

**From:** s. 22(1)(a)(ii)  
**To:** s. 22(1)(a)(ii)  
**Subject:** FW: s. 47F(1) - applicant's submissions[LSRCode s. 47F(1)]  
[DLM=Sensitive:Legal]  
**Date:** Tuesday, 5 November 2019 11:49:04 AM  
**Attachments:** s. 47F(1)  
**Importance:** High

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Sensitive:Legal

Hi s. 22(1)(a)

I am writing to bring to your attention that the applicant's representative is alleging that the Minister has breached his Model Litigant Obligations (please see attached) – he appears to be taking issue with the Minister's objections to his affidavit.

Please let me know if you'd like us to take any steps in response to this.

Many thanks, s. 22(1)(a)

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

Senior Legal Officer | AAT and Removals Injunction Section  
Migration and Citizenship Litigation Branch | Legal Division  
Corporate & Enabling Group  
Department of Home Affairs

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

Sensitive:Legal

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

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under the Freedom of Information Act 1982

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

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under the *Freedom of Information Act 1982*

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

**From:** s. 22(1)(a)(ii)  
**Sent:** Tuesday, 4 August 2020 9:18 AM  
**To:** s. 22(1)(a)(ii)  
**Subject:** s. 47F(1)

**Attachments:** ACCESS=Legal-Privilege]  
s. 47F(1) - Amended Orders 03.08.2020.pdf; s. 47F(1) - Sealed Orders 03.08.2020.pdf  
**Categories:** O-Compliance

**OFFICIAL: Sensitive  
Legal-Privilege**

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

I wanted to raise with you that there has been an allegation that there has been a Model Litigant Breach.

In this matter, the applicant's counsel has suggested that the Minister has breached its Model Litigant obligations by failing to "acknowledge that the certificate was not signed and therefore not valid". He has submitted that by "unreasonably refusing to produce the information" that the Minister has breached its model litigant obligations.

s. 42(1)

Happy to discuss or provide any additional information if required.

Warm Regards,

s. 22(1)(a)(ii)  
Legal Officer, Migration Litigation  
Litigation Branch | Legal Division  
Corporate Group  
Department of Home Affairs  
Ph: s. 22(1)(a)(ii)  
s. 22(1)(a)(ii)

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

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

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

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

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From: s. 22(1)(a)(ii)  
To: s. 22(1)(a)(ii)  
Cc: s. 47F(1) - Model Litigant Issue Raised by s. 47F(1)  
Subject: [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]  
Date: Friday, 19 February 2021 2:04:58 PM  
Attachments: [image001.jpg](#)  
[image002.png](#)  
[image004.png](#)

s. 47F(1)

Importance: High

**OFFICIAL: Sensitive  
Legal-Privilege**

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

Thank you for bringing this matter to our attention.

We will look into this further in line with our compliance reporting obligations under the *Legal Services Directions 2017* (Cth) and be in touch should we have any queries.

Thanks

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

Senior Legal Officer | Legal Strategy Section  
Legal Strategy and Services Branch  
Legal Group  
Department of Home Affairs  
P: s. 22(1)(a)(ii)  
E: s. 22(1)(a)(ii)

**Legal-Privilege  
OFFICIAL: Sensitive**

From: s. 22(1)(a)(ii)  
Sent: Friday, 19 February 2021 1:31 PM  
To: s. 22(1)(a)(ii)  
Cc: s. 22(1)(a)(ii)  
Subject: s. 47F(1) - Model Litigant Issue Raised by s. 47F(1)  
[SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]  
Importance: High

**OFFICIAL: Sensitive  
Legal-Privilege**

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

We write to bring to your attention that s. 47F(1) has raised potential model litigant issues in this matter.

Whilst this matter has had a long history, s. 42(1), s. 47F(1)

throughout the proceeding.

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s. 47F(1)

s. 47F(1) remain concerned about the applicant's present capacity s. 47F(1) and have indicated that while they agree that s. 47F(1), s. 47F(1) cannot ethically support s. 47F(1) indicating the applicant has capacity'.

We have provided s. 47F(1) with s. 47F(1) to give s. 47F(1) the option to s. 47F(1) would give the practicable and appropriate support such that the applicant would have decision making capacity about the Tribunal proceedings.

