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Removal from Australia – Impediments to removal

Procedural Instruction

This Procedural Instruction contains operational policy instruction to Department of Home Affairs and Australian Border Force officers engaged in removal of unlawful non-citizens from Australia

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

Pages 3 to 4 have been removed as irrelevant information under section 22(1)(a)(ii) of the Freedom of Information Act (FOI) Act (1982)

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4.2. *Non-refoulement* obligations and removal processes

Section 197C of the Act clarifies that the availability of the removal powers in s198 of the Act is independent of assessments of Australia's *non-refoulement* obligations. The section stipulates that an officer's duty to remove a person from Australia under s198 of the Act arises irrespective of whether there has been an assessment, according to law, of Australia's *non-refoulement* obligations in respect of that UNC.

Section 197C of the Act is intended to assist interpretation of the Act by clarifying that the exercise of the removal power is not impacted by Australia's *non-refoulement* obligations. It remains critical to continue to follow pre-removal clearance processes to ensure *non-refoulement* issues are identified and appropriately managed prior to removal, including through consideration of visa pathways and ministerial intervention. This means that Australia will continue to meet its *non-refoulement* obligations through alternate management options, that is, before a person becomes available for removal.

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

Pages 6 to 15 have been removed as irrelevant information under section 22(1)(a)(ii) of the Freedom of Information Act (FOI) Act (1982)

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