



Australian Government
**Department of Immigration
and Border Protection**

Policy options for resolving the Illegal Maritime Arrivals Legacy Caseload

Internal discussion paper

Onshore Protection Policy Section

November 2017

Confidential Draft

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s. 47C(1)

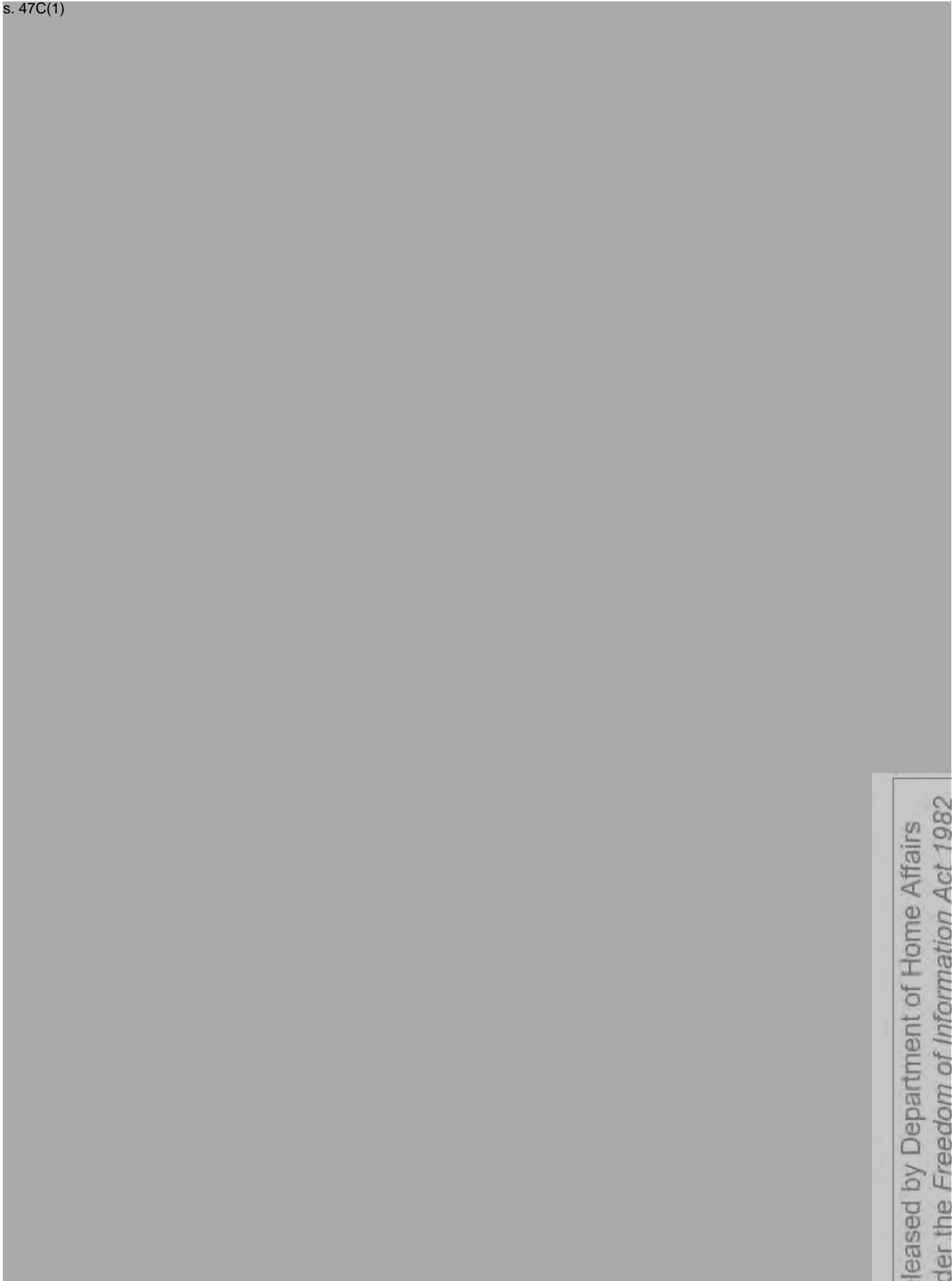


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¹ A TPV is valid for three years with holders able to work, study and reside anywhere in Australia. A SHEV is valid for five years and holders must intend to work or study in regional Australia.


² If SHEV holders have worked without accessing any social security benefits and/or studied in a specified regional area for a period totalling 42 months, they meet “pathway requirements” and are eligible to apply for certain mainstream visas. TPV holders may apply for a SHEV and endeavour to meet the pathway requirements.

s. 47C(1)



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For Further consideration

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Safe Haven Enterprise Visa: “Pathway” Assessments

Policy paper discussing issues and possible options

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Issue

1. Holders of Safe Haven Enterprise Visas (SHEVs) currently working or studying in regional Australia may qualify to apply for prescribed permanent visas as early as April 2019, with the first SHEVs expiring in 2020.
2. The Department does not have insight into how many SHEV holders will meet the prerequisite (the SHEV “pathway”) for their application for a prescribed visa to be valid.
3. s. 47E(d) [REDACTED]

Discussion

SHEV “pathway”

4. Australia’s temporary protection visa regime comprises of the Temporary Protection Visa (TPV) and the SHEV. The Government’s policy intent in introducing the SHEV in 2014 was to encourage refugees who arrived in Australia illegally to work or study and contribute to the development of regional Australia.
5. To have been granted a SHEV, a person must have arrived in Australia illegally, been found to engage Australia’s protection obligations, indicated an intention to work and/or study in a designated regional area and met other relevant requirements (such as health, security and character).

s. 22(1)(a)(ii) [REDACTED]

7. If SHEV holders work without accessing certain social security benefits and/or study in a designated regional area for a period totalling 42 months, they meet the “pathway”, a prerequisite for making a valid application for other prescribed visas, including permanent visas (see [Annex 1](#)).
8. The Government discourse on the introduction of SHEVs was that the “pathway” would be a “very limited opportunity” to permanent residency with “a very high bar to clear” (Morrison, 2014).
9. The SHEV program has had strong support from States and Territories who have nominated several postcodes to be designated “regional” for the purposes of the SHEV (postcodes designated “regional” for the SHEV program are listed in [Annex 2](#)).
10. The Department has actively communicated the pathway to the IMA legacy caseload through information fact sheets and messaging through migration agents, NGOs and other public engagement fora. However, the number of SHEV holders actively working to meet the

prerequisite is unknown. s. 47E(d)

Assessing the prerequisite (“SHEV pathway”)

11. The current legislative framework requires the assessment of whether SHEV holders have fulfilled the prerequisite to work and/or study in a designated regional area occurs when they apply for a prescribed visa. If the prerequisite has not been fulfilled, the application for a prescribed visa will be invalid.
12. Since the assessment is an administrative process, it is judicially reviewable and common law procedural fairness applies.
13. In 2019, as many as 123 SHEV holders will conclude the 42 months minimum period since their SHEV was granted. An unknown number of these individuals may have worked and/or studied in a designated regional area for this period and may apply for a prescribed visa.

s. 47E(d)

15. The Department cannot forecast how many SHEV holders who meet the prerequisite will subsequently be able to satisfy the criteria for the grant of a prescribed visa and obtain a permanent residency outcome. The number is expected to be relatively low.

- The visa application charge for the prescribed visas is significant.
- The visa criteria stipulate high levels of educational qualifications, professional skills and / or sponsorship requirements and English language competency.

(Note - In 2004, when Government provided 9500 temporary protection holders the opportunity to apply for 36 mainstream permanent migration visas and introduced more flexible English language and financial requirements, the uptake and success rate were poor. Only 34 applications were received and 16 visas granted.)

Requirement around work

16. To satisfy the prerequisite through work, a SHEV holder must undertake work that is:

- lawful
- paid (not voluntary)
- in a regional area that is included in the SHEV arrangements
- on a full-time, part-time, temporary, casual or seasonal basis, or a combination of these.

17. Instrument *IMMI 15/071 Determination – meaning of engaged in employment 2015* specifies when an applicant is “engaged in employment”. “Work”, as defined in the *Migration Regulations 1994* (the Regulations) (at regulation 1.03) means any activity that, in Australia, normally attracts remuneration. Legislative instrument, LIN 17/129 specifies areas as “regional” for SHEV purposes.

s. 47E(d)

- Identifying this issue, migration agents have queried the minimum work requirement and the Department has responded by reiterating the policy intent of the SHEV which is to encourage and enable a broad uptake of regional employment.
- Importantly, the underlying presumption is that to maintain a sufficient standard of living without accessing social security benefits, the nature of work secured and completed would constitute a meaningful quantum.

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Options

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Option	Advantages	Risks
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Option	Advantages	Risks
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Option	Advantages	• Risks
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Proposed way forward

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Annex 1

List of prescribed visas for the SHEV program

Subclass 010 (Bridging A)	Subclass 489 (Skilled - Regional (Provisional))
Subclass 030 (Bridging C)	Subclass 500 (Student)
Subclass 132 (Business Talent)	Subclass 590 (Student Guardian)
Subclass 143 (Contributory Parent)	Subclass 801 (Partner)
Subclass 186 (Employer Nomination Scheme)	Subclass 802 (Child)
Subclass 187 (Regional Sponsored Migration Scheme)	Subclass 804 (Aged Parent)
Subclass 188 (Business Innovation and Investment (Provisional))	Subclass 820 (Partner)
Subclass 189 (Skilled - Independent)	Subclass 835 (Remaining Relative)
Subclass 190 (Skilled - Nominated)	Subclass 836 (Carer)
Subclass 405 (Investor Retirement)	Subclass 837 (Orphan Relative)
Subclass 407 (Training)	Subclass 838 (Aged Dependent Relative)
Subclass 445 (Dependent Child)	Subclass 858 (Distinguished Talent)
Subclass 476 (Skilled - Recognised Graduate)	Subclass 864 (Contributory Aged Parent)
Subclass 482 (Temporary Skill Shortage)	Subclass 884 (Contributory Aged Parent (Temporary))

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Annex 2

Areas designated “regional” for the SHEV program

The definition of “regional” Australia varies between visas.

On request from States and Territories, the Minister can amend this definition for the purpose of the SHEV arrangements.

The current instrument (IMMI 17/129) designates the following areas as “regional” for the SHEV program:

- Australian Capital Territory – whole territory;
- Northern Territory – whole territory;
- New South Wales – all areas except Sydney, Newcastle, the Central Coast and Wollongong;
- Queensland – all areas except the Greater Brisbane Area and the Gold Coast;
- South Australia – whole state
- Tasmania – whole state
- Victoria – except the Melbourne Metropolitan area and certain regional areas; and
- Western Australia – excluding Perth and some areas in the Pilbara and Goldfields-Esperance regions.

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RD/CLO TALKING POINTS

Subject	PPV, TPV, SHEV and Refugee & Humanitarian Program
Date	29 November 2019
TRIM Ref	ADD2019/1878265