We have now written to s. 47F(1) to seek confirmation as to whether they intend to seek any orders for s. 47F(1)

Regards

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

Senior Legal Officer | AAT and Removals Injunction Section  
Migration and Citizenship Litigation Branch | Legal Division  
Corporate & Enabling Group  
Department of Home Affairs  
P s. 22(1)(a)(ii)  
E s. 22(1)(a)(ii)

**Legal-Privilege**  
**OFFICIAL: Sensitive**

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

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

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

**From:** s. 22(1)(a)(ii)  
**Sent:** Tuesday, 2 March 2021 4:32 PM  
**To:** s. 22(1)(a)(ii)  
**Cc:** s. 22(1)(a)(ii)  
**Subject:** FW: s. 47F(1) - allegation of breach of the model Litigant obligation in Legal Services Directions s. 47F(1)  
MINISTER FOR IMMIGRATION, CITIZENSHIP, MIGRANT SERVICES AND MULTICULTURAL AFFAIRS & s. 47F(1)

**Categories:** O-Compliance

**OFFICIAL: Sensitive  
Legal-Privilege**

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

This email is to notify you that on 25 February 2021, we received an allegation (**attached**) of a breach of the model litigant obligations as set out in the *Legal Services Directions* via our solicitors in this matter. We are represented in this matter by s. 47F(1)

Background

S. 47F(1)

Breach of Model Litigant Allegation

The alleged breach relates to the consolidated bundle of relevant documents that has been filed in the Court by our solicitors. Our solicitors (in an email sent on 17 December 2020) sought advice from s. 47F(1)'s lawyer if she was happy for the consolidated bundle of documents to be filed as proposed. s. 47F(1) lawyers did not respond to that request and the documents were filed as prepared in accordance with the court's time table for filing documents.

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Document 4

In her email dated 25 February 2021, s. 47F(1) lawyer has asked for an explanation for the volume of documents filed and our solicitor responded with the reason for it. The increase in the volume of documents arose in the manner in which s. 47F(1) solicitors developed the case and their requests for all the documents that the department and the Tribunal considered at the time of decision. All these documents were provided electronically to s. 47F(1) solicitor together with the transcript of the hearing before the Tribunal. s. 47F(1)'s solicitor did not provide these documents to s. 47F(1) to prepare himself for the hearing.

s. 42(1), s. 47F(1)

s. 47E(d)

s. 42(1)

Can you please let me know if anything further is required of me in relation to this allegation.

Kind regards

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

Senior Legal Officer I Protections Obligations Litigation Section  
Migration and Citizenship Litigation Branch I Legal Division  
Legal Group  
Department of Home Affairs

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

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

The Department of Home Affairs and the Australian Border Force acknowledges the Traditional Custodians throughout Australia and their continuing connection to land, sea and community. We pay respect to all Aboriginal and Torres Strait Islander peoples, their cultures and to their elders past and present.



s. 22(1)(a)(i)

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

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**From:** s. 22(1)(a)(ii)  
**To:** s. 22(1)(a)(ii)  
**Subject:** Report on alleged breach of Model Litigant Obligations - s. 47F(1) - FCC  
s. 47F(1) [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]  
**Date:** Monday, 22 March 2021 2:08:00 PM  
**Attachments:** s. 47F(1)

**OFFICIAL: Sensitive  
Legal-Privilege**

Dear s. 22(1)(a)

I am reporting to you on certain allegations made by the Applicant's representatives in the matter of s. 47F(1) v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, that the Minister and his legal representatives have acted in breach of the Model Litigation Obligations, for the purpose of any notification to OLSG that may be required for the

s. 22(1)(a)(ii), s. 42(1), s. 47F(1)

Please see details below of the allegations, as well as our views and the External Legal Service Provider's (ELSP) views on the nature of the allegations.

