

Attachment A

DETERMINATION UNDER SECTION 91L OF THE *MIGRATION ACT 1958* THAT SECTION 91K DOES NOT APPLY TO AN APPLICATION FOR A VISA

Pursuant to subsection 91L(1) of the *Migration Act 1958* (the Act), and thinking that it is in the public interest to do so, I determine that section 91K of the Act does not apply to an application for a visa made by a non-citizen if, and only if, the non-citizen:

- a) is listed in schedule 1 of this determination, or is a child of a person listed in schedule 1 of this determination, and is not an unauthorised maritime arrival within the meaning of section 5AA of the Act; and
- b) before the date of this determination, was given notice of a determination made under subsection 46A(2) of the Act ('section 46A determination'), and the notice indicated that section 46A(1) did not apply to an application by the non-citizen for a visa of a class specified in the section 46A determination; and
- c) in reliance on the section 46A determination, purported to apply for a protection visa prior to the revocation of the section 46A determination, and that application was not a valid application due to the operation of section 91K of the Act; and
- d) does not hold, and has never held, a Temporary Protection (subclass 785) visa or a Safe Haven Enterprise (subclass 790) visa; and
- e) has not previously been refused, or purportedly refused, the grant of a protection visa, or had a decision to refuse to grant a protection visa set aside by a court or a tribunal.

Note 1: This determination does not apply to a non-citizen who has made a valid application for a protection visa and that application has not been withdrawn and a decision (or purported decision) has not been made in relation to that application.



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THE HON DAVID COLEMAN MP

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

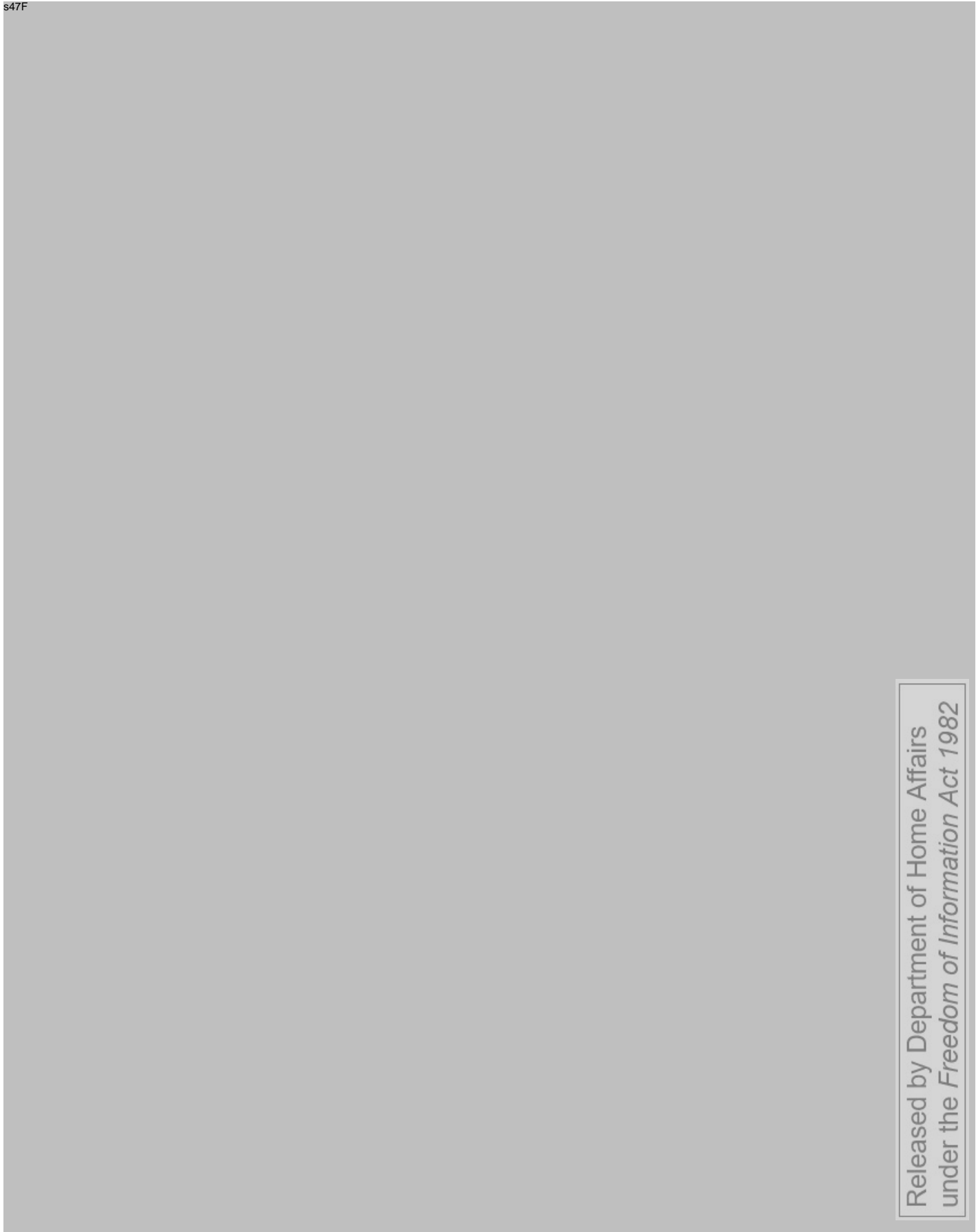
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Schedule 1

