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COVID-19 Border Measures Procedural Instruction - Students - Inwards

Procedural Instruction

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BCS Function	Border Measures – Travel Exemptions Procedural Instruction
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1. Purpose

From 9pm AEDT on 20 March 2020, travel restrictions have been in place, prohibiting travel into Australia of all foreign nationals unless exempt. The COVID-19 Border Measures Branch manages and decides travel exemption requests in response to Australia's travel restrictions.

This procedural guidance is designed for use as an explanatory support for exemptions processing staff and exemptions decision makers when assessing exemption requests from student visa holders and prospective student visa holders. Requests are assessed on a case by case basis.

2. Scope

This document provides procedural guidance applicable to the assessment of exemption requests for student visa holders and prospective student visa holders only.

It is recommended that users read this procedural guidance in conjunction with the following documents:

- Commissioner's Guidelines
- Inwards Travel Restrictions Operation Directive
- Inward Travel Exemptions Process Guide s. 22(1)(a)(ii)
- COVID-19 Border Measures Procedural Instruction - General s. 22(1)(a)(ii)

Note: Travel restrictions are subject to change at short notice, therefore officers must refer to related documentation via TRIM or published versions on the Home Affairs website (rather than saving or printing a copy) to ensure they access the most up to date versions.

3. Procedural Instruction

3.1. Decision Maker

For cases where the individual is a University student enrolled in a medical, dental, nursing, pharmacy or allied health degree

Meets the guidelines for an exemption to be approved - two stages of assessment are required:

- Initial Assessment - Officers at any APS level
- Decision Maker - Shift Superintendents COVID-19 Border Measures

Note: Cases referred to the Shift Superintendents must follow the Commissioner Discretion pathway in TEP.

Does not meet guidelines and exemption to be refused - two stages of assessment are required:

- Initial Assessment - Officers at any APS level
- Decision Maker - APS6 level and above

For all other student cases (Year 11 and 12; PhD research)

Meets the guidelines (for referral to Commissioner) three stages of assessment are required:

- Initial Assessment and preparation of submission - Officers at any APS level
- Discretion to refer to Commissioner – APS6 officers and above
- ABF Commissioner

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Note: all submissions that are prepared for the Commissioner are reviewed by an EL1 or above via the TEP. Cases referred to the Shift Superintendents must follow the Commissioner Discretion pathway in TEP.

Refusing international student exemption requests two stages of assessment are required:

- Initial Assessment - Officers at any level

Determination to refuse the case (either insufficient evidence provided or has not satisfied guidelines for referral to Shift Superintendents or Commissioner) – APS6 level and above

Officers are not authorised to approve requests for year 11/12 students or PhD students unless they determine the individual is exempt under another category (e.g. immediate family) or grounds outlined in the Commissioner's Guidelines (e.g. visiting critically ill family).

Once a travel exemption request has been considered against all categories, if it is evident that the claimed circumstances do not meet current travel exemption requirements, and therefore cannot be assessed as exempt, officers should either request further information (expected to be appropriate in only a small number of cases) or refuse the travel exemption request. Additional text to support client communication is provided at section 3.4 Client communication.

3.2. For consideration when assessing applications from student visa holders and prospective student visa holders

All travel exemption requests must be considered against all categories prior to making a decision to refuse the request.

Where the travel exemption request has been submitted by an international student who is already present in Australia and is seeking assurance of re-entry to Australia upon return from a proposed overseas trip, please refer to section 3.2 *Pre-emptive inwards travel requests* in *COVID-19 Border Measures Procedural Instruction – General - s. 22(1)(a)(ii)* for policy guidance.

PhD Research Students

Any request from a PhD research student must include evidence of support from a relevant Government agency (federal or state/territory) outlining why the research is considered essential and/or in Australia's national interest and how their role is critical to the research.

If an International PhD research student is a recipient of an Australian Government-funded scholarship/grant, they would generally be considered to satisfy requirements under this category. The funding is provided based on transparent and competitive selection processes by Australian Government's funding bodies including: The Australian Research Council (ARC); the National Health and Medical Research Council (NHMRC); and AusIndustry (Dept. of Industry) and Grains Research and Development Corporation (GRDC). The PhD research student must provide appropriate evidence of this scholarship/grant via a letter from the relevant funding body, confirming that the student has been awarded this research scholarship/grant. Such evidence may be taken in lieu of other sources of federal/state government support for cases that fall within this circumstance.

University Students

A University student studying a degree in a medical, dental, nursing, pharmacy or allied health profession can only be considered if they are in their final two years of study and have a confirmed placement in a hospital or medical practice, which commences in the next two months.

'In their final two years of study' should be taken to mean in the last two years of their study to enable completion of their qualifications. Placements must be in Australian hospitals or medical practices or pharmacies, and must be a course requirement of the medical, dental, nursing, pharmacy or allied health profession university degree. On-campus placements would not generally meet policy guidelines.

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It is likely that many students enrolled in degrees in the allied health professions, as defined below, would not be able to satisfy travel exemption policy requirements at this time. If any case raises doubt as to the appropriate treatment, please contact Travel Exemptions Program Management through your team leader.

Allied health professions

Arts therapy, audiology, chiropractic, diagnostic radiographer/medical imaging technologist, dietetics, exercise physiology, genetic counselling, music therapy, occupational therapy, optometry, orthoptics, orthotics/prosthetics, osteopathy, perfusion, physiotherapy, podiatry, psychology, rehabilitation counselling, social work, sonography and speech pathology.

High School Students (Year 11 and 12)

Travel exemption requests for Year 11 and 12 students can be submitted by the student or the relevant State or Territory Education Department, with endorsement from the federal Department of Education, Skills and Employment (DESE). Not all states and territories are taking part in the program.

Students must contact their school in the first instance and their school will work with the relevant State or Territory Education Department to determine the student's eligibility before providing the student's details to DESE.

There are strict procedures the students must follow when they wish to apply for travel exemptions. A summary of the process is:

- Individual students seek support from their school;
- School seeks support from their State/Territory Education Department;
- State/Territory Education Department seeks support from the relevant State/Territory Health Department and once received sends a request to DESE;
- DESE advises State/Territory Education Department of support for the request;
- State/Territory Education Department advises the school/student of support;
- Application for a travel exemption through the TEP, attaching the support from the State/Territory Education Department **and** State/Territory Health **and** DESE;

Further details of this process is available on the [DESE website](#).

3.3. Supporting documentation

To be used as a guide when assessing evidentiary requirements, for referral to the Shift Superintendent or Commissioner:

High School Students minimum guidelines:

- Evidence of current support from the Department of Education, Skills and Employment (DESE); and
- Evidence of current enrolment in a high school in Australia for year 11 and or 12 studies; and
- Evidence of current sponsorship/support from the high school in Australia; and
- Evidence of current endorsement from the relevant Australian State or Territory government health authority and education department

Note: *The Travel Exemption request can be lodged by the student, the school or the relevant State / Territory Education Department*

University Students minimum guidelines:

- Evidence of current enrolment in a University in Australia in their final two years of a medical, dental, nursing, pharmacy or allied health degree;
- Evidence of current sponsorship/support from the University in Australia; and

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- Evidence of confirmed clinical placement at an Australian hospital or medical/pharmacy practice

Note – evidence of clinical placements that have expired or have already begun are not valid and new evidence must be requested.

PhD Students minimum guidelines:

- Evidence of current enrolment in a University in Australia as a PhD student undertaking research;
- Evidence of current sponsorship/support from the University in Australia;
- Evidence of support from a relevant Government agency outlining why the research is considered essential and/or in Australia's national interest (note: a letter from the relevant Australian Government funding agency confirming the scholarship/grant award is sufficient to satisfy this requirement, where applicable); and
- Evidence to demonstrate how the student's role is critical to the research (this evidence must come from a source other than the student themselves and is anticipated to most frequently be included in the evidence from either the sponsoring University or the relevant Government agency); or

3.4. Client communication

The following may be used as a guide when communicating with a client, on a case by case basis:

Requesting further information

A request for further information email should be sent to a client where it is evident that:

- There is sufficient evidence to demonstrate that the individual is likely to meet current travel exemption policy guidelines; and
- If the client were to provide further evidence they may be eligible for a travel exemption; and
- The further evidence required could likely be provided within 48 hours.

Any case that is unlikely to be resolved within 48 hours should be refused.

Refusing a travel exemption request (including advising of relevant information for a future travel exemption request, if appropriate)

A relevant notification email should be sent to a client where it is evident that:

- There is insufficient evidence to demonstrate that the individual meets current travel exemption policy guidelines and even if the client were to provide further evidence they would not likely be eligible for an exemption; or
- It appears that an individual may be eligible for a travel exemption, but you have insufficient evidence to justify referral to the Chief Superintendent or the Commissioner for consideration of a positive outcome. The request should be refused unless likely to be resolved within 48 hours. If you refuse a case in these circumstances, your refusal notice should clearly articulate all the outstanding documentation required for a different outcome in any future requests.

3.4.1 Client communication – example wording

Additional standard words that can be included in communication with clients if appropriate for the case. Please remove ITALICS from the text before sending to the client:

International students are unable to travel to Australia at this time except in very limited circumstances, which are outlined on the Department's website. We look forward to welcoming international students back to Australia in the future when circumstances allow. I encourage you to keep in close contact with your education provider so you are aware of the latest updates regarding student returns.

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The Prime Minister's Roadmap to a COVID-safe Australia makes clear that government supports the return of international students to Australia. Careful consideration is being given to how and when that can happen in a COVID-safe way.

- Small-scale pilots will be led by states and territories in partnership with education institutions.
- They will be based on robust health, quarantine, border and provider protocols.
- This will ensure a COVID-safe environment for both Australians and international students.

States and territories will make decisions about how and when to move between steps of the COVID-safe Australia framework based on local conditions and in line with public health advice. The Australian Government is working with states and territories on the arrangements. The timing of any pilots is a matter for state and territory governments.

Any questions about possible future pilot programs should be directed to your education provider in the first instance. Any state or territory government progressing a pilot will work with its education providers in determining the student cohort. Education institutions would be responsible for seeking an expression of interest from prioritised student cohorts.

[If you think it appropriate to request specific documentation, please list the requested documents, as per 'expected supporting document' here. s. 22(1)(a)(ii)]

High School Students:

- Evidence of current support from the federal Department of Education, Skills and Employment (DESE); and
- Evidence of current enrolment in a high school in Australia for year 11 and or 12 studies; and
- Evidence of current sponsorship/support from the high school in Australia; and
- Evidence of current endorsement from the relevant Australian state or territory government health authority **and** education department

University Students:

- Evidence of current enrolment in a University in Australia in their final two year of a medical, dental, nursing, pharmacy or allied health degree (see definition of allied health professionals below); and
- Evidence of current sponsorship/support from the University in Australia; and
- Evidence of confirmed placement in an Australian hospital or medical practice or pharmacy:

Allied Health Professions are: Arts therapy, audiology, chiropractic, diagnostic radiographer/medical imaging technologist, dietetics, exercise physiology, genetic counselling, music therapy, occupational therapy, optometry, orthoptics, orthotics/prosthetics, osteopathy, perfusion, physiotherapy, podiatry, psychology, rehabilitation counselling, social work, sonography and speech pathology.

PhD Students:

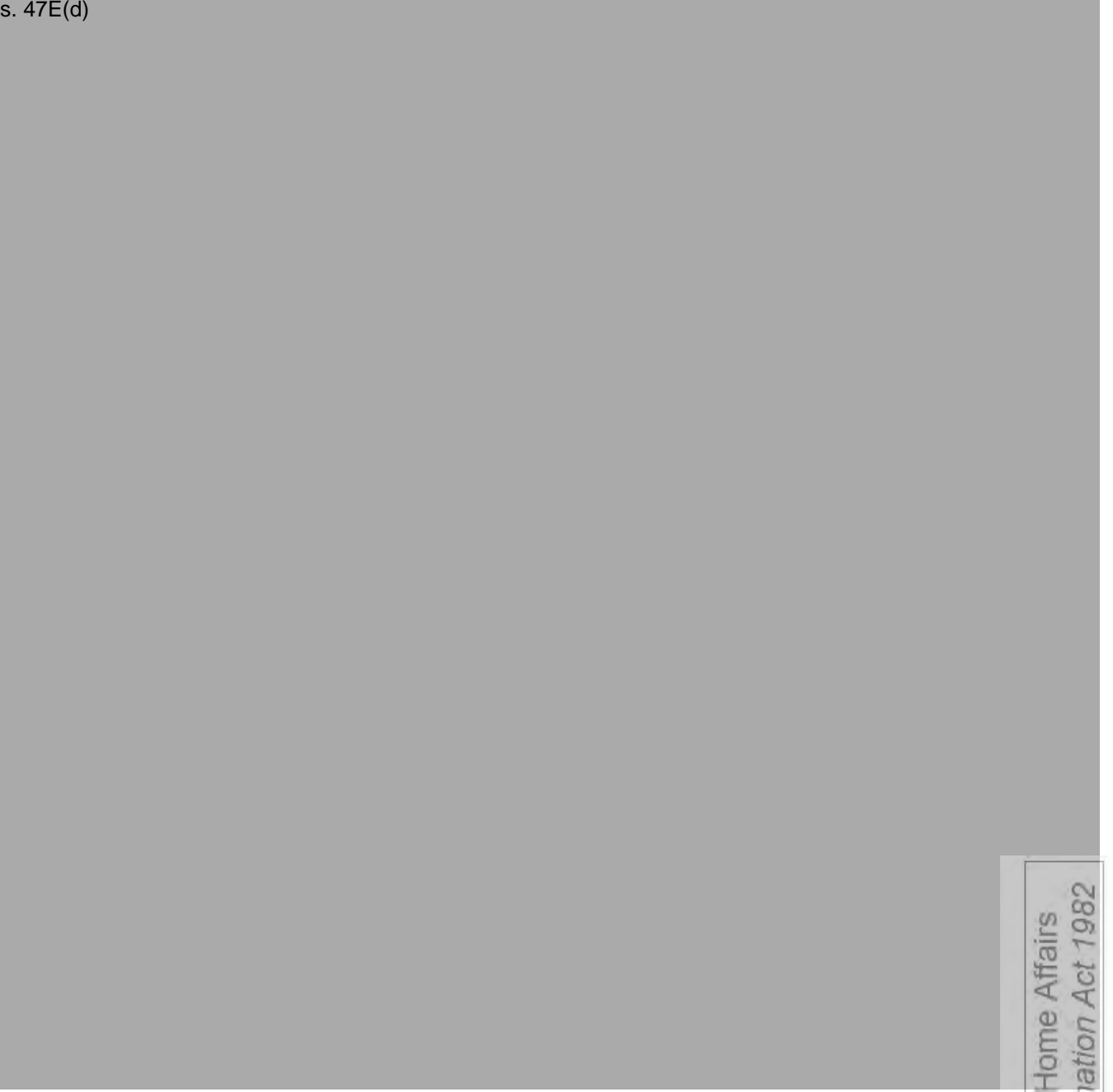
- Evidence of current enrolment in a university in Australia as a PhD student undertaking research; and
- Evidence of current sponsorship/support from the University in Australia; and
- Evidence of support from a relevant Government agency (including relevant Australian government research funding organisations) outlining why the research is considered essential and/or in Australia's national interest; and
- Evidence to demonstrate how the student's role is critical to the research (this evidence must come from a source other than the student themselves and is anticipated to most frequently be included in the evidence from either the sponsoring University or the relevant Government agency); or

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Note: Officers should not request further information if it is likely that the individual will not meet the guidelines, even with provision of additional documentation.

s. 47E(d)



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4. Accountability and Responsibility

Role	Description
Senior Director Border Measures Branch	Document owners are responsible for: approving documents for release
FAS Immigration & Settlement Services Group	Document reviewers are responsible for: verifying the need for a document, and reviewing drafts.
Document drafter	Document drafters are responsible for: drafting documents, consulting with stakeholders.

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	11/11/2020	Border Measures Program Management	Approved for release
1.1	04/12/2020	Border Measures Program Management	Clarification on 'final years' and 'placements' for university students
1.2	29/01/2021	Border Measures Program Management	Inclusion of Pharmacy Students
1.3	17/02/2021	Border Measures Program Management	Clarification of support from DESE for Year 11/12 Students
1.4	02/03/2021	Border Measures Program Management	Scholarship/Grant letters can be accepted for PhD student
1.5	23/03/2021	Border Measures Program Management	Removal of placement length following consultation with universities, state and territory health authorities and the Commonwealth Chief Medical Officer

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Attachment A – Definitions

Term	Definition
Allied Health Professions	Arts therapy, audiology, chiropractic, diagnostic radiographer/medical imaging technologist, dietetics, exercise physiology, genetic counselling, music therapy, occupational therapy, optometry, orthoptics, orthotics/prosthetics, osteopathy, perfusion, physiotherapy, podiatry, psychology, rehabilitation counselling, social work, sonography and speech pathology.

