any significant way must be approved by me, in accordance with DIAC's Systems Governance Arrangements, as follows:

- In my role as Deputy Secretary Business Services Group I chair the Systems Executive Committee;
- The above Committee receives and make decisions on information, findings and recommendations by DIAC's Systems Boards;
- The Systems Boards are a primary point for identifying significant changes to computer programs covered by this Arrangement and will ensure such changes are brought to my attention. I will also retain the capacity to identify any such change in my role as chair of the Systems Executive Committee;
- My expectation is that any significant change to the programs covered by this Arrangement will be endorsed by me and that minor changes will occur under (and be approved by or through) any one of the Systems Boards. A very minor change will occur without any need for endorsement by me or the Boards;
- Examples of significant changes are the addition of new calling systems and wholesale changes to process flows;
- Examples of minor change include the resetting of s. 47E(d) changes to eligible salary levels for visa applicants, age and nationality for various temporary entry visas and correction of inefficient or error-based processes that occur at a relatively low cost and with little or no perceived impact upon clients/applicants;
- Examples of very minor change include changes occurring for the purposes of computer maintenance and day-to-day performance. Very minor change can also include the matters covered under minor change when they are designed to be changes made by Systems Administrators as "Desktop Changes".



**Migration (IMMI 18/101: Use of Computer Programs for section 495A of the *Migration Act 1958*) Arrangement 2018**

I, Michael Pezzullo, Secretary of the Department of Home Affairs, make the following instrument.

Dated 14<sup>th</sup> June 2018

Michael Pezzullo  
Secretary of the Department of Home Affairs

---

*Migration (IMMI 18/101: Use of Computer Programs for section 495A of the  
Migration Act 1958) Arrangement 2018*

Released by Department of Home Affairs  
under the Freedom of Information Act 1982

---

## Contents

<b>Part 1 – Preliminary</b>	<b>1</b>
1 Name .....	1
2 Commencement .....	1
3 Authority .....	1
4 Definitions .....	1
5 Schedules .....	2
<b>Part 2 – Arrangement for use of computer programs</b>	<b>3</b>
6 Arrangement for use of computer programs under section 495A of the Act .....	3
<b>Schedule 1 – Arrivals SmartGate series one - Arrangement</b>	<b>4</b>
1 Background .....	4
2 Overview .....	4
3 Description of relevant computer programs .....	4
4 Purposes for which programs may be used .....	5
5 Control of relevant computer programs .....	6
<b>Schedule 2 – Arrivals SmartGate series two - Arrangement</b>	<b>7</b>
1 Background .....	7
2 Overview .....	7
3 Description of relevant computer programs .....	7
4 Purposes for which programs may be used .....	8
5 Control of relevant computer programs .....	9
<b>Schedule 3 – Repeals</b>	<b>10</b>
<i>Arrangement for Use of Computer Programs for Designated Migration Law</i> <i>Purposes (IMMI 07/018)</i>	10
<i>Arrangement for Use of Computer Programs for Designated Migration Law</i> <i>Purposes (IMMI 11/076)</i>	10
<i>Arrangement for Use of Computer Programs for Designated Migration Law</i> <i>Purposes (IMMI 13/104)</i>	10

---

## Part 1 – Preliminary

### 1 Name

- (1) This instrument is the *Migration (IMMI 18/101: Use of Computer Programs for section 495A of the Migration Act 1958) Arrangement 2018*.
- (2) This instrument may be cited as IMMI 18/101.

### 2 Commencement

This instrument commences on the day after signature.

### 3 Authority

This instrument is made under section 495A of the Act.

### 4 Definitions

Note: Subsection 495A(3) of the Act sets out which provisions are the designated migration law for the purposes of section 495A.

In this instrument:

*Act* means the *Migration Act 1958*.

**Arrivals SmartGate series one** means the first SmartGate system implemented for arrivals in some Australian international airports, which has a two-step process, comprising of both a kiosk and an arrivals gate.

Note: Arrivals SmartGate series one was previously known as 'SmartGate Automated Border Processing (ABP) Inwards'.

**Arrivals SmartGate series two** means the SmartGate system implemented on or after 1 January 2018 for arrivals in some Australian international airports, which has a one step process, consisting only of an arrivals gate, and can operate in contact and contactless mode.

**e-Passport** means a passport that:

- (a) contains a microchip, embedded within the passport, that contains:
  - (i) the same personal information that is on the photo page of the passport; and
  - (ii) a digitised photograph; and
- (b) has an international e-Passport symbol on the front cover.

**international traveller** means a person who has arrived in Australia on an international flight or voyage, whether as a passenger on, or crew member of, an aircraft or vessel.

---

***SmartGate system*** means an automated system, referred to as a “SmartGate”, used for the checking and clearance of passengers and crew, and other matters relating to passengers and crew, at some Australian international airports.