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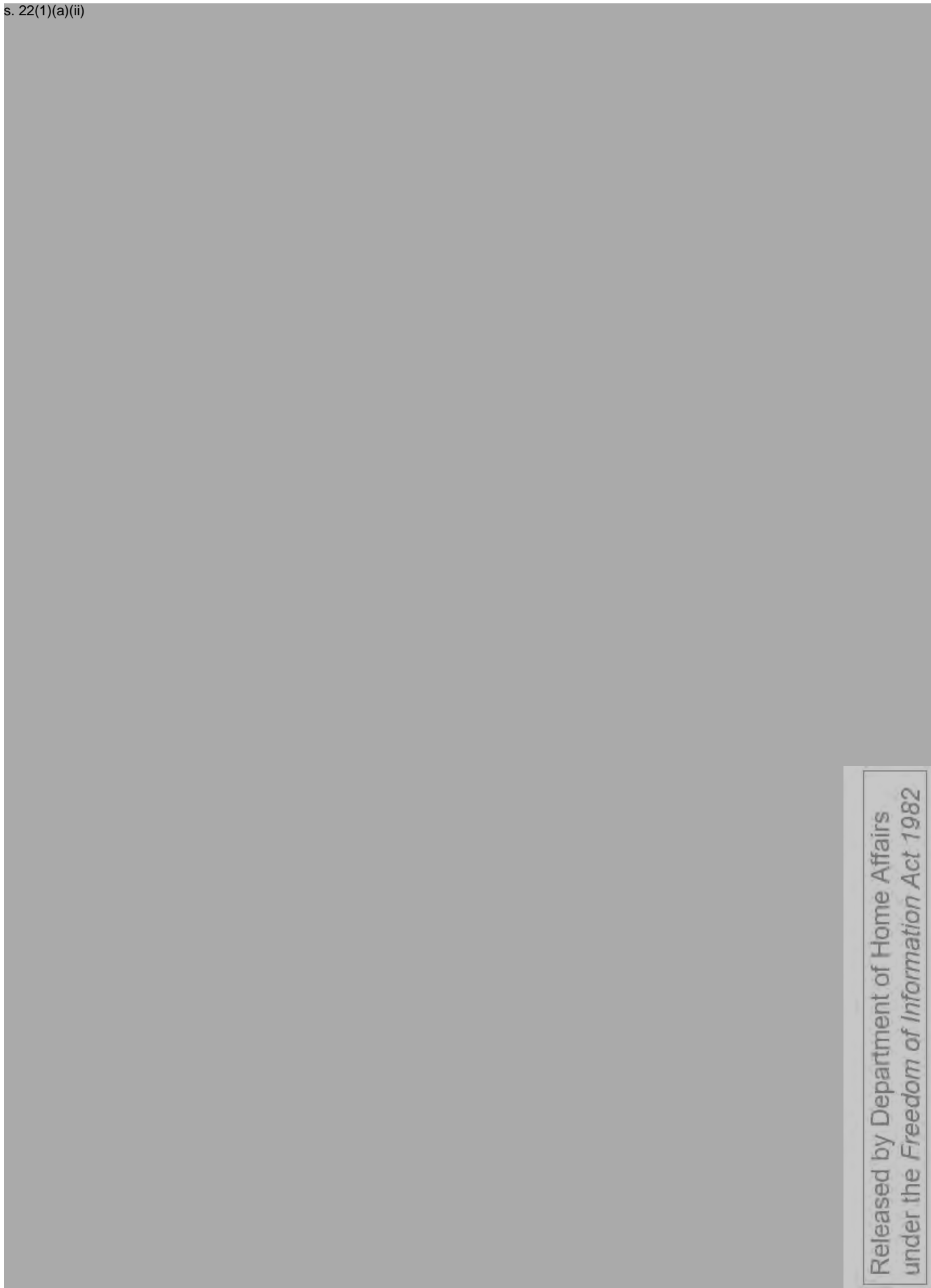
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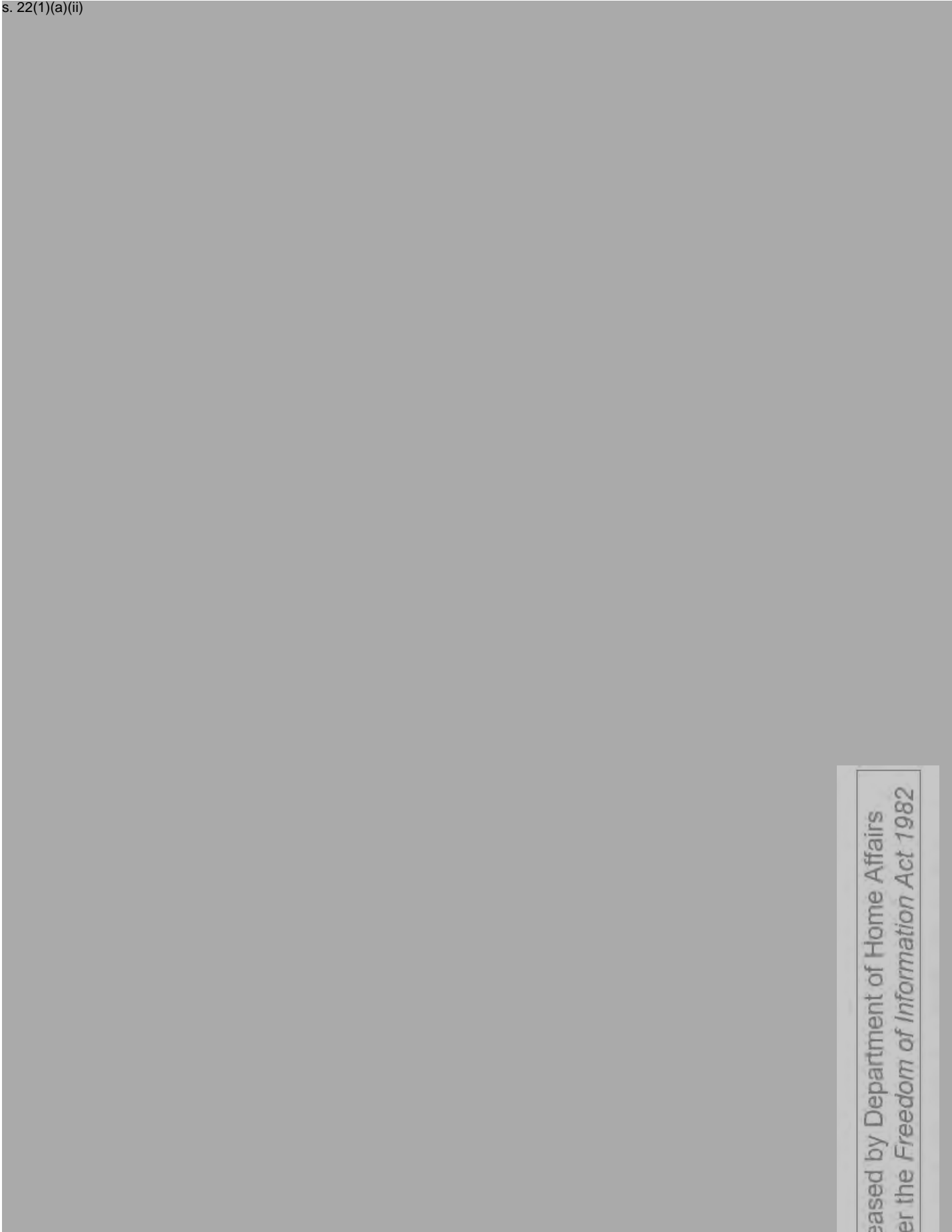
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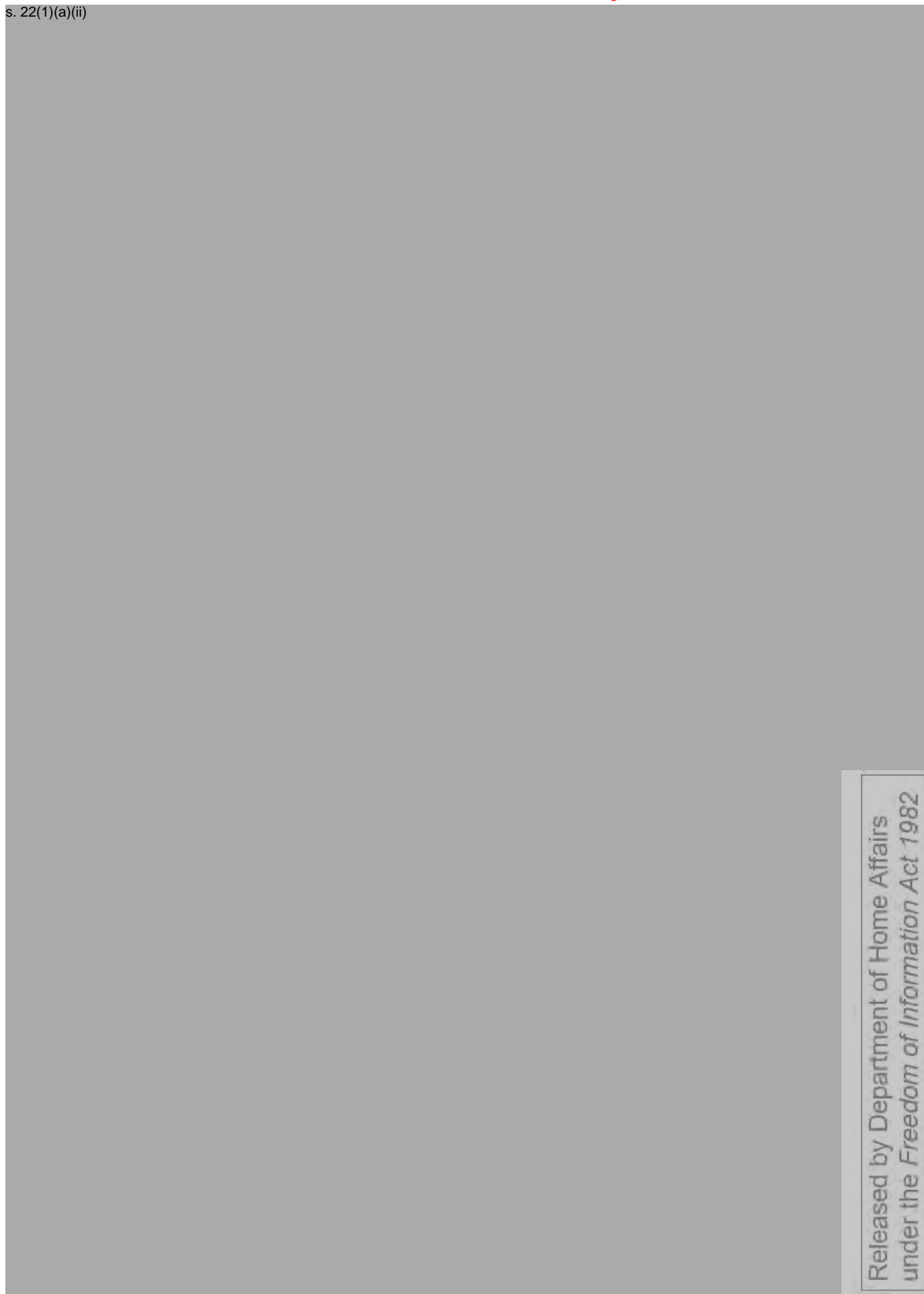
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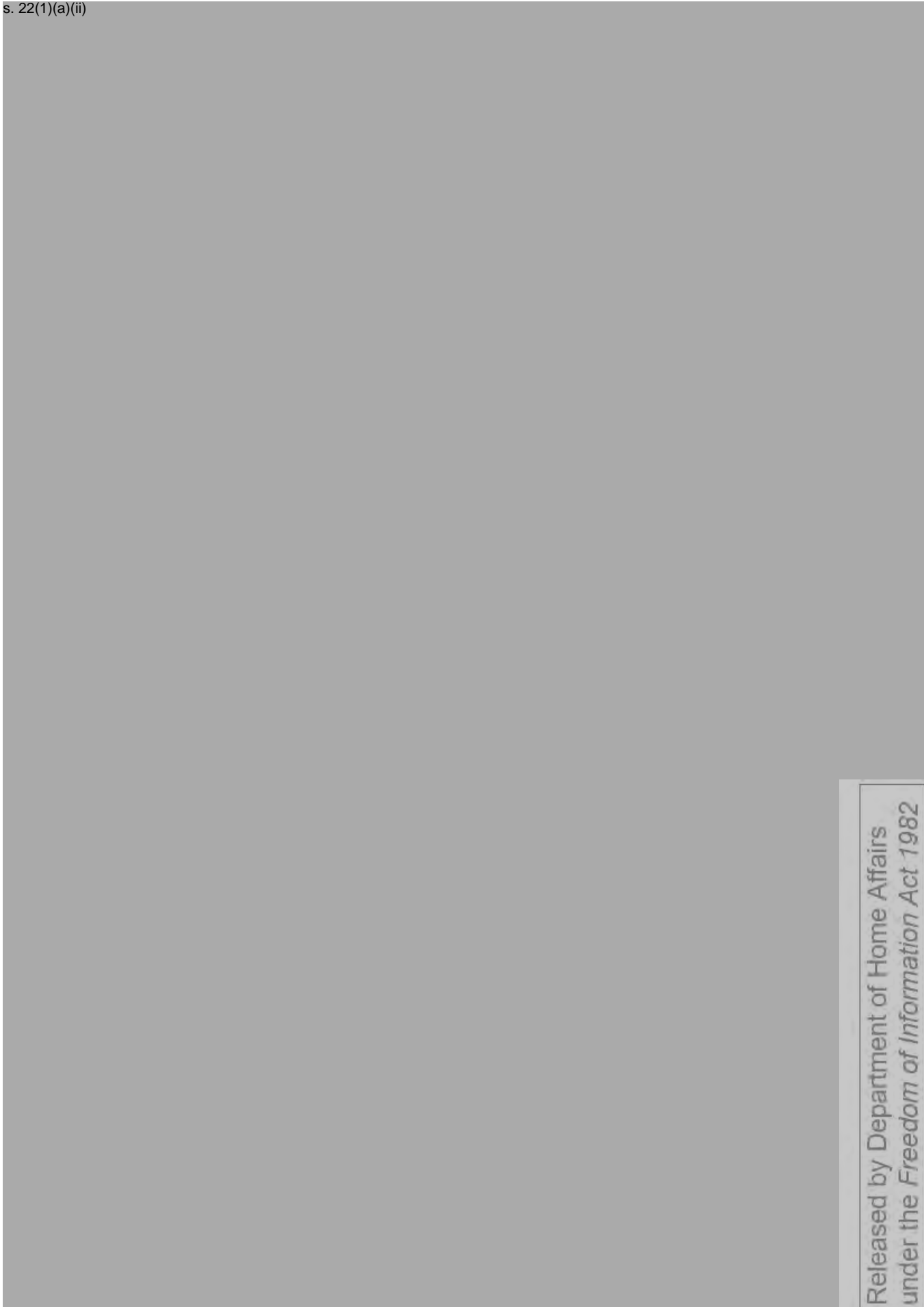
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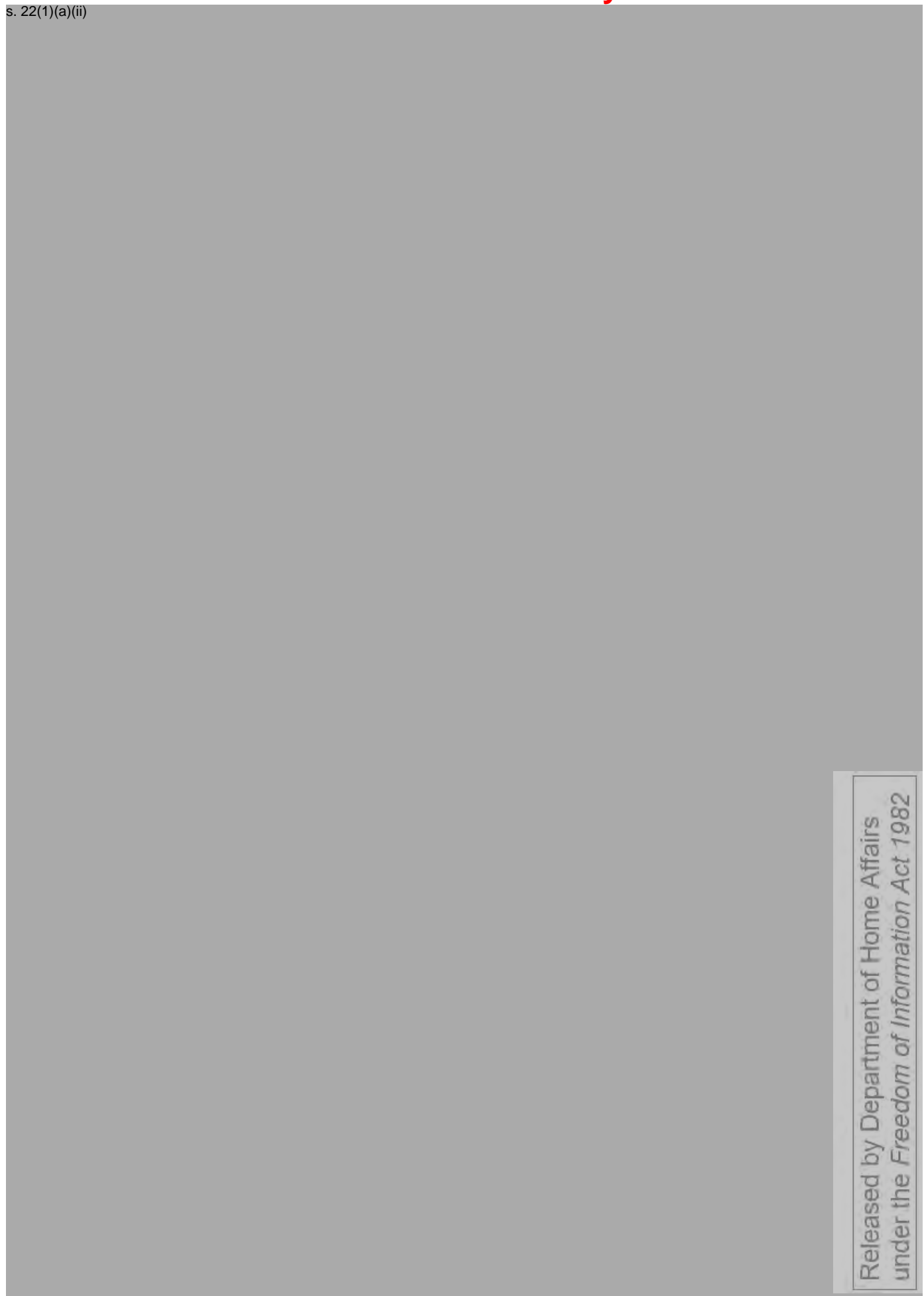
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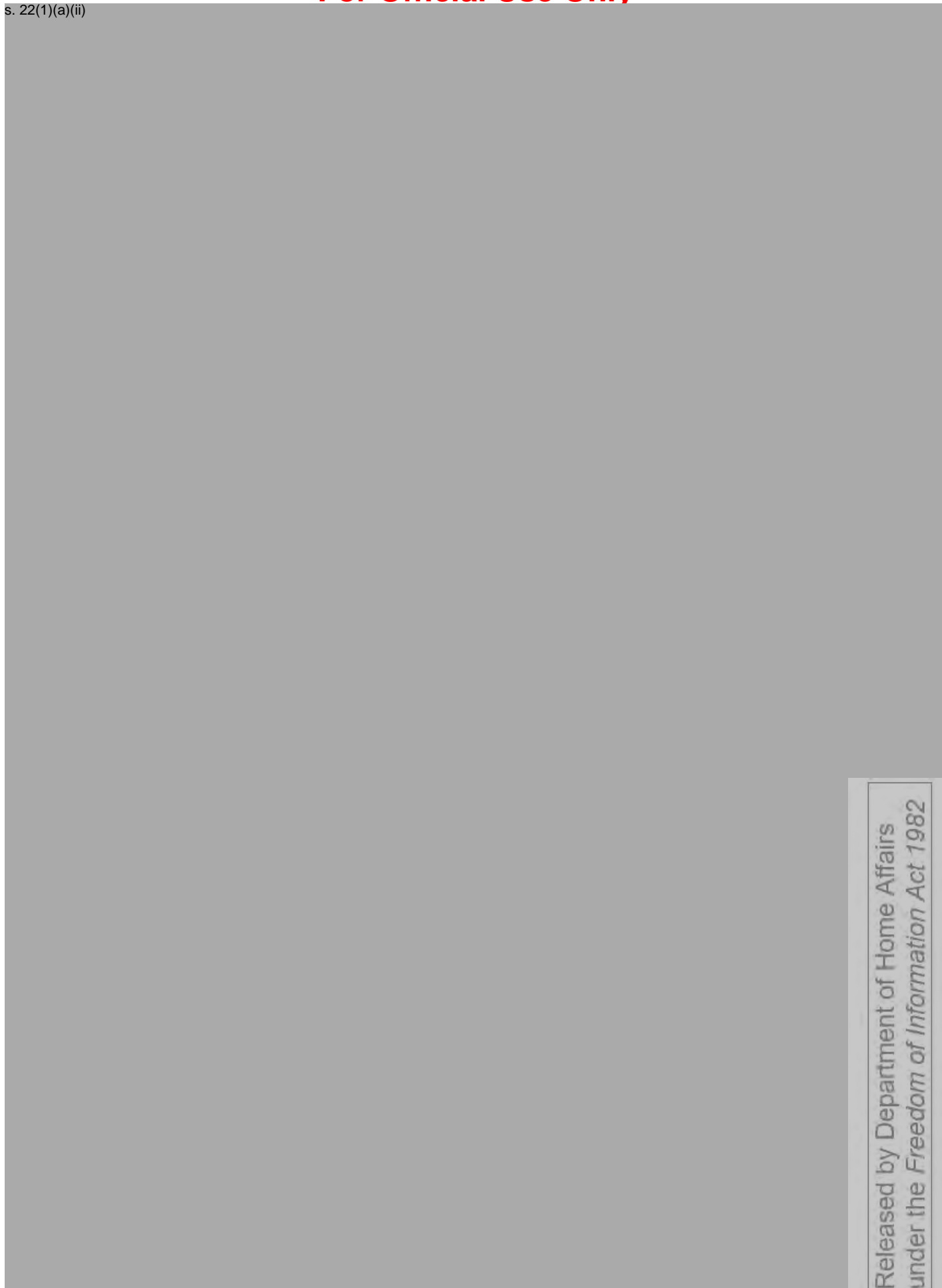
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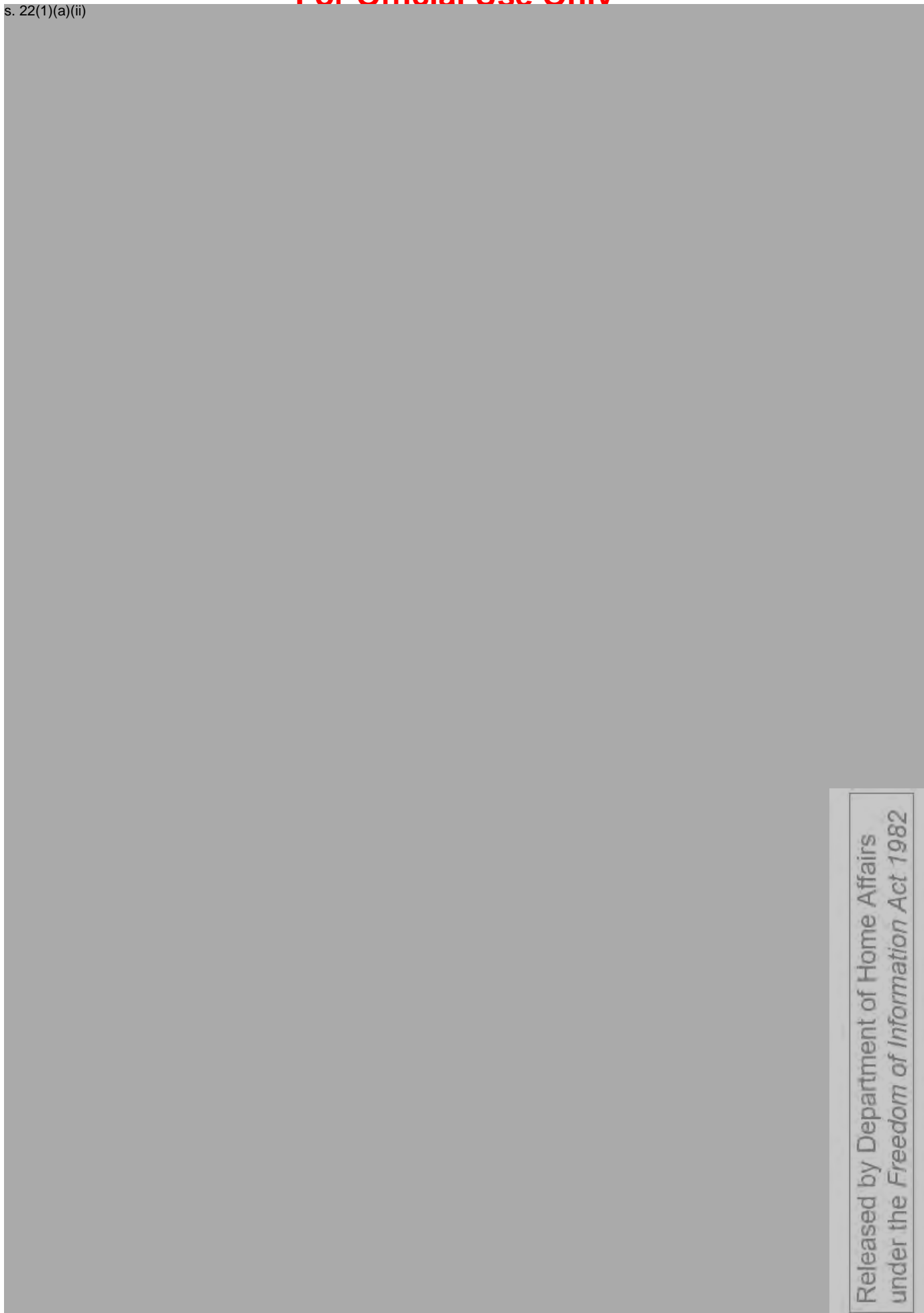