Attachment B – Assurance and Control Matrix

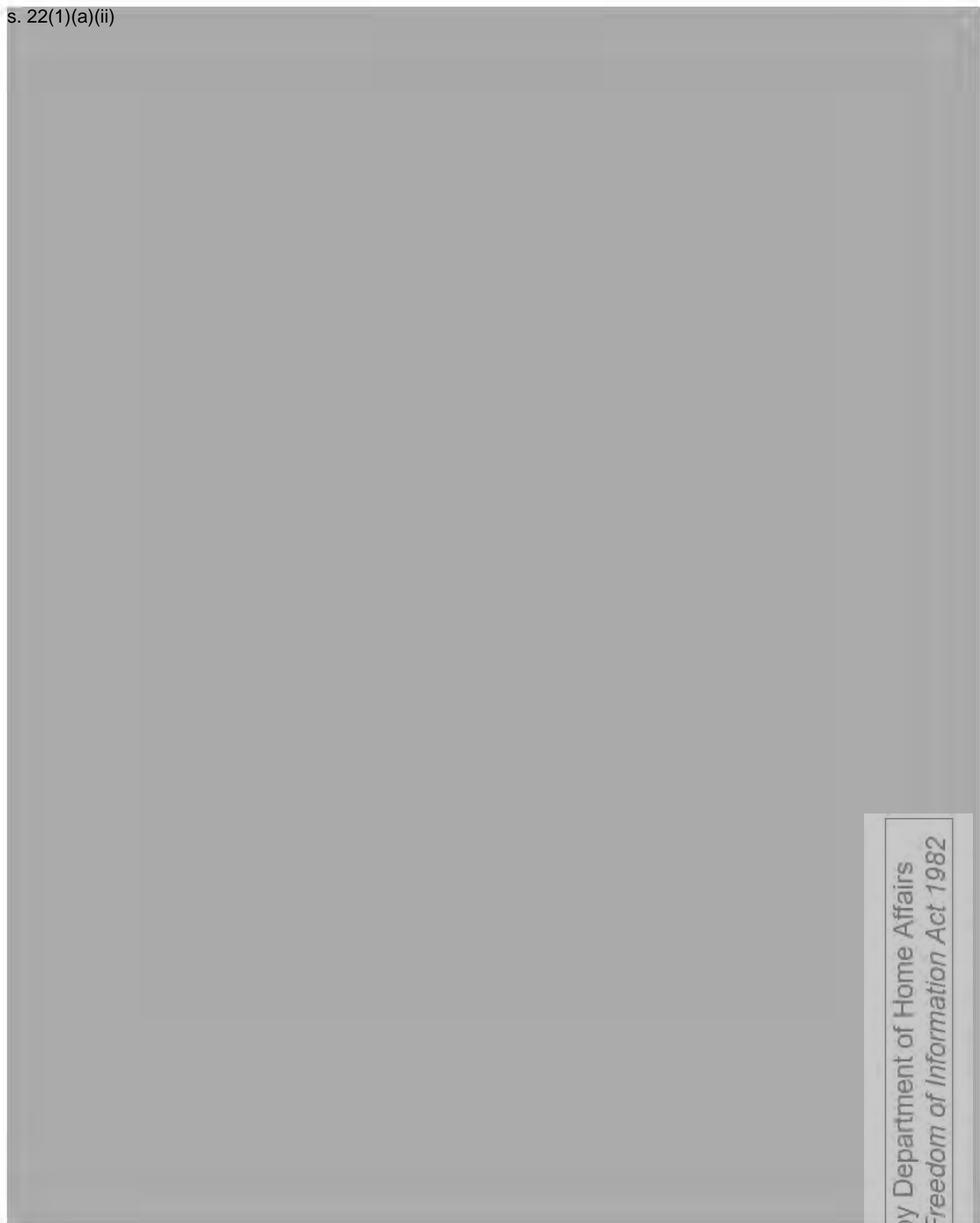
1.1. Powers and Obligations

Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
Outbound decision making	subsection 477(1)	Subsection 477(1) of the <i>Biosecurity Act 2015</i> <i>Biosecurity (Human Biosecurity Emergency) (Human coronavirus with Pandemic Potential) (Overseas Travel Ban Emergency Requirements) Determination 2020</i> Reference: F2020C00870	No	
Inwards decision making	N/A	The ABF Commissioner has been authorised by the Prime Minister to consider exemption requests on a case-by-case basis	N/A	

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COVID-19 Border Measures Procedural Instruction - Vessels Seeking Safe Haven – Inwards

Procedural Instruction

Document ID (PPN)	s. 22(1)(a)(ii)
TRIM record number	s. 22(1)(a)(ii)
BCS Function	Border Measures – Travel Exemptions Procedural Instruction
Document owner	COVID-19 Border Measures Program Management
Approval date	19 November 2020
Document Contact	COVID-19 Border Measures Program Management s. 47E(d)

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1. Purpose

From 9pm AEDT on 20 March 2020, travel restrictions have been in place, prohibiting travel into Australia of all foreign nationals unless exempt. The COVID-19 Border Measures Branch manages and decides travel exemption requests in response to Australia's travel restrictions. This procedural guidance is designed to be used as an explanatory support for inwards travel exemptions processing staff and inwards travel exemptions decision makers.

The purpose of this procedural guidance is to provide support to inwards travel exemptions processing staff assessing exemption requests for individuals who reside on a vessel seeking safe port for reprovisioning or safety reasons for a limited duration. Requests are assessed on a case by case basis.

2. Scope

This document provides procedural guidance applicable to the assessment of exemption requests for persons who reside on a vessel seeking safe port at the closest appointed port for reprovisioning or safety reasons for a limited duration.

It is recommended that users read this procedural guidance in conjunction with the following documents:

- Commissioner's Guidelines – Inwards individual exemptions
- Inwards Travel Restrictions Operation Directive
- COVID-19 Border Measures Procedural Instruction - General s. 22(1)(a)(ii)

Note: Travel restrictions are subject to change at short notice, therefore officers must refer to related documentation via TRIM or published versions on SharePoint or the Home Affairs website (rather than saving or printing a copy) to ensure they access the most up to date versions.

3. Procedural Instruction

3.1. Decision Maker

Cases where individuals who reside on a vessel are seeking safe port, at the closest appointed port, for reprovisioning or safety reasons, for a limited duration, can only be considered by the ABF Commissioner.

For guidance on triage for referral, to the Commissioner, please refer to *COVID-19 Border Measures Procedural Instruction - General* under subheading 3.4. *Decision Maker*.

Note: All submissions that are prepared for referral to the Commissioner must follow the Commissioner discretion pathway in the Travel Exemption Portal (TEP), which requires review by an EL1 or above.

Travel exemption requests falling within the scope of this instruction will be managed by s. 47E(d) Border Measures Shift teams.

3.2. For consideration when assessing applications

All travel exemption requests must be considered against all travel exemption categories prior to making a decision to refuse a request.

Any request for a travel exemption submitted by individuals who reside on a vessel seeking safe port at the closest appointed port for reprovisioning or safety reasons for a limited duration must include the following supporting evidence:

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- Confirmation of residency on the vessel
- Confirmation of the reason for entry to Australia e.g. reprovisioning and/or safety concerns
- Current location of the vessel
- Closest safe appointed port
- Proposed location of arrival in Australia
- Estimated date of arrival in and departure from Australia
- Confirmation of limited duration in Australia (e.g. cyclone season)
- Confirmation that quarantine will be undertaken as directed by the relevant State or Territory government, and
- Support from the relevant State or Territory where safe haven is sought

At this stage, Queensland is the only jurisdiction that has indicated it would support the arrival of vessels in these circumstances. It is possible that other jurisdictions may agree in future.

3.3. Client communication

The following may be used as a guide when communicating with a client, on a case by case basis:

Requesting further information

A request for further information email should be sent to a client where it is evident that:

- If the client were to provide further evidence they may be eligible for a travel exemption; and
- The further evidence required could likely be provided within 48 hours.

Any case that is unlikely to be resolved within 48 hours should be refused.

Refusing a travel exemption request (including advising of relevant information for a future travel exemption request, if appropriate)

A relevant notification email should be sent to a client where it is evident that:

- There is insufficient evidence to demonstrate that the individual meets current travel exemption policy guidelines even if the client were to provide further evidence they would not likely be eligible for an exemption; or
- It appears that an individual may be eligible for a travel exemption, but you have insufficient evidence to justify a positive outcome for referral to the Commissioner for consideration. The request should be refused unless likely to be resolved within 48 hours. If you refuse a case in these circumstances, **your refusal notice should clearly articulate all the outstanding documentation** required for a different outcome in any future requests.

3.4.1 Client communication – example wording

[If you think it appropriate to request specific documentation, please list the requested documents, as per 'expected supporting document' here. s. 22(1)(a)(ii)]

Individuals who reside on a vessel that seeks safe port

- *Confirmation of residency on the vessel*
- *Confirmation of the reason for entry to Australia e.g. reprovisioning and/or safety concerns*
- *Current location of the vessel*
- *Closest safe appointed port*
- *Proposed location of arrival in Australia*

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- *Estimated date of arrival in and departure from Australia*
- *Confirmation of limited duration in Australia (e.g. cyclone season)*
- *Confirmation that quarantine will be undertaken as directed by the relevant State or Territory government, and*
- *Evidence of support from the relevant state or territory where safe haven is sought*

Note: Officers should not request further information if it is likely that the individual will not meet the guidelines, even with provision of additional documentation.

s. 47E(d)



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4. Accountability and Responsibility

Role	Description
AS Border Measures Operations	Document owners are responsible for: approving documents for release
FAS Immigration & Settlement Services Groups	Document reviewers are responsible for: verifying the need for a document, and reviewing drafts.
Document drafter	Document drafters are responsible for: drafting documents, consulting with stakeholders.


5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	19/11/2020	Program Management	First issue

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



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OFFICIAL: Sensitive**Attachment B – Assurance and Control Matrix****1.1. Powers and Obligations**

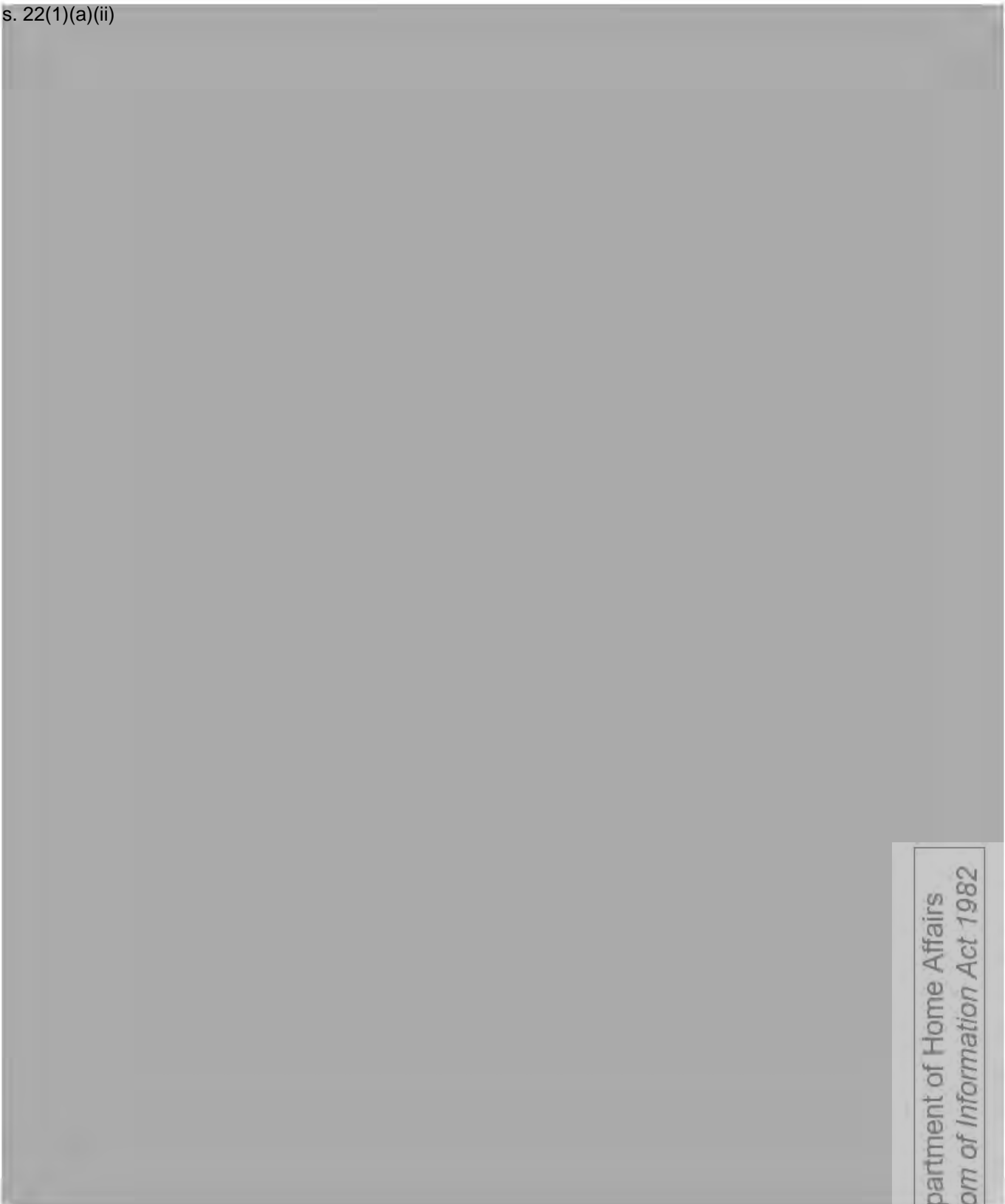
Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
Outbound decision making	subsection 477(1)	Subsection 477(1) of the <i>Biosecurity Act 2015</i> <i>Biosecurity (Human Biosecurity Emergency) (Human coronavirus with Pandemic Potential) (Overseas Travel Ban Emergency Requirements) Determination 2020</i> Reference: F2020C00870	No	
Inwards decision making	N/A	The ABF Commissioner has been authorised by the Prime Minister to consider exemption requests on a case-by-case basis	N/A	

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COVID-19 Border Measures Procedural Instruction - General - Inwards

Procedural Instruction

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1. Purpose

From 9pm AEDT on 20 March 2020, travel restrictions have been in place, prohibiting travel into Australia of all foreign nationals unless exempt. The COVID-19 Border Measures Branch manages and decides travel exemption requests in response to Australia's travel restrictions. This procedural guidance is designed to be used as an explanatory support for exemptions processing staff and exemptions decision makers.

The purpose of this procedural guidance is to provide support to exemptions processing staff assessing exemption requests. Requests are assessed on a case by case basis.

2. Scope

2.1. In Scope

This document provides general procedural guidance applicable to the assessment of inwards travel exemption requests.

Clients can submit travel exemption requests through the Travel Exemption Portal (TEP) on the Home Affairs website. A request may be submitted by the person seeking exemption from travel restrictions (individual) or someone else may submit the request on an individual's behalf. Refer to the Inward Travel Exemptions Process Guide s. 22(1)(a)(ii) for guidance on processing cases in the TEP.

It is recommended that users read this procedural guidance in conjunction with the following documents:

- Commissioner's Guidelines
- Inwards Travel Restrictions Operation Directive

Note: Travel restrictions are subject to change at short notice, therefore officers must refer to related documentation via TRIM, or published versions on SharePoint or the Home Affairs website (rather than saving or printing a copy) to ensure they access the most up to date versions.

2.2. Out of Scope

The travel exemption assessment process is designed to manage the current risk to public health as a result of COVID-19. It is not an alternative process to standard immigration integrity or visa cancellation arrangements or law enforcement activity. Pro-active integrity and fraud/character checks against visa applications and/or visa conditions held by clients requesting a travel exemption are **beyond the scope** of travel exemption assessments.

s. 47E(d)

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3. Procedural Instruction

3.1. Categories

When submitting a request, a client will select an "Enquiry Type" (category) in the TEP. Clients may not select the category which best fits their circumstances, they may meet more than one category, or they may be automatically exempt.

All travel exemption requests must be considered against all categories prior to making a decision to refuse the request.

Automatic exemption categories

Automatic exemption categories are listed in the Inwards Travel Restrictions Operation Directive. Guidance relating to automatically exempt categories is provided in the Operation Directive and in relevant Procedural Instructions. If an individual does not meet an automatic exemption category, officers must consider the individual's request against all individual exemption categories.

From Friday, 16 October 2020, a person who has been in New Zealand for 14 days or more immediately prior to arrival by air in Australia is automatically exempt. Refer to the section titled Safe Travel Zone in this document for further details.

Business Innovation and Investment Subclass 888 (Permanent) visa holders

Travel exemption requests from visa applicants for a Business Innovation and Investment (Permanent) (subclass 888) visa application are afforded the same status as Business Innovation and Investment (Provisional) (subclass 188) visa holders and are considered exempt from inwards travel restrictions. These individuals include:

- Individuals who have successfully lodged a Business Innovation and Investment (subclass 888) (Permanent) visa application while offshore. As a visa application for Business Innovation and Investment (Permanent) (subclass 888) can be lodged either in or outside Australia. A *concession period* provision in the Migration Regulations allows for lodgement of a Business Innovation and Investment (subclass 888) visa if their subclass 188 visa has already ceased. In these instances, the subclass 888 visa applicant must obtain another appropriate visa to travel to Australia;
- BVB holders where the BVB is associated with a permanent subclass 888 onshore visa application.

Individual exemptions categories

A list of categories for individual exemptions can be found in the Commissioner's Guidelines.

The guidelines provide guidance to decision makers considering travel exemption requests, they are not exhaustive and decision makers may encounter a range of cases where the circumstances do not fall neatly within the categories described in the guidelines.