**NON-CITIZENS IN AUSTRALIA WHO ARE NOT UNAUTHORISED MARITIME
ARRIVALS WITHIN THE MEANING OF SECTION 5AA OF THE *MIGRATION ACT 1958*
DUE TO ASHMORE LITIGATION MATTERS**

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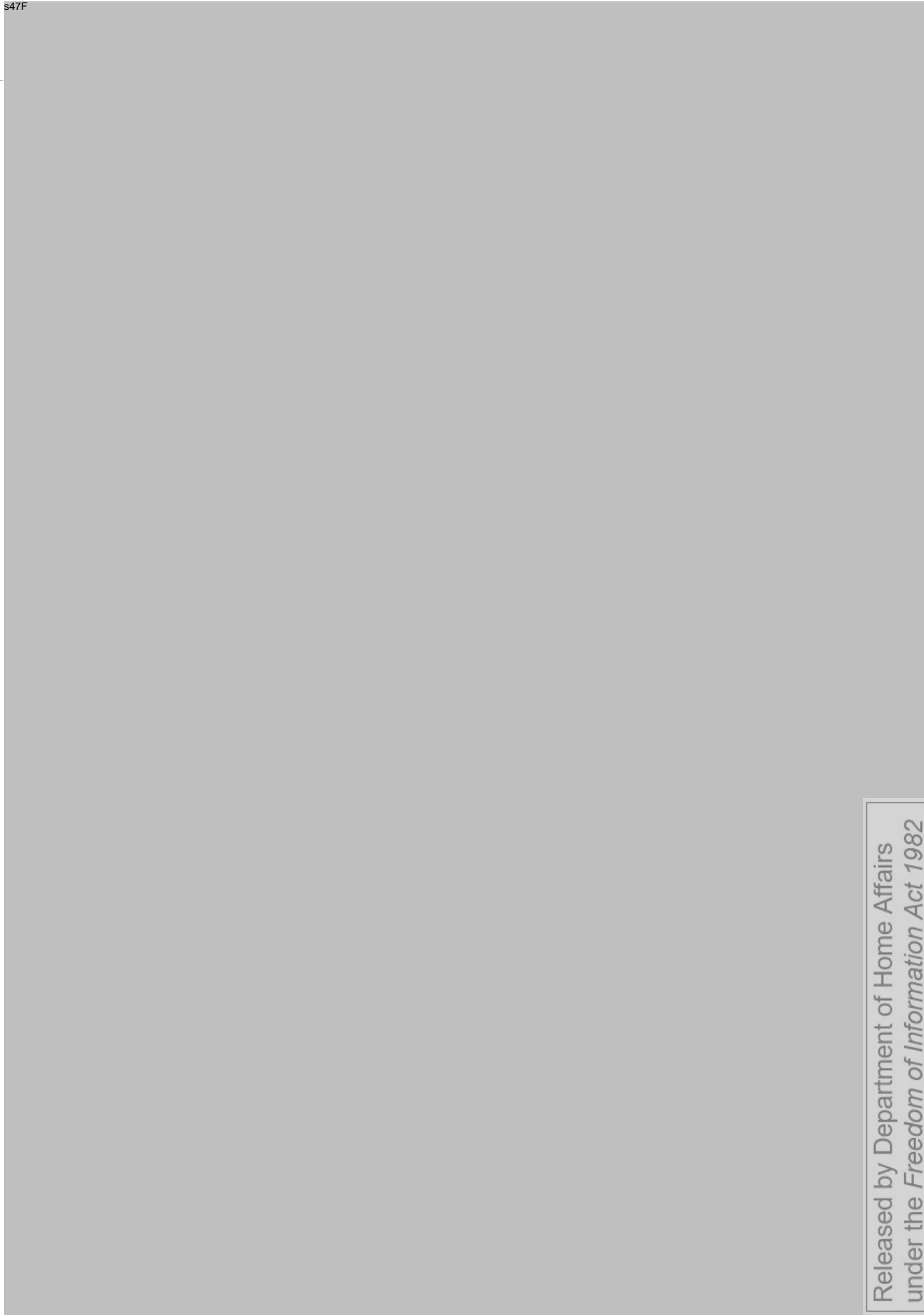