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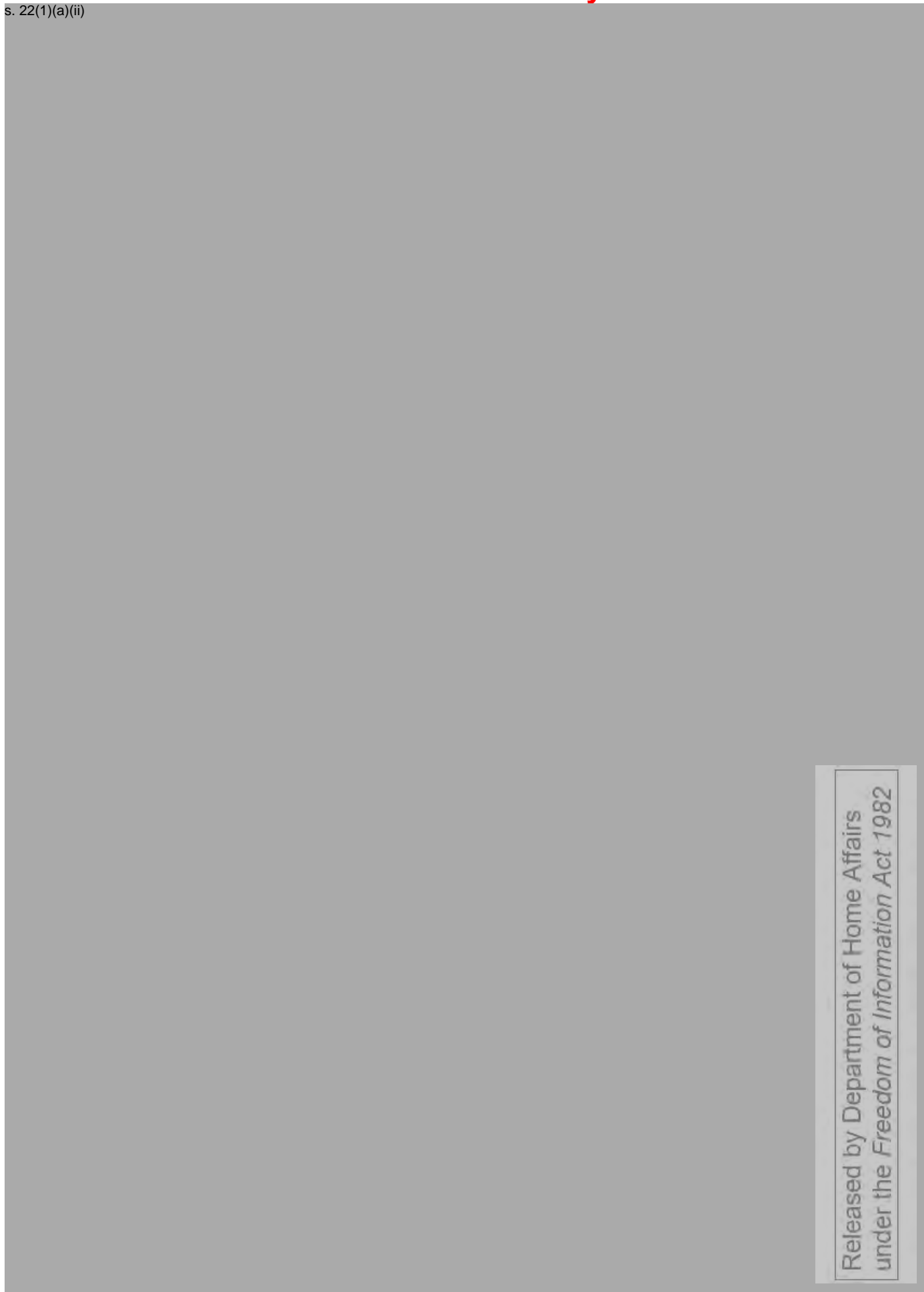
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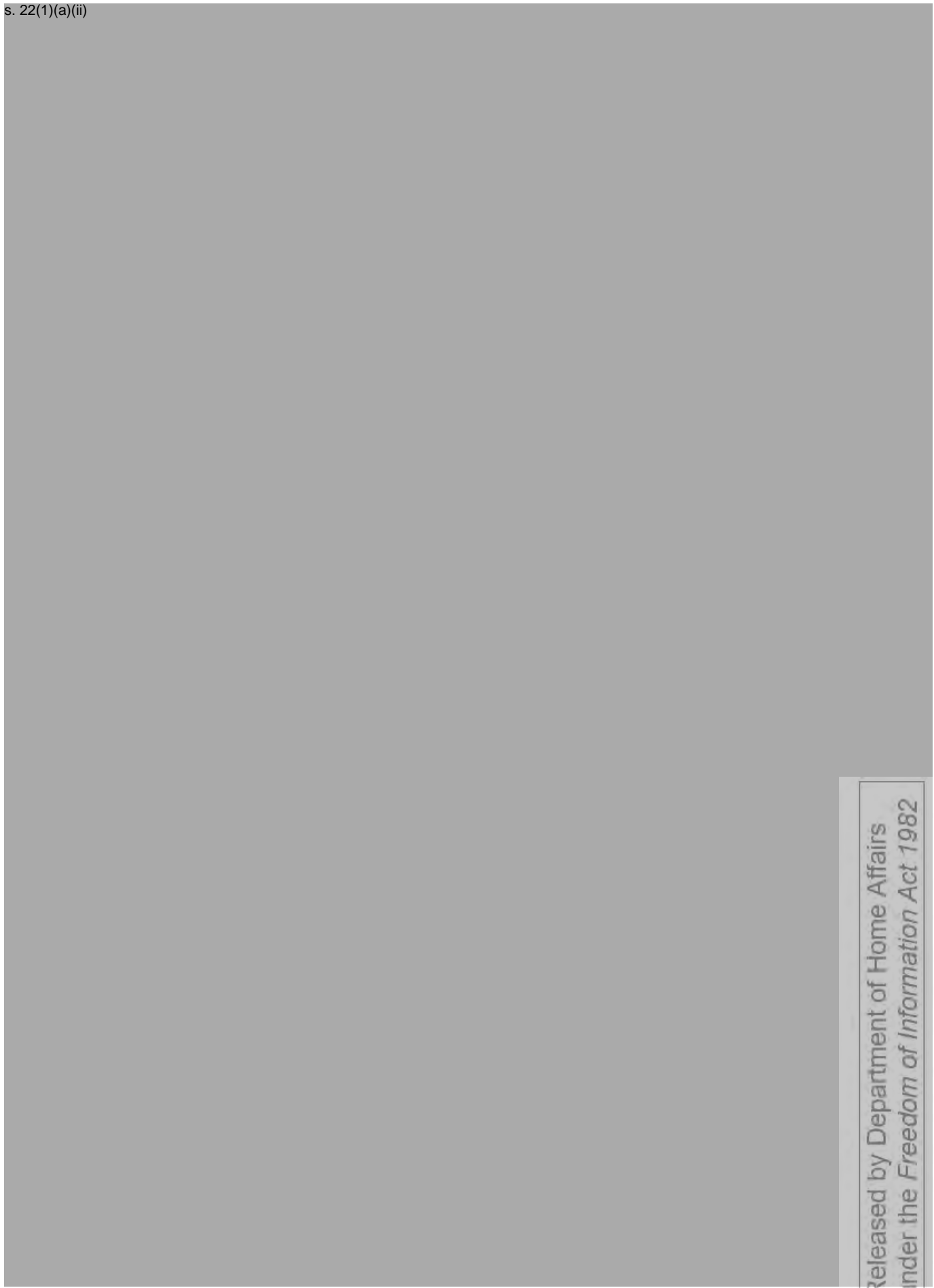
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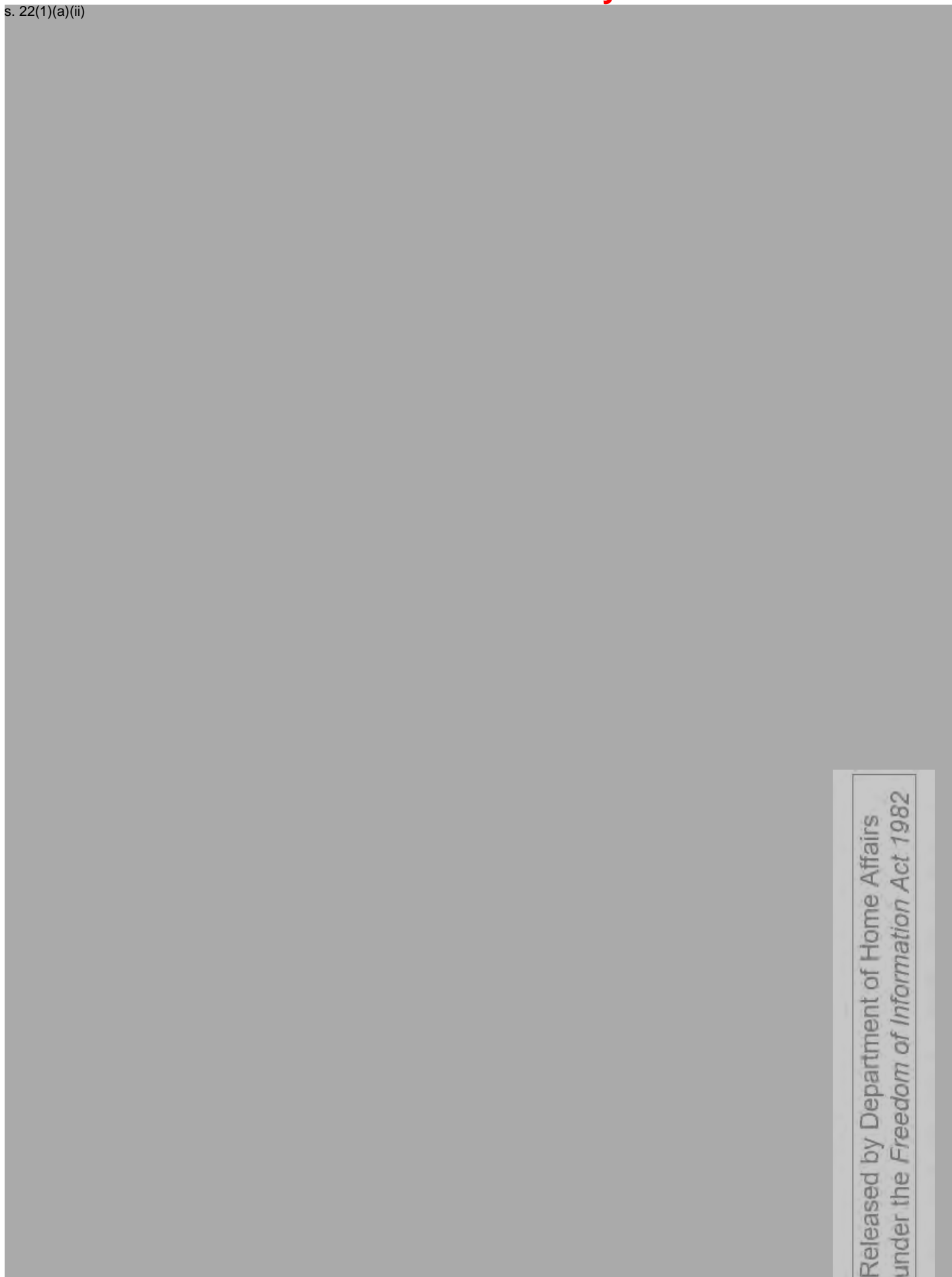
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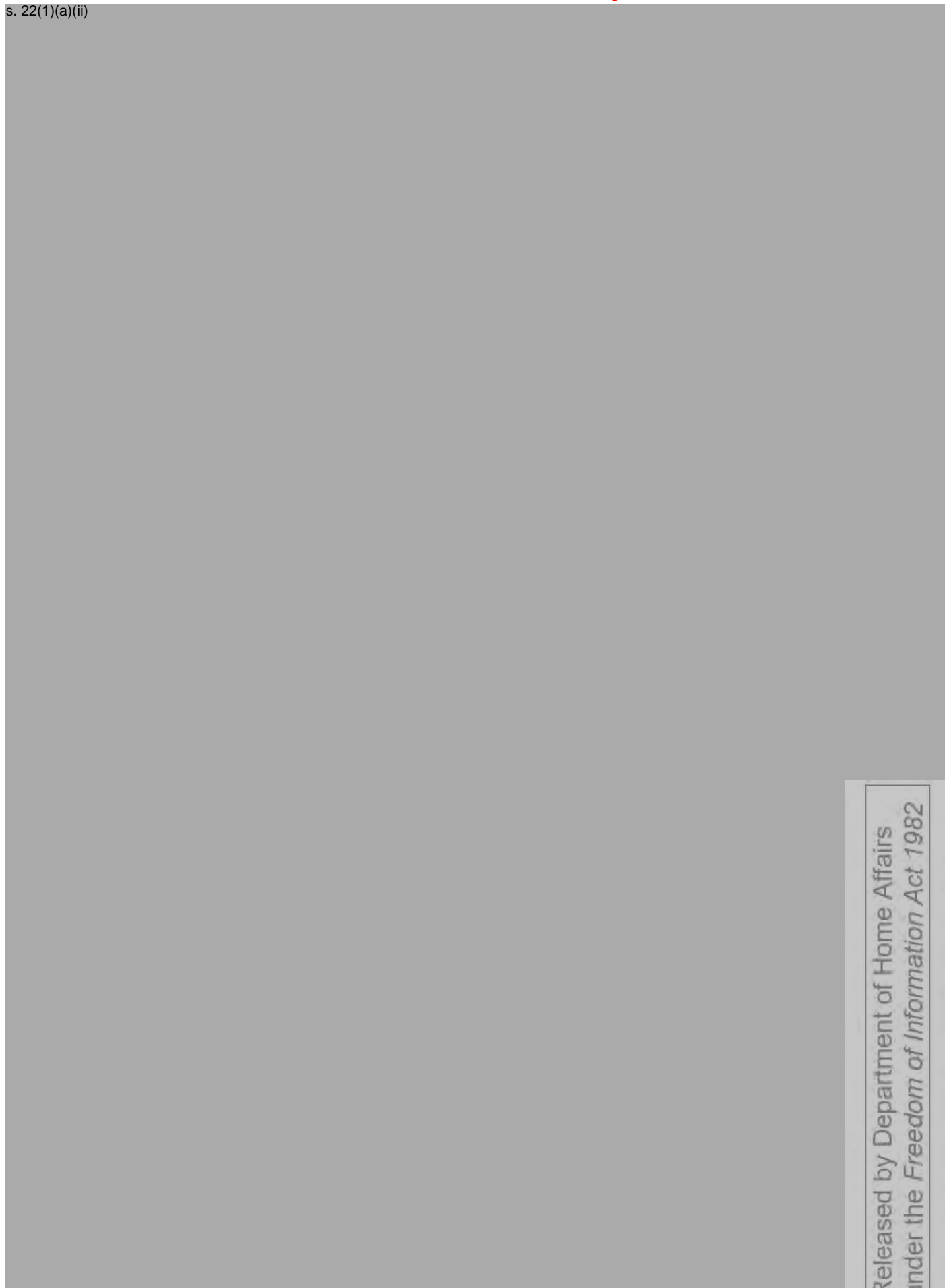
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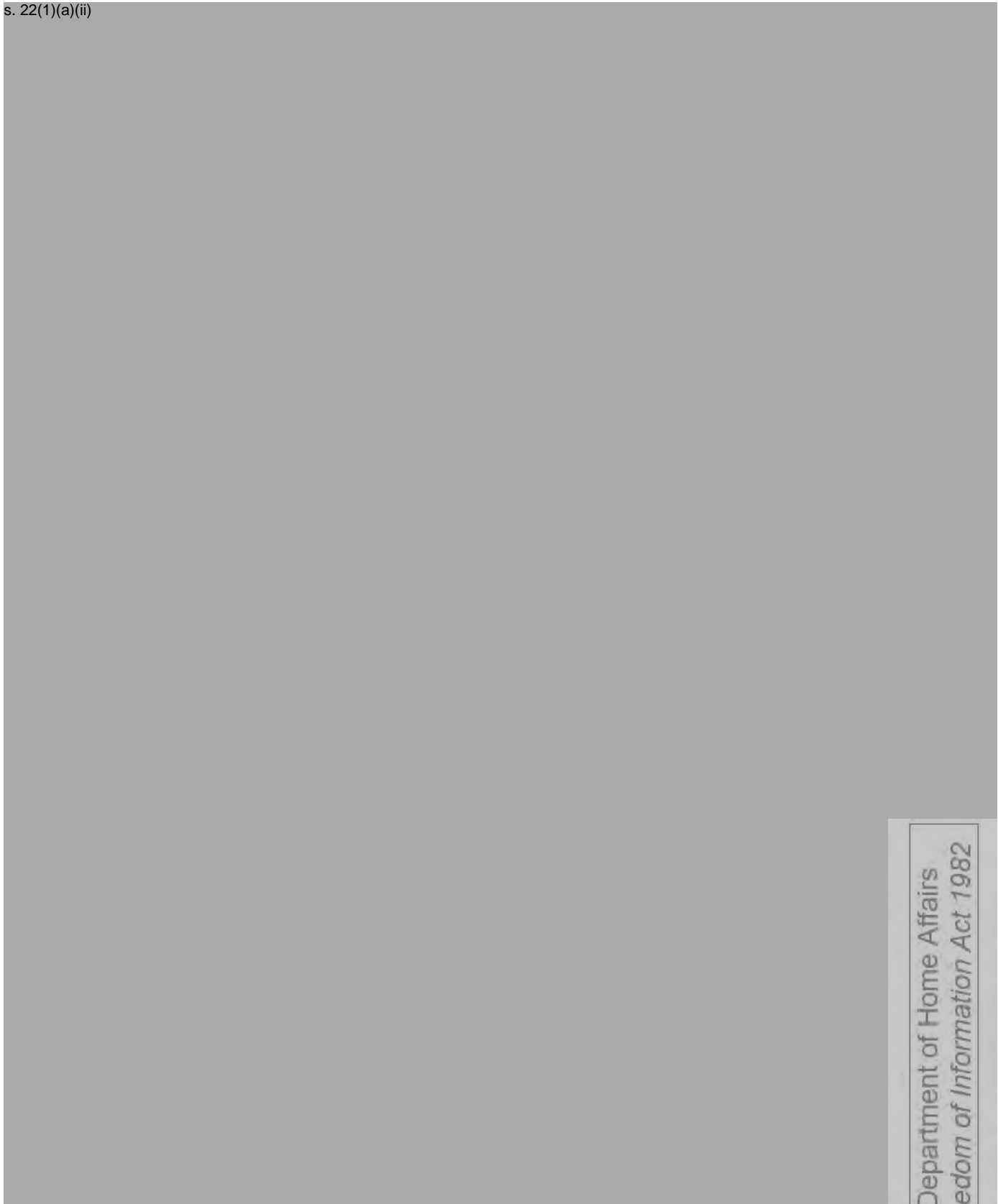
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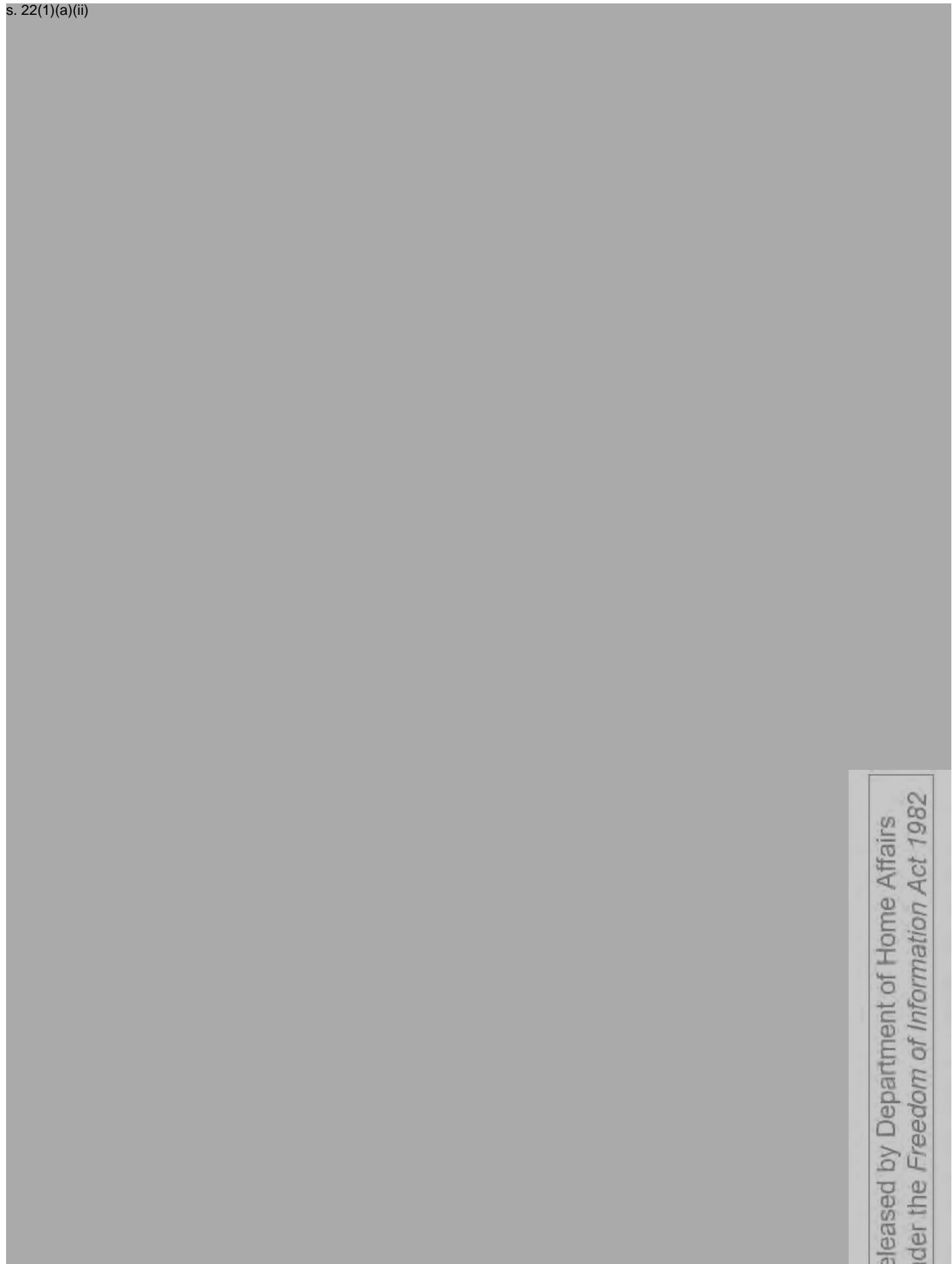
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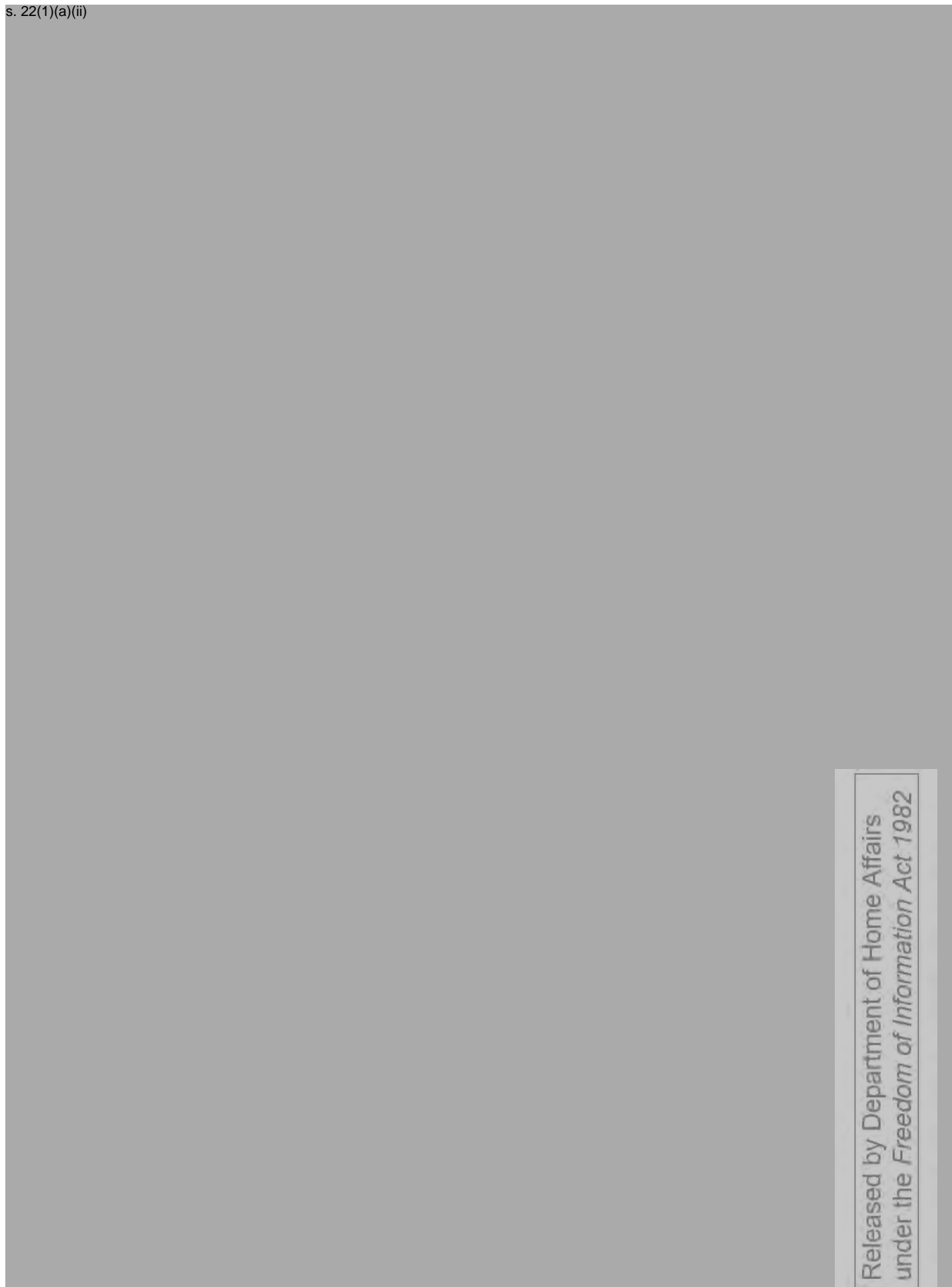
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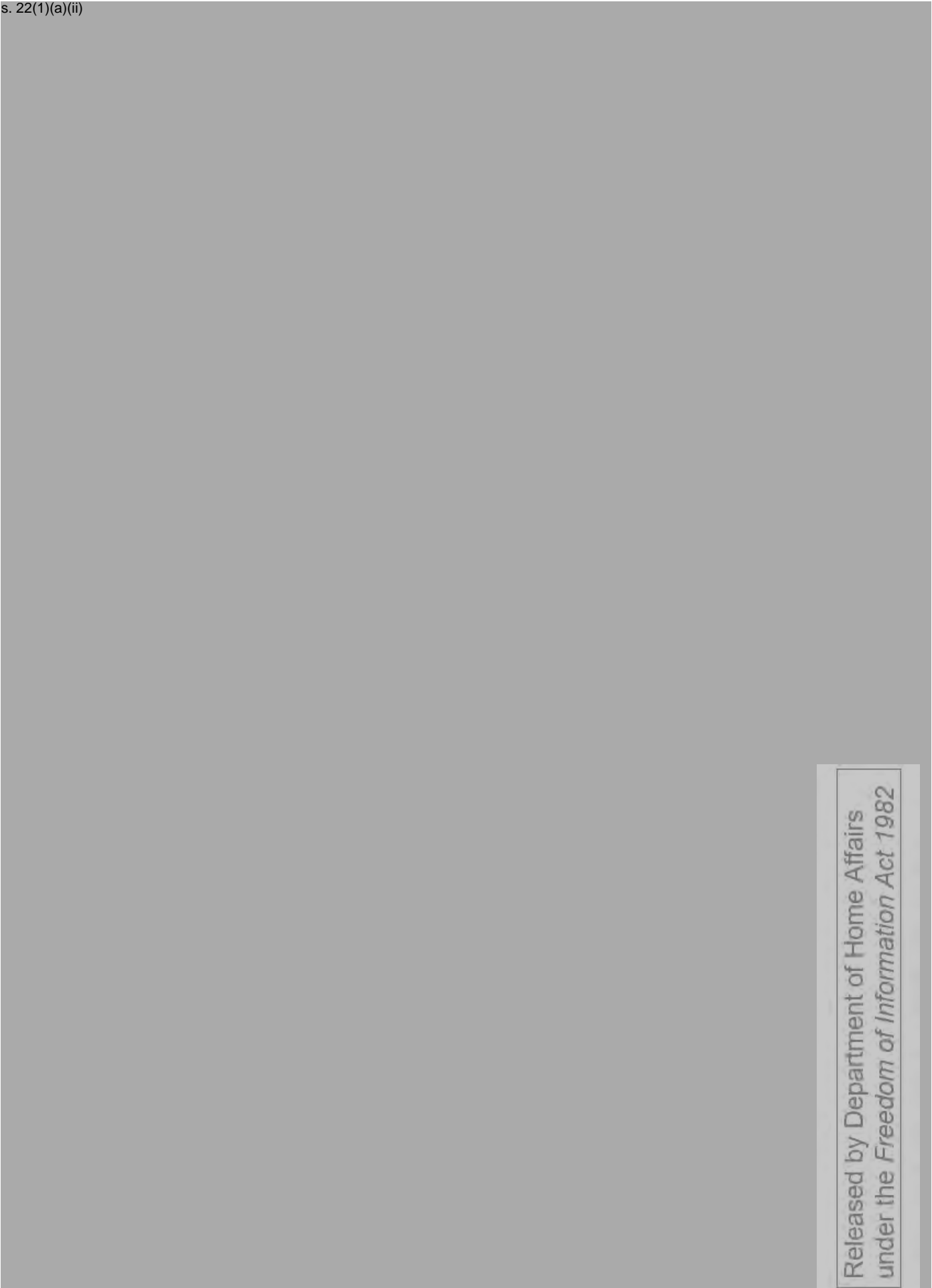