**The alleged breach**

s. 42(1), s. 47F(1)

The allegation of a breach of model litigant obligations can be summarised in the below two paragraphs extracted from the attached hearing report draft by the ELSP:

*Please note that in the course of making oral submissions s. 47F(1) made allegations that the Minister had not acted in accordance with the model litigant obligation by not providing certain documents to the applicant. s. 42(1), s. 47F(1)*

...

s. 42(1), s. 47F(1)

**Minister's approach to the subpoenas in this matter**

s. 42(1), s. 47F(1)

s. 42(1), s. 47F(1)

**ELSP's Views**

The ELSP has provided the following views in the attached hearing report on the allegations:

s. 42(1)

**Litigation's View**

s. 42(1)

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under the Freedom of Information Act 1982

# s. 42(1)

Please do not hesitate to contact me to discuss further.

Kind regards,

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

A/g Senior Legal Officer | Fast Track Litigation Section

Migration and Citizenship Litigation Branch

Legal Group

Department of Home Affairs

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

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

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

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**OFFICIAL: Sensitive**

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

**From:** s. 22(1)(a)(ii)  
**Sent:** Tuesday, 9 March 2021 1:15 PM  
**To:** s. 22(1)(a)(ii)  
**Subject:**

S. 47F(1)

**Attachments:**

**From:** s. 22(1)(a)(ii)  
**Sent:** Thursday, 7 May 2020 4:19 PM  
**To:** s. 22(1)(a)(ii)  
**Subject:** s. 47F(1)

**Sensitive:Legal**

Hi s. 22(1)(a)

In addition to visibility on the potential tied-work issues, one further matter to raise about this case with you is that, during the hearing (report attached), s. 47F(1) made an allegation that the Minister failed to act as a model litigant – not only in this matter, but in all Part 7AA cases. I extract from the hearing report:

**Alleged breach of model litigant obligations**

S. 42(1), s. 47F(1)

However, as the applicant has alleged a breach of the model litigant obligations, we understand that the reporting to OLSC will be required. s. 42(1)

**Minister's approach to discovery in Part 7AA cases**

S. 42(1)

**SIEV reports**

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s. 47F(1) alleged that the fact that one particular type of document, the SIEV report, is not included in the court book is a breach of the Minister's model litigant obligations in all Part 7AA matters.

# s. 42(1), s. 47F(1)

Given the above information, please let me know should you require anything further / or should I need to take any further steps in relation to s. 47F(1) ' alleged breach of the Minister's obligations as a model litigant.

Kind regards,

s. 22(1)(a)

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

Senior Legal Officer | Fast Track Litigation  
Migration and Citizenship Litigation Branch | Legal Group  
Department of Home Affairs

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

P: s. 22(1)(a)(ii) | E s. 22(1)(a)(ii)

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**Sensitive:Legal**

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

Sent: Thursday, 7 May 2020 2:45 PM

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

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Subject: s. 47F(1)

**Sensitive:Legal**

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

Regards,

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

Acting Principal Legal Officer

Legal Strategy Section | Legal Strategy and Services Branch | Legal Group

Department of Home Affairs

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)

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

**Sensitive:Legal**

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

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

**Sensitive:Legal**

s. 22(1)(a)(i)

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

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

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

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

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

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

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

From:

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

Sent:

Friday, 11 September 2020 2:48 PM

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

Subject:

Potential allegation of breach of model litigant obligations: s. 22(1)(a)(ii), s. 47F(1)

[Redacted]

**OFFICIAL: Sensitive  
Legal-Privilege**

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

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

**Potential allegation of breach of model litigant obligations: s. 22(1)(a)(ii), s. 47F(1)**

I am pre-emptively writing to advise of a potential allegation of breach of model litigant obligations in this matter before the Federal Circuit Court.

In summary, the applicant's representatives in this matter s. 47F(1)

[Redacted] have complained that they believe we have breached an undertaking to only redact third party identifiers from a document (SIEV report), in exchange for consent orders that we had complied with the relevant section of the subpoena.

s. 42(1), s. 47F(1)

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s. 42(1), s. 47F(1)

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under the Freedom of Information Act 1982

Please feel free to contact me if you have any questions/ require anything further, and happy to discuss.