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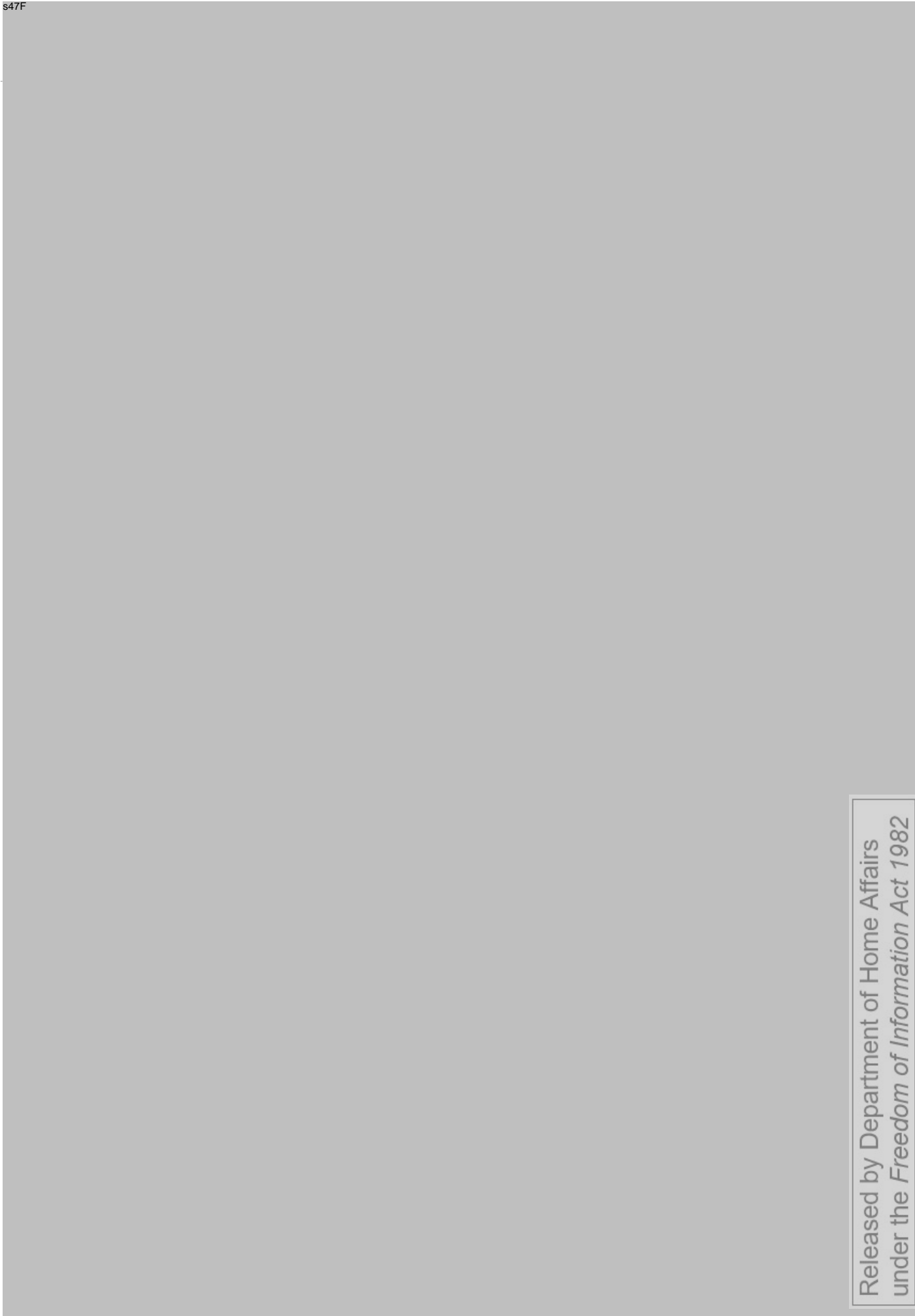
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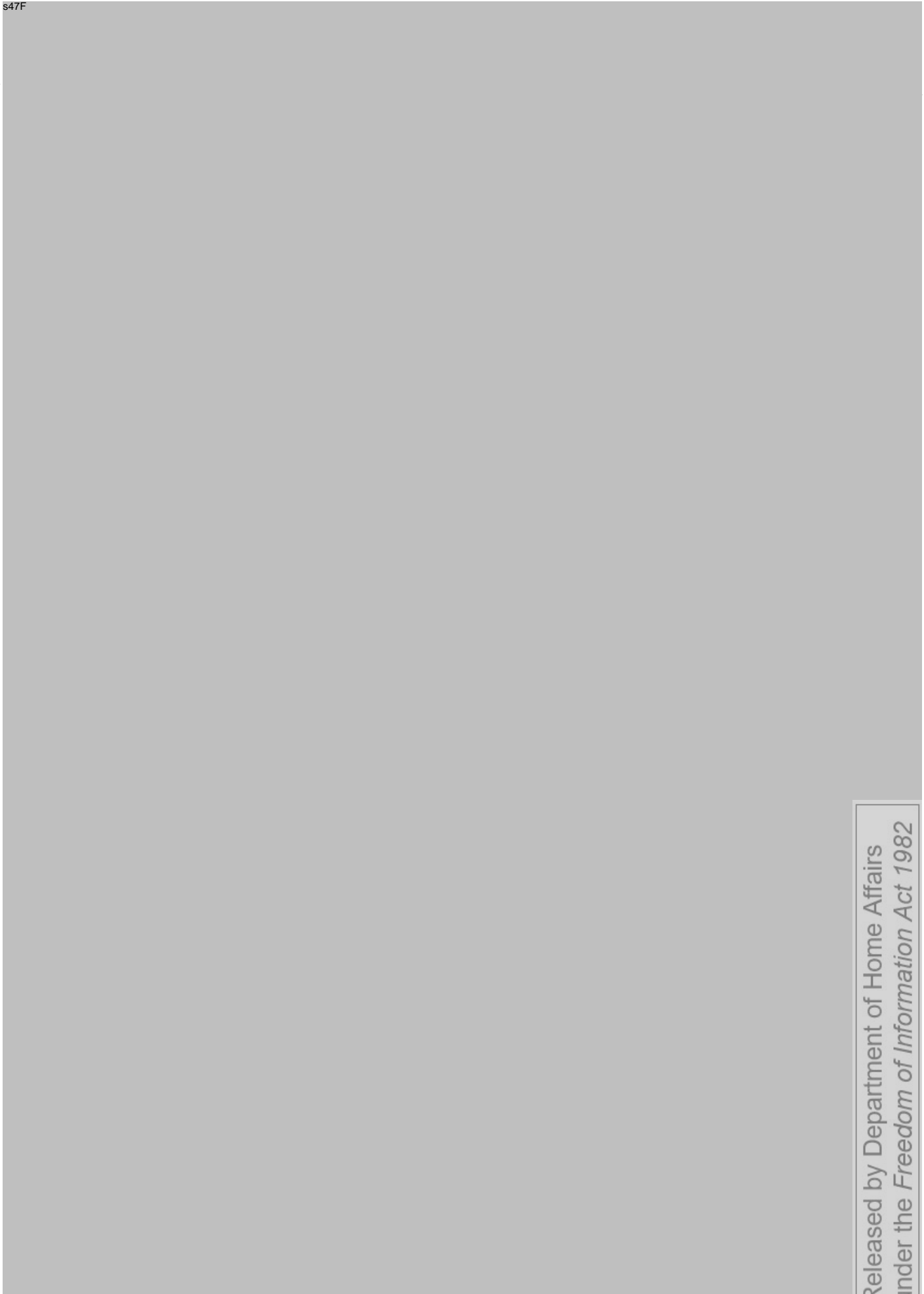