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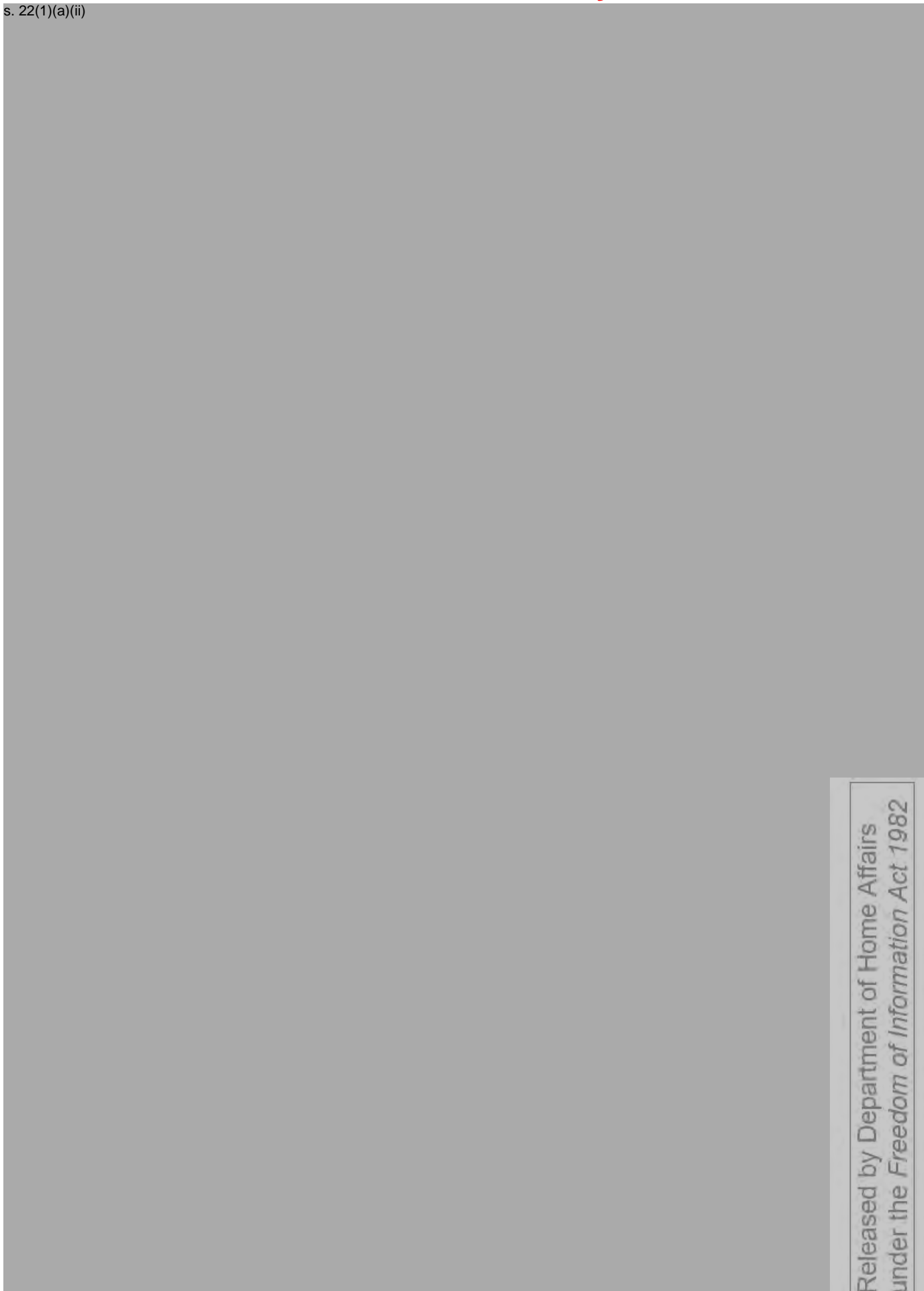
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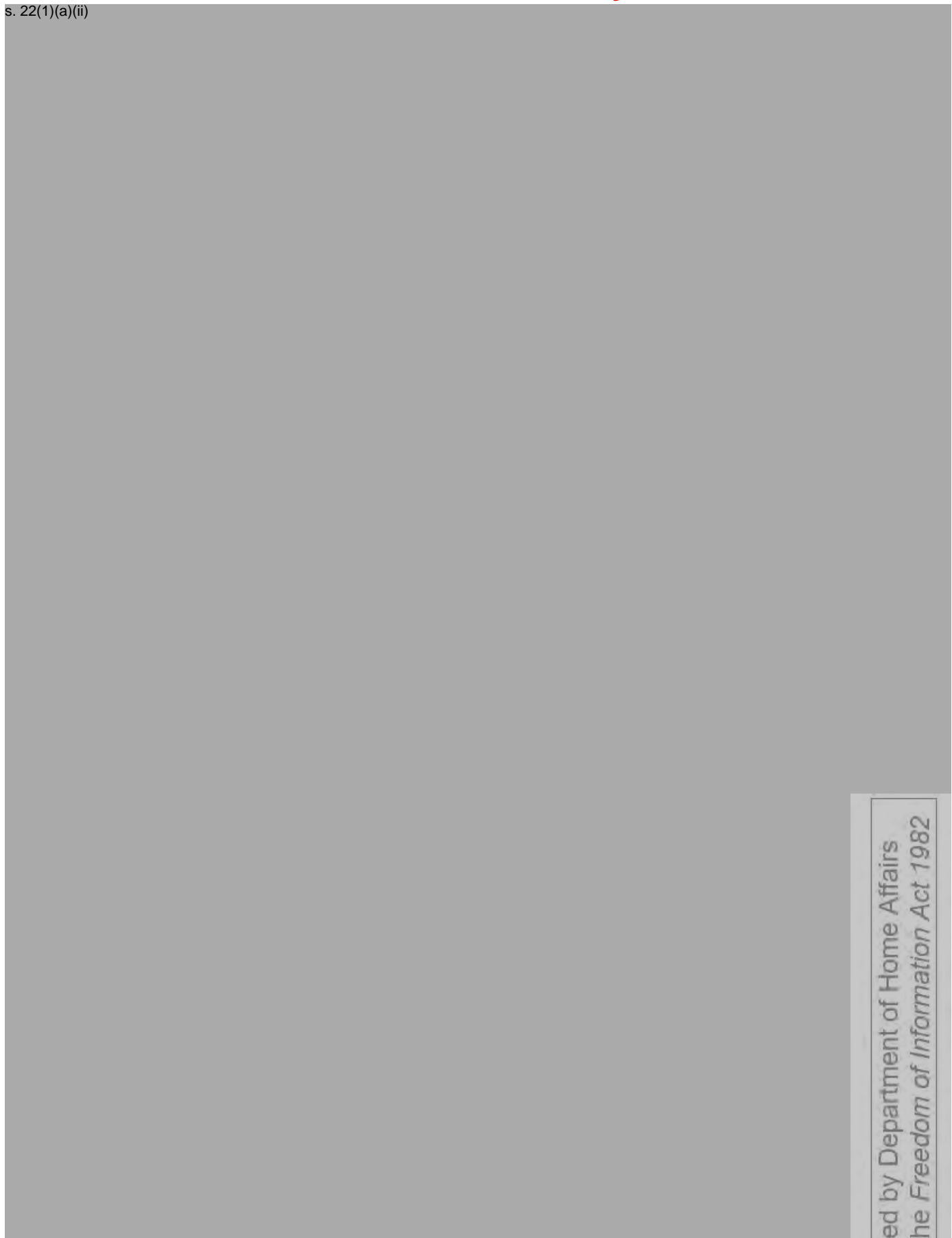
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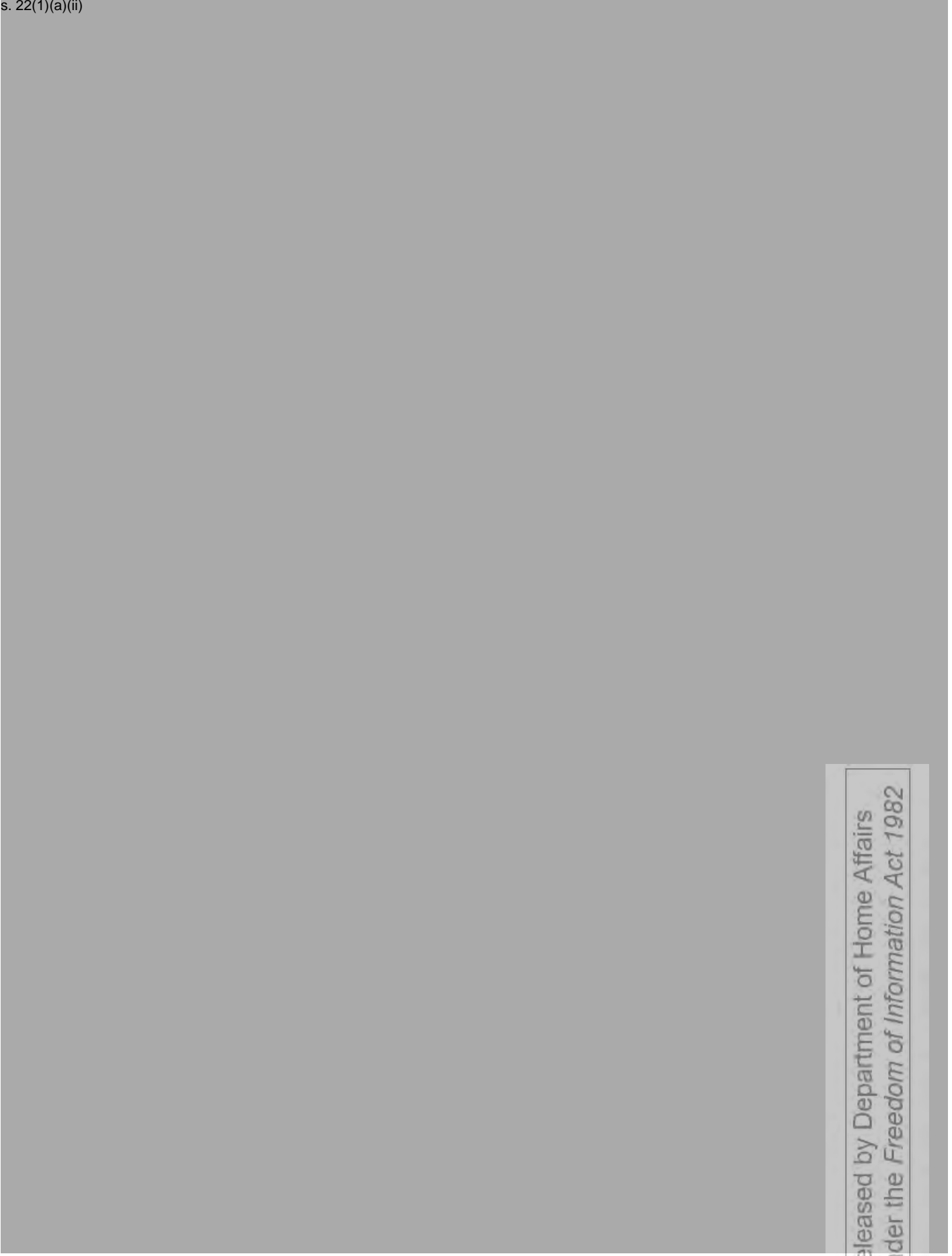
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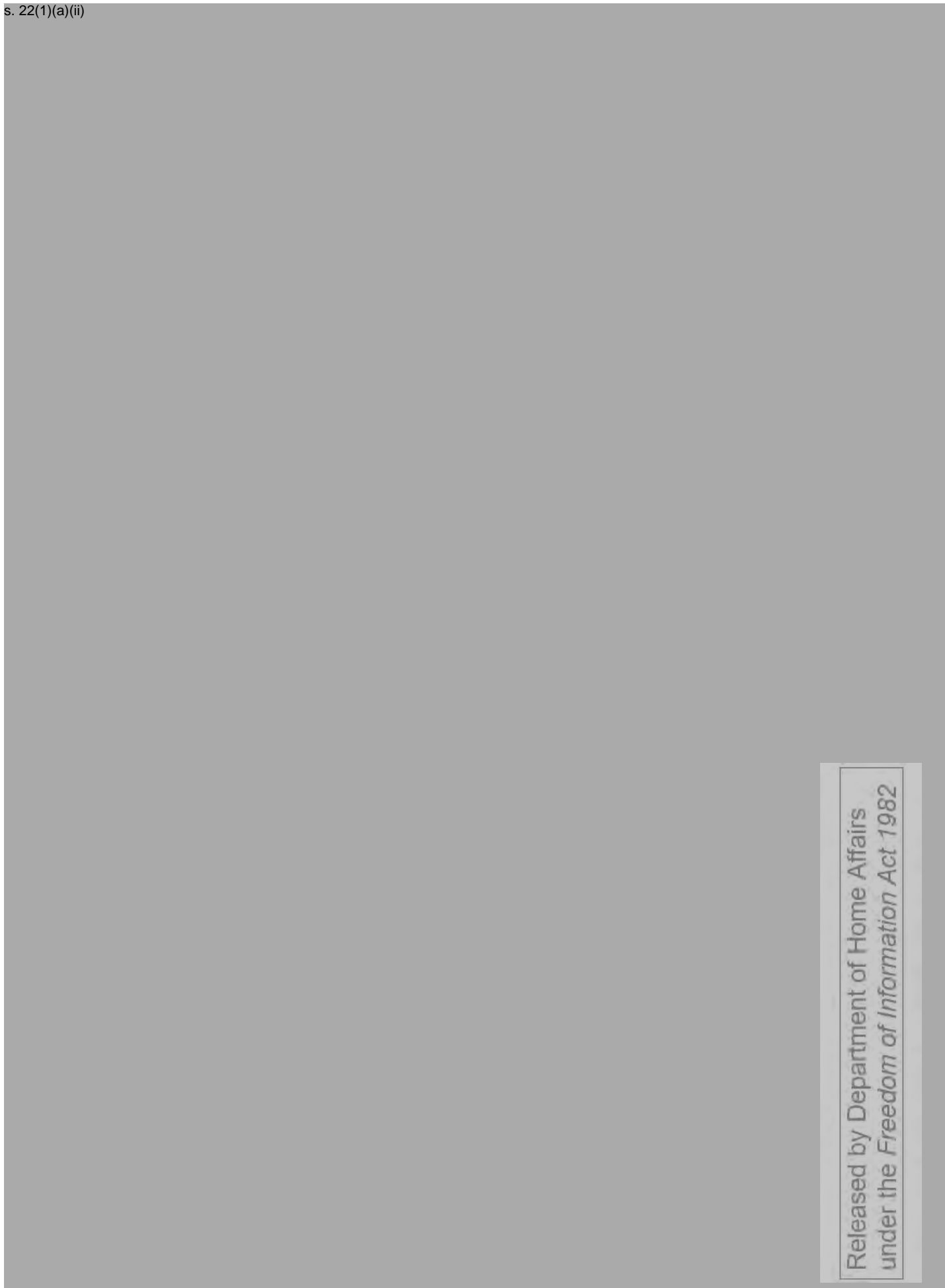
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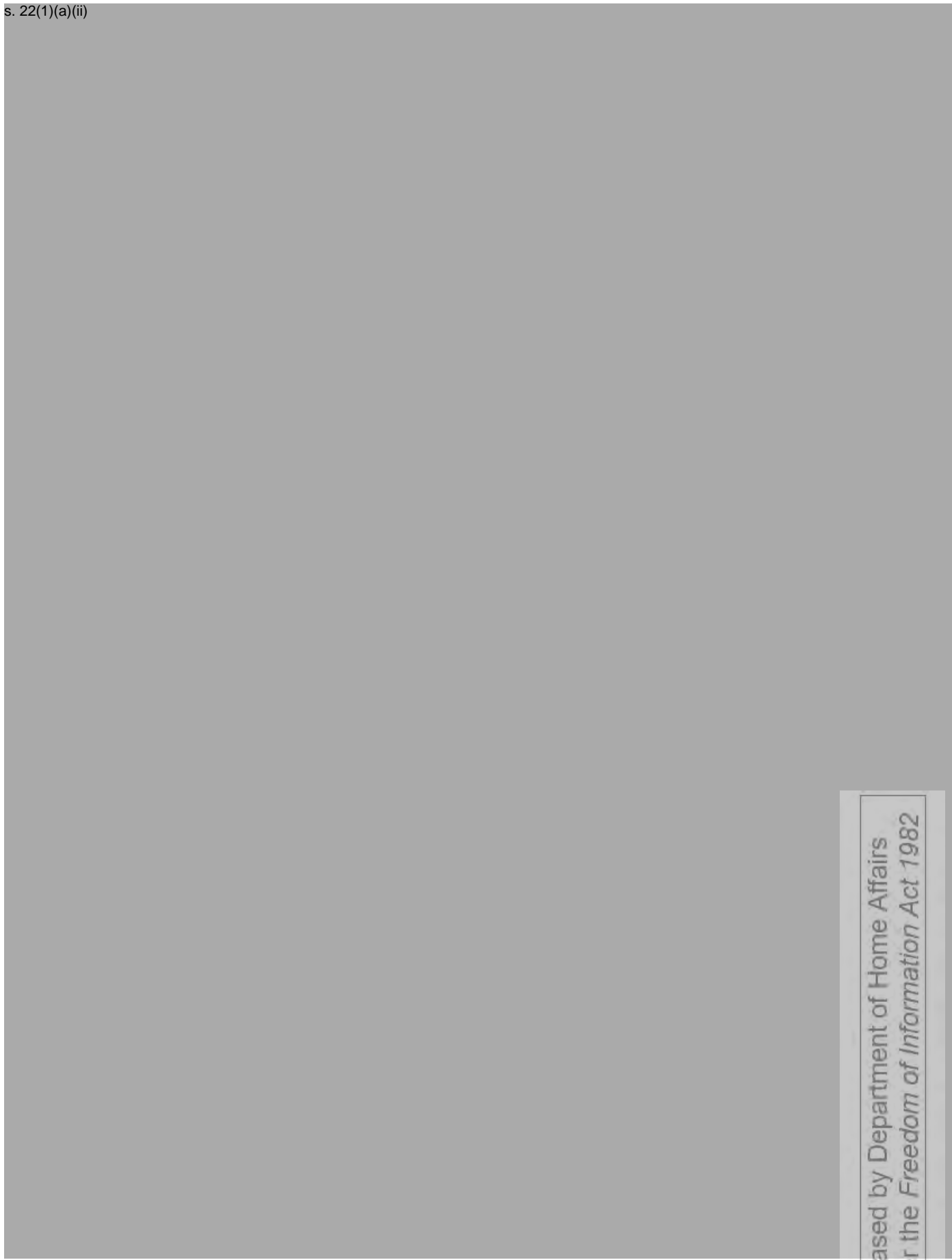
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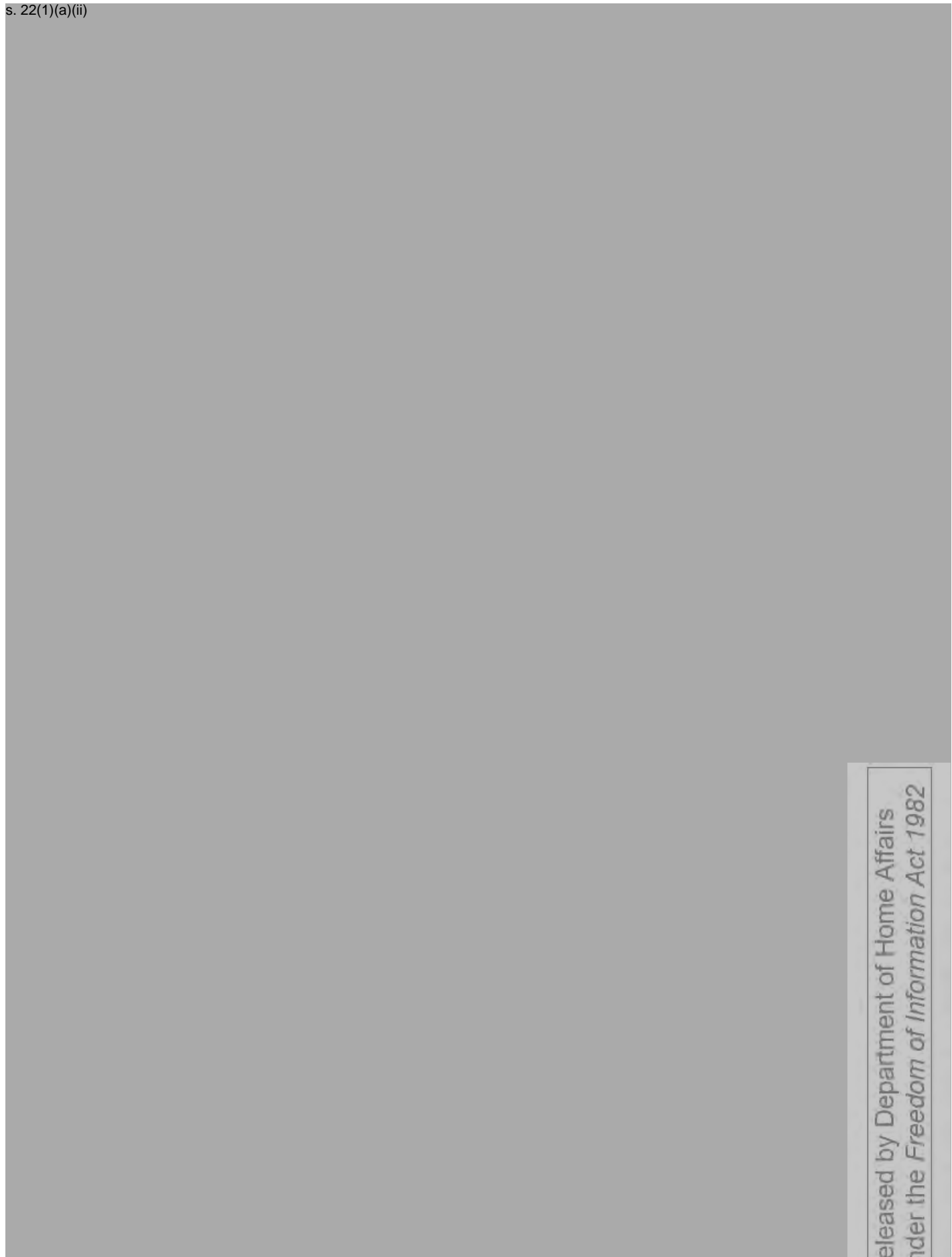
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SHEV Pathway Requirements