Note: If an officer is not authorised and/or trained to consider a particular category, they should redirect a case for decision. Officers should record the reason they redirected a case in the TEP.

Escorting Australian citizen minors

One non-citizen accompanying family member (for example, aunt, uncle, or grandparent) is pre-approved to escort an Australian citizen minor or Australian permanent resident minor into Australia if their parents are in Australia. Pre-approval is for one non-exempt traveller only. As these circumstances are pre-approved, Assessment Officers may assess and decide these cases under Compelling and Compassionate. Documentary evidence requirements are outlined in the Commissioner's Guidelines.

Any additional proposed traveller must be referred to a Decision Maker for assessment against discretionary exemption criteria as only one family member can be deemed exempt. All other proposed travellers must

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seek a discretionary exemption against another category. These requests must be considered by an authorised decision maker and should include relevant supporting documentation.

BVB associated with Subclass 188 Business Innovation and Investment (Provisional) visa holders

BVB holders where the BVB is associated with a provisional subclass 188 visa application are **not** automatically exempt. However, a BVB holder associated with a subclass 188 visa application may have their exemption request considered by a decision maker against all critical skills/sector guidelines as well as any other category.

3.2. Pre-emptive inwards travel requests

Temporary visa holders in Australia can depart Australia at any time. However they are not permitted to return to Australia except in very limited circumstances.

Temporary visa holders currently in Australia who seek to leave and then return to Australia, may apply for an inwards exemption to return to Australia before departure.

Inwards travel exemption requests can only be approved for temporary visa holders in Australia who:

- have a strong compassionate or compelling reason to **leave Australia** supported by relevant documentary evidence, for example:
 - attending the funeral of a close family member overseas, visiting a close family member who is seriously or critically ill, or seeking necessary medical treatment not available in Australia; or
 - travel is essential for business purposes (anticipated to only be relevant for a small number of critical skills/critical sector exemption applicants);
- and
- the applicant meets the requirements for an individual exemption from Australia's Inward Travel Restrictions.

If an individual who holds an inwards travel exemption on the basis of critical skills or work in a critical sector, applies for a pre-emptive inwards travel to Australia before departure under 'essential business' and includes a request to be accompanied by their family, the family members **cannot** be approved unless they are able to independently satisfy pre-emptive inwards requirements, ie. they **must** establish their own compassionate and compelling or essential business reason to leave Australia **and** meet the requirements for an individual exemption from Australia's inward Travel Restrictions. This may result in accompanying family members being refused for travel and only the critical skills client being approved.

However, in circumstances where the request is due to compassionate and compelling circumstances affecting close family members, it is more likely that a family unit may be approved to travel outside Australia and then return together. For example, a family unit, including dependent children, who hold temporary visas wishing to travel for a funeral/to visit seriously ill parent/grandparent, will be able to travel together (including the son/daughter-in law) if supporting evidence confirming the compelling circumstances and close family relationship is submitted with the application. In these instances if they are returning to Australia as a family unit, if one of the parents is able to provide evidence they met the requirements of an exemption from Australia's inwards Travel Restrictions the other family members would also be considered to satisfy requirements.

Please note all travel exemption requests should have relevant documentary evidence, according to the circumstances of the case.

OFFICIAL: Sensitive***Assessing inwards exemption requests from temporary visa holders who departed without a pre-emptive inwards request***

If a temporary visa holder departs Australia without requesting a pre-emptive inwards travel exemption and then, once they are offshore, submits a new discretionary inwards travel exemption request, the new request should be assessed as you would a pre-emptive inwards request. This is to avoid a scenario where a person who departs Australia without firstly applying for confirmation of return, is provided with more favourable treatment than that afforded to temporary visa holders who request permission before departing.

Decision makers will need to request further information from the client to establish evidence they had a strong compassionate or compelling reason to **leave** Australia **and** that they continue to meet the requirements for a discretionary inwards travel exemption.

Evidence should include outwards reasons limited to:

- attending the funeral of a close family member; or
- visiting a seriously or critically ill close family member; or
- seeking necessary medical treatment not available in Australia; or
- travel is essential for business purposes (only appropriate when the person has an inwards exemption on the basis of their critical skill or work in a critical sector)

AND

Inwards evidence sufficient to satisfy you they continue to meet a discretionary criteria for an inwards travel exemption, such as:

- Evidence they continue to satisfy one of the limited international student circumstances currently available for an inwards travel exemption; or
- Compassionate and compelling circumstances sufficient to satisfy the threshold articulated in the Commissioner's Guidelines and relevant procedural instructions;

Or, for critical skills inwards exemption requirements:

- Evidence that the individual has full time employment in a position in Australia required to maintain the supply of essential goods and services, such as but not limited to: medical technology, critical infrastructure, telecommunications, engineering and mining, supply chain logistics, aged care, agriculture primary industry, food production, maritime industry; and
- Evidence that the individual has the skills, experience and or qualifications required to undertake the duties of the position.
- Please refer to the Critical Skills PI for complete requirements to assess inwards exemptions under this category.

If an individual, who applied for a pre-emptive inwards exemption before departure was determined as NOT Exempt but chose to depart, you may consider refusing any subsequent inward travel exemption request on the basis that they had departed despite being notified of the negative outcome of a pre-emptive request. If the individual is likely to be in a position to provide the evidentiary requirements listed above, a decision to refuse in these instances should be made in consultation with the EL1 or above or the Program Management team.

Note: Temporary visa holders who are automatically exempt (for example immediate family member of an Australian citizen or permanent resident) are not subject to 'pre-emptive inwards' assessment criteria. Individuals who are automatically exempt cannot be prevented from returning to Australia after departure under Australia's global inwards travel restrictions.

Additional instructions for pre-emptive inwards requests to Papua New Guinea

Based on current health advice, the COVID-19 outbreak in PNG means travel to PNG from Australia presents a serious health risk to the Australian community. Individuals seeking pre-emptive discretionary

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exemptions, to travel from Australia to PNG and then return to Australia, will not be approved, except in the following extremely limited circumstances:

- for critical workers providing assistance to PNG's COVID-19 response; and
- persons undertaking critical safety roles.

The 'exceptional circumstances' individual exemption criteria, do not currently apply to individuals seeking to travel to PNG.

All requests for pre-emptive inwards travel to PNG will be decided by the EL2 Shift Leads s. 47E(d)

Additional instructions for pre-emptive inwards requests – temporary residents requesting access to New Zealand Safe Travel Zone (STZ) arrangements

All people (including temporary residents) who have been in Australia or New Zealand for at least 14 days immediately prior to departure are able to travel between Australia and New Zealand without applying for a travel exemption. This **ONLY** applies for travel within the STZ. The intention of this policy is to facilitate frequent travel between Australia and New Zealand and provide associated economic benefits to each country, including tourism opportunities. Temporary residents in Australia are also able to access holiday travel within the STZ.

The *TER Decision not required – Outward NZ* template **must be used** if requests are received from individuals intending to travel between Australia and New Zealand **ONLY**, as someone can only be assessed as meeting this exemption category at the time of departure. It is not possible to undertake this assessment in advance through TEP. No CAI note is to be recorded in ICSE.

Do NOT issue an exemption notification for these travellers.

Temporary visa holders wanting to transit through New Zealand to a third country must apply for 'pre-emptive inwards' exemption assessment prior to departure, if they want to have confirmation of return to Australia. STZ arrangements and the associated automatic exemption do not apply to onwards travel to a third destination.

The TEP template appropriate to the circumstances of the approval should be used in these instances.

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

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The following additional standard words (red text) should be included in requests for information and refusal communication with clients for pre-emptive inwards travel request cases, using the TEP templates:

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Client Communication – additional script for use when refusing ‘pre-emptive’ inwards requests from temporary residents in Australia:

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

Dear \${consumer.first_name}

I refer to your request for an exemption from the current travel restrictions for travel to Australia. This advice applies to the following travellers:

- \${mail_script.tep_outcome_travellers}

Your circumstances have been assessed against the Australian COVID-19 travel restrictions. Under that policy, the ABF Commissioner or an authorised decision maker may advise that certain persons are to be exempt from the restrictions. On the basis of the information provided, I have concluded that your circumstances do not outweigh the risk to the Australian community. You are not exempt from Australia's travel restrictions.

You are still subject to the travel restrictions and, should you attempt to travel to Australia, your visa may be considered for cancellation while those travel restrictions remain in force.

Temporary visa holders in Australia can depart Australia at any time. However, the ongoing threat of COVID-19 and the serious public health risk presented by international travel means that inwards travel exemption requests can only be approved for temporary visa holders in Australia who:

- Demonstrate strong compassionate and/or compelling reasons for departing Australia at this time; or
- travel is essential for business purposes (where you are employed in a critical skill/critical sector);
- and**
- Meet the requirements for an individual exemption from Australia's Inward Travel Restrictions

[CHOOSE one option, as per the circumstances of the case you have assessed. s. 22(1)(a)(ii)]

Although you have identified strong compassionate and/or compelling reasons for departing Australia at this time, based on the evidence you submitted with your travel exemption request, your circumstances do not meet the requirements for an individual exemption from Australia's Inwards Travel Restrictions.

OR

The circumstances you have described and the evidence you have provided with your travel exemption request does not meet the threshold for strong compassionate and/or compelling reasons to depart Australia at this time.

OR

The circumstances you have described and the evidence you have provided with your travel exemption request does not meet the requirements of 'travel for essential business purposes'.

[INTERNATIONAL Students in boarding arrangements – additional paragraph. s. 22(1)(a)(ii)]

Education providers are responsible for approving the welfare of international students under 18 who do not have an approved guardian in Australia, including during school holiday periods. If you do not have appropriate care arrangements in place, please make contact with your school in the first instance.

Travel into and out of Australia should be limited to essential needs only. Please refer to the Home Affairs website for further information <https://covid19.homeaffairs.gov.au/>

Please refer to the Home Affairs website for further information <https://covid19.homeaffairs.gov.au/>

Temporary visa holders departing Australia should consider:

- Any travel restrictions and or quarantine requirements in countries outside Australia.
- Flight availability for departing and or returning to Australia.
- Quarantine requirements for entering and or travelling within Australia.

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- Australian and Australian State or Territory travel restrictions and/or quarantine requirements may change at any time.
- Health risks associated with travel.
- Visa status

This assessment is against current COVID-19 travel restrictions and not your entitlement to a visa. It does not affect any future visa application which you may lodge. Any visa application will be assessed on the basis of information available at that time.

*For further information on Australia's travel restrictions, please refer to our website at:
<https://covid19.homeaffairs.gov.au/>*

Kind regards

*\$(mail_script:tea_officer_first_name)
Travel Exemption Requests
Department of Home Affairs | Australian Border Force
<https://covid19.homeaffairs.gov.au/>*

****** PLEASE DO NOT REPLY TO THIS EMAIL ******

This mailbox is not monitored and any emails sent to this address will not be read or responded to.

3.3. Safe Travel Zone (STZ) – Automatically exempt travellers

From 16 October 2020, individuals who (regardless of nationality):

- have been in New Zealand for 14 days or more immediately prior to travel and have not been in a designated COVID-19 outbreak location; and
- are travelling to Australia via air

are automatically exempt from Australia's inwards travel restrictions (i.e. not required to request an exemption through the TEP).

Airlines and border staff will assess an individual's eligibility for automatic exemption from travel restrictions at time of check-in for their flight. Where evidence is not clear, airlines will contact the Border Operations Centre for advice.

When refusing a travel exemption request for an individual who indicates they are in New Zealand prior to travel to Australia, officers should provide additional information in the refusal notification about the New Zealand STZ as per the below script:

Client Communication – additional script for use when refusing inwards requests from foreign nationals who may be eligible for automatic exemption under safe travel zone arrangements:

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

Dear [Name]

I refer to your request for an exemption from the current travel restrictions for travel to Australia. Your request was for the following travellers:

- *[Name] ([Date of Birth]) [Nationality] Passport [Passport number]*

You requested an assessment to determine if you are exempt against the following criteria:

- *[select exemption category from web form]*

Based on the information provided, I am not satisfied that your circumstances meet the requirements for this exemption category.

Please note that from Friday, 16 October 2020, you can travel from New Zealand to Australia without needing a travel exemption, if:

- *You have been in New Zealand for 14 days or more prior to your travel, and*

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- You will arrive in Australia via air

For more information, see [New Zealand safe travel zone](#).

If you have not been in New Zealand for 14 days or more before you travel, or you will not travel to Australia via air, you are still subject to the travel restrictions and, should you attempt to travel to Australia, your visa may be considered for cancellation while those travel restrictions remain in force.

This assessment is against current COVID-19 travel restrictions and not your entitlement to a visa. It does not affect any future visa application which you may lodge. Any visa application will be assessed on the basis of information available at that time.

For further information on Australia's travel restrictions, please refer to our website at: <https://covid19.homeaffairs.gov.au/>

Kind regards

[Officer's first name]

Travel Exemption Requests

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<https://covid19.homeaffairs.gov.au/>

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This mailbox is not monitored and any emails sent to this address will not be read or responded to.

At present, only one safe travel zone (New Zealand) has been established for the purpose of Australia's inwards travel restrictions. If further safe travel zones are established with other countries or economies in the future, updated advice will be provided.

3.4. Decision Maker

The ABF Commissioner will personally consider travel exemption requests as outlined in the Commissioner's Guidelines.

Based on current health advice, the COVID-19 outbreak in PNG means travel to Australia from PNG presents a serious health risk to the Australian community. All inwards exemptions from persons departing PNG are to be managed and decided s. 47E(d) EL2 Shift leads, regardless of the category of exemption request, until further notice.

Assessors and decision makers will consider inwards travel exemption requests as outlined in the Commissioner's Guidelines and the Inwards Travel Restrictions Operation Directive in conjunction with the guidance on decision maker levels, provided below:

APS3 Assessing Officers

- Staff at the APS3 level can assess a person as being automatically exempt from travel restrictions and also refuse cases where a person is found to not be automatically exempt. Examples of such cases include an assessment that a person is/is not an Australian citizen; a permanent resident; and their immediate family. Staff at the APS 3 level must not refuse cases where a person makes claims that fall under a compassionate or compelling category, or any other category of individual exemption which requires a discretionary decision to be made by an authorised decision maker. After initial assessment, any case which includes claims against an individual travel exemption category are referred to an authorised decision maker for further assessment.
- Staff at the APS3 level can perform assessment tasks in relation to individual travel exemption requests, including advising individuals that they have provided insufficient information to be considered by a decision maker. After initial assessment, individual travel exemption request cases are referred to an authorised decision maker for assessment. Cases that the Commissioner wishes to consider personally, such as elite sporting teams, are prepared and submitted to the Commissioner by Border Measures ABF officers.

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- Staff at the APS3 level should not triage-out cases as 'not referred'. All exemption request case must have a final outcome recorded against an automatic exemption category or an individual exemption category, as appropriate to the case.

APS4, APS5 Decision Makers

- Staff at the APS4 and APS5 levels are able to perform the same duties as staff at the APS 3 level.
- Further to this, the Commissioner has authorised APS4 and APS5 level staff in Home Affairs to decide inwards travel exemption requests when they are associated with a visa decision for the critical skills/critical sectors categories.

APS6 Decision Makers

- Staff at the APS6 level are able to perform the same duties as staff at lower levels.
- On 29 July 2020, the Commissioner authorised appropriately trained APS6 level staff in the ABF and Home Affairs to assess inwards travel exemption requests in certain circumstances. Staff at this level may approve or refuse travel exemption requests, except those that the Commissioner will personally consider as per the Commissioner's Guidelines. In order to provide appropriate assurance and alignment of decision making, APS6 officers must discuss any case they have assessed as likely to be eligible for an exemption with an EL1 (or above) decision maker prior to making a decision.

EL1 Decision Makers

- Staff at the EL1 level are able to perform the same duties as staff at lower levels.
- On 29 July 2020, the ABF Commissioner authorised appropriately trained EL1 level staff in the ABF and Home Affairs to approve or refuse inwards travel exemptions requests, except for those cases the Commissioner will personally consider as per the Commissioner's Guidelines. A submission should be prepared for cases the Commissioner will personally consider. Officers will refer these submissions to the Commissioner, and will action outcomes.

EL2 decision makers

- Staff at the EL2 level are able to perform the same duties as staff at lower levels.
- On 7 July 2020, the authority to decide requests was expanded to include the EL2 level. Although EL2 decision makers remain authorised and continue to make some decisions, EL2 level staff are primarily focussed on workforce management, stakeholder liaison and quality assurance activities, including supporting the personal decision making of the Commissioner.

3.5. Guidelines

Officers should consider the Commissioner's Guidelines, Commissioner's Inwards Decision Making and Inwards and Outward Travel Restrictions Operation Directives when assessing travel exemption requests. Further guidance is available in category specific Procedural Instructions.

3.6. Service standards

Inwards travel exemption requests should be finalised with seven calendar days and outwards requests within 48 hours.

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OFFICIAL: Sensitive**3.7. Supporting documentation**

The onus is on the individual to provide sufficient evidence (officially translated into English where required) to support their travel exemption request. Examples of supporting documentation for each category are provided in relevant Procedural Instructions.

Officers should assess any information provided by an individual, as well as any information held in Departmental systems including but not limited to, visa applications, movement records, passenger cards and feedback to Global Feedback Unit.