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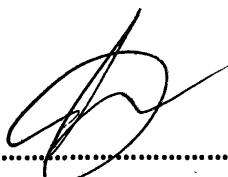
Attachment B

DETERMINATION UNDER SECTIONS 48B AND 91L OF THE *MIGRATION ACT 1958* THAT SECTIONS 48A AND 91K DO NOT APPLY TO AN APPLICATION FOR A VISA

Pursuant to subsections 48B(1) and 91L(1) of the *Migration Act 1958* (the Act), and thinking that it is in the public interest to do so, I determine that:

- (1) section 48A of the Act does not apply to prevent an application for a protection visa made by a non-citizen if, and only if, the non-citizen:
- a) is listed in schedule 1 of this determination, or is a child of a person listed in schedule 1 of this determination, and is not an unauthorised maritime arrival within the meaning of section 5AA of the Act ; and
 - b) entered Australia on, or after, 13 August 2012 and prior to 1 June 2013; and
 - c) has been previously refused, or purportedly refused, the grant of a protection visa pursuant to section 65 of the Act, other than a decision relying on subsections 5H(2), 36(1B), or (1C) or paragraphs 36(2C)(a) or (b) of the Act, where the application for the visa was not a valid application due to the operation of section 91K of the Act; and
 - d) does not hold, and has never held, a Temporary Protection (subclass 785) visa or a Safe Haven Enterprise (subclass 790) visa.
- (2) section 91K of the Act does not apply to an application for a visa made by a non-citizen if, and only if, the non-citizen:
- a) is listed in schedule 1 of this determination, or is a child of a person listed in schedule 1 of this determination, and is not an unauthorised maritime arrival within the meaning of section 5AA of the Act ; and
 - b) entered Australia on, or after, 13 August 2012 and prior to 1 June 2013; and
 - c) has been previously refused, or purportedly refused, the grant of a protection visa pursuant to section 65 of the Act, other than a decision relying on subsections 5H(2), 36(1B), or (1C) or paragraphs 36(2C)(a) or (b) of the Act; and
 - d) does not hold, and has never held, a Temporary Protection (subclass 785) visa or a Safe Haven Enterprise (subclass 790) visa.

Note 1: This determination does not apply to a non-citizen who has made a valid application for a protection visa and that application has not been withdrawn and a decision (or purported decision) has not been made in relation to that application.



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THE HON DAVID COLEMAN MP

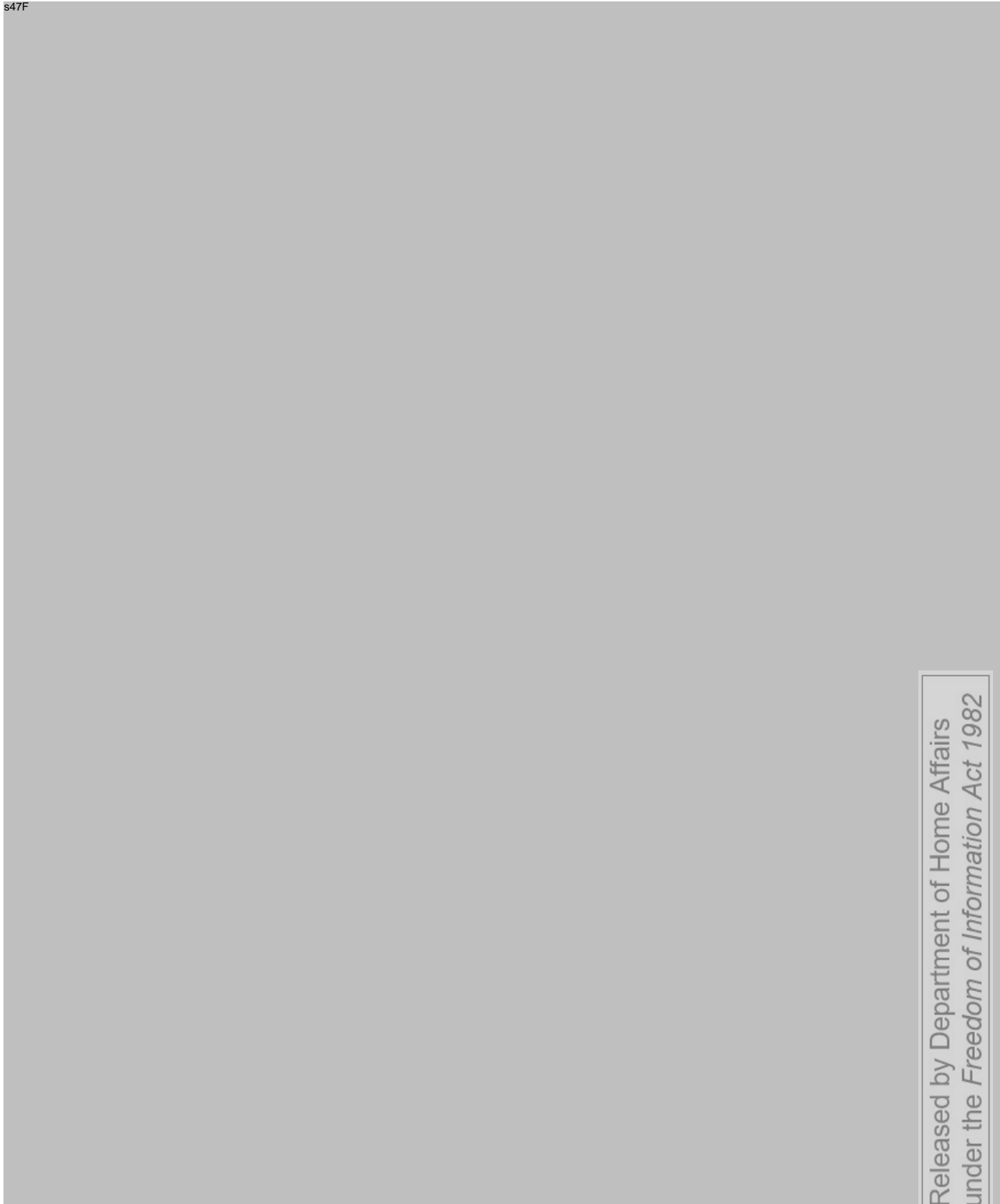
Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