Meeting the SHEV pathway requirements

- The SHEV pathway may provide options for some SHEV holders to apply for certain prescribed visas in Australia, such as skilled and family visas (but not a permanent Protection visa).
- SHEV holders can meet the SHEV pathway requirements if, for three and a half years (42 months) while on a SHEV, they
 - have been employed in a SHEV regional area without receiving Special Benefit payments, or
 - have been enrolled and physically attending full-time study in a SHEV regional area, or
 - have undertaken a combination of both work and full-time study in a SHEV regional area.
- They may also be able to apply for one of these visas if a member of their same family unit, who is also a SHEV holder, meets the pathway requirements and they apply for one of these visas together.
- The 42-month period of work and/or full-time study can be consecutive or non-consecutive.
- The work/study must be undertaken within a postcode of a state or territory that forms part of 'regional Australia' for SHEV purposes for it to count towards meeting the SHEV pathway requirements. See Attachment D for information on SHEV regional area postcodes.
- The SHEV pathway requirements will be assessed on 'work and/or full time study' undertaken by holders in a SHEV regional area. It is not based on where SHEV holders 'live'.

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- Living, working or studying in a SHEV regional area is not a visa condition of the SHEV. There are no penalties if a SHEV holder does not work or study in a SHEV regional area.
- The list of prescribed visas available under the SHEV pathways can be found on the Department's website at www.homeaffairs.gov.au/shevpathways
- Two new temporary regional visas, the Skilled Employer Sponsored Regional (Provisional) (subclass 494) visa and Skilled Work Regional (Provisional) (subclass 491) visa were added to the list of prescribed visas on 16 November 2019.
- These visas replace the Skilled Regional (Provisional) (subclass 489) visa and the Regional Sponsored Migration Scheme (subclass 187) visa which are no longer open to new applicants from 16 November 2019.
- SHEV holders who meet the SHEV pathway requirements may be able to make a valid application for one of the prescribed visas.
 - However, it is important to note that, in order to be granted one of the prescribed visas, the applicant must also meet all the relevant visa criteria, including health, character, security and identity provisions.
- Each prescribed visa has different requirements for application and grant so it is important for SHEV holders to understand the visa requirements they must meet in order to apply for, and be granted, the prescribed visa.
 - Meeting the SHEV pathway may enable the SHEV holder to make a valid application for a prescribed visa, but it does not guarantee that the prescribed visa will be granted.
- SHEV holders who still need Australia's protection and want to remain lawfully in Australia while they explore their visa options under the pathways must re-apply for a SHEV before their current SHEV expires.

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- Former SHEV holders who have met the SHEV pathway requirements may be eligible for grant of a bridging visa while their prescribed visa application is being processed.
- More information on the SHEV pathway requirements can be found on the Department's website at www.homeaffairs.gov.au/shevpathways.

Study requirement

- To meet the SHEV pathway study criteria, the SHEV holder must physically attend study that is:
 - accredited by the Australian Qualifications Framework, including a maximum of one course leading to a Certificate I and any courses leading to a Certificate II or above, and
 - full-time, either:
 - at the campus of an education provider located in a SHEV regional area included in the SHEV arrangements, or
 - at a primary school, high school or college in a SHEV regional area for a minimum of 161 weeks (consistent with three and a half standard academic years) of full-time registered study.
- Evidence will be required to ensure that an applicant has satisfied the full-time study criteria. Evidence of study may include:
 - Letter of enrolment from a primary or high school
 - School reports
 - University confirmation of enrolment, indicating full time status
 - Evidence of satisfactory course completion (certificates, diploma)
 - Academic transcripts

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- Electronic Confirmation of Enrolment (eCOE), which details the type of course, the course provider, the duration of the course and the type of qualification offered
- Attendance certificates or records.
- There is no requirement for applicants to achieve particular results or pass their course of study.

Work requirement

- To meet the SHEV pathway work criteria, the SHEV holder must complete paid, lawful work in a SHEV regional area.
 - This work can be full-time, part-time, casual or seasonal.
 - If there are breaks in employment, each calendar month worked will count towards the 42-month SHEV pathway requirement.
- SHEV holders cannot count work undertaken while receiving Special Benefit payments towards the 42-month SHEV pathway requirement.
 - Any work undertaken in a SHEV regional area during a calendar month while receiving Special Benefit payments cannot be counted towards the 42 months of the SHEV pathway requirements.
- Evidence that SHEV holders meet the work requirements may include:
 - Payslips
 - Letters of employment
 - Contract
 - Australian bank statement covering the period of work.
- SHEV holders should not supply documentation that includes their Tax File Number.