Requests for further information should be kept to a minimum. In most cases if an individual has not provided sufficient information the request should be closed and the individual advised to reapply with any relevant information that is required. Closing a case based on insufficient information available to make a decision is not a refusal decision.

Note: Where officers doubt the authenticity of supporting documentation provided, they should consult with a supervisor. However, where a visa processing area has previously assessed or accepted the same supporting documentation (or relationship) it should usually be accepted at face value.

3.8. Client communication

Communication with clients should be generated and sent using the TEP templates. Additional standard words that can be included in refusal notifications or requests for further information (where required) are provided in Procedural Instructions.

Officers should not make assumptions about the gender of an individual when entering free text into templates. For example, refer to 'spouse or partner' rather than 'wife or husband'.

Requesting further information

A request for further information email should be sent to a client where it is evident that:

- There is sufficient evidence to demonstrate that the individual meets current travel exemption policy guidelines; and
- If the client were to provide further evidence they may be eligible for a travel exemption; and
- The further evidence required could likely be provided within 48 hours

Any case that is unlikely to be resolved within 48 hours should be refused.

The following additional standard words (red text) should be included in requests for information and refusal communication with clients, using the TEP templates

Client Communication – additional script for use when refusing inwards requests from An Australian citizen or Australian permanent resident minor whose parent or parents are in Australia, where the minor seeks to travel with a non-exempt traveller:

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

Dear \${consumer.first_name} \${contact.first_name}

I refer to your request for an exemption from Australia's current travel restrictions.

Unfortunately, you have not provided sufficient information for an assessment of whether your circumstances warrant an exemption to the travel restrictions.

Before your request can be considered further, you will need to log in to your account at \${mail_script.tep_portal_url} and upload the following documents:

- *A copy of the Australian citizen or Australian permanent resident minor's valid passport; and*
- *A copy of the Australian citizen or Australian permanent resident minor's birth certificate (or other evidence of the minor's relationship with the parent(s)/legal guardian(s)); and*

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- *A copy of the Australian citizen or Australian permanent resident minor's parent's passport(s); and*
- *Evidence that the parent(s) cannot travel with the minor (this may be in the form of an explanatory statement); and*
- *Evidence that the individual seeking to travel to Australia with the minor is a relative of the minor; and*
- *Evidence that the sole purpose of the relative travelling with the Australian citizen or Australian permanent resident minor is to ensure appropriate guardianship and welfare arrangements during the minor's return to Australia; and*
- *Evidence that the parent(s)/legal guardian(s) of the minor consent to the minor's travel with the relative of the minor.*
- *Where more than one relative has requested a travel exemption for the purpose of travelling with the Australian citizen or Australian permanent resident minor:*
 - *a statement from the parent(s) of the minor, advising which adult relative will be travelling with the minor; or*
 - *evidence that there are circumstances that require more than one relative to travel with the minor.*

*If these documents are not provided by midnight (Australian Eastern Standard Time) on **\$_rfi_due_date**, your request will continue to be processed based on the information available.*

Kind regards

\$_mail_script:tea_officer_first_name

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Department of Home Affairs | Australian Border Force

<https://covid19.homeaffairs.gov.au/>

Refusing a travel exemption request (including advising of relevant information for a future travel exemption request, if appropriate)

A relevant notification email should be sent to a client where it is evident that:

- There is insufficient evidence to demonstrate that the individual meets current travel exemption policy guidelines and even if the client were to provide further evidence they would not likely be eligible for an exemption; or
- It appears that an individual may be eligible for a travel exemption, but you have insufficient evidence to justify a positive outcome. The request should be refused unless likely to be resolved within 48 hours. If you refuse a case in these circumstances, your refusal notice should clearly articulate all the outstanding documentation required for a different outcome in any future requests.

Assessed exempt – No visa held

Email notification for the following scenario:

- There is sufficient evidence to demonstrate that the individual meets current travel exemption policy guidelines for a category that does not require the individual to hold a visa to be eligible for an exemption;
- The individual does not hold a current visa; and
- The individual does not have a current visa application lodged.

Email should include notification that the individual is exempt, but that the person must hold a valid visa prior to travel to Australia.

Assessed exempt

Email notification for the following scenario:

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- There is sufficient evidence to demonstrate that the individual meets current travel exemption policy guidelines.

Email should include notification that the individual is exempt.

3.9. Visa status

All inward travel exemption requests should be finalised within seven calendar days from date of lodgement. A request for travel exemption should not be approved unless the individual is the holder of a current visa, unless the request falls within a 'no visa held' category, which are critical skills, immediate family and automatically exempt.

The following steps should be used as a guide:

Holder of current visa

Where the individual is the holder of a current visa and the travel exemption request meets exemption guidelines, the request can be assessed and approved.

Visa application on-hand and unfinalised

- Where the individual has an unfinalised visa application on-hand and the travel exemption request **does not meet** exemption guidelines, the request can be assessed and refused,
- Where the individual has an unfinalised visa application on-hand and the travel exemption request **does meet** exemption guidelines the request can be assessed and approved **and** the visa processing office is sent an email informing a travel exemption has been approved. The travel exemption does not influence the visa outcome

Dear XXXX

<INSERT Client identifiers>

RID:

Passport Number:

TEP:

The above client(s) have lodged xxx visa subclass application(s) that is allocated to your office for processing.

The client(s) has been confirmed as automatically exempt from Australia's travel restrictions on the basis of being an immediate family member of an Australian citizen or permanent resident. The client(s) has been advised that they must hold a valid visa in order to travel to Australia and that all visa requirements must be met in order for an application to be granted.

There is no requirement to advise this office of the outcome of the visa application.

Kind regards

Officer signature block

No visa application on-hand and no visa held

- Where an individual does not hold a visa or does not have a visa application on-hand, the travel exemption request should be refused as per the standard process, unless the request falls within a 'no visa held' automatic exemption category. If officers establish that the case may meet exemption guidelines, the client should be notified that they can submit a new request after they have lodged a visa application and or hold a current visa.

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OFFICIAL: Sensitive**3.10. Validity of Travel Exemption approvals****Single use travel exemption**

The majority of travel exemption request approvals will be valid for a single travel movement only. The exemption will remain valid until used, unless the circumstances relating to the approval of the travel exemption have changed. Should this situation arise, the individual will need to submit a new exemption request with supporting documentation appropriate to the changed circumstance. Any new travel exemption request must be considered on its own merits and against current policy settings.

Multiple use travel exemption

In limited circumstances, a single entry travel exemption may not be appropriate due to the facts of the case and the expectations associated with an individual's approved exemption. Individuals who need to leave and return to Australia for reasons within scope of travel exemptions policy on a regular basis, for example Fly-in Fly-out (FIFO) workers with an ongoing contract, may be eligible for a "multiple use" travel exemption for a period of 6 months; provided the reason for the individual's travel to and from Australia, remains the same as that provided in the original approved travel exemption request.

For any cases where it may be appropriate to provide a multiple use travel exemption, please contact Travel Exemption Program Management for approval and for tailored communication templates and CAI notes.

3.11. Recording exemption decisions in ICSE

Prior to assessing a new inwards travel exemption request officers should check Client Additional Information (CAI) notes in ICSE to check previous travel exemption history and to determine if an individual is already exempt.

Officers **must** record travel exemption decision outcomes in the CAI screen in ICSE. Officers should use standard TEP template wording for this purpose.

Where there are 'parent' and linked 'child' cases in the TEP, travel exemption outcomes must be recorded in ICSE for each individual.

Border Operations Centre officers refer to CAI notes to determine whether an individual is exempt from travel restrictions.

3.12. High-Profile cases and high volume groups

Border Measures Operations EL2 Shift Leads monitor and manage cases that are likely to draw media attention, high-profile cases, sensitive cases and high-volume groups where additional coordination is required. For example: international teams or groups participating in events or functions including but not limited to major sporting events, film productions, Australian Defence Force supported groups.

Where officers encounter these requests, cases should be escalated to a Manager for follow-up with Border Measures Operations Shift Leads.

Note: Officers are reminded to only access departmental systems when they have a business requirement and a need to know, and not to discuss cases with those who do not have a need to know. High profile cases in particular may attract significant attention and may be sensitive. As such, these cases must not be distributed beyond those with a genuine need to know. If an officer wishes to distribute further, they need to seek approval from the Border Measures Operations Shift Lead.

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s. 47E(d)



s. 47E(d)



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s. 47E(d)

3.16. Conflict of Interest

Whenever officers come across a case where they know the applicant, or they are aware that someone they know is applying for a travel exemption, they must declare a conflict of interest and where relevant have the EL2 allocate the request to another team for decision. Conflicts of interest should be raised by officers with their supervisors who should in turn email the Border Measures Assistant Secretary or Chief Superintendent with relevant details. The Border Measures Assistant Secretary and Chief Superintendent manage a central register of conflict of interest declarations. Refer to the s. 47E(d) for further details.

3.17. Officer Support

If officers require support or additional guidance when processing travel exemption requests, they should approach their Supervisor in the first instance. If Supervisors are unable to provide the required guidance, they can seek assistance from the Border Measures Operations Shift Lead, for processing and handling enquiries; or Border Measures Policy and Program Management section for policy and procedural enquiries: s. 47E(d) (note – this email is for internal use only).

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4. Accountability and Responsibility

Role	Description
Assistant Secretary Temporary Visas and Border Measures	Document owners are responsible for: approving documents for release
FAS Immigration Programs Division	Document reviewers are responsible for: verifying the need for a document, and reviewing drafts.
Document drafter	Document drafters are responsible for: drafting documents, consulting with stakeholders.

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	04/09/2020	Border Measures Program Management	First issue
1.1	30/10/2020	Border Measures Program Management	AS approval to publish
1.2	10/11/2020	Border Measures Program Management	Pre-emptive travel
1.3	25/11/2020	Border Measures Program Management	Pre-emptive travel and family Response to fraud, character or integrity issues
1.4	16/12/2020	Border Measures Program Management	Validity of Travel Exemption approvals
1.5	09/03/2021	Border Measures Program Management	Expansion on the 188/888 issue to clarify that 888 applicants without BVs can still be confirmed as exempt.
1.6	18/03/2021	Border Measures Program Management	Decision making on PNG caseload
1.7	27/04/2021	Border Measures Program Management	Pre-emptive requests for STZ and High-risk COVID-19 countries. Removed the need to check with post for clients who do not hold a visa – need to advise post following approval.
1.8	04/05/2021	Border Measures Program Management	Travellers from India entering Australia – biosecurity determination.

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Version number	Date of issue	Author(s)	Brief description of change
1.9	17/05/2021	Border Measures Program Management	Removal of Travellers from India entering Australia
2.0	18/05/2021	Border Measures Program Management	Information on assessing inwards exemption requests from temporary visa holders who departed without a pre-emptive inwards request

6. Attachment A – Assurance and Control Matrix

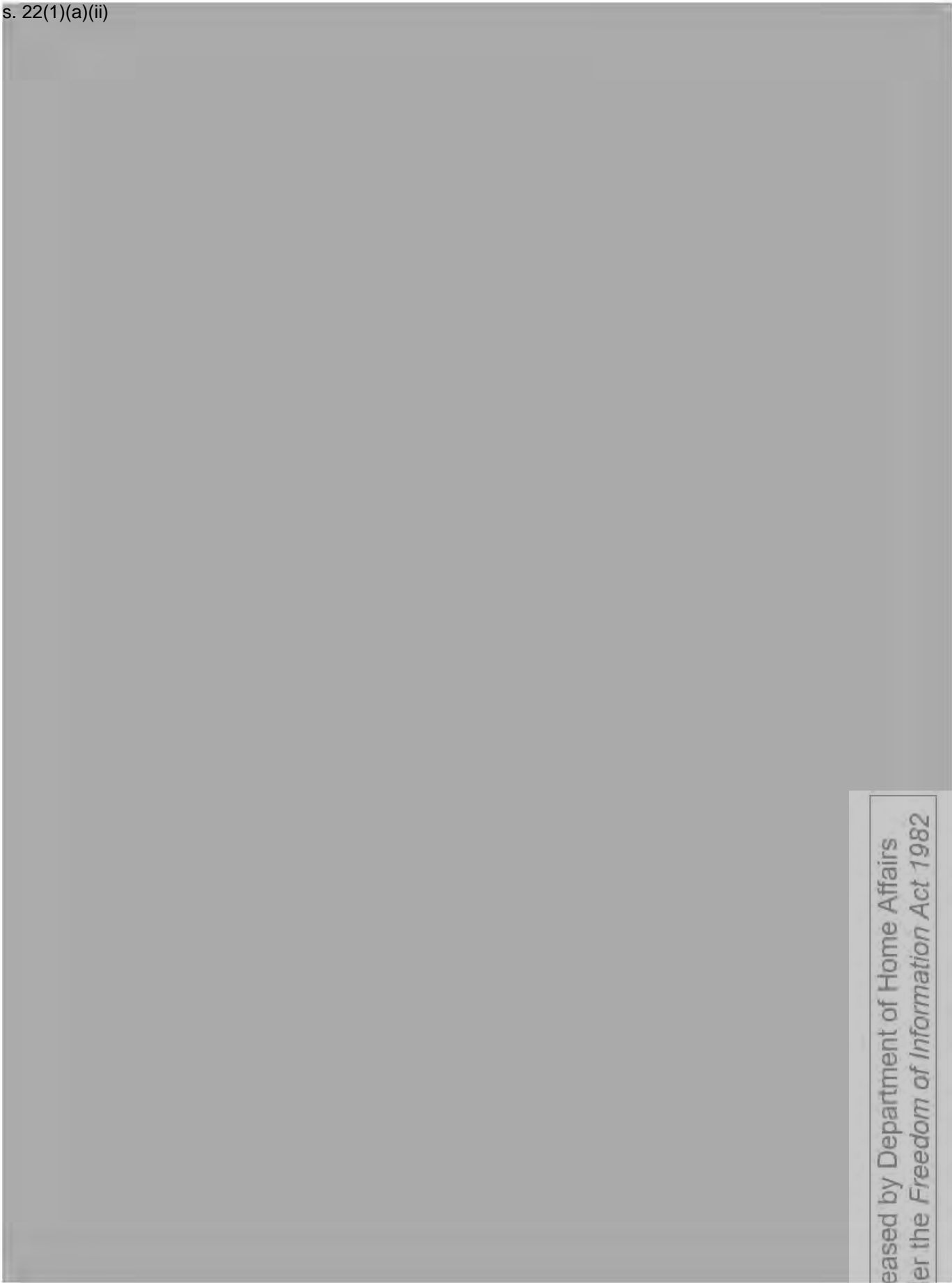
1.1. Powers and Obligations

Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
Outbound decision making	subsection 477(1)	Subsection 477(1) of the <i>Biosecurity Act 2015</i> <i>Biosecurity (Human Biosecurity Emergency) (Human coronavirus with Pandemic Potential) (Overseas Travel Ban Emergency Requirements) Determination 2020</i> Reference: F2020C00870	No	
Inwards decision making	N/A	The ABF Commissioner has been authorised by the Prime Minister to consider exemption requests on a case-by-case basis	N/A	

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




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COVID-19 Border Measures Procedural Instruction – Immediate Family Members of Australian citizens, Australian permanent residents and New Zealand citizens who are usually resident in Australia

Procedural Instruction

Document ID (PPN)	s. 22(1)(a)(ii)
TRIM record number	s. 22(1)(a)(ii)
BCS Function	Border Measures – Travel Exemptions Procedural Instruction
Document owner	COVID-19 Border Measures Program Management
Approval date	16 December 2020
Document Contact	COVID-19 Border Measures Program Management s. 47E(d)

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1. Purpose

From 9pm AEDT on 20 March 2020, travel restrictions have been in place, prohibiting travel into Australia of all foreign nationals unless exempt. The COVID-19 Border Measures Branch manages and decides travel exemption requests in response to Australia's travel restrictions.

Travel restrictions do not apply to immediate family members of Australian citizens, Australian permanent residents and New Zealand citizens who are usually resident in Australia. This procedural guidance is designed for use as an explanatory support for exemptions processing staff and exemptions decision makers when considering if an applicant meets the definition of immediate family member for the purpose of a travel exemption. Requests are to be assessed on a case by case basis

2. Scope

This document provides procedural guidance applicable to the assessment of inwards travel exemption requests for immediate family members of Australian citizens, Australian permanent residents and New Zealand citizens who are usually resident in Australia only. Specific guidance in relation to the immediate family of New Zealand citizens who are usually resident in Australia is available in the 'New Zealand citizens' document referenced below.

It is recommended that users read this procedural guidance in conjunction with the following documents:

- Commissioner's Guidelines
- Inwards Travel Restrictions Operation Directive
- COVID-19 Border Measures Procedural Instruction - General s. 22(1)(a)(ii)
- COVID-19 Border Measures Procedural Instruction - Separation of Family s. 22(1)(a)(ii)
- COVID-19 Border Measures Procedural Instruction - NZ Citizens s. 22(1)(a)(ii)

Note: Travel restrictions are subject to change at short notice, therefore officers must refer to related documentation via TRIM or published versions on SharePoint or the Home Affairs website (rather than saving or printing a copy) to ensure they access the most up to date versions.

3. Procedural Instruction

3.1. Decision Maker

The ABF Commissioner will personally consider travel exemption requests as outlined in the Commissioner's Guidelines.