8 / 11 / 2019

Schedule 1

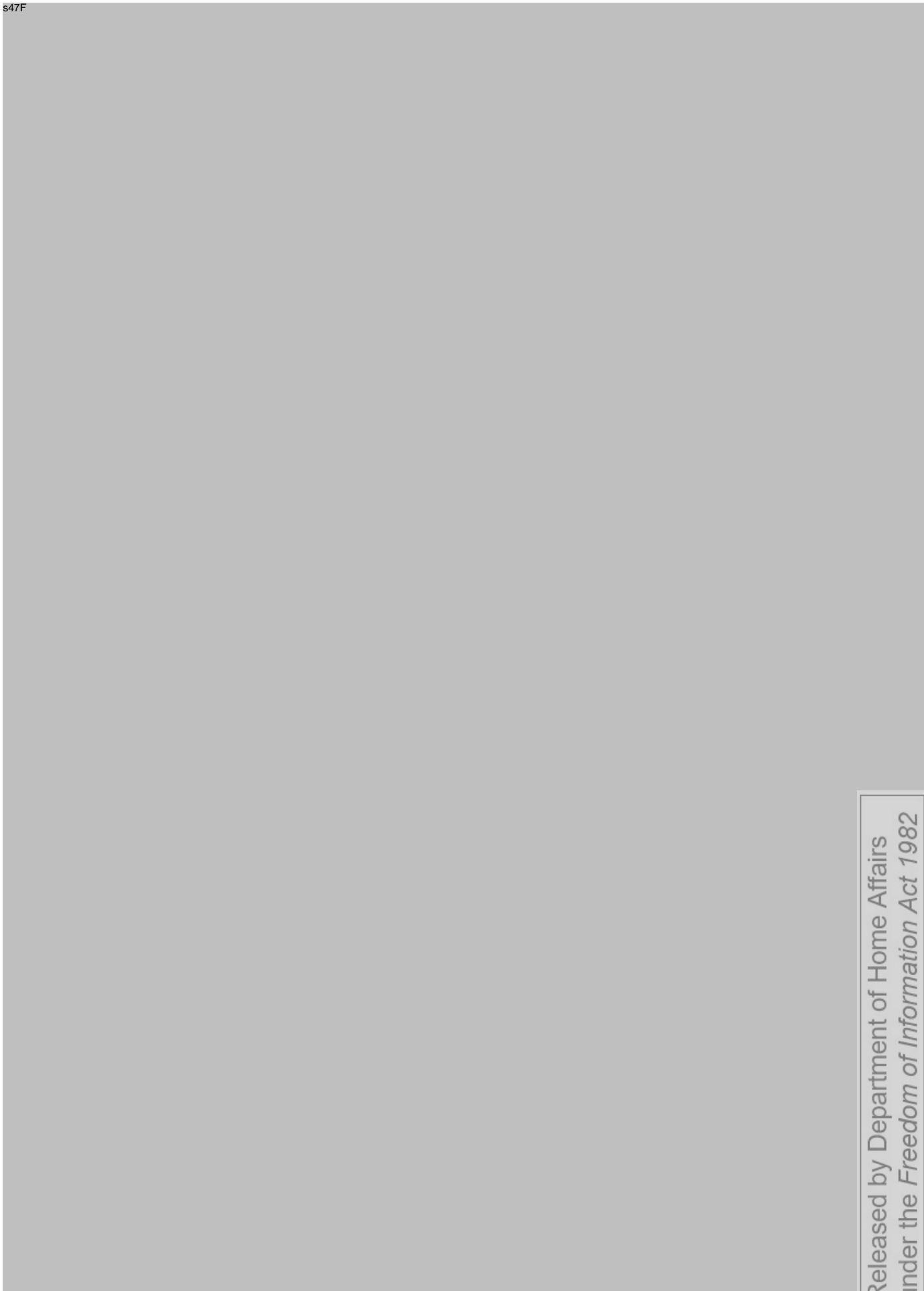
**NON-CITIZENS IN AUSTRALIA WHO ARE NOT UNAUTHORISED MARITIME
ARRIVALS WITHIN THE MEANING OF SECTION 5AA OF THE *MIGRATION ACT 1958*
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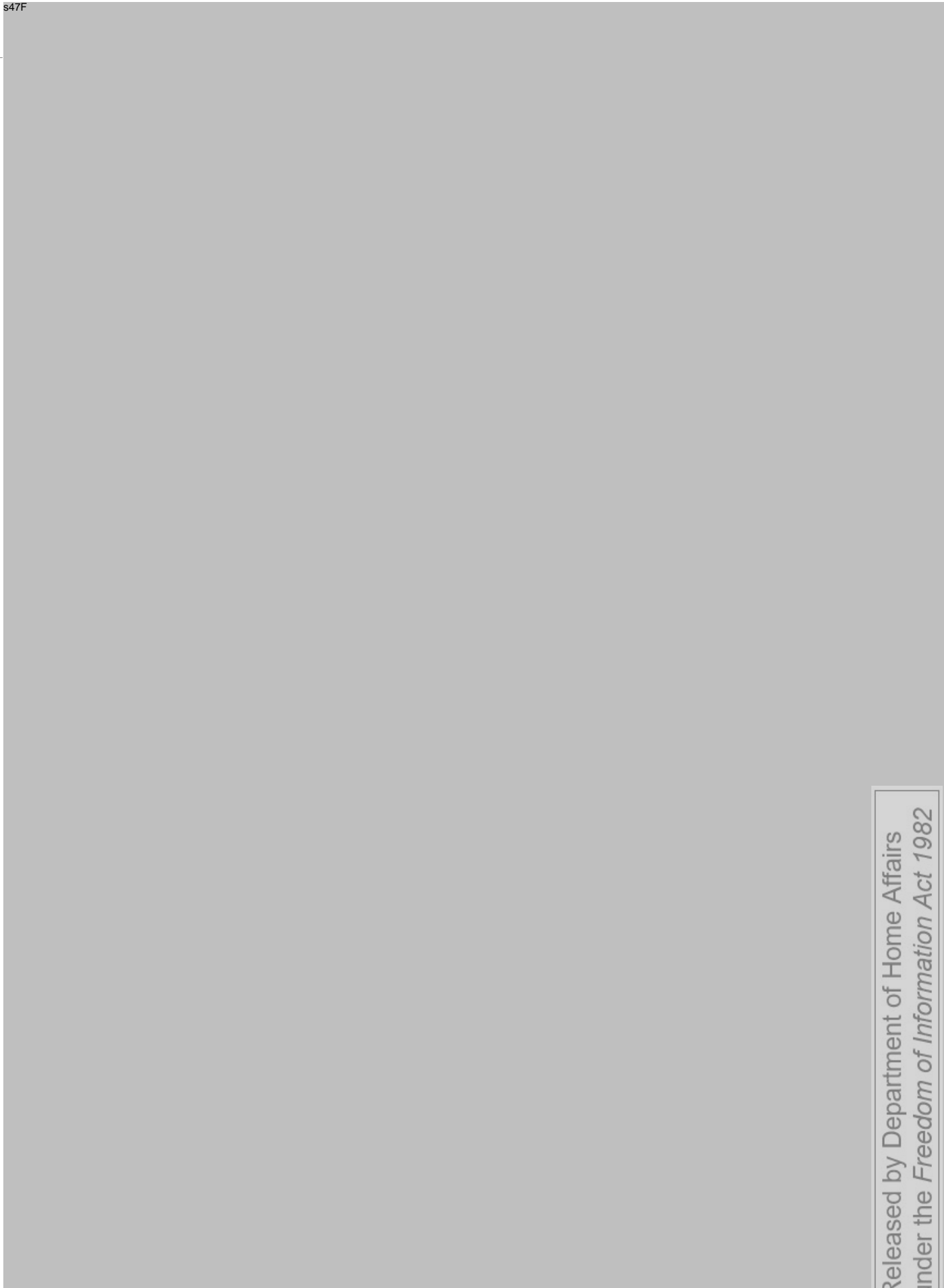
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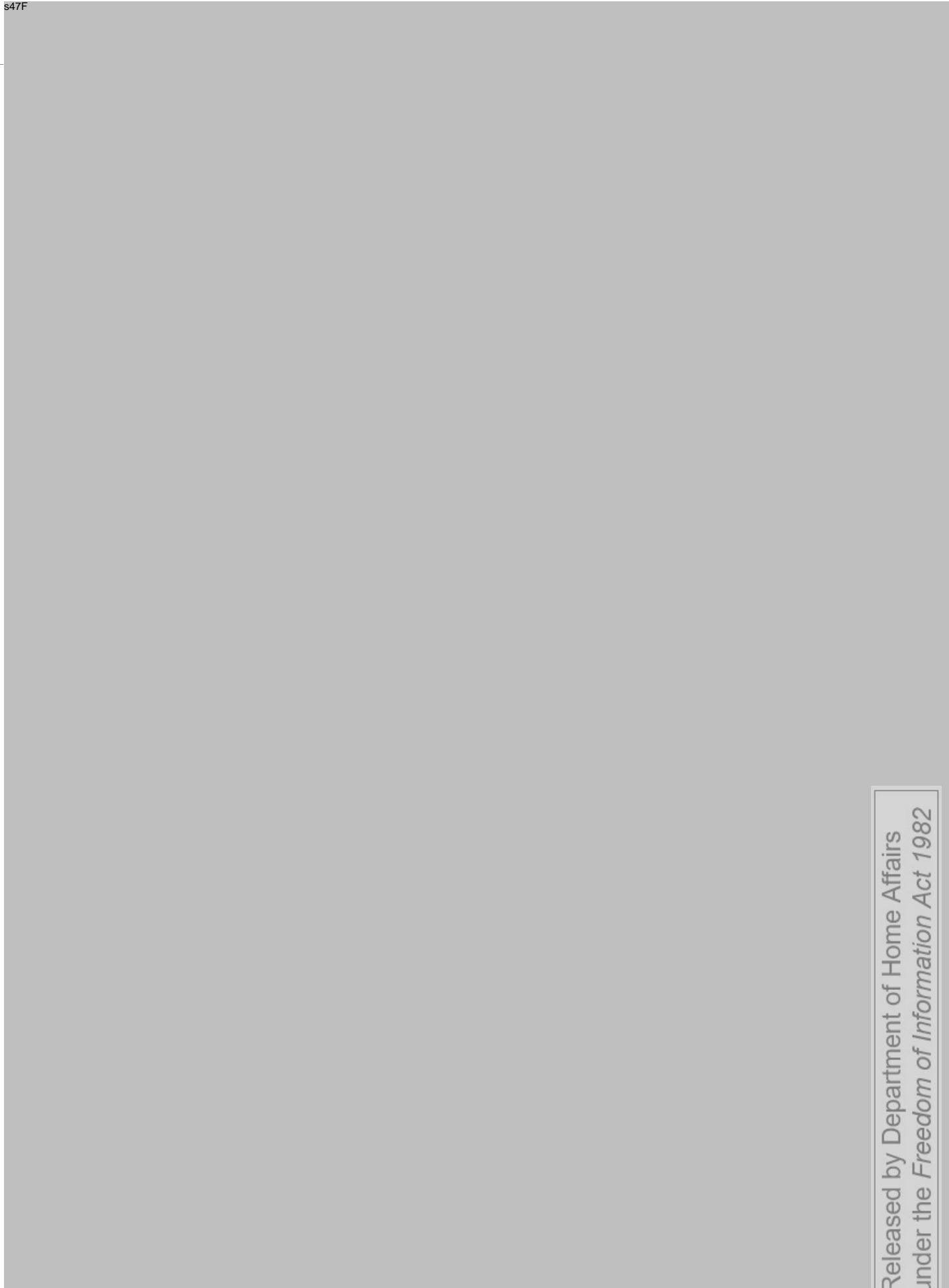