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- Self-employed SHEV holders are considered to be engaged in employment in the following scenarios:
 - As the owner of a business that sells goods or services or
 - As a self-employed person who provides a service.
- The types of evidence of self-employment may include:
 - Payslips
 - Self-employment ledger documentation
 - Bookkeeping records, including receipts for allowable expenses
 - Bank statements (personal and business)
 - Invoices, credit card statement and cheque copies
 - Australian Business Number (ABN) registration identifying location of business
 - Driver logs and trip reports showing the location of work
 - Contract arrangements identifying the location of work and financial component

Special Benefit payment requirement

- The benefits a SHEV holder can receive while working and still have that work count towards the SHEV pathway requirements are:
 - Family Tax Benefit A and B
 - Single Income Family Supplement
 - Double Orphan Pension
 - Parental Leave Pay (work test requirements)
 - Dad and Partner Pay (work test requirements)
 - Health Care Card (Family Tax Benefit)
 - Child Care Benefit/Child Care Rebate

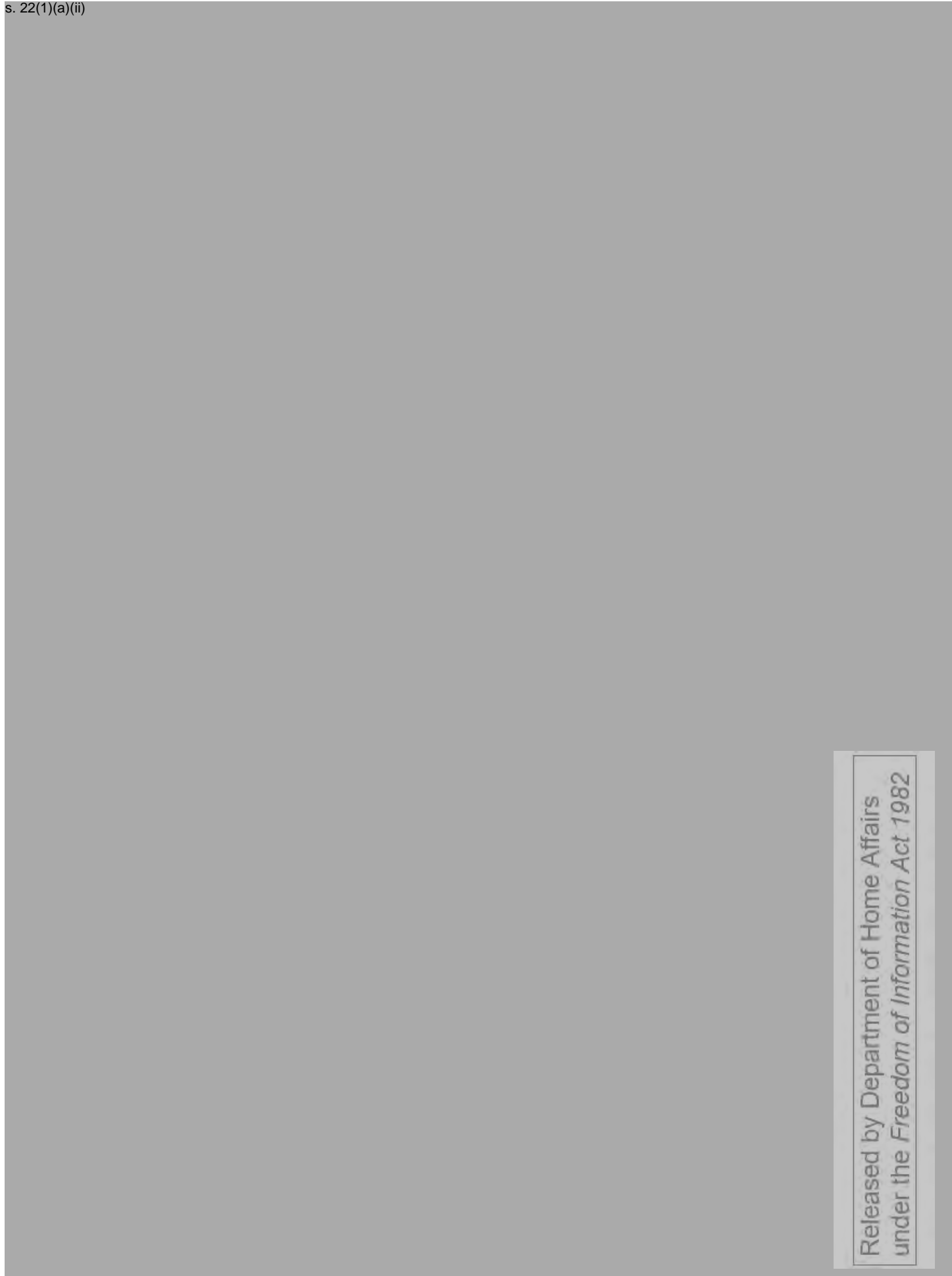
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- School Kids Bonus
- Child Dental Benefits Schedule
- Jobs, Education and Training Child Care Fee Assistance
- Stillborn Baby Payment
- Low Income Health Care Card

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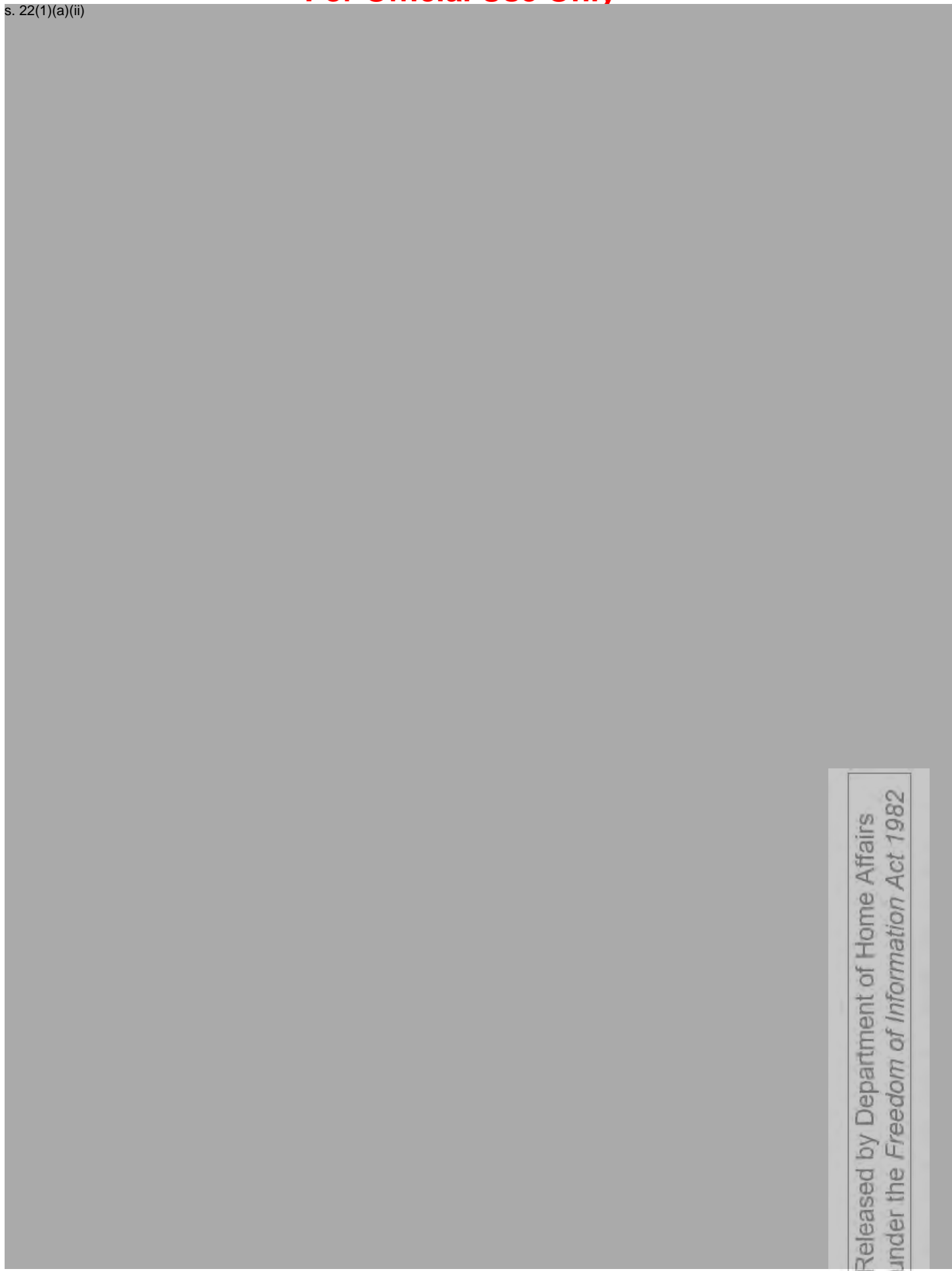
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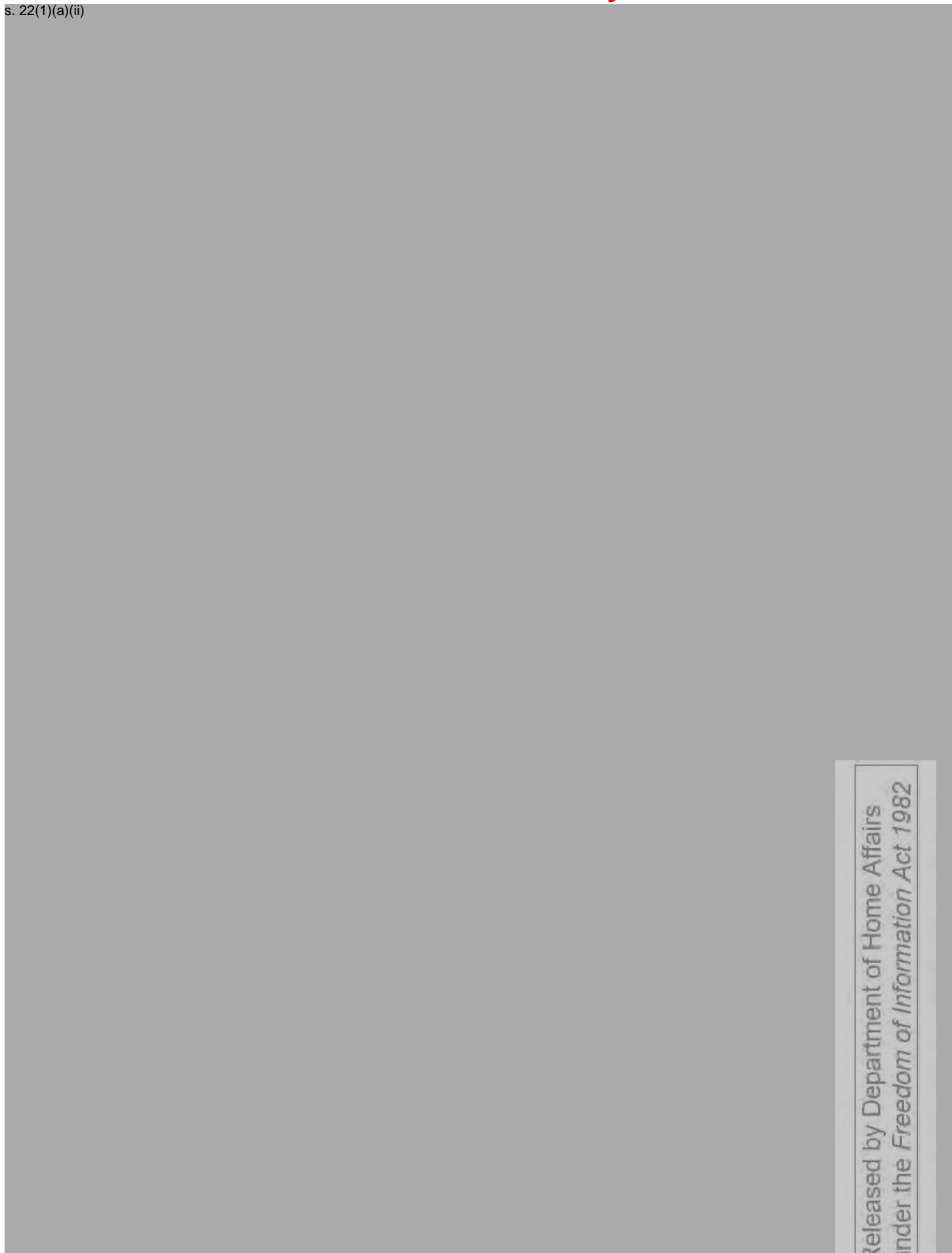
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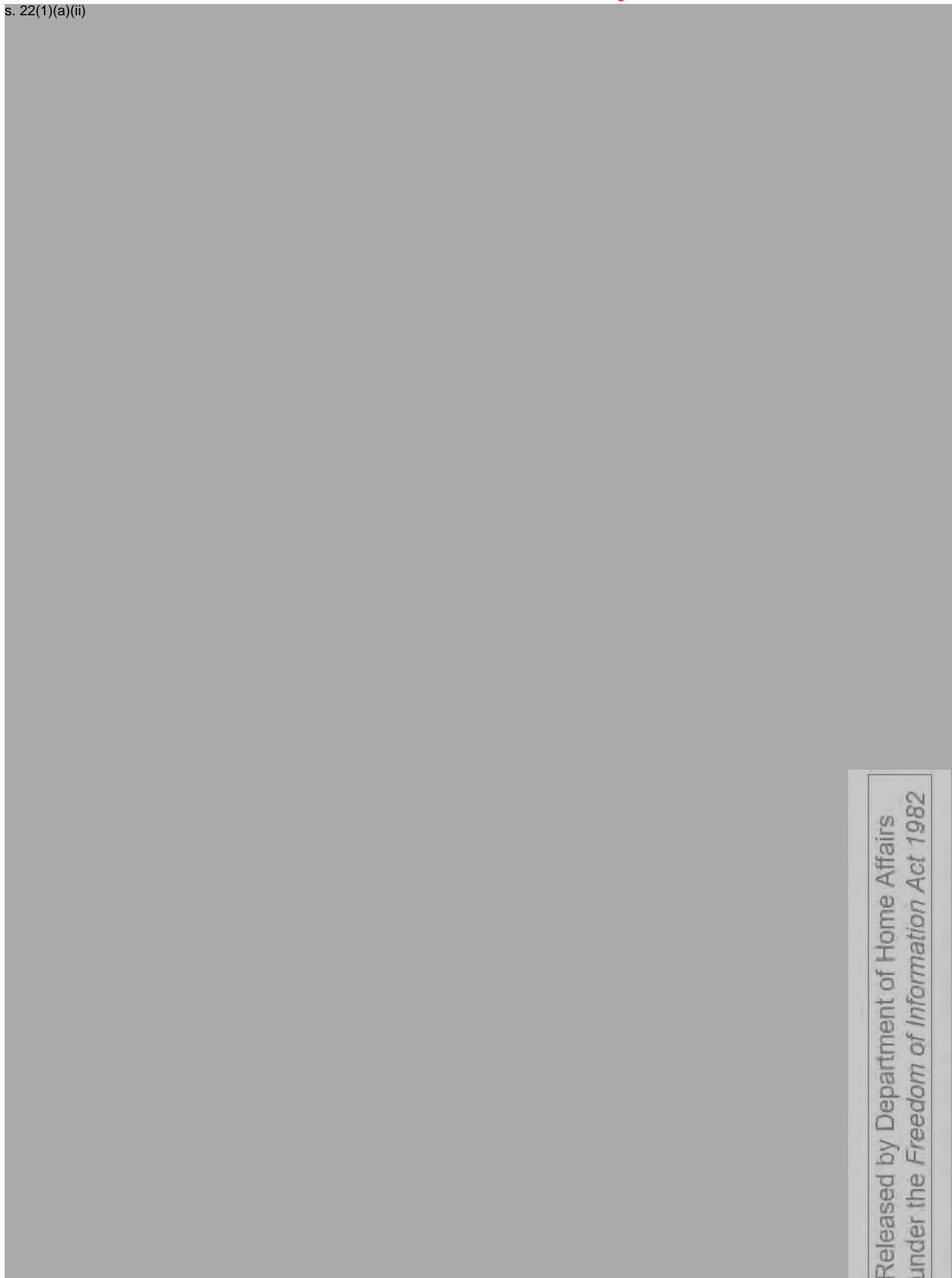
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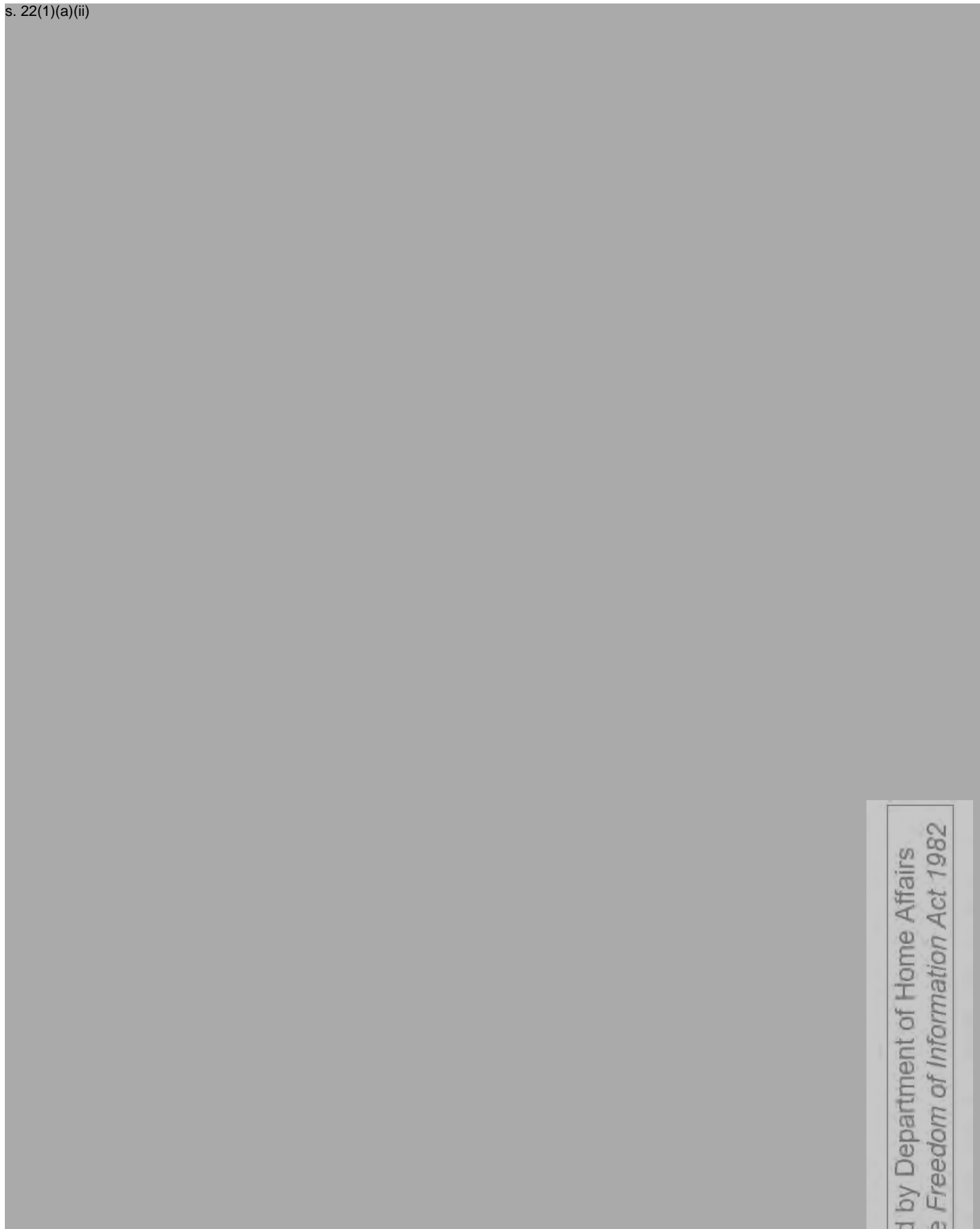
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¹ This charge applied from 1 July 2019. The charge is indexed according to the Consumer Price Index (CPI) each year. For the current charges, please see <https://immi.homeaffairs.gov.au/visas/getting-a-visa/fees-and-charges>.