***Regulations*** means the *Migration Regulations 1994*.

## 5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

---

## Part 2 – Arrangement for use of computer programs

### 6 Arrangement for use of computer programs under section 495A of the Act

- (1) Under section 495A of the Act, this instrument arranges for the use, under the Minister's control, of the following computer programs, for the purposes of the Minister making a decision, exercising a power, complying with an obligation, or doing anything else related to making a decision, exercising a power or complying with an obligation under the designated migration law:
  - (a) Arrivals SmartGate series one;
  - (b) Arrivals SmartGate series two.
- (2) The arrangements for the computer programs specified in subsection (1) are provided for in the following Schedules:
  - (a) Arrivals SmartGate series one – Schedule 1;
  - (b) Arrivals SmartGate series two – Schedule 2.

## Schedule 1 – Arrivals SmartGate series one - Arrangement

### 1 Background

- (1) Section 495A of the Act provides that the Minister may arrange for the use, under the Minister's control, of computer programs for any purposes for which the Minister may, or must, under the designated Migration Law:
  - (a) make a decision; or
  - (b) exercise any power, or comply with any obligation; or
  - (c) do anything else related to making a decision, exercising a power, or complying with an obligation.
- (2) The Minister is taken to have:
  - (a) made a decision; or
  - (b) exercised a power, or complied with an obligation; or
  - (c) done something else related to the making of a decision, the exercise of a power, or the compliance with an obligation;
 that was made, exercised, complied with, or done (as the case requires) by the operation of a computer program under an arrangement made under section 495A.

### 2 Overview

- (1) SmartGates are a voluntary alternative to manual processing at the border whereby the holders of eligible 'e-Passports' arriving in Australia (including Australian citizens and certain non-citizens) can have their identity, and in the case of non-citizens, their visa, verified (or visa granted in the case of New Zealand citizens) by a computer program without the need for a clearance officer to be present during the process.
- (2) To be eligible to use a SmartGate, international travellers must hold a passport that:
  - (a) is an e-Passport; and
  - (b) the Minister or the Secretary has determined to be an eligible passport in a legislative instrument made under section 175A of the Act.

### 3 Description of relevant computer programs

- (1) Arrivals SmartGate series one will immigration clear international travellers where their data matches in all relevant databases, s. 47E(d) and there are no issues with any of the following variables:
  - (a) visa conditions requiring manual verification;
  - (b) visa types requiring manual verification to substantiate status of the international traveller;
  - (c) endorsees on passports;
  - (d) height of the international traveller;
  - (e) age of the international traveller;

(f) declaration of adverse character or health concerns.

- (2) Advance Passenger Processing (APP) provides the Department of Home Affairs with information on all international travellers travelling to Australia. This information is collected through the APP system when an international traveller checks in to their flight, and transmitted through this system to Australia for use by border agencies prior to arrival of the aircraft. The data transmitted to Australia is s. 47E(d)

s. 47E(d)

- (3) s. 47E(d)

- (4) s. 37(2)(b)

- (5) At the border, Arrivals SmartGate series one processes live international traveller data into PACE. EMRs are passed to PACE to match with the passport data from the international traveller's e-Passport and Arrivals SmartGate series one also check for any s. 47E(d) PACE then informs Arrivals SmartGate series one to either allow the international traveller to be immigration cleared or be sent to a clearance officer for further processing.

#### 4 Purposes for which programs may be used

- (1) This instrument arranges for the use of the computer program, Arrivals SmartGate series one for the purpose of:
- (a) taking a live image of the international traveller and comparing this with a stored image or captured image from the international traveller's passport to verify the identity of the international traveller;
  - (b) facilitating immigration and Customs checks, including s. 47E(d) before permitting a person to enter Australia;
  - (c) s. 47E(d) collecting information via the Arrivals SmartGate series one kiosk, which is required to be provided for the purposes of immigration clearance, including information related to health and character checking; and
  - (d) making a decision whether to grant, through the automated process, a subclass 444 (Special Category) visa.

- 
- (2) In relation to granting a Special Category visa, Arrivals SmartGate series one enables New Zealand citizens who hold an e-Passport to apply for a Special Category Visa at the gate, and be granted a Special Category Visa by TRIPS without the need for a clearance officer to be present.
  - (3) It is intended that computer programs covered by this instrument of arrangement will only grant visas where the criteria for visa grant are straightforward and objective in that they do not require assessment of subjective or discretionary criteria.
  - (4) This instrument of arrangement does not authorise the use of computer programs to make decisions to refuse to grant a visa or refuse immigration clearance.

## **5 Control of relevant computer programs**

- (1) As the Minister's delegate under section 495A of the Act, the Secretary has control over the relevant computer programs and, in doing so, control changes to those programs. This includes changes that may or may not require changes to this instrument of arrangement.
- (2) Computer programs require levels of change, including flexibility and speed of change such that no single delegate can physically endorse every change ahead of their occurrence. For this reason, tiers of administration exist, which enable creation of and changes to detailed design specification, the testing and the monitoring of systems and their performance. In order to ensure that the use of the computer programs for the matters set out above systems changes impacting on such programs in any significant way must be approved by the Secretary, in accordance with the Department of Home Affairs Systems Governance Arrangements.