Assessors and decision makers will consider inwards travel exemption requests as outlined in the Commissioner's Guidelines and the Inwards Travel Restrictions Operation Directive in conjunction with the guidance on decision maker levels, please refer to *COVID-19 Border Measures Procedural Instruction - General* under subheading 3.4. *Decision Maker*.

Once a travel exemption request has been considered against all categories, if it is evident that the claimed circumstances do not meet current travel exemption requirements, and therefore cannot be assessed as exempt, officers should either request further information (expected to be appropriate in only a small number of cases) or refuse the travel exemption request. Additional text to support client communication is provided at section 3.4 *Client communication*.

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OFFICIAL: Sensitive**3.2. For consideration when assessing applications from immediate family members**

All travel exemption requests must be considered against all categories prior to making a decision to refuse the request.

Inwards travel restrictions do not apply to holders of Partner (subclass 100, 309, 801 or 820) or Child (subclass 101, 102 or 445) visa holders. Holders of these visa subclasses are exempt and do not need to submit a request.

Officers should refer to the “supporting documentation” section for travel exemption requests for immediate family members who do not hold one of the abovementioned subclasses of visa.

Clients are expected to provide sufficient information and evidence to satisfy processing officers that they are immediate family members, having regard to the definition in regulation 1.12AA of the *Migration Regulations 1994*.

Reg 1.12AA Member of the immediate family

(1) For these Regulations, a person A is a member of the immediate family of another person B if:

- (a) A is a spouse or de facto partner of B; or*
- (b) A is a dependent child of B; or*
- (c) A is a parent of B, and B is not 18 years or more.*

Note: Spouse, de facto partner, dependent child and parent are all defined in migration legislation and these definitions should be applied with reference to relevant policy documents.

However, officers should note that there are some additional regulatory visa criteria (e.g. a minimum length of de facto relationship requirement) for certain visa applications. These criteria should be used to guide assessment of the relationship, but should not be applied inflexibly as the travel exemption process is separate from any visa application assessment.

If a person is holding a Bridging Visa B (BVB), assessing officers should check the type of visa application in progress to determine if the person meets the definition of immediate family member or another travel exemption category. Sponsorship by an Australian citizen, Australian permanent resident or New Zealand citizen who is usually resident in Australia should be considered in an officer's assessment. All evidence available to officers should be taken into consideration when assessing a request.

Prospective Marriage (subclass 300) visa holders **are not** automatically exempt from Australia's travel restrictions. Prospective Marriage visa holders may apply for a travel exemption under a discretionary category, if appropriate for their circumstances. A person's intent to marry is not sufficient, in and of itself, to satisfy the definition of de facto partner or immediate family member. Any request received for a discretionary travel exemption from a Prospective Marriage visa holder will be assessed on its individual merits.

The definition in regulation 1.12AA

The definition of “immediate family member” in regulation 1.12AA has been adopted *by policy* to provide guidance to decision makers when considering travel exemption requests. However, it does not apply by force of law and must therefore be applied flexibly.

Assessing a spousal relationship

To be satisfied that the individual is in a spousal or de facto relationship, officers should consider the four factors listed in regulation 1.15A(3) and 1.09A(3) of the *Migration Regulations 1994* respectively: the financial aspects of the relationship; the nature of the household; the social aspects of the relationship; the nature of the persons' commitment to each other. These factors should be considered and weighted flexibly according to the circumstances of the case. For example, if there is a child of the relationship, this would be given significant weight – even in the absence of other evidence.

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Officers should generally expect that a greater number of supporting documents would be required to evidence a de facto relationship, when compared to a spousal relationship that is evidenced with a marriage certificate.

Under travel exemptions policy, if the individual is in a spousal relationship and has provided a marriage certificate to evidence this, such evidence should generally be considered sufficient to meet "immediate family member" requirements for the purpose of an exemption to Australia's travel restrictions. However, a certificate that evidences a 'proxy marriage', or any other form of marriage that does not require both parties to be physically present for the legal ceremony, will not be accepted without further substantial documentary evidence sufficient to satisfy the four factors listed in regulation 1.15A(3).

If there is significant reason to doubt the genuineness of the marriage certificate, due to obvious signs of fraud or similar, than the individual should be requested to provide further supporting documentary evidence. Please also refer section 3.13 *Fraud, character or integrity issues* in the General (Inwards) PI for guidance on escalation and management of cases affected by potential fraud.

Assessing parent relationships:

If the client provides evidence to support they are a parent of a dependent child who is an Australian citizen, Australian permanent resident or New Zealand citizen who is usually resident in Australia, having regard to the definition referred to in regulation 1.12AA, this would generally be considered sufficient to meet "immediate family member" requirements for a travel exemption request.

Assessing legal guardian relationships:

If the client provides evidence to support they are a legal guardian of a dependent child who is an Australian citizen, Australian permanent resident or New Zealand citizen who is usually resident in Australia, having regard to the definition referred to in regulation 1.03 and s5CA, this would generally be considered sufficient to meet "immediate family member" requirements for a travel exemption request.

Officers may have regard to regulation 1.03 and s5CA for guidance if required to assess the relationship between a legal guardian and a child.

Regulation 1.03:

guardian, in relation to a child, means a person who

(a) *has responsibility for the long-term welfare of the child; and*

(b) *has, in relation to the child, all the powers, rights and duties that are vested by law or custom in the guardian of a child, other than:*

(i) the right to have the daily care and control of the child; and

(ii) the right and responsibility to make decisions concerning the daily care and control of the child

Cases involving legal guardians seeking an inwards travel exemption on the basis of being the immediate family member of a dependent child should be discussed with Travel Exemptions Program Management prior to decision.

Assessing dependent child relationships:

A child is automatically considered to be dependent (on their parent(s) or legal guardian) if they are under 18 years of age.

If the client provides evidence to support their claim that they are a dependent child of an Australian citizen, Australian permanent resident or New Zealand citizen usually resident in Australia, having regard to the definition referred to in regulation 1.03, this would generally be considered sufficient to meet "immediate family member" requirements for a travel exemption request.

Assessing dependent child relationships for individuals who are 18+ years of age

If a child is 18 years or older, they must not be married and either:

- aged between 18 and 25 years old and remain financially dependent on their parent/s, more than any other person, for their basic needs of food, clothing and shelter

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or

- be unable to work to support themselves because they have a disability that affects their ability to live independently.

Children who are 18 years or more and have remained offshore to complete their final year of study, where their intent was to join their family in Australia at the end of their study, should generally be considered favourably.

Note: Please refer to *Border Measures Exemptions - Separation of Family* s. 22(1)(a)(ii) for further information regarding the assessment of dependents during the visa process, if this is applicable to the circumstances of the case.

Where an individual does not meet the policy guidelines

Individuals who do not meet the policy guidelines for a travel exemption as an immediate family member should be considered under other travel exemption categories, however they would need to provide information and evidence that they meet the requirements of another category.

3.3. Supporting documentation

To be used as a guide when assessing evidentiary requirements:

Consideration should be given to all information and documentation provided by a client, as well as any information or documentation in the Department's systems. Where an officer has concerns about a case, they may discuss the case with an EL1 officer or above prior to decision.

Spouse minimum guidelines:

- Marriage certificate or other evidence that your marriage is valid in Australia

If the client is not able to provide a marriage certificate or you have significant reason to doubt the genuineness of the marriage certificate, documentary evidence of the relationship could include:

- Evidence of a mutual commitment between the parties to the exclusion of all others, such as combined personal matters
- Evidence of a genuine and continuing relationship, including documents that verify the length of the relationship
- Evidence the individuals live together, or don't live apart permanently
- Evidence of shared finances
- Evidence of a shared household, such as documents that prove living arrangements or household bills in both names

De facto Partner minimum guidelines:

- Evidence of a genuine and continuing relationship, including documents that verify the length of the relationship
- Evidence of a mutual commitment between the parties to the exclusion of all others, such as combined personal matters
- Evidence the individuals live together, or don't live apart permanently
- Evidence of shared finances
- Evidence of a shared household, such as documents that prove living arrangements or household bills in both names
- Evidence that others know about the relationship, such as proof of friends in common and/or proof government, public or commercial bodies are aware of the relationship

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OFFICIAL: Sensitive**Dependent Child minimum guidelines:**

For Children under 18 years or age

- Identity documents that prove the relationship with the dependent child, like a birth certificate
- Adoption papers or court orders, if applicable
- Proof of sole custody, if applicable

For Children over 18 years or age

- Evidence the 18+ child is completely or substantially reliant on their parent(s) or legal guardian(s) for financial assistance with basic necessities, such as:
 - food, clothing and lodging
 - assistance with their daily living, medical and educational costs
- Evidence that they have been relying on their parents for a substantial period of time. For example, while undertaking study at university or other tertiary education provider.
- Evidence the 18+ child is unable to work to support themselves because they have a disability that totally or partially affects their physical or mental capacity such that they are unable to live independently or it would be unreasonable to require them to live independently. Such evidence is required to be provided by a qualified medical expert.

Note: You should be confident the 18+ child is more reliant financially on their parents than any other person in order to be satisfied that immediate family member requirements have been met.

3.4. Client communication

The following standard words should be included in requests for information and refusal communication with clients, using the TEP template.

Note: Officers should not request further information if it is likely that the individual will not meet the guidelines, even with provision of additional documentation.

Client Communication – additional script for use when requesting further information:

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

Dear \${consumer.first_name} \${contact.first_name}

I refer to your request for an exemption from Australia's current travel restrictions.

Unfortunately, you have not provided sufficient information for an assessment of whether your circumstances warrant an exemption to the travel restrictions.

Before your request can be considered further, you will need to log in to your account at \${mail_script.tep_portal_url} and upload the following documents

Parent:

Documentary evidence to provide proof that XXXXX is a parent (or legal guardian) of an Australian citizen, Australian permanent resident or New Zealand citizen usually resident in Australia dependent child, such as:

- *Proof of your relationship with your child, such as a birth certificate or adoption papers or court orders*
- *identity documents for yourself and your child*
- *proof of sole custody, if applicable*

Refer to the following website address for guidance:

<https://immi.homeaffairs.gov.au/supporting/Pages/evidence-of-relationship.aspx>

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OFFICIAL: Sensitive**Spouse:**

Documentary evidence that you are in a spouse relationship with an Australian citizen, Australian permanent resident, or New Zealand citizen who is usually resident in Australia, such as:

- Marriage certificate or other evidence that your marriage is valid in Australia

In the event a marriage certificate is unable to be provided, documentary evidence of the relationship could include:

- Evidence that you have a genuine and continuing relationship, including documents that verify the length of your relationship
- Evidence you have a mutual commitment with your spouse to the exclusion of all others, such as combined personal matters
- Evidence you live together, or don't live apart permanently
- Evidence of shared finances
- Evidence of the nature of your shared household, such as documents that prove your living arrangements or household bills in both names
- Evidence that others know about your relationship, such as proof you have friends in common and/or proof you have told government, public or commercial bodies about your relationship

Note: if you are unable to provide a marriage certificate, you are expected to provide other documents that evidence your genuine and continuing relationship over a significant period of time. Documents that evidence your relationship over a recent period only, may not be sufficient.

Further information can be found at the following website address:

<https://immi.homeaffairs.gov.au/supporting/Pages/evidence-of-relationship.aspx>

De facto Partner:

Documentary evidence that you are in a de facto relationship with an Australian citizen, Australian permanent resident, or New Zealand citizen who is usually resident in Australia, such as:

- Evidence that you have a genuine and continuing relationship, including documents that verify the length of your relationship
- Evidence you have a mutual commitment with your de facto partner to the exclusion of all others, such as combined personal matters
- Evidence you live together, or do not live apart permanently
- Evidence of shared finances
- Evidence of the nature of your shared household, such as documents that prove your living arrangements or household bills in both names
- Evidence that others know about your relationship, such as proof you have friends in common and/or proof you have told government, public or commercial bodies about your relationship

Note: you are expected to provide documents that evidence your genuine and continuing relationship over a significant period of time. Documents that evidence your relationship over a recent period only may not be sufficient to meet the definition of a de facto relationship.

Further information can be found at the following website address:

<https://immi.homeaffairs.gov.au/supporting/Pages/evidence-of-relationship.aspx>

Dependent child:

Documentary evidence to provide proof that XXXX is a dependent child of an Australian citizen, Australian permanent resident, or New Zealand citizen who is usually resident in Australia. Documents that can be provided include:

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- Identity documents
- Proof of your relationship with your dependent, like a birth certificate
- Adoption papers or court orders, if applicable
- Proof of sole custody, if applicable

For Children over 18 years or age

- Evidence the child's age is not more than 25 years of age, unless dependency is based on medical incapacity
- Evidence the 18+ child is completely or substantially reliant on their parents for financial assistance with the basics such as:
 - o food, clothing and lodging
 - o assistance with their daily living, medical and educational costs
- Evidence that the child has been relying on their parents for a substantial period of time.
- Evidence the 18+ child is unable to support themselves because they have a disability that totally or partially affects their physical or mental capacity such that they are unable to live independently, or it would be unreasonable to require them to live independently. Such evidence must be provided by a qualified medical expert.

Refer to the following website address for guidance:

<https://immi.homeaffairs.gov.au/supporting/Pages/evidence-of-relationship.aspx>

If these documents are not provided by midnight (Australian Eastern Standard Time) on **\$(rfi_due_date)**, your request will continue to be processed based on the information available.

Kind regards

\$(mail_script:tea_officer_first_name)

Travel Exemption Requests

Department of Home Affairs | Australian Border Force

<https://covid19.homeaffairs.gov.au/>

Client Communication – additional script for refusal communication:

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

Dear \$(consumer.first_name) \${contact.first_name}

I refer to your request for an exemption from the current travel restrictions for travel to Australia. This advice applies to the following travellers:

- \$(mail_script:tep_outcome_travellers)

Based on the information provided, your circumstances do not meet the requirements for a travel exemption. If you are able to provide more information, or if your circumstances change, please submit a new request.

You remain subject to travel restrictions and, should you attempt to travel to Australia, your visa may be considered for cancellation while those travel restrictions remain in force.

If you submit a new request you will need to provide evidence of:

Parent:

Documentary evidence to provide proof that XXXXX is a parent (or legal guardian) of an Australian citizen, Australian permanent resident or New Zealand citizen usually resident in Australia dependent child, such as:

- Proof of your relationship with your child, such as a birth certificate or adoption papers or court orders
- identity documents for yourself and your child

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- proof of sole custody, if applicable

Refer to the following website address for guidance:

<https://immi.homeaffairs.gov.au/supporting/Pages/evidence-of-relationship.aspx>

Spouse:

Documentary evidence that you are in a spouse relationship with an Australian citizen, Australian permanent resident, or New Zealand citizen who is usually resident in Australia, such as:

- Marriage certificate or other evidence that your marriage is valid in Australia

In the event a marriage certificate is unable to be provided, documentary evidence of the relationship could include:

- Evidence that you have a genuine and continuing relationship, including documents that verify the length of your relationship
- Evidence you have a mutual commitment with your spouse to the exclusion of all others, such as combined personal matters
- Evidence you live together, or don't live apart permanently
- Evidence of shared finances
- Evidence of the nature of your shared household, such as documents that prove your living arrangements or household bills in both names
- Evidence that others know about your relationship, such as proof you have friends in common and/or proof you have told government, public or commercial bodies about your relationship

Note: if you are unable to provide a marriage certificate to evidence your relationship you are expected to provide other documents that evidence your genuine and continuing relationship over a significant period of time. Documents that evidence your relationship over a recent period only may not be sufficient.

Further information can be found at the following website address:

<https://immi.homeaffairs.gov.au/supporting/Pages/evidence-of-relationship.aspx>

De facto Partner:

Documentary evidence that you are in a de facto relationship with an Australian citizen, Australian permanent resident, or New Zealand citizen who is usually resident in Australia, such as:

- Evidence that you have a genuine and continuing relationship, including documents that verify the length of your relationship
- Evidence you have a mutual commitment with your de facto partner to the exclusion of all others, such as combined personal matters
- Evidence you live together, or don't live apart permanently
- Evidence of shared finances
- Evidence of the nature of your shared household, such as documents that prove your living arrangements or household bills in both names
- Evidence that others know about your relationship, such as proof you have friends in common and/or proof you have told government, public or commercial bodies about your relationship

Note: you are expected to provide documents that evidence your genuine and continuing relationship over a significant period of time. Documents that evidence your relationship over a recent period only may not be sufficient to meet the definition of a de facto relationship.

Further information can be found at the following website address:

<https://immi.homeaffairs.gov.au/supporting/Pages/evidence-of-relationship.aspx>

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OFFICIAL: Sensitive**Dependent child:**

Documentary evidence to provide proof that XXXX is a dependent child of an Australian citizen, Australian permanent resident, or New Zealand citizen who is usually resident in Australia. Documents that can be provided include:

- Identity documents
- Proof of your relationship with your dependent, like a birth certificate
- Adoption papers or court orders, if applicable
- Proof of sole custody, if applicable

For Children over 18 years or age

- Evidence the child's age is not more than 25 years of age, unless dependency is based on medical incapacity
- Evidence the 18+ child is completely or substantially reliant on their parents for financial assistance with the basics such as:
 - o food, clothing and lodging
 - o assistance with their daily living, medical and educational costs
- Evidence that the child has been relying on their parents for a substantial period of time.