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- Attachment A**: Question and Answers – Community Support Program (CSP)
- Attachment B**: CSP Approved APOs by Home Affairs Departmental region
- Attachment C**: CSP Approved APO costs
- Attachment D**: State and Territory SHEV postcodes information summary

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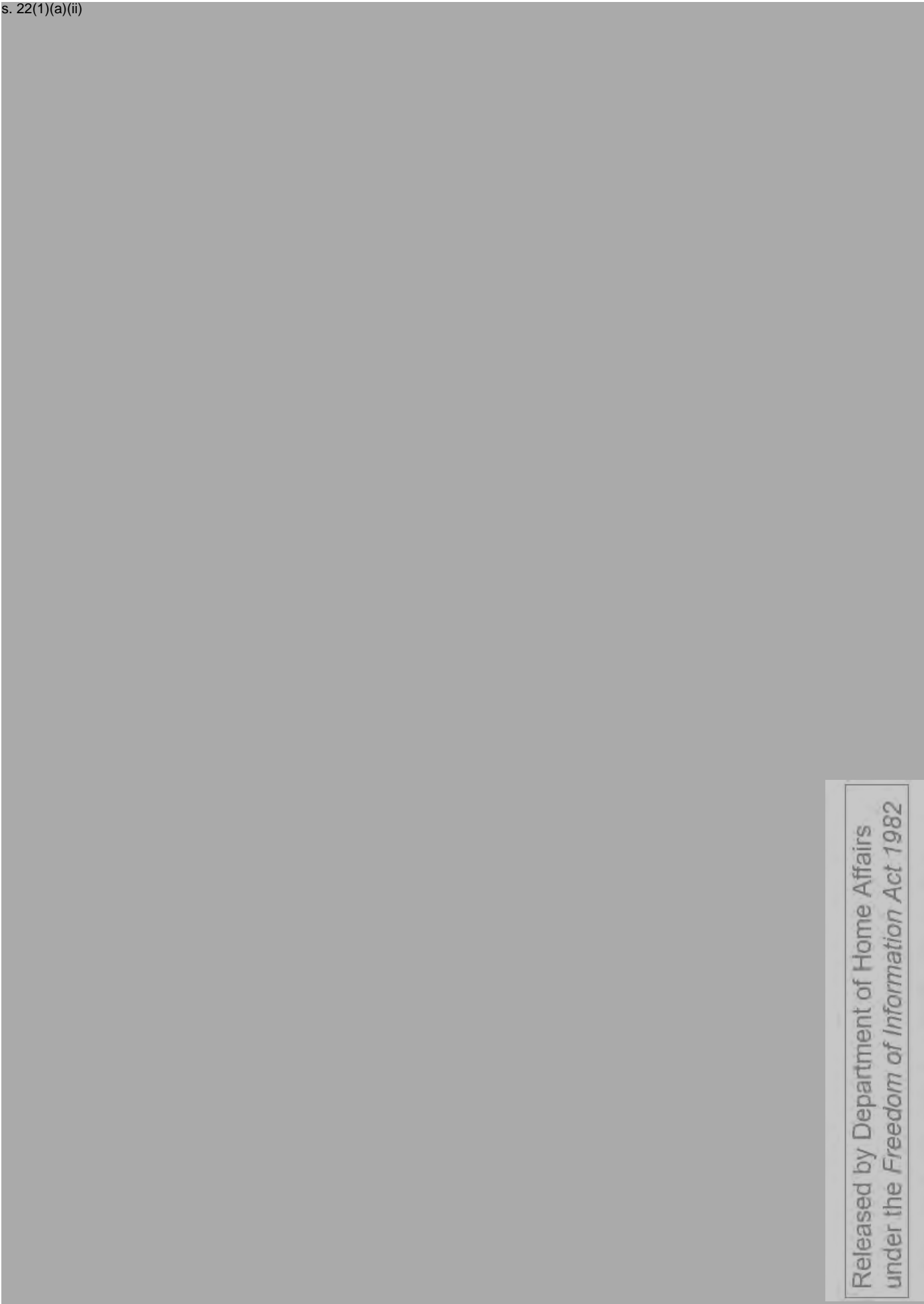
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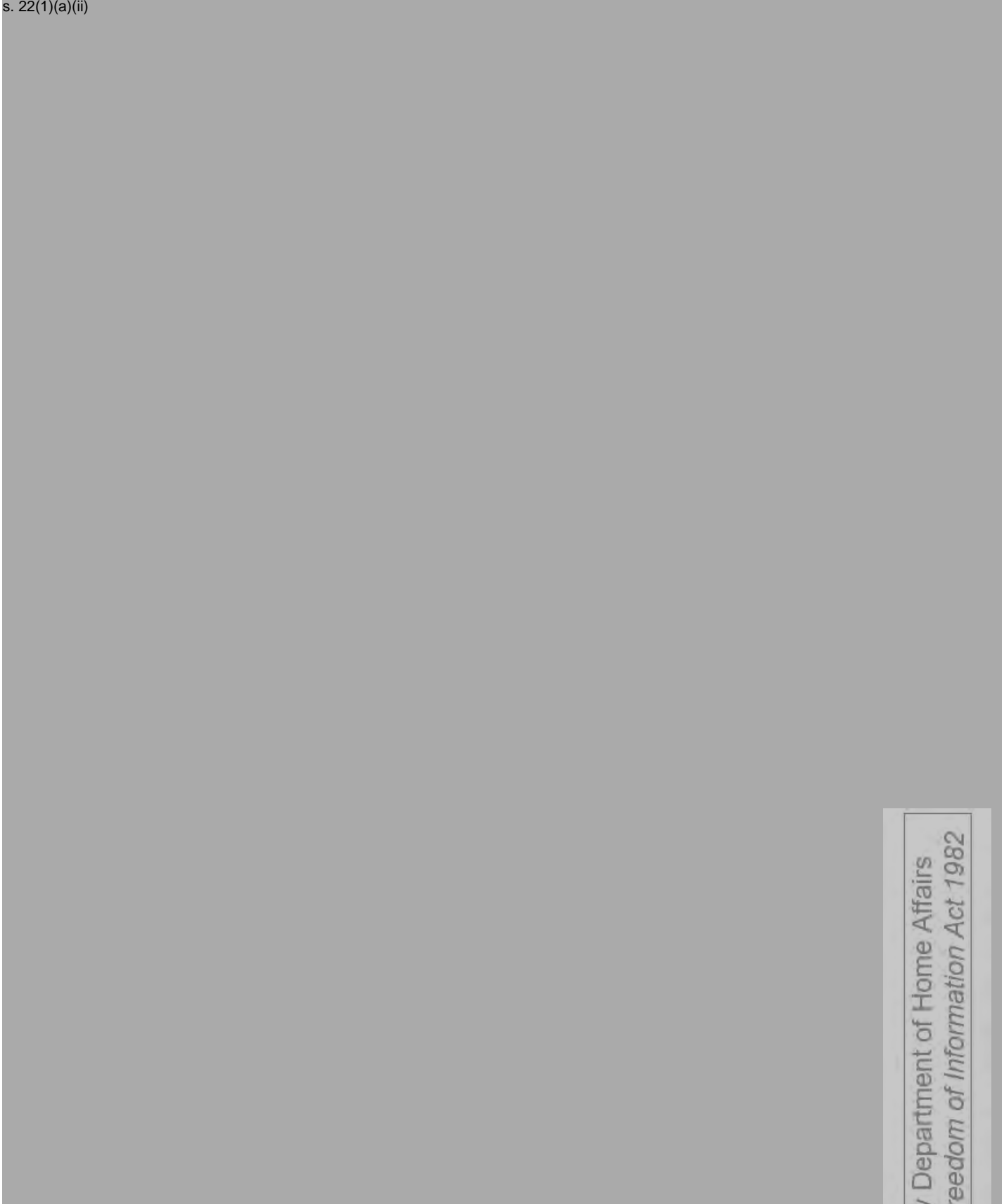
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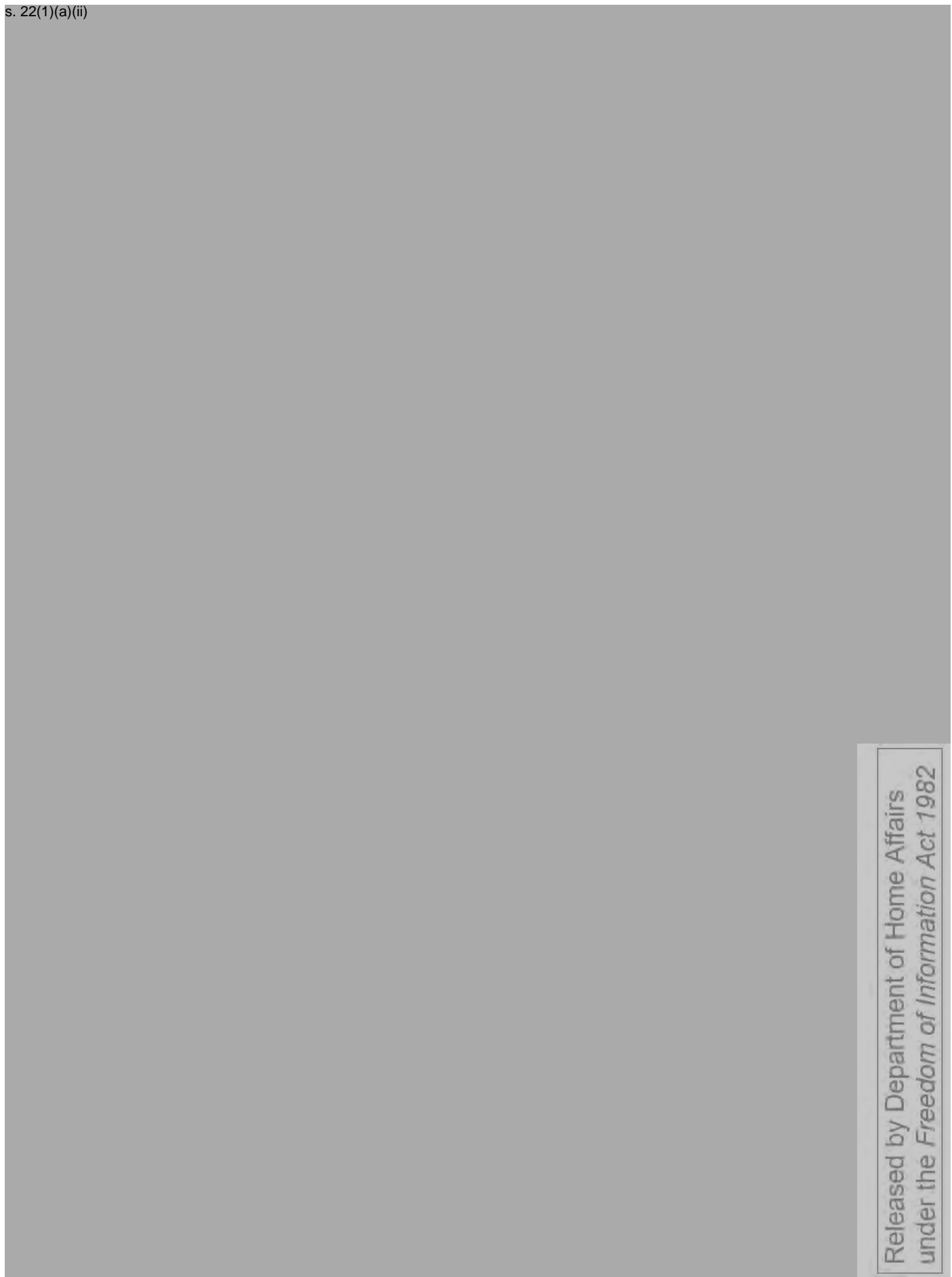


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² This charge applies from 1 July 2019. The charge is indexed according to the Consumer Price Index (CPI) each year. For the current charges, please see www.homeaffairs.gov.au/visas/getting-a-visa/fees-and-charges.

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Attachment D

State and territory SHEV postcodes information summary

State/territory	SHEV postcode information
Australian Capital Territory	Includes all postcodes in the ACT
New South Wales	Excludes Sydney, Newcastle, the Central Coast and Wollongong. Includes Dungog Shire, Maitland City and Mid-Coast Council Region. Please refer to the listed postcodes for inclusions.
Northern Territory	Includes all postcodes in the Northern Territory
Queensland	Excludes Brisbane city and Gold Coast city areas Please refer to the listed postcodes for inclusions.
South Australia	Includes all postcodes in South Australia
Tasmania	Includes all postcodes in Tasmania
Victoria	Excludes Melbourne Metropolitan and some regional local government areas (Alpine, Ararat, Buloke, Campaspe, Cardinia, Central Goldfields, Hepburn, Macedon Ranges, Mansfield, Mitchell, Moira, Moorabool, Mount Alexander, South Gippsland, Southern Grampians, Surf Coast, Towong and Yarra Ranges). Even though a local government area is excluded, there may be postcodes within that area that are included. Please refer to the listed postcodes for inclusions.
Western Australia	Excludes Perth and some areas in the Pilbara and Goldfields-Esperance regions

A detailed list of designated SHEV regional area postcodes can be found on the Department's website at:

www.homeaffairs.gov.au/shevpathways

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Designating postcodes as regional for SHEV arrangements

- SHEV postcodes are designated by the Minister for Home Affairs based on recommendations of state/territory governments. Any request for amendments should be directed to the lead agency in each state/territory.
- Each State Premier or Territory Chief Minister can then write to the Minister for Home Affairs to request the specific postcodes they wish to be included in SHEV arrangements.
- Areas designated as regional for SHEV arrangements are different to the list of *designated regional areas* for migration purposes.

Lead agencies for State/Territory governments

- New South Wales – Department of Premier and Cabinet
- Victoria – Department of Premier and Cabinet
- Western Australia – Department of Premier and Cabinet
- South Australia – Department of Premier and Cabinet
- Queensland – Department of Premier and Cabinet
- Northern Territory – Department of the Chief Minister
- Australian Capital Territory – Chief Minister, Treasury and Economic Development Directorate.

Talking Points: The Safe Haven Enterprise visa

Background to meeting

- TP's for FAS Luke Mansfield meeting with the Dep Sec Malisa Golightly and the Australian Human Rights Commission (AHRC) December 2019.

Key Talking Points

- Safe Haven Enterprise visas (SHEV) are temporary protection visas that cease five years after date of grant.
- SHEV holders who work without receiving Special Benefit payments and/or study full-time in a SHEV regional area for three and a half years can apply for certain non-protection visas in Australia under the SHEV pathway arrangements. This includes family or skilled visas.
- Each of these prescribed visas has complex criteria that must be met in order to apply for and be granted of these visas.
- There are no penalties if a SHEV holder does not work or study in a SHEV regional area.
- The earliest possible time in which a SHEV holder could meet the SHEV pathway requirements was from April 2019 (being 42 months from the first SHEV grant).
- As at 30 September 2019, there were 10,835 SHEV grants in Australia, of which 3,840 were recorded with a residential address in a SHEV regional area at the time of application or decision.
- To date, the Department has not received any applications from SHEV holders seeking to lodge a prescribed onshore visa application and an assessment of the SHEV pathway requirements.

1. Safe Haven Enterprise visa (SHEV) background

- People who arrive in Australia illegally and seek protection can only apply for a Temporary Protection visas (TPV), a three year visa, or a Safe Haven Enterprise visas (SHEV), a five year visa.
- Applicants must be in Australia to apply for and be granted a SHEV.
- At least one applicant in the family unit must present claims for protection and be found to engage Australia's protection obligations.

- The SHEV was designed to encourage illegal maritime arrivals (IMAs) to work and/or study in a SHEV regional area and, provided they meet certain requirements (the SHEV pathway requirements), may allow holders to apply for certain prescribed onshore visas, including family and skilled visas.
- SHEV holders can meet the SHEV pathway requirements if, for at least three and a half years (42 months) while holding a SHEV, they
 - have been employed in a SHEV regional area without receiving Special Benefit social security payments, or
 - have been enrolled and physically attending full-time study in a SHEV regional area, or
 - have undertaken a combination of both work and full-time study in a SHEV regional area, or
 - are a family member of someone who meets those requirements and they apply for one of the prescribed onshore visas together.
- Living, working or studying in a SHEV regional area is not a visa condition of the SHEV. There are no penalties if a SHEV holder does not work or study in a SHEV regional area.
- The work/study must be undertaken within a postcode of a state or territory that forms part of 'regional Australia' for SHEV purposes for it to count towards meeting the SHEV pathway requirements.
- All states and territories are part of the SHEV regional area arrangements. However, in each state and territory only certain areas are included in the regional arrangements for SHEV holders. See [Attachment A](#) for information on SHEV regional area postcodes.

2. Study requirement

- To meet the SHEV pathway study criteria, the SHEV holder must physically attend study that is:
 - accredited by the Australian Qualifications Framework, including a maximum of one course leading to a Certificate I and any courses leading to a Certificate II or above, and
 - full-time, either:
 - at the campus of an education provider located in a SHEV regional area included in the SHEV arrangements, or
 - at a primary school, high school or college in a SHEV regional area for a minimum of 161 weeks (consistent with three and a half standard academic years) of full-time registered study.

- Evidence will be required to ensure that an applicant has satisfied the full-time study criteria. Evidence of study may include:
 - Letter of enrolment from a primary or high school
 - School reports
 - University confirmation of enrolment, indicating full time status
 - Evidence of satisfactory course completion (certificates, diploma)
 - Academic transcripts
 - Electronic Confirmation of Enrolment (eCOE), which details the type of course, the course provider, the duration of the course and the type of qualification offered
 - Attendance certificates or records.

3. Work requirement

- To meet the SHEV pathway work criteria, the SHEV holder must complete paid, lawful work in a SHEV regional area. This work can be full-time, part-time, casual or seasonal. If there are breaks in employment, each calendar month worked will count towards the 42-month SHEV pathway requirement.
- SHEV holders cannot count work undertaken while receiving Special Benefit payments towards the 42-month SHEV pathway requirement. If Special Benefit payments are received that calendar month will not be counted towards the 42-month period.
- Evidence that SHEV holders meet the work requirements may include:
 - Payslips
 - Letters of employment
 - Contract
 - Australian bank statement covering the period of work showing payments from employment.
- SHEV holders should not supply documentation that includes their Tax File Number.
- Self-employed SHEV holders are considered to be engaged in employment in the following scenarios:
 - As the owner of a retail business that sells goods or services
 - As a self-employed trades person who provides a service.
- The types of evidence of self-employment may include:
 - Payslips
 - Self-employment ledger documentation
 - Bookkeeping records, including receipts for allowable expenses

- Bank statements (personal and business)
- Signed time sheets and receipt of payroll, if you have employees
- Profit and loss statements
- Invoices, credit card statement and cheque copies
- Australian Business Number (ABN) registration identifying location of business
- Driver logs and trip reports showing the location of work
- Contract arrangements identifying the location of work and financial component

4. Special Benefit payment requirement

- SHEV holders may be eligible to receive Special Benefit income support payments from Centrelink, but any work undertaken in a SHEV regional area during a calendar month while receiving Special Benefit payments cannot be counted towards the 42 months of the SHEV pathway requirements.
- The social security benefits a SHEV holder can receive while working and still have that work count towards the SHEV pathway requirements are:
 - Family Tax Benefit A and B
 - Single Income Family Supplement
 - Double Orphan Pension
 - Parental Leave Pay (work test requirements)
 - Dad and Partner Pay (work test requirements)
 - Health Care Card (Family Tax Benefit)
 - Child Care Benefit/Child Care Rebate
 - School Kids Bonus
 - Child Dental Benefits Schedule
 - Jobs, Education and Training Child Care Fee Assistance
 - Stillborn Baby Payment
 - Low Income Health Care Card

5. TPV and SHEV holders eligibility for benefits and services and information for employers

- TPV and SHEV holders are eligible for benefits and services including assistance seeking employment, the Program of Assistance for Survivors of Torture and Trauma, free translating and interpreting services, complex case support and education for school-age children.
- TPV and SHEV holders are also eligible for up to 510 hours of English language tuition through the Adult Migrant English Program (AMEP) if they meet certain requirements.