## Schedule 2 – Arrivals SmartGate series two - Arrangement

### 1 Background

- (1) Section 495A of the *Migration Act 1958* (the Act) provides that the Minister may arrange for the use, under the Minister's control, of computer programs for any purposes for which the Minister may, or must, under the designated Migration Law:
  - (a) make a decision; or
  - (b) exercise any power, or comply with any obligation; or
  - (c) do anything else related to making a decision, exercising a power, or complying with an obligation.
- (2) The Minister is taken to have:
  - (a) made a decision; or
  - (b) exercised a power, or complied with an obligation; or
  - (c) done something else related to the making of a decision, the exercise of a power, or the compliance with an obligation;
 that was made, exercised, complied with, or done (as the case requires) by the operation of a computer program under an arrangement made under section 495A.

### 2 Overview

- (1) SmartGates are a voluntary alternative to manual processing at the border whereby the holders of eligible 'e-Passports' arriving in Australia (including Australian citizens and certain non-citizens) can have their identity, and in the case of non-citizens, their visa, verified (or visa granted in the case of New Zealander citizens) by a computer program without the need for a clearance officer to be present during the process.
- (2) To be eligible to use a SmartGate, international travellers must hold a passport that:
  - (a) is an e-Passport; and
  - (b) the Minister or the Secretary has determined to be an eligible passport in a legislative instrument made under section 175A of the Act.

### 3 Description of relevant computer programs

- (1) Arrivals SmartGate series two will immigration clear international traveller where their data matches in all relevant databases, there are **s. 47E(d)** and there are no issues with any of the following variables:
  - (a) visa conditions requiring manual verification;
  - (b) visa types requiring manual verification to substantiate status of the traveller;
  - (c) endorsees on passports;
  - (d) height of the international traveller;

- (e) age of the international traveller; and
- (f) declaration of adverse character or health concerns.

- (2) Advance Passenger Processing (APP) provides the Department of Home Affairs with information on all international traveller travelling to Australia. This information is collected through the APP system when an international traveller checks in to their flight, and transmitted through this system to Australia for use by border agencies prior to arrival of the aircraft. The data transmitted to Australia is s. 47E(d)

s. 47E(d)

- (3) s. 47E(d)

s. 37(2)(b)

- (5) At the border, Arrivals SmartGate series two process live international travellers data into PACE. EMRs are passed to PACE to match with the passport data from the international traveller's e-Passport and Arrivals SmartGate series two also s. 47E(d) PACE then informs Arrivals SmartGate series two to either allow the international travellers to be immigration cleared or be sent to a clearance officer for further processing.

#### 4 Purposes for which programs may be used

- (1) This instrument arranges for the use of the computer program, Arrivals SmartGate series two, for the purpose of:
- (a) taking a live image of the international traveller and compare this with a stored image or captured image from the international traveller's passport to verify the identity of the international traveller;
  - (b) facilitating immigration and Customs checks, including s. 47E(d) before permitting a person to enter Australia;
  - (c) collecting information, which is required to be provided for the purposes of immigration clearance, including information related to health and character checking; and
  - (d) making a decision whether to grant, through the automated process, a subclass 444 (Special Category) visa.

- 
- (2) In relation to granting a Special Category visa, Arrivals SmartGate series two enables New Zealand citizens who hold an e-Passport to apply for a Special Category Visa at the gate, and be granted the Special Category Visa by TRIPS without the need for a clearance officer to be present.
  - (3) It is intended that computer programs covered by this instrument of arrangement will only grant visas where the criteria for visa grant are straightforward and objective in that they do not require assessment of subjective or discretionary criteria.
  - (4) This instrument of arrangement does not authorise the use of computer programs to make decisions to refuse to grant a visa or refuse immigration clearance.

## **5 Control of relevant computer programs**

- (1) As the Minister's delegate under section 495A of the Act, the Secretary has control over the relevant computer programs and, in doing so, control changes to those programs. This includes changes that may or may not require changes to this instrument of arrangement.
- (2) Computer programs require levels of change, including flexibility and speed of change such that no single delegate can physically endorse every change ahead of their occurrence. For this reason, tiers of administration exist, which enable creation of and changes to detailed design specification, the testing and the monitoring of systems and their performance. In order to ensure that the use of the computer programs for the matters set out above remains under the Minister's control, systems changes impacting on such programs in any significant way must be approved by the Secretary, in accordance with the Department of Home Affairs Systems Governance Arrangements.

---

## Schedule 3 – Repeals

### *Arrangement for Use of Computer Programs for Designated Migration Law Purposes (IMMI 07/018)*

#### **1 The whole of the instrument**

Repeal the instrument.

### *Arrangement for Use of Computer Programs for Designated Migration Law Purposes (IMMI 11/076)*

#### **2 The whole of the instrument**

Repeal the instrument.

### *Arrangement for Use of Computer Programs for Designated Migration Law Purposes (IMMI 13/104)*

#### **3 The whole of the instrument**

Repeal the instrument.