Evidence the 18+ child is unable to support themselves because they have a disability that totally or partially affects their physical or mental capacity such that they are unable to live independently, or it would be unreasonable to require them to live independently. Such evidence must be provided by a qualified medical expert.

Refer to the following website address for guidance:

<https://immi.homeaffairs.gov.au/supporting/Pages/evidence-of-relationship.aspx>

This assessment is against current COVID-19 travel restrictions and exemptions policy settings only and is not an assessment against any criteria relevant to the grant of a visa. It does not affect any future visa application that may be lodged. Any current or future visa application will be assessed against the relevant legislative criteria.

For further information on Australia's travel restrictions, and the types of evidence needed to support an exemption request, please refer to our website at: <https://covid19.homeaffairs.gov.au/>

Kind regards

\$(mail_script:tea_officer_first_name)

Travel Exemption Requests

Department of Home Affairs | Australian Border Force

<https://covid19.homeaffairs.gov.au/>

Note: Officers should not request further information if it is likely that the individual will not meet the guidelines, even with provision of additional documentation. In cases such as these, it is more appropriate to refuse and advise the outstanding requirements.

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4. Accountability and Responsibility

Role	Description
AS Border Measures Operations	Document owners are responsible for: approving documents for release
FAS Immigration & Settlement Services Groups	Document reviewers are responsible for: verifying the need for a document, and reviewing drafts.
Document drafter	Document drafters are responsible for: drafting documents, consulting with stakeholders.

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	16/12/2020	Program Management	Approved for release
1.1	11/02/2021	Program Management	Clarification of documentary evidence necessary for assessment of a spousal relationship; clarification of difference between documentary requirements for spousal and de facto relationships.

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Attachment A – Definitions

Term	Definition
Immediate Family Member	Legal guardian, spouse, de facto partner or dependent child. Having regard to the definition of the term “member of the immediate family” in <u>regulation 1.12AA of the <i>Migration Regulations 1994</i></u> when determining whether someone is an immediate family member of another person.
Legal guardian	Guardian. Having regard to the definition of the term ‘guardian’ in <u>r1.03 of the <i>Migration Regulations 1994</i></u> and “child of a person” in <u>Section 5CA of the <i>Migration Act 1958</i></u>
Parent	Someone is the parent of a person if the person is his or her child. Having regard to the definition of the term ‘parent’ in <u>Part 1 s5(1) of the <i>Migration Act 1958</i></u> and ‘dependent’ child in <u>r1.03 of the <i>Migration Regulations 1994</i></u>
Spouse	Person in a married relationship. Having regard to <u>Section 5F of the <i>Migration Act 1958</i></u> .
De facto partner	Having regard to <u>Section 5CB of the <i>Migration Act 1958</i></u>
Dependent child	Dependent child. Having regard to the definition of the term ‘dependent child’ in <u>r1.03 of the <i>Migration Regulations 1994</i></u>
Dependent	Having regard to <u>1.05A of the <i>Migration Regulations 1994</i></u>
Usually resident	Have been lawfully resident in Australia for a reasonable period.

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Attachment B – Assurance and Control Matrix

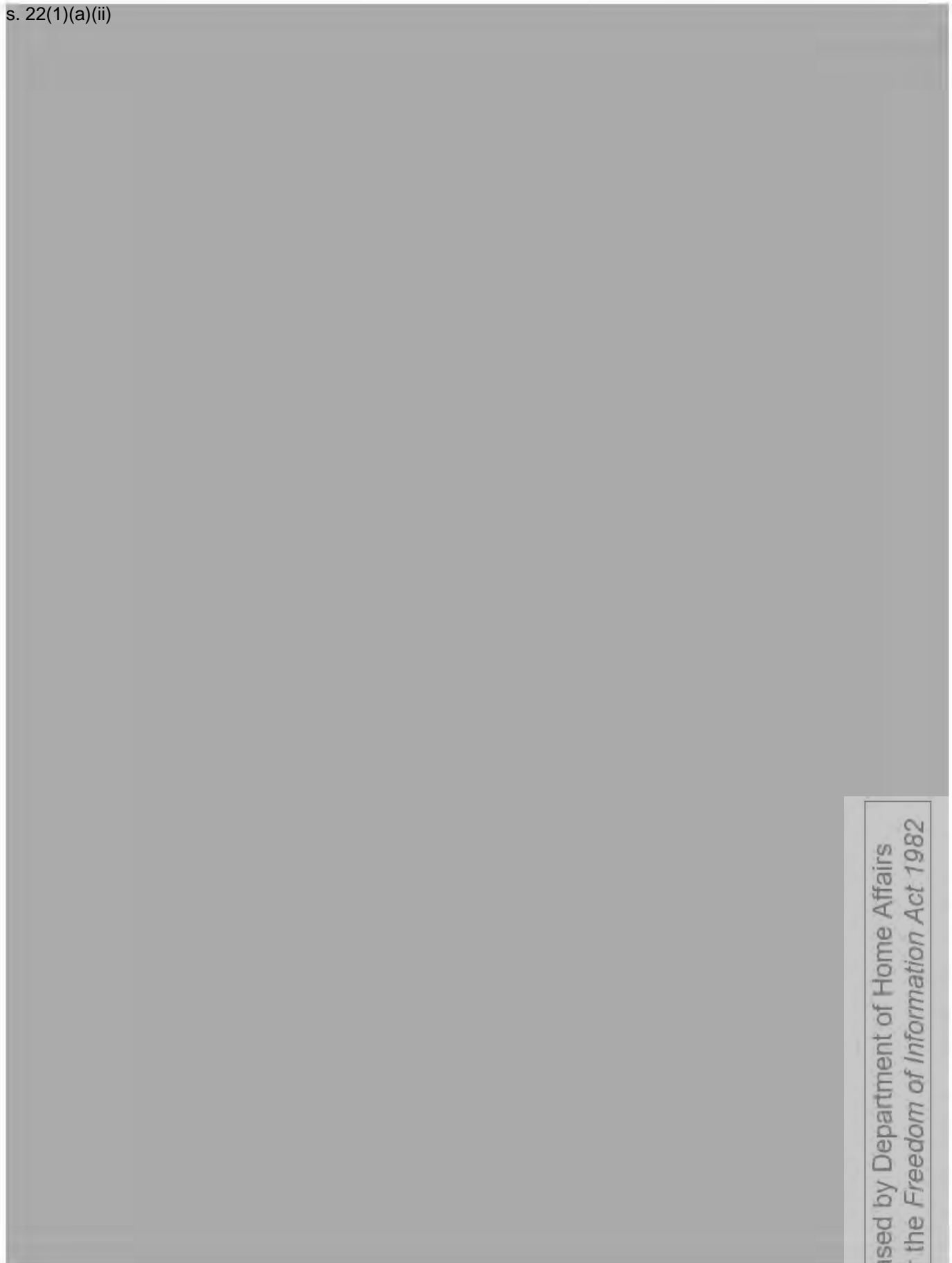
1.1. Powers and Obligations

Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
Outbound decision making	subsection 477(1)	Subsection 477(1) of the <i>Biosecurity Act 2015</i> <i>Biosecurity (Human Biosecurity Emergency) (Human coronavirus with Pandemic Potential) (Overseas Travel Ban Emergency Requirements) Determination 2020</i> Reference: F2020C00870	No	
Inwards decision making	N/A	The ABF Commissioner has been authorised by the Prime Minister to consider exemption requests on a case-by-case basis	N/A	

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COVID-19 Border Measures Procedural Instruction - Religious or Theology Field - Inwards

Procedural Instruction

Document ID (PPN)	[PPN number will be allocated when submitted for PPCF Review]
TRIM record number	s. 22(1)(a)(ii)
BCS Function	Border Measures – Travel Exemptions Procedural Instruction
Document owner	COVID-19 Border Measures Program Management
Approval date	16 December 2020
Document Contact	COVID-19 Border Measures Program Management s. 47E(d)

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1. Purpose

From 9pm AEDT on 20 March 2020, travel restrictions have been in place, prohibiting travel into Australia of all foreign nationals unless exempt. The COVID-19 Border Measures Branch manages and decides travel exemption requests in response to Australia's travel restrictions.

This procedural guidance is designed to be used as an explanatory support for exemptions processing staff and exemptions decision makers assessing inwards exemption requests for individuals in the Religious or Theology Fields. Individuals in the Religious or Theology Fields are generally considered under the discretionary category of 'critical skills'. Cases are assessed on a case by case basis.

2. Scope

This document provides procedural guidance applicable to the assessment of inwards travel exemption requests for Religious or Theology Fields only.

It is recommended that users read this procedural guidance in conjunction with the following documents:

- Commissioner's Guidelines
- Inwards Travel Restrictions Operation Directive
- COVID-19 Border Measures Procedural Instruction - General s. 22(1)(a)(ii)
- COVID-19 Border Measures Procedural Instruction - Critical Skills s. 22(1)(a)(ii)

Note: Travel restrictions are subject to change at short notice, therefore officers must refer to related documentation via TRIM, or published versions on SharePoint or the Home Affairs website (rather than saving or printing a copy) to ensure they access the most up to date versions.

3. Procedural Instruction

3.1. Decision Maker

All requests for travel exemptions from individuals in the Religious or Theology Fields MUST be referred to the Commissioner for decision.

For guidance on triage for referral, to the Commissioner, please refer to *COVID-19 Border Measures Procedural Instruction* General Inwards - 3.4. Decision Maker.

Note: All submissions that are prepared for referral to the Commissioner must follow the Commissioner Discretion pathway in the Travel Exemption Portal (TEP), which requires review by an EL1 or above.

A submission must be prepared and referred to the Commissioner for all individuals in the Religious or Theology Fields who may meet guidelines.

Officers are not authorised to approve travel exemption requests from individuals in the Religious or Theology Fields **unless** they determine the individual is exempt under another category (e.g. immediate family) or a discretionary category as outlined in the Commissioner's Decision Statement (e.g. visiting critically ill family). If this circumstance should arise, the case must be escalated to s. 47E(d) for further advice **before** the case is finalised.

3.2. For consideration when assessing Religious or Theology Fields

All travel exemption requests must be considered against all categories prior to a decision to refuse the request is made.

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Religious workers are no longer eligible under the standard Temporary Skill Shortage (TSS) program; they can only apply under the Labour Agreement (LA) stream. Labour agreements enable approved businesses to sponsor skilled overseas workers when there is a demonstrated need that cannot be met in the Australian labour market and where standard temporary or permanent visa programs are not available. Once a sponsor is approved under a LA, this provides for visas to be granted under the TSS program.

Under the TSS LA stream, there is an industry agreement for 'Minister of Religions' (2722-11). When considering an individual's qualifications and experience, officers should have regard to the 'Qualifications and Experience' criteria for Ministers of Religion under the LA which are:

Ministers of Religion must:

- (a) be 'ordained' or have taken 'profession to religious life' as a minister of religion; and
- (b) have minimum qualifications equivalent to an appropriate Australian Qualification Framework (AQF) bachelor degree; or
- (c) have undertaken at least five years of relevant structured training or instruction

3.3. Supporting documentation

As is the case with other requests under the critical skills category, individuals in the Religious or Theology Fields are not required to hold a current visa when seeking an inwards travel exemption.

Sufficient evidence must be provided to support claims that an individual is in a senior leadership / leadership role having regard to the Australian and New Zealand Standard Classification of Occupations (ANZSCO) 272211 Minister of Religion. ANZSCO provides guidance for skilled migration purposes, in respect to occupations. If a person is eligible as a Minister of Religion for TSS purposes, in most cases they would be performing a leadership role of some sort. ANZSCO states:

272211 Minister of Religion

Performs spiritual functions associated with beliefs and practices of a religious faith, and provides motivation, guidance and training in religious life for the people of a congregation or parish, and the wider community. This occupation requires high levels of personal commitment and interest as well as, or in place of, formal qualifications or experience. Registration or licensing may be required. Skill Level: 1

Specialisations:

- Aboriginal Ceremonial Celebrant (Aus)
- Imam
- Priest
- Salvation Army Officer
- Chaplain
- Monk
- Rabbi

Most occupations in this unit group have a level of skill commensurate with a bachelor degree or higher qualification. Registration or licensing may be required.

Tasks may include:

- preparing and conducting services of public worship and acknowledgments of faith
- preparing and delivering sermons, homilies and special talks, and planning music for services
- participating in the social and welfare activities of communities, encouraging people to be aware of their responsibilities, and organising participation in community projects
- conducting classes of religious instruction, and supervising prayer and discussion groups, retreats and seminars

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- *conducting premarital and family counselling and referring people to professional service agencies where necessary*
- *performing marriages, funerals and special memorial services according to tradition and ecclesiastical and civil law*
- *visiting members of the community in their homes, hospitals and other institutions to provide advice and religious comfort*
- *keeping records as required by the church and civil law*

To be used as a guide when assessing evidentiary requirements, for referral to the Commissioner:

Senior leadership role in a religious field minimum guidelines:

- Evidence of current sponsorship/support from the most senior body of a religious institution in Australia, for placement in a senior leadership role;
- Evidence that the individual has full time employment in a senior leadership position in Australia, including but not limited to, an employment contract and position description;
- Evidence of skills, experience and/or qualifications in a senior leadership role of a religious institution;
- Evidence that travel to Australia is essential at this time; and
- Evidence that travel to Australia will not have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents

Leadership role in a religious field in a regional area minimum guidelines:

- Evidence of current sponsorship/support from the most senior body of a religious institution in Australia, for placement in a Leadership role in a regional area;
- Evidence that the individual has full time employment in a leadership position in a regional area of Australia, including but not limited to, an employment contract and position description;
- Evidence of skills, experience and/or qualifications in a leadership role of a religious institution;
- Evidence that travel to Australia is essential at this time;
- Evidence of intended residence in a regional area; and
- Evidence that travel to Australia will not have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents

Specialist instructor role in a religious or theology field minimum guidelines:

- Evidence of current sponsorship/support from the most senior body of a religious institution, religious school or University in Australia, in a specialist instructor role;
- Evidence that the individual has full time employment in a specialist instructor position in Australia, including but not limited to, an employment contract and position description;
- Evidence of skills, experience and/or qualifications as a specialist instructor of a religious institution, religious school and/or University;
- Evidence that travel to Australia is essential at this time; and
- Evidence that travel to Australia will not have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents

Theology role minimum guidelines:

- Evidence of current sponsorship/support from the most senior body of a religious institution, religious school or University in Australia, in a senior theology role;

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- Evidence that the individual has full time employment in a theology position in Australia, including but not limited to, an employment contract and position description;
- Evidence of skills, experience and/or qualifications in a senior theology role with a religious institution, religious school and/or University;
- Evidence that travel to Australia is essential at this time; and
- Evidence that travel to Australia will not have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents

Note: An individual with support for a placement with an institution other than a religious institution, religious school or University in Australia would not generally meet the guidelines.

3.4. Client communication

The following standard words should be included in requests for information and refusal communication with clients, using the TEP template.

Note: Officers should not request further information if it is likely that the individual will not meet the guidelines, even with provision of additional documentation.

Client Communication – additional script for use when requesting further information:

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

Dear \${consumer.first_name} \${contact.first_name}

I refer to your request for an exemption from Australia's current travel restrictions.

Unfortunately, you have not provided sufficient information for an assessment of whether your circumstances warrant an exemption to the travel restrictions.

Before your request can be considered further, you will need to log in to your account at \${mail_script.tep_portal_url} and upload the following documents:

Senior leadership role in a religious field:

- *Evidence of current sponsorship/support from the most senior body of a religious institution in Australia, for placement in a senior leadership role; and*
- *Evidence that the individual has full time employment in a senior leadership position in Australia, including but not limited to, an employment contract and position description; and*
- *Evidence of skills, experience and/or qualifications in a senior leadership role of a religious institution; and*
- *Evidence that travel to Australia is essential at this time; and*
- *Evidence that travel to Australia will not have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents*

Leadership role in a religious field in a regional area:

- *Evidence of current sponsorship/support from the most senior body of a religious institution in Australia, for placement in a Leadership role in a regional area; and*
- *Evidence that the individual has full time employment in a leadership position in a regional area of Australia, including but not limited to, an employment contract and position description; and*
- *Evidence of skills, experience and/or qualifications in a leadership role of a religious institution;*
- *Evidence that travel to Australia is essential at this time; and*
- *Evidence of intended residence in a regional area; and*

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- Evidence that travel to Australia will not have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents

Specialist instructor role in a religious or theology field:

- Evidence of current sponsorship/support from the most senior body of a religious institution, religious school or University in Australia, in a specialist instructor role; and
- Evidence that the individual has full time employment in a specialist instructor position in Australia, including but not limited to, an employment contract and position description; and
- Evidence of skills, experience and/or qualifications as a specialist instructor of a religious institution, religious school and/or University; and
- Evidence that travel to Australia is essential at this time; and
- Evidence that travel to Australia will not have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents

Senior theology role:

- Evidence of current sponsorship/support from the most senior body of a religious institution, religious school or University in Australia, in a senior theology role; and
- Evidence that the individual has full time employment in a theology position in Australia, including but not limited to, an employment contract and position description; and
- Evidence of skills, experience and/or qualifications as a senior theologian of a religious institution, religious school and/or University; and
- Evidence that travel to Australia is essential at this time; and
- Evidence that travel to Australia will not have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents

If these documents are not provided by midnight (Australian Eastern Standard Time) on **\$(rfi_due_date)**, your request will continue to be processed based on the information available.