- TPV and SHEV holders have unlimited work rights and have access to Medicare and the public health system and other government services such as jobactive and income support from Centrelink.
- TPV and SHEV holders can provide a copy of their Visa Grant Notification letter to demonstrate they hold their visa and have unlimited work rights.
- They can also provide VEVO checks to demonstrate that, at the time of the checks, they have unlimited work rights in Australia.
- Alternatively, employers can generate their own VEVO Work Entitlements checks to verify the TPV or SHEV holder's work rights, if the organisation registers to access VEVO.
- Organisations eligible to produce VEVO checks can do so under the 'Work Entitlements category'.
- To access VEVO, organisations must open an ImmiAccount and register under VEVO for organisations.
- Settlement services are not available to temporary protection visa holders.

6. Prescribed onshore visas

- The list of prescribed visas available under the SHEV pathways can be found on the Department's website at www.homeaffairs.gov.au/shevpathways
- Two new temporary regional visas, the Skilled Employer Sponsored Regional (Provisional) (subclass 494) visa and Skilled Work Regional (Provisional) (subclass 491) visa were added to the list of prescribed visas on 16 November 2019. These visas replace the Skilled Regional (Provisional) (subclass 489) visa and the Regional Sponsored Migration Scheme (subclass 187) visa which are no longer open to new applicants from 16 November 2019.
- There are 30 prescribed onshore visas available to SHEV holders of which:
 - 14 are temporary
 - 4 of which require applicants to be genuine temporary entrants to Australia
 - 1 of which closed on 16 November 2019 and was replaced by two new skilled regional provisional visas.
 - 16 are permanent, of which:
 - 2 are closed to new applicants
 - 7 are subject to capping and queuing
 - 2 require an invitation to apply

- 2 require substantial wealth or talent
- 1 requires certain skills or occupation
- 2 require certain relationships with Australian citizens
- SHEV holders who meet the SHEV pathway requirements may be able to make a valid application for one of the prescribed visas. However, it is important to note that, in order to be granted one of the prescribed visas, the applicant must also meet all the relevant visa criteria, including health, character, security and identity provisions.
 - *Meeting the SHEV pathway may enable the SHEV holder to make a valid application for a prescribed visa, but it does not guarantee that the prescribed visa will be granted.*
- Each prescribed visa has different requirements for application and grant so it is important for SHEV holders to understand the visa requirements they must meet in order to apply for, and be granted the prescribed visa.

s. 47E(d)

- SHEV holders who still need Australia's protection and want to remain lawfully in Australia while they explore their visa options under the pathways must re-apply for a SHEV before their current SHEV expires.

7. SHEV holders in SHEV regional areas

- As at 30 September 2019, there were 10,835 SHEV grants in Australia, of which 3,840 were recorded with a residential address in a SHEV regional area at the time of application or decision.

s. 47E(d)

- There is no available data on the number of SHEV holders who may seek to apply for one of the prescribed onshore visas.

State and territory SHEV postcodes information summary

State/territory	SHEV postcode information
Australian Capital Territory	Includes all postcodes in the ACT
New South Wales	Excludes Sydney, Newcastle, the Central Coast and Wollongong. Includes Dungog Shire, Maitland City and Mid-Coast Council Region. Please refer to the listed postcodes for inclusions.
Northern Territory	Includes all postcodes in the Northern Territory
Queensland	Excludes Brisbane city and Gold Coast city areas Please refer to the listed postcodes for inclusions.
South Australia	Includes all postcodes in South Australia
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Western Australia	Excludes Perth and some areas in the Pilbara and Goldfields-Esperance regions

A detailed list of designated SHEV regional area postcodes can be found on the Department's website at: www.homeaffairs.gov.au/shevpathways

Designating postcodes as regional for SHEV arrangements

- SHEV postcodes are designated by the Minister for Home Affairs based on recommendations of state/territory governments. Any request for amendments should be directed to the lead agency in each state/territory.
- Each State Premier or Territory Chief Minister can then write to the Minister for Home Affairs to request the specific postcodes they wish to be included in SHEV arrangements.
- Areas designated as regional for SHEV arrangements are different to the list of designated regional areas for migration purposes.

Lead agencies for State/Territory governments

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- Victoria – Department of Premier and Cabinet
- Western Australia – Department of Premier and Cabinet
- South Australia – Department of Premier and Cabinet
- Queensland – Department of Premier and Cabinet
- Northern Territory – Department of the Chief Minister
- Australian Capital Territory – Chief Minister, Treasury and Economic Development Directorate.

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

SHEV Pathway

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

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

Early 2019 is the earliest we would expect

to see SHEV pathway applications.

There is currently messaging provided on the Departments website about the work and/or study requirements for SHEV pathway.

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

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

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

Intention of SHEV

- Intention of SHEV – genuine regional engagement, living and contributing to regional Australia
- Living consistent with intent will work in a SHEV holder's favour
- SHEV pathway is a gateway to applying for prescribed visa.
- Not all people will meet the pathway requirements or prescribed visa requirements, this should not prevent people from living and contributing to a regional area.
- Signals to clients what information they should collect, visa holders should start maintaining records, this may include collecting pay slips, records of residential history.
- Information about evidence that can be provided for SHEV pathway is on the Departments website and in form 1465 – SHEV employment and study record form.

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Talking Points: The Safe Haven Enterprise visa

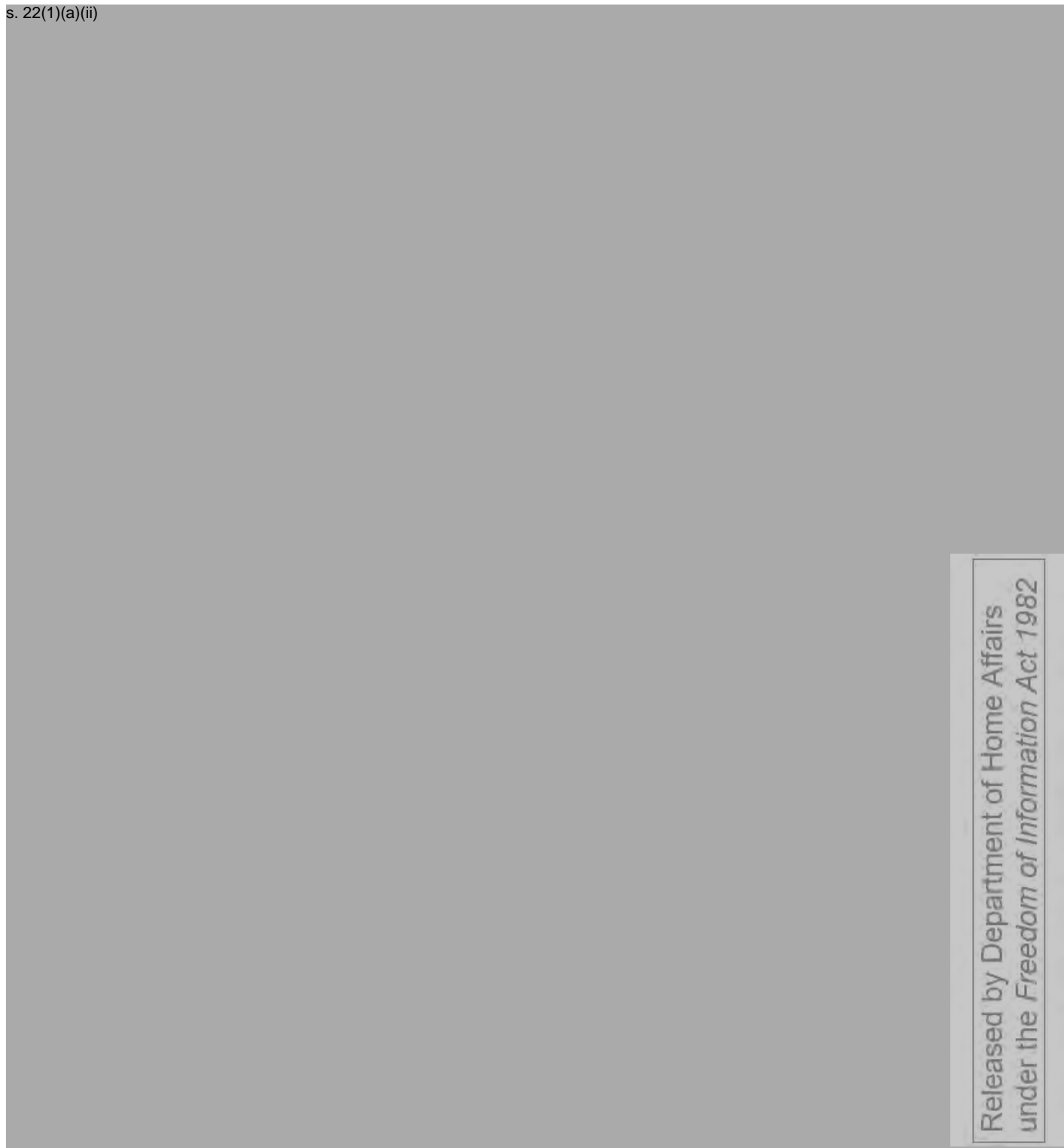
Background to meeting

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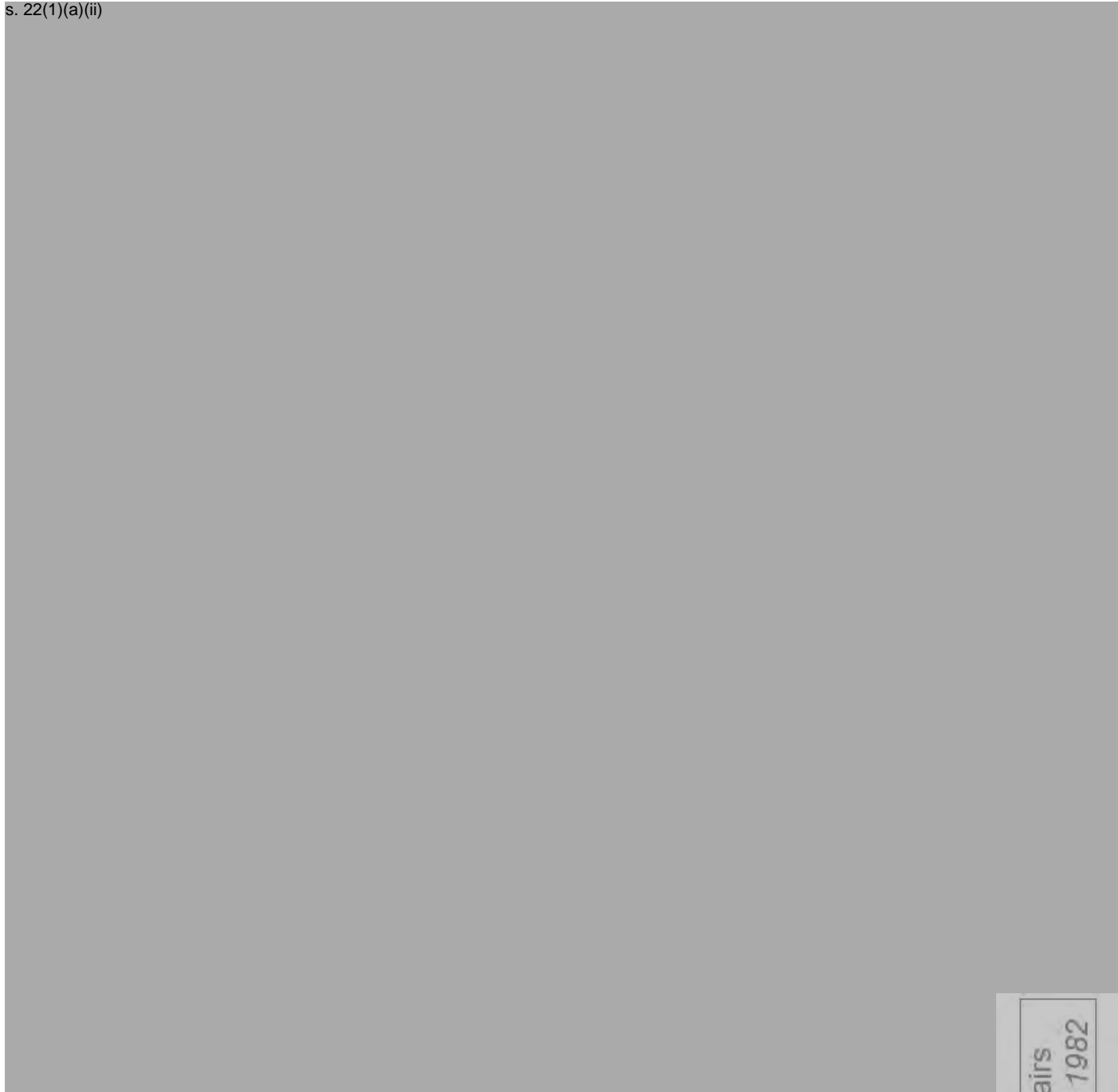


1. Safe Haven Enterprise visa (SHEV) background

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



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3. Analysis of prescribed onshore visas

- There are 30 prescribed onshore visas available to SHEV holders of which:

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



- 1 of which closed on 16 November 2019 and was replaced by two new skilled regional provisional visas.

Holders of the new skilled regional provisional visas may be able to apply for a new Permanent Residence (Skilled Regional) (subclass 191) visa that will commence on 16 November 2022.

- 16 are permanent, of which:
 - 2 are closed to new applicants

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- 7 are subject to capping and queuing
 - 2 require an invitation to apply
 - 2 require substantial wealth or talent
 - 1 requires certain skills or occupation
 - 2 require certain relationships with Australian citizens
- SHEV holders who meet the SHEV pathway requirements may be able to make a valid application for one of the prescribed visas.

Meeting the SHEV pathway may enable the SHEV holder to make a valid application for a prescribed visa, but it does not guarantee that the prescribed visa will be granted.

- Each prescribed visa has different requirements for application and grant so it is important for SHEV holders to understand the visa requirements they must meet in order to apply for, and be granted the prescribed visa.

s. 47E(d)

4. SHEV holders in SHEV regional areas

- As at 30 September 2019, there were s. 47E(d) SHEV grants in Australia, of which s. 47E(d) SHEV holders were recorded as living in Victoria.
 - There were s. 47E(d) SHEV grants with a residential address in a Victorian SHEV regional area at the time of application or decision.


s. 47E(d)

s. 47E(d)

5. Settlement

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

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



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- Each State Premier or Territory Chief Minister can then write to the Minister for Home Affairs to request the specific postcodes they wish to be included in SHEV arrangements.
- Areas designated as regional for SHEV arrangements are different to the list of designated regional areas for migration purposes.



Briefing note - Safe Haven Enterprise visa

Background

In December 2014, following a period of negotiation with the crossbench, the five-year Safe Haven Enterprise visa (SHEV) was introduced in tandem with the re-introduction of the three-year Temporary Protection visa (TPV) for illegal maritime arrivals (IMAs).

The SHEV is designed to promote regional development and encourage individual enterprise through earning and learning.

SHEV Pathway requirements

SHEV holders who comply with certain criteria are able to meet the SHEV pathway requirements.

If an applicant meets the SHEV pathway requirements, they are no longer barred under s46A of the *Migration Act 1958* (the Act) from applying for visas prescribed under regulation 2.06AAB (e.g. family, skilled, etc.).

The SHEV pathway requirements are that an applicant must hold a SHEV, or have held a SHEV and, for a period or periods totalling three and a half years (42 months), be;

- engaged in employment in a specified regional area and not receive Special Benefit payments during that time of employment; or
- be enrolled in full-time study at an educational institution in a specified regional area; or
- a combination of both.

The 42 month period can be consecutive, or non-consecutive. s. 47E(d)

s. 47E(d)

Prescribed visa analysis

If an applicant is able to meet the SHEV pathway requirements, they will still need to meet the criteria for the prescribed visa (which are not easily satisfied).

There are 28 prescribed visas available to SHEV holders. Of which:

- 12 are temporary
 - 4 of which require applicants to be genuine temporary entrants to Australia
- 1 is closed to new applicants
- 15 are permanent, of which:
 - 7 are subject to capping and queuing
 - 2 require an invitation to apply
 - 2 require substantial wealth or talent
 - 2 require certain skills or occupation
 - 2 require certain relationships with Australian citizens

Six of the permanent visas require a copy of the applicant's passport for online lodgement which many SHEV holders will encounter difficulties fulfilling.

The timeframes for a decision to be made on the prescribed visa applications range anywhere between 50 days and 26 months or do not provide processing times due to either the low number of applications or the complexity of the eligibility requirements associated with granting the visa. Considering this, it will be essential for SHEV holders to reapply for a subsequent SHEV if they are still in need of Australia's protection while waiting for a substantive visa outcome.

The 28 visas are owned by a cross-section of policy and management sections, namely:

- Status Resolution Framework, Returns & Removal Policy Section – 2 visas
- Innovation & Cultural Activity Policy Section – 4 visas
- Permanent Employer Sponsored Policy Section – 2 visas
- Independent Skilled & Migration Planning Section – 4 visas
- Student & Graduate Visas Section – 4 visas
- Family Migration Program Management Section – 12 visas

s. 47E(d)

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s. 47E(d)

- Criteria for prescribed visas

- The visa application charge for many of the prescribed visas is expensive; they also have requirements SHEV holders will not be able to meet, e.g. genuine temporary entrant requirement.
- We have prepared a table with each of the prescribed visas outlining the owners, eligibility requirements, cost etc.

s. 47E(d), s. 47C(1)

s. 47E(d)

- External scrutiny

- There has been significant commentary from government, media and refugee advocates since the introduction of the SHEV. The commencement of the SHEV pathway assessment process could make the visa a topical issue. Previous criticism has included:
 - The SHEV forms part of an omnibus measure which does little to resolve long-term protection issues for asylum seekers
 - The SHEV reinforces “negative stereotypes of regional Australia - places that only those who have no other choice select to live in”
 - The SHEV pathway is in fact not a pathway to other visas as it is likely many SHEV holders have no legitimate avenue to apply for the prescribed visas due to high application fees, lack of required English language ability, and a lack of recognised skills required for skilled migration visas
 - The study requirement of the SHEV is difficult adult SHEV holders as they are not eligible for programs designed to assist students with financing tertiary study, such as higher education loan schemes such as FEE-HELP, HECS-HELP and Commonwealth Supported Places.

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