Kind regards,

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

Legal Officer | Fast Track Litigation Section  
Migration and Citizenship Litigation Branch  
Legal Group  
Department of Home Affairs

Document 5.2

P: S. 22(1)(a)(ii)

E: S. 22(1)(a)(ii)

Please note that I work part-time and am out of the office on Mondays and Tuesdays. If your matter is urgent, please email S. 47E(d)

The Department of Home Affairs and the Australian Border Force acknowledges the Traditional Custodians throughout Australia and their continuing connection to land, sea and community. We pay respect to all Aboriginal and Torres Strait Islander peoples, their cultures and to their elders past and present.



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**From:** s. 22(1)(a)(ii)  
**To:** s. 22(1)(a)(ii)  
**Cc:** s. 22(1)(a)(ii)  
**Subject:** Att: s. 22(1)(a)(ii): s. 47F(1) EoT – Applicant's submissions - model litigant obligations s. 47F(1) ] [SEC=OFFICIAL:Sensitive]  
**Date:** Monday, 19 April 2021 10:08:22 AM  
**Attachments:** s. 47F(1)

---

**OFFICIAL: Sensitive**

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

We have received the below email from s. 22(1)(a)(ii) in relation to the matter of s. 47F(1), which is currently on appeal before the Full Federal Court. s. 47F(1) has again alleged in the **attached** submissions that the Minister, by his officers, has breached model litigant obligations in line with his complaint in the Court below. We would be grateful for your assistance in notifying OLSC and undertaking any investigations.

At first instance, s. 47F(1) complained after the hearing that the Minister had failed to make arrangements for him to appear by AVL whilst he was s. 47F(1) IDC. The Minister had not made arrangements for his attendance because he was represented by Counsel, he was not required by the Court to attend, and neither he nor his representative had requested s. 47F(1) attendance at the hearing. s. 42(1), s. 47F(1)

s. 42(1)

Please let me know if you require any further assistance.

Kind regards

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

A/g Senior Legal Officer | AAT & Removals Injunctions Section  
Migration and Citizenship Litigation  
Legal Group  
Department of Home Affairs

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

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

**OFFICIAL: Sensitive**

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

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

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From: s. 22(1)(a)(ii)  
To: s. 22(1)(a)(ii)  
Cc: s. 22(1)(a)(ii)  
Subject: s. 47F(1)  
  
Date: Wednesday, 28 April 2021 4:59:18 PM  
Attachments: [image001.jpg](#)  
[image002.png](#)  
[image004.png](#)

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**OFFICIAL: Sensitive  
Legal-Privilege**

Good afternoon,

As an FYI, there as an interlocutory application for an extension of time at the AAT today. We note that the applicant's representative made several comments about the Minister's conduct (highlighted below, as well as the ELSP's comments in this regard).

s. 42(1)

Please let me know if need anything further.

Kind regards,

Anthony

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

Legal Officer | AAT & Removals Injunctions Section

Migration and Citizenship Litigation

Legal Group

Department of Home Affairs

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

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

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OFFICIAL: Sensitive**

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

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

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

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

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

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

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under the Freedom of Information Act 1982

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

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under the *Freedom of Information Act 1982*

**From:** s. 22(1)(a)(ii)  
**To:** s. 22(1)(a)(ii)  
**Cc:** s. 22(1)(a)(ii)  
**Subject:** FW: Report on alleged breach of Model Litigant Obligations s. 47F(1) [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]  
**Date:** Thursday, 20 May 2021 5:25:44 PM  
**Attachments:** s. 47F(1)

**OFFICIAL: Sensitive  
Legal-Privilege**

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

Further to my discussion with s. 22(1)(a)(ii), we have received an allegation of a breach of Model Litigant guidelines from Barrister, s. 47F(1).

The email from s. 47F(1) is attached and relates to the Department's refusal to consent to postpone filing submissions and/or consent to an extension of time to file an amended application for a Federal Circuit Court matter (it is not completely clear which part s. 47F(1) asserts is a breach of Model Litigant guidelines, so for the purposes of this email we assume both aspects). s. 42(1), s. 47F(1)

[Redacted]

[Redacted]

[Redacted]

At the time of this email, nothing from the above has been formally been filed with the court.