Kind regards

\$(mail_script:tea_officer_first_name)

Travel Exemption Requests

Department of Home Affairs | Australian Border Force

<https://covid19.homeaffairs.gov.au/>

Client Communication – additional script for refusal communication:

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

Dear \$(consumer.first_name) \$(contact.first_name)

I refer to your request for an exemption from the current travel restrictions for travel to Australia. This advice applies to the following travellers:

- \$(mail_script:tep_outcome_travellers)

Based on the information provided, your circumstances do not meet the requirements for a travel exemption. If you are able to provide more information, or if your circumstances change, please submit a new request.

You are still subject to the travel restrictions and, should you attempt to travel to Australia, your visa may be considered for cancellation while those travel restrictions remain in force.

If you submit a new request you will need to provide evidence of:

Senior leadership role in a religious field:

- Evidence of current sponsorship/support from the most senior body of a religious institution in Australia, for placement in a senior leadership role; and

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- Evidence that the individual has full time employment in a senior leadership position in Australia, including but not limited to, an employment contract and position description; and
- Evidence of skills, experience and/or qualifications in a senior leadership role of a religious institution; and
- Evidence that travel to Australia is essential at this time; and
- Evidence that travel to Australia will not have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents

Leadership role in a religious field in a regional area:

- Evidence of current sponsorship/support from the most senior body of a religious institution in Australia, for placement in a Leadership role in a regional area; and
- Evidence that the individual has full time employment in a leadership position in a regional area of Australia, including but not limited to, an employment contract and position description; and
- Evidence of skills, experience and/or qualifications in a leadership role of a religious institution;
- Evidence that travel to Australia is essential at this time; and
- Evidence of intended residence in a regional area; and
- Evidence that travel to Australia will not have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents

Specialist instructor role in a religious or theology field:

- Evidence of current sponsorship/support from the most senior body of a religious institution, religious school or University in Australia, in a specialist instructor role; and
- Evidence that the individual has full time employment in a specialist instructor position in Australia, including but not limited to, an employment contract and position description; and
- Evidence of skills, experience and/or qualifications as a specialist instructor of a religious institution, religious school and/or University; and
- Evidence that travel to Australia is essential at this time; and
- Evidence that travel to Australia will not have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents

Senior theology role:

- Evidence of current sponsorship/support from the most senior body of a religious institution, religious school or University in Australia, in a senior theology role; and
- Evidence that the individual has full time employment in a theology position in Australia, including but not limited to, an employment contract and position description; and
- Evidence of skills, experience and/or qualifications as a senior theologian of a religious institution, religious school and/or University; and
- Evidence that travel to Australia is essential at this time; and
- Evidence that travel to Australia will not have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents

This assessment is against current COVID-19 travel restrictions and not your entitlement to a visa. It does not affect any future visa application which you may lodge. Any visa application will be assessed on the basis of information available at that time.

For further information on Australia's travel restrictions, please refer to our website at:
<https://covid19.homeaffairs.gov.au/>

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Kind regards

`${mail_script:tea_officer_first_name}`

Travel Exemption Requests

Department of Home Affairs | Australian Border Force

<https://covid19.homeaffairs.gov.au/>

s. 47E(d)



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4. Accountability and Responsibility

Role	Description
AS Border Measures Operations	Document owners are responsible for: approving documents for release
FAS Immigration & Settlement Services Groups	Document reviewers are responsible for: verifying the need for a document, and reviewing drafts.
Document drafter	Document drafters are responsible for: drafting documents, consulting with stakeholders.

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	16/12/2020	Program Management	Approved for release

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Attachment A – Definitions

Term	Definition
Religious institution	<p>Having regard to definition in reg 1.03 of the <u>Migration Regulations 1994</u>:</p> <p><i>Religious institution</i> means a body:</p> <ul style="list-style-type: none"> (a) the activities of which reflect that it is a body instituted for the promotion of a religious object; and (b) the beliefs and practices of the members of which constitute a religion due to those members: <ul style="list-style-type: none"> (i) believing in a supernatural being, thing or principle; and (ii) accepting the canons of conduct that give effect to that belief, but that do not offend against the ordinary laws; and (c) that meets the requirements of section 50-50 of the <i>Income Tax Assessment Act 1997</i>; and (d) the income of which is exempt from income tax under section 50-1 of that Act.
Religious school	A school that either has a religious component in its operations or its curriculum, or exists primarily for the purpose of teaching aspects of a particular religion.
Religious leader/senior religious leader	The roles and functions of leaders within established religions vary in different religious traditions, but usually involve presiding over specific rituals and teaching their religion's doctrines and practices. A senior leader will be more experienced, and/or hold a higher rank or status within their religion. Example of religious leaders are: bishop, priest, minister, swami, imam or rabbi.
Religious worker (not "religious leader")	A person who provides spiritual leadership, the conduct of worship and ministering, pastoral care or proselytising
Regional area	Having regard to definition in <u>Part 2 of Migration (LIN 19/217: Regional Areas) Instrument 2019</u>
Specialist instructor	A person who is a highly skilled, experienced and/or qualified instructor of religion or theology.
Senior theologian	A person who is experienced in the systematic study of the nature of the divine and/or religious belief, in a religious institution, religious school or University.

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Attachment B – Assurance and Control Matrix

1.1. Powers and Obligations

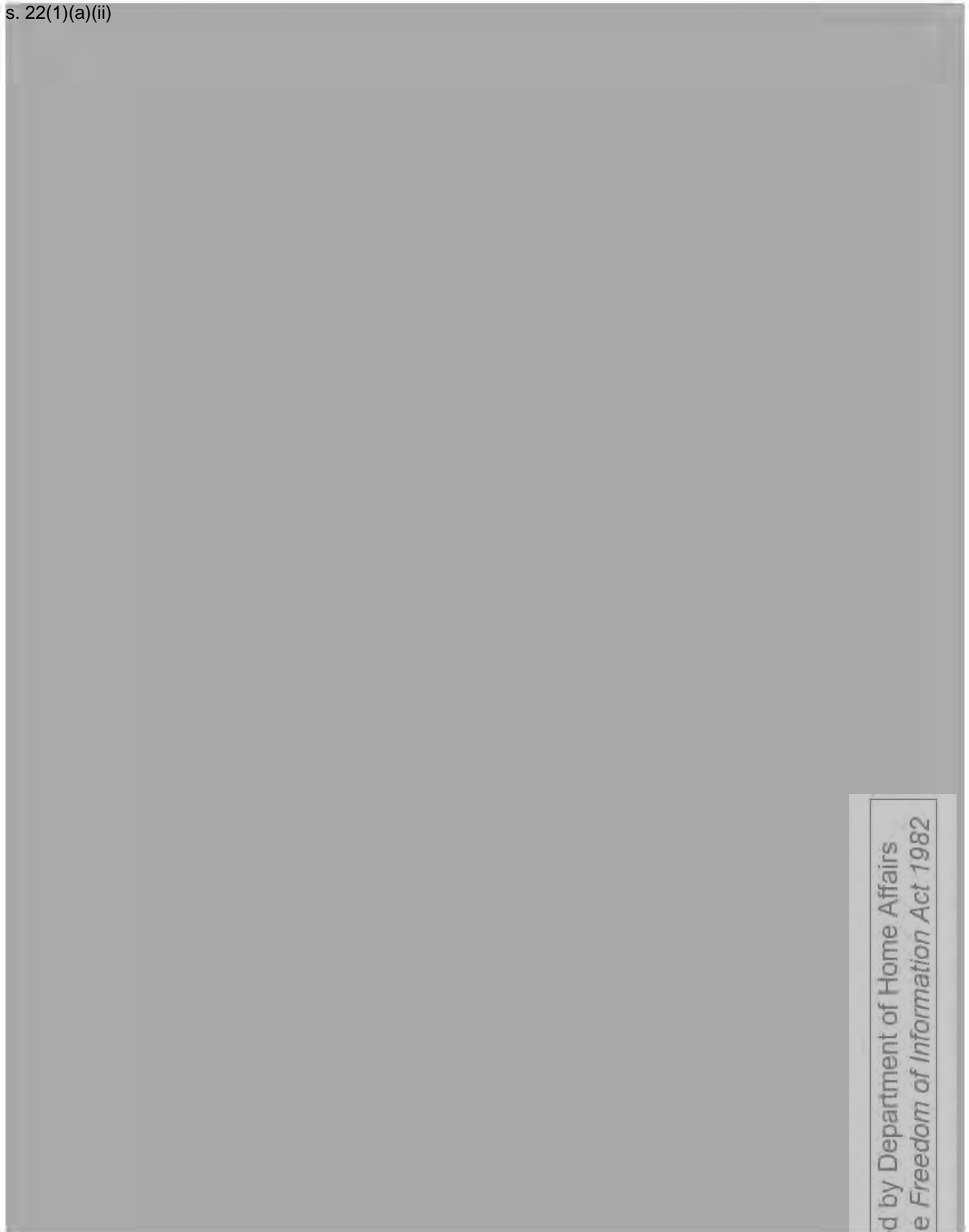
Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
Outbound decision making	subsection 477(1)	Subsection 477(1) of the <i>Biosecurity Act 2015</i> <i>Biosecurity (Human Biosecurity Emergency) (Human coronavirus with Pandemic Potential) (Overseas Travel Ban Emergency Requirements) Determination 2020</i> Reference: F2020C00870	No	
Inwards decision making	N/A	The ABF Commissioner has been authorised by the Prime Minister to consider exemption requests on a case-by-case basis	N/A	

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




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COVID-19 Border Measures Procedural Instruction - Outward

Procedural Instruction

Document ID (PPN)	s. 22(1)(a)(ii)
TRIM record number	s. 22(1)(a)(ii)
BCS Function	Border Measures – Travel Exemptions Procedural Instruction
Document owner	COVID-19 Border Measures Program Management
Approval date	11 January 2021
Document Contact	COVID-19 Border Measures Program Management s. 47E(d)

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1. Purpose

From 1200 AEDT 25 March 2020, all Australian citizens and Australian permanent residents must not travel outside Australia unless exempt, through either being in an automatic exempt category or obtaining an individual exemption by providing the Australian Border Force (ABF) Commissioner with a compelling reason to depart. The COVID-19 Border Measures Branch manages and decides travel exemption requests in response to Australia's travel restrictions.

This procedural guidance is designed to be used as an explanatory support to exemptions processing staff assessing exemption requests from Australian citizens and Australian permanent residents who seek to leave Australia. Requests are assessed on a case by case basis.

2. Scope

This document provides procedural guidance applicable to the assessment of outward travel exemption requests from Australian citizens and Australian permanent residents.

It is recommended that users read this procedural guidance in conjunction with the following documents:

- Outward Travel Restrictions Operation Directive

Note: Travel restrictions are subject to change at short notice, therefore officers must refer to related documentation via TRIM or published versions on SharePoint or the Home Affairs website (rather than saving or printing a copy) to ensure they access the most up to date versions.

3. Vaccinations for Essential Overseas Travel

On 7 May 2021, the National Cabinet agreed that a subset of Australian citizens and permanent residents aged under 50 years old with travel exemptions for outward discretionary categories (essential travel) should be prioritised to ensure they can access COVID-19 vaccines as early as practicable.

Note: This decision does not affect the relevant policy threshold for the assessment and decision making of eligible exemption categories, nor does it affect the treatment and management of affected outwards travel exemption requests. All requests must continue to be considered against travel exemption policy settings as articulated in this document and related instructions. The change to our processing is limited to additional information included on the client notification in affected exemption categories.

To be eligible for a COVID-19 vaccination, travel exemptions must be granted **on or after 20 May 2021** for one of the following reasons:

- travel is as part of the response to the COVID-19 outbreak, including the provision of aid;
- travel is for your business or employer;
- travelling to receive urgent medical treatment that is not available in Australia;
- travelling on compassionate or compelling grounds;
- travelling for urgent or unavoidable personal business;
- travel is in the national interest.

When approving exemption requests in these categories, the notification *Exempt – Outbound* template **must be used**.

The only category of outwards travel exemption which **is not eligible** for access to COVID-19 vaccines is 'travelling overseas for a compelling reason for at least 3 months'. Approvals under this category **will not be** prioritised for vaccination.

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When approving travel in the travelling overseas for a compelling reason for at least 3 months' category, the notification *Exempt – Outbound > 3 months* must be used.

Note: Individuals who hold a previously approved travel exemption, and have not yet travelled, may reapply in order to be eligible for the vaccination. This information has been advertised on our public website. All cases must be assessed on the evidence provided, however it is expected that if the reason for travel and the evidence provided remain consistent with their current approval, the same outcome would be reached. If case officers reach a different conclusion, the reasoning must be discussed with the Chief Superintendent prior to a refusal being issued.

4. Procedural Instruction

4.1. Decision Maker

All requests for travel exemptions from individuals intending to travel to **Papua New Guinea (PNG)** **MUST** be referred to the Commissioner for decision.

Note: All submissions that are prepared for referral to the Commissioner must follow the Commissioner Discretion pathway in the Travel Exemption Portal (TEP), which requires review by an EL1 or above.

For cases where a request is assessed under an exempt category:

Exempt (including assessed as automatically exempt) - one stage of assessment is required:

- Decision Maker - Officers at APS3 level and above

Not exempt - two stages of assessment are required:

- Initial Assessment - Officers at APS3 level
- Decision Maker – APS6 level and above

For cases where an individual declares an intent to travel overseas for at least three months for a compelling reason:

For both Meeting and/or Not Meeting the guidelines – one stage of assessment is required:

- Decision Maker - Officers at APS3 level and above

For cases where an individual assessment is required (other than where an individual declares an intent to travel overseas for at least three months for a compelling reason):

For both Meeting and/or Not Meeting the guidelines - two stages of assessment are required:

- Initial Assessment - Officers at APS3 level
- Decision Maker - APS6 level and above

4.2. For consideration when assessing outward travel exemption requests

All travel exemption requests must be considered against all categories, prior to a decision to refuse the request being made.

The Determination

Outward travel exemption requests are considered under the *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Overseas Travel Ban Emergency Requirements) Determination 2020* ('the Determination').

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Under section 5 of the Determination, an Australian citizen or permanent resident must not leave Australian territory as a passenger on an outgoing aircraft or vessel unless they have an exemption under section 6 or 7 of the Determination.

Outlined in section 6 of the Determination are the categories of Australian citizen and permanent resident travellers who are exempt from travel restrictions and are not required to apply for an individual exemption.

Under section 7 of the Determination, in exceptional circumstances, the ABF Commissioner may grant an individual exemption to an Australian citizen or a permanent resident to leave Australia on a case-by-case basis. This is reliant on the provision of a compelling reason for needing to leave Australian territory (s7(2) of the Determination).

Note: Appropriately trained ABF and Home Affairs staff are authorised to make decisions on outward travel exemption requests

The Outward Travel Restrictions Operation Directive provides examples of reasons an outward travel exemption may be approved.

Outward Travel Restriction Operation Directive

The following categories of traveller are generally exempt from travel restrictions and are not required to apply for an individual exemption. Persons who are:

- temporary visa holders;
- usually resident in a country other than Australia;
- members of the crew of an aircraft or vessel, or a worker associated with the safety or maintenance of an aircraft or vessel;
- New Zealand citizens holding a Special Category (subclass 444) visa, even if they are usually resident in Australia;
- engaged in the day-to-day conduct of inbound and outbound freight;
- travelling in association with essential work at an offshore facility in Australian waters;
- travelling on official Government business (including members of the Australian Defence Force and any Australian government official travelling on a diplomatic or official passport).

The following situation can be assessed and decided by APS3 officers and above, where the traveller:

- a. has declared an intent to travel overseas for at least three months for a compelling reason.

New Zealand addition to exemption categories

Effective Monday, 22 March 2021, an amendment to the overseas travel restrictions was approved. Travel to New Zealand is exempt from the current travel restrictions, allowing people who have been in Australia for 14 days to travel to New Zealand without applying for an exemption.

All people (including temporary residents) who have been in Australia or New Zealand for at least 14 days immediately prior to departure are able to travel between Australia and New Zealand without applying for a travel exemption. This **ONLY** applies for travel within the Safe Travel Zone (STZ). The intention of this policy is to facilitate frequent travel between Australia and New Zealand and provide associated economic benefits to each country, including tourism opportunities. Temporary residents in Australia are also able to access holiday travel within the STZ.

The *TER Decision not required – Outward NZ* template **must be used** if requests are received from individuals intending to travel between Australia and New Zealand **ONLY**, as someone can only be assessed as meeting this exemption category at the time of departure. It is not possible to undertake this assessment in advance through TEP. No CAI note is to be recorded in ICSE.

Do NOT issue an exemption notification for these travellers

Note: the *Travel Exemptions Operating Instructions for Border Operations Centre and Airport Operations* has detailed information for officers to assess this category at time of departure.

OFFICIAL: Sensitive**PNG Outbreak**

Based on current health advice, the COVID-19 outbreak in PNG means travel to PNG from Australia presents a serious health risk to the Australian community. Individuals seeking an 'exceptional circumstances' exemption to travel from Australia to PNG will not be approved until further notice, except in extremely limited circumstances, for example:

- for critical workers providing assistance to PNG's COVID-19 response; and
- persons undertaking critical safety roles.

The 'exceptional circumstances' individual/discretionary exemption criteria, do not currently apply to individuals seeking to travel to PNG.

All approvals for Outwards travel to PNG will be decided by the Chief Superintendent until further notice.

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

Assessing and deciding exemption requests under category 'Travel for three months or longer'

As of 2300 AEDT on Friday 8 January 2021, requests for an exemption on the basis of 'travel for three months or longer' will not be approved unless suitable documentary evidence is provided to support the claimed travel period and also to evidence a compelling reason for travel.

The presentation of a properly completed Commonwealth Statutory Declaration is now a mandatory requirement for approvals under this category, as is the requirement for a compelling reason for travel.

Any request for travel under this category, that lacks the required evidence may be refused and the client referred to the website for further information.

If you refuse an application due to a lack of sufficient information or evidence, you should provide the client with advice about evidentiary requirements in the refusal notification letter. RFI and Refusal templates have been updated to support communication with clients.

Persons who seek an exemption from Australia's outbound travel restrictions on the basis that they are leaving Australia for three months or longer **must** present a compelling reason for travel and **must** provide a properly completed Commonwealth Statutory Declaration **and** evidence to support their claims.

For the purpose of assessing this category, 'compelling reason' may include circumstances such as:

- visiting with, or providing care and support to, sick family members

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- attending a course of study overseas, or other educational opportunity of at least three months
- beginning or continuing an employment contract
- relocating overseas for a time period of six months or more
- other reason which falls within the ordinary meaning of 'compelling'.

Please refer to 'Assessing Compelling Reasons' below, for further information, if you are unsure about the reasons provided by a client.

Travel for the sole purpose of leisure or holidays would not be considered a compelling reason.

When assessing an exemption request under this category, in every case regardless of circumstance, the requester **must** provide a properly completed Commonwealth Statutory Declaration which includes a formal statement that they are making an application for a travel exemption on the basis that they intend to be absent from Australia for at least three months and the reason for the travel.

Commonwealth Statutory Declarations

It can generally be accepted that a completed Commonwealth Statutory Declaration has been completed properly unless there is clear evidence to the contrary.

One Commonwealth Statutory Declaration per request is acceptable assuming each traveller is travelling for the same purpose and is covered by the Declaration. If a person under 18 years of age intends to travel unaccompanied by their parents or guardian, a Commonwealth Statutory Declaration is required from at least one parent or guardian.

In addition to the Commonwealth Statutory Declaration, the requester **must also** provide evidence that supports their claimed compelling reason for travel.

Examples of other supporting evidence that could be provided include:

- confirmed flight itinerary, with return date of at least three months after departure date
- confirmation of leave from their employer for at least three months
- enrolment confirmation for study
- employment contract
- evidence of their goods being transported overseas
- a doctor's certificate to support their claim that the purpose of travel is to provide care or support to sick family members (Please note: the doctor does not have to explicitly state that physical care is required for the patient. Emotional support is a relevant compelling reason under this category).
- any other relevant documentary evidence which supports the reason for travel.

Other Discretionary exemption categories

The following situations would generally be approved, and can be assessed and decided by APS6 officers and above, where the traveller:

- a. is attending the funeral of a close family member (parent, sibling, partner, child or grandparent) regardless of length of intended travel;
- b. is travelling due to critical or serious illness of a close family member (parent, sibling, partner, child or grandparent), regardless of length of intended travel;
- c. is travelling for necessary medical treatment not available in Australia;
- d. needs to pick up a minor child (adoption, surrogacy, court order etc) and return to Australia with that child;
- e. intends to complete an existing work contract – for example fly-in-fly-out (FIFO) workers and individuals with a work contract;
- f. is travelling to an Australian territory which is outside the migration zone;

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- g. has another compelling reason for travel where travel is for less than three months;
- h. is travelling on business, regardless of length of intended travel;
- i. has had a previous request approved and the reasons for travel have not changed;
- j. is travelling in the national interest;
- k. is travelling in response to the COVID-19 outbreak, including the provision of aid.

Note: A family unit wishing to travel for a funeral/to visit seriously ill parent/grandparent, will now be able to travel together (including the son/daughter-in law) if supporting evidence confirming the reason for travel is submitted with the application.

Assessing Compelling Reasons – all categories

The term 'compelling' has no defined meaning in reference to Australia's travel restrictions and travel exemptions, and therefore its ordinary meaning is to be applied.

Compelling reasons may stem from compassionate factors, or may also arise from a person's circumstances or the circumstances of another person (for example, a close family member).

Australia's travel restrictions are an emergency response of Government designed to manage a public health threat as a result of the COVID-19 pandemic. This is important context to consider when determining whether a case has presented 'compelling' reasons to travel.

Where an individual has proposed travel of a short duration (ie. less than three months), our understanding of what constitutes a 'compelling reason' has a high test. Any individual proposing an overseas journey of less than 3 months is expected to provide documents supporting strong compelling and/or compassionate circumstances, and this is captured in the requirements of the Outwards Operation Directive.

Where an individual has proposed travel of three months or more, Government has determined that the length of travel means the public health risk has been lessened, when compared with trips of shorter duration. Therefore, proposed travel of three months or more for any purpose other than leisure or a holiday is generally considered to satisfy the definition of 'compelling' for this category. It is therefore possible for a person to propose a family reunification activity under this category (such as a wedding or other significant life event) and this may be considered to meet 'compelling reason', provided that you are satisfied the declared travel period is genuine and relevant supporting evidence and documents have been provided.

Assessing outwards travel requests from Temporary Visa Holders

Temporary visa holders in Australia can depart Australia at any time. However, they are not permitted to return to Australia except in very limited circumstances. Ensure the use of the correct template to notify the client of the requirement to request a pre-emptive inwards travel exemption. See *COVID-19 Border Measures Procedural Instruction - General – Inwards* for more information regarding pre-emptive requests.

Outwards travel exemption requests received from Temporary visa holders who are currently onshore in Australia **must not** be sent an 'approved' or 'exempt' notice. These request types **must** be provided with information about how to make a 'pre-emptive' inwards travel exemption request.

Assessing usually resident in a country other than Australia

As explained in the Outward Travel Restrictions Operation Directive, there is no one fixed numerical calculation as to whether someone is 'usually resident' in a country other than Australia – it is a matter of judgement. Acceptable evidence may include, but is not limited to:

- a. government issued documentation (for example foreign driver's licence) which is supported by one other type of documentation confirming:
- b. owning or renting property in a foreign country (e.g. utility bills, rates notices, lease agreement)
- c. location of immediate family members
- d. employment contract in a foreign country

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For cases where it is difficult to rely solely on an assessment of the length of time spent onshore in Australia prior to last departure (movement record history) due to the COVID-19 travel restrictions, more weight should be given to significant ties offshore when determining residency status.

s. 47E(d)

Other considerations

Decision makers should treat the best interests of minor children in/outside of Australia as a primary consideration.

Decision makers should consider the impacts on family unity of the person seeking to depart Australia.

Decision makers should also bear in mind the Australian Government's intent for imposing the travel restrictions, that is, the potential health risks posed to the Australian community by international travellers, given that Australian citizens and permanent residents are not required to seek an exemption from the Department to return to Australia.

Once a travel exemption request has been considered against all categories, if it is evident that the claimed circumstances do not meet current travel exemption requirements, decision makers should either request further information (expected to be appropriate in only a small number of cases) or refuse the travel exemption request.

4.3. Supporting documentation

The onus is on the individual to provide sufficient evidence (officially translated into English where required) to support their travel exemption request.

Officers should assess any information provided by an individual, as well as any information held in Departmental systems including but not limited to, movement records, visa applications and passenger cards.

Requests for further information should be kept to a minimum. In most cases if an individual has not provided sufficient information the request should be refused and the individual advised to reapply with any relevant information that is required.

The following is to be used as a guide when assessing evidentiary requirements.

Exempt Categories**Usually resident in a country other than Australia**

- government issued documentation (for example foreign driver's licence) which is supported by one other type of documentation confirming:
 - owning or renting property in a foreign country (e.g. utility bills, rates notices, lease agreement);
 - location of immediate family members; and / or
 - employment contract.

Note: Length of time spent onshore in Australia prior to last departure (movement record history) and significant ties offshore should be taken into consideration when determining residency status, for this purpose.

OFFICIAL: Sensitive**Members of the crew of an aircraft or vessel, or a worker associated with the safety or maintenance of an aircraft or vessel**

- If the individual is a crew member of an aircraft or vessel;
 - A copy of the individual's crew identification
 - A copy of a letter from the individual's employer
 - Evidence that travel is necessary at this time
 - Any other evidence to support claims
- If the individual is a worker associated with the safety or maintenance of an aircraft or vessel;
 - A copy of a letter from the individual's employer
 - Evidence that travel is necessary at this time
 - Any other evidence to support claims

New Zealand citizens holding a Special Category (subclass 444) visa, even if they are usually resident in Australia

- Systems check to confirm the individual is a New Zealand citizen and subclass 444 visa holder

Engaged in the day-to-day conduct of inbound and outbound freight

- A copy of a letter from the individual's employer
- Evidence that travel is necessary at this time
- Any other evidence to support claims

Travelling in association with essential work at an offshore facility in Australian waters

- A copy of a letter from the individual's employer
- Evidence that travel is necessary at this time
- Any other evidence to support claims

Travelling on official Government business (including members of the Australian Defence Force (ADF) and any Australian government official travelling on a diplomatic or official passport)

- If the individual is a member of the ADF:
 - A copy of the individual's military order, requiring travel at this time; and
 - A copy of the individual's military identification.
- If the individual is an Australian government official:
 - Evidence the individual is travelling on an official or diplomatic passport
- If the individual is an approved companion of a person travelling on official Government business who is not travelling at the same time as principal traveller:
 - A copy of a letter from an official Government source; and
 - Evidence the person is travelling on an official or diplomatic passport.
 - Evidence that a child is travelling on a passport that has been endorsed by the Department of Foreign Affairs and Trade, if they do not hold an official or diplomatic passport

Individual exemption requests**Has declared an intent to travel overseas for a compelling reason for at least three months**

- Employment contracts and evidence goods are being transported;
- Lease or other evidence of longer term living arrangements overseas;

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- Confirmed flight itinerary, with return date of least 3 months after departure date;
- Doctor's certificate to support the claim for travelling in order to provide care for sick family members
- Enrolment details for study;
- Confirmation of leave from employment for over 3 months
- Other compelling reason for essential travel;

AND (in all cases)

- Commonwealth Statutory declaration regarding the intended length and purpose of travel.

Note: Every request for this category must be accompanied by a properly completed Commonwealth Statutory declaration, in addition to the above mandatory documentary evidence to substantiate the reason for travel.

Is attending a funeral or travelling due to the serious illness of a close family member (parent, child, sibling, partner or grandparent)

- Proof of relationship such as birth and/or marriage certificates, or any other evidence of relationship; and
- Death certificate or a letter from a medical professional; or
Please note in some instances a death certificate may not be issued for several weeks and a letter from a medical professional should be accepted
- A letter from a medical professional outlining diagnosis and/or prognosis, as appropriate to the circumstances.

Is travelling for necessary medical treatment not available in Australia

- A letter from the treating Doctor outlining the individual's intended treatment and clearly stating that treatment is not available in Australia.

Needs to pick up a minor child (adoption, surrogacy, court order etc.) and return to Australia with that child

- Proof of relationship such as birth and / or marriage certificates / court order, or any other evidence of relationship; and / or
- Medical certificates and adoption papers from the State (if available); and / or
- Evidence in the form of a letter from the hospital or from the foreign country's government.

Intends to complete an existing work contract – for example fly-in-fly-out (FIFO) workers and individuals with a work contract

- Evidence that the individual has an existing work contract for employment outside of Australia;
- Evidence that travel is necessary at this time

Is travelling to an Australian territory which is outside the migration zone

- Travel itinerary showing that the individual has confirmed travel arrangements to an Australian territory outside the migration zone.
- Evidence that travel is necessary at this time

Has another compelling reason for travel where travel is for less than three months

- Evidence that the individual has compelling reason(s) to travel overseas

Is travelling on business regardless of length of intended travel

- Evidence of business meetings/conferences; and / or
- Evidence of involvement in international trade such as purchase orders, non-disclosure agreements, order forms, invoices, legal contracts; and / or

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- Business reports, feasibility studies, marketing plans; and / or
- Evidence of development of a new business, such as start-up venture capital; and / or
- Any other evidence that the individual intends to travel outside Australia on business.

Has had a previous request approved and the reasons for travel have not changed

- Evidence that the individual intends to travel outside Australia for the same reason(s) as a previous request, where the reason(s) for travel have not changed including but not limited to one or more of the following:
 - Letter from a medical professional; and / or
 - Employment contract, for example for fly-in-fly-out (FIFO) workers.

Is travelling in the national interest

- Evidence that the individual is required to travel outside Australia for reasons in the national interest of Australia, including but not limited to specialised projects, participation in elite sporting teams representing Australia, relief support for disasters, and emergency service support such as fire or police work.

Is travelling in response to the COVID-19 outbreak, including the provision of aid

- A letter from a government or private entity outlining the requirement for the individual to travel outside of Australia in response to COVID-19;

4.4. Validity of outward travel exemption approvals**Single use travel exemption**

Outward travel exemption request approvals will be valid for 3 months from the date of approval. If the travel exemption is not used in this timeframe or the circumstances relating to the approval of the travel exemption change, the individual will need to submit a new exemption request with supporting documentation.

Client notification templates in the Travel Exemption Portal have been updated to reflect this requirement and the system automatically calculate the date when generating the template.

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

Multiple use travel exemption

Individuals who need to leave and return to Australia for reasons within scope of travel exemptions policy, on a regular basis, for example Fly-in Fly-out (FIFO) workers with an ongoing contract, may be eligible for a "multiple use" travel exemption for a period of 6 months; provided the reason for the individual's travel to and from Australia, remains the same as that provided in the original approved travel exemption request.

For any cases where it may be appropriate to provide a multiple use travel exemption, please contact Travel Exemption Program Management for approval and for tailored communication templates and CAI notes.

4.5. Client communication

The following standard words should be included in requests for information and refusal communication with clients, using the TEP template.

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Note: Officers should not request further information if it is likely that the individual will not meet the guidelines, even with provision of additional documentation.

Client Communication – additional script for use when requesting further information

[If you think it appropriate to request specific documentation, please list the requested documents, as per 'expected supporting document' here. s. 22(1)(a)(ii)]

Exempt Categories**Usually resident in a country other than Australia**

- Foreign government issued documentation (for example foreign driver's licence) and
 - owning or renting property in a foreign country (e.g. utility bills, rates notices, lease agreement);
 - location of immediate family members; and / or
 - employment contract.

Members of the crew of an aircraft or vessel, or a worker associated with the safety or maintenance of an aircraft or vessel

- If the individual is a crew member of an aircraft or vessel;
 - A copy of the individual's crew identification
 - A copy of a letter from the individual's employer
 - Evidence that travel is required at this time
 - Any other evidence to support claims
- If the individual is a worker associated with the safety or maintenance of an aircraft or vessel;
 - A copy of a letter from the individual's employer
 - Evidence that travel is required at this time
 - Any other evidence to support claims

New Zealand citizens holding a Special Category (subclass 444) visa, even if they are usually resident in Australia

- Systems check to confirm the individual is a New Zealand citizen and subclass 444 visa holder

Engaged in the day-to-day conduct of inbound and outbound freight

- A copy of a letter from the individual's employer
- Evidence that travel is necessary at this time
- Any other evidence to support claims

Travelling in association with essential work at an offshore facility in Australian waters

- A copy of a letter from the individual's employer
- Evidence that travel is necessary at this time
- Any other evidence to support claims

Travelling on official Government business (including members of the Australian Defence Force (ADF) and any Australian government official travelling on a diplomatic or official passport)

- If the individual is a member of the ADF:
 - A copy of the individual's military order, requiring travel at this time; and
 - A copy of the individual's military identification.

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- *If the individual is an Australian government official:*
 - *A copy of letter from an official Government source, requiring the individual to travel at this time; and*
 - *A copy of the individual's official or diplomatic passport*
- *If the individual is an approved companion of a person travelling on official Government business:*
 - *A copy of a letter from an official Government source; and*
 - *Evidence the person travelling on official Government business is exempt from travel restrictions.*

Individual exemption requests***Has declared an intent to travel overseas for a compelling reason for at least three months***

- *Employment contract;*
- *Lease or other evidence of longer term living arrangements overseas*
- *Evidence your goods are being transported overseas;*
- *Confirmed flight itinerary, with return date of least 3 months after departure date;*
- *Doctor's certificate to support the claim for travelling in order to provide care for sick family members;*
- *Enrolment details for study;*
- *Confirmation of leave from employment for over 3 months and compelling reason for essential travel;*
- *Any other evidence you consider supports your intention to travel overseas for at least 3 months*

AND (in all cases)

- *A Commonwealth Statutory declaration regarding the intended length and purpose of travel.*

Note: Every request for this category must be accompanied by a properly completed Commonwealth Statutory Declaration in addition to the above mandatory documentary evidence to substantiate the reason for travel.

Is attending the funeral of or travelling due to serious illness of an immediate family member (parent, child, sibling, partner or grandparent)

- *Proof of relationship such as birth and/or marriage certificates, or any other evidence of relationship; and*
- *Death certificate (or