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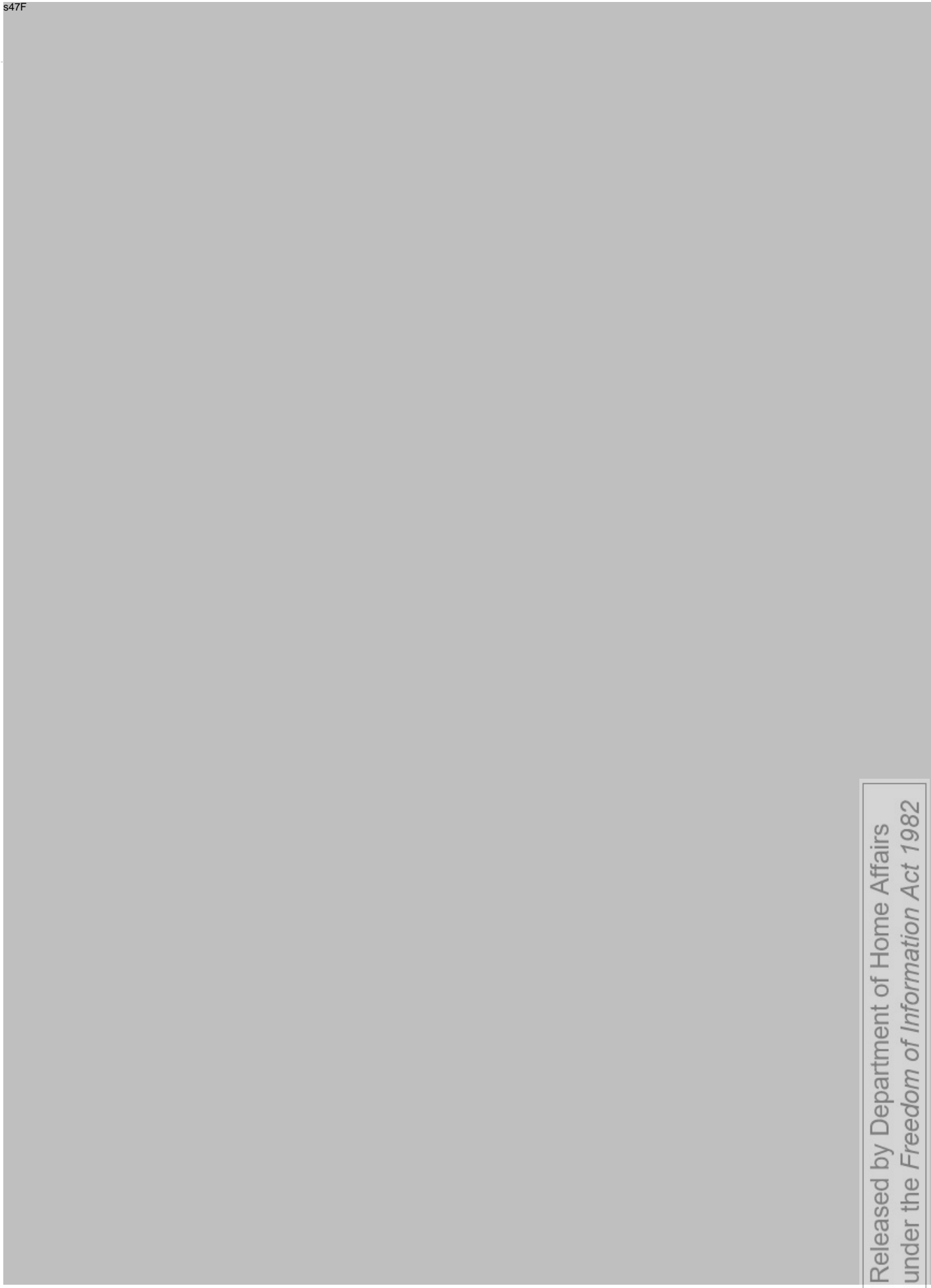
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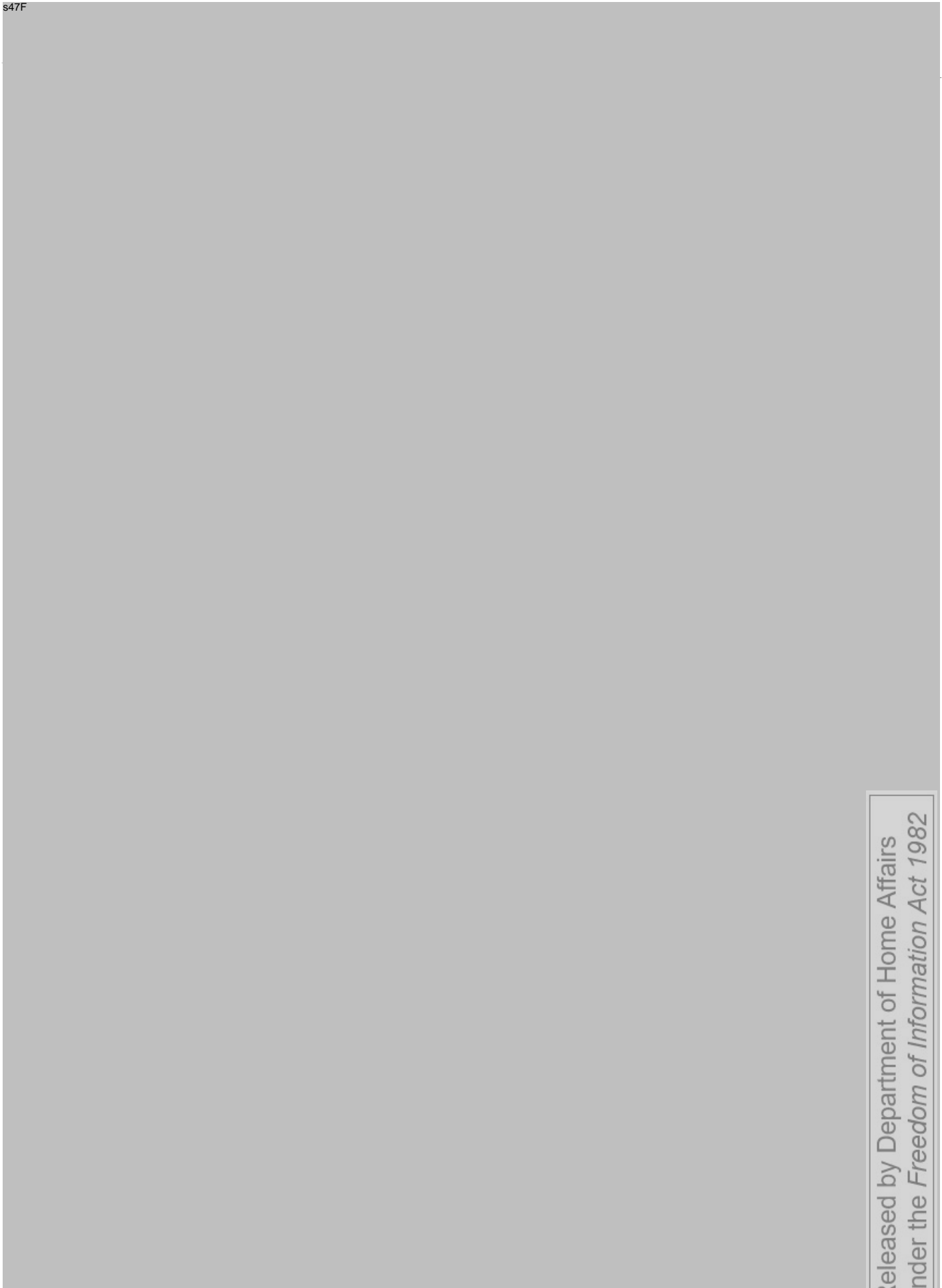
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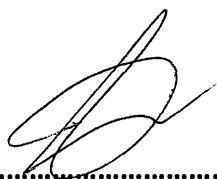
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**DETERMINATION UNDER SUBSECTION 91L(1) ALLOWING THE MAKING OF VALID APPLICATION
FOR A VISA**

Pursuant to subsection 91L(1) of the *Migration Act 1958* (the Act), and thinking that it is in the public interest to do so, I hereby determine that section 91K of the Act does not apply to an application for a visa made by a person, if and only if:

(1)

- a) the person held a Temporary Protection (Class XD) or Safe Haven Enterprise (Class XE) visa that was in effect when they attempted to make an application for a protection visa in accordance with the requirements in Schedule 1 to the *Migration Regulations 1994*; and
- b) the person has not previously made a valid application for a visa as a result of this particular determination.



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THE HON DAVID COLEMAN MP

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

 / / 2019