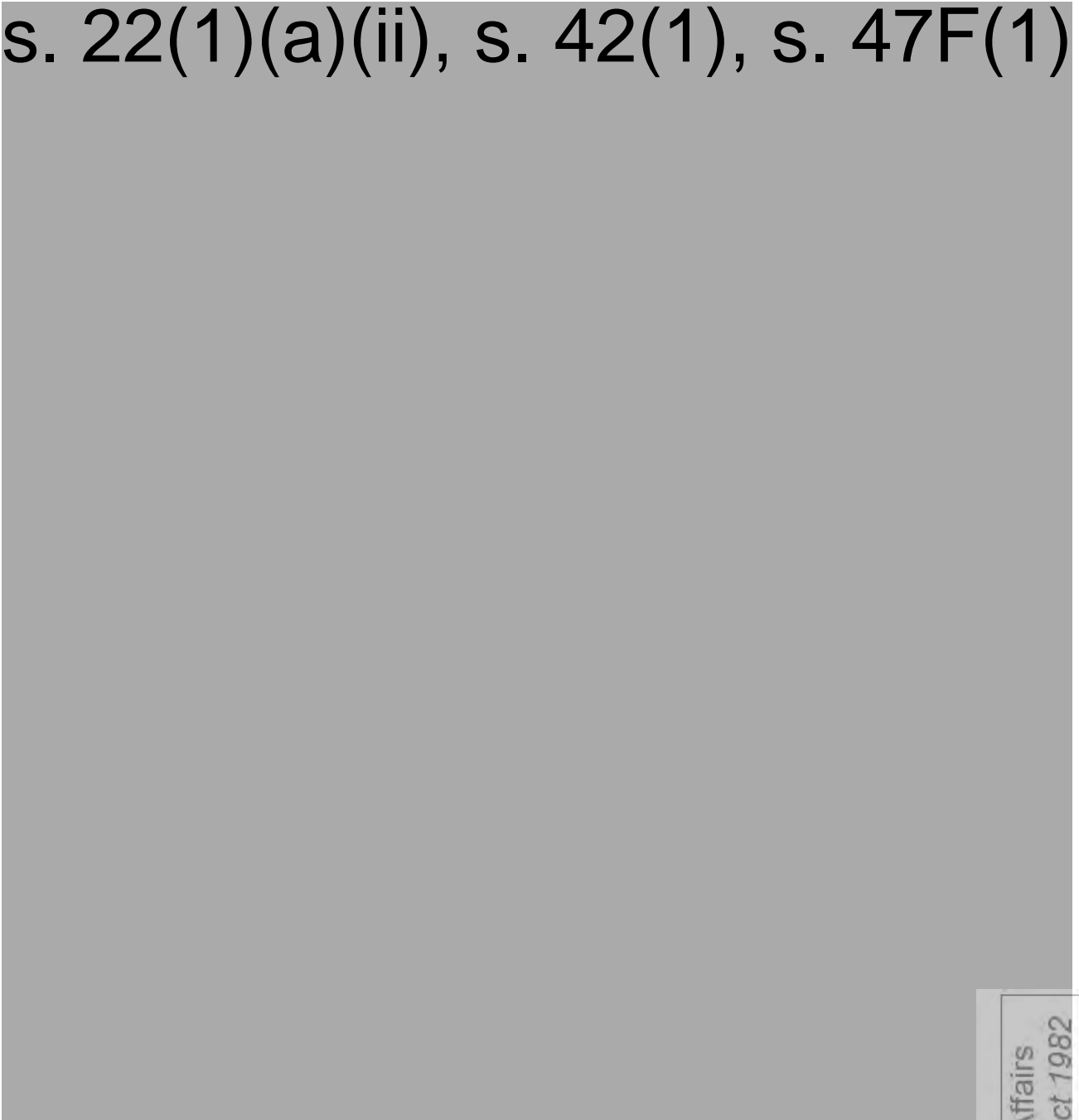
s. 42(1)

In filing submissions, the Department was doing so in accordance with the orders of s. 47F(1) on 4 November 2016 and responsive to the current application.

I have attached a chronology of the case below for your consideration. As the hearing is scheduled for the 27th of May 2021, we will advise you if (as is likely) the issue of the Department's model litigation obligations arises at that hearing.

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s. 22(1)(a)(ii), s. 42(1), s. 47F(1)



Kind Regards

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

s. 22(1)(a)(ii)  
Senior Legal Officer  
Fast Track Litigation  
Migration and Citizenship Litigation Branch  
Legal Group  
Department of Home Affairs

P: s. 22(1)(a)(ii) M: s. 22(1)(a)(ii)  
E: s. 22(1)(a)(ii)

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Please note I work variable hours and am not in the office on Wednesdays.

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OFFICIAL: Sensitive**

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**From:**

**To:**

**Cc:**

**Subject:**

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

Potential allegation of breach of model litigant obligations: s. 47F(1)

SEC=OFFICIAL: Sensitive, ACCESS=Legal-Privilege]

**Date:**

Friday, 11 September 2020 2:47:34 PM

**Attachments:**

s. 22(1)(a)(ii), s. 47F(1)

**OFFICIAL: Sensitive  
Legal-Privilege**

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

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

**Potential allegation of breach of model litigant obligations: s. 47F(1)**

I am pre-emptively writing to advise of a potential allegation of breach of model litigant obligations in this matter before the Federal Circuit Court.

In summary, the applicant's representatives in this matter s. 47F(1)

have complained that they believe we have breached an undertaking to only redact third party identifiers from a document (SIEV report), in exchange for consent orders that we had complied with the relevant section of the subpoena.

s. 42(1), s. 47F(1)

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s. 42(1)

Litigations views/ actions going forward

s. 42(1)

Please feel free to contact me if you have any questions/ require anything further, and happy to discuss.

Kind regards,

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

Legal Officer | Fast Track Litigation Section

Migration and Citizenship Litigation Branch

Legal Group

Department of Home Affairs

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

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

Please note that I work part-time and am out of the office on Mondays and Tuesdays. If your matter is urgent, please email

s. 47E(d)

cid:image001.jpg@01D5E7D6.D0324270

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

From:

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

Sent:

Monday, 22 March 2021 2:26 PM

To:

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

Cc:

Subject:

S. 47F(1)

Attachments:

Categories:

O-Compliance

**OFFICIAL: Sensitive  
Legal-Privilege**

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

Thanks for sending this through. I am no longer in the Legal Strategy Section – I have copied in s. 22(1)(a)(ii) who will be able to assist you with this.

Regards,

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

Acting Principal Legal Officer

Operations Law (Headquarters) | National Security & Law Enforcement Legal Branch | Legal Group

Department of Home Affairs

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)

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

**Legal-Privilege  
OFFICIAL: Sensitive**

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

Sent: Monday, 22 March 2021 2:11 PM

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

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

Subject: S. 47F(1)

**OFFICIAL: Sensitive  
Legal-Privilege**

Dear s. 22(1)(a)

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## Document 10

I am reporting to you on certain allegations made by the Applicant's representatives in the matter of s. 47F(1) v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, that the Minister and his legal representatives have acted in breach of the Model Litigation Obligations, for the purpose of any notification to s. 22(1)(a)(ii) that may be required for the purpose of the Legal Services Directions. s. 42(1), s. 47F(1)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Please see details below of the allegations, as well as our views and the External Legal Service Provider's (ELSP) views on the nature of the allegations.

### The alleged breach

s. 42(1), s. 47F(1)

The allegation of a breach of model litigant obligations can be summarised in the below two paragraphs extracted from the attached hearing report draft by the ELSP:

*Please note that in the course of making oral submissions s. 47F(1) made allegations that the Minister had not acted in accordance with the model litigant obligation by not providing certain documents to the applicant. These complaints are outlined below. s. 42(1)*

[REDACTED]

...

s. 42(1), s. 47F(1)

### Minister's approach to the subpoenas in this matter

s. 42(1), s. 47F(1)

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s. 42(1)

ELSP's Views

s. 42(1)

Litigation's View

s. 42(1)

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# s. 42(1)

Please do not hesitate to contact me to discuss further.

Kind regards,

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

A/g Senior Legal Officer | Fast Track Litigation Section

Migration and Citizenship Litigation Branch

Legal Group

Department of Home Affairs

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

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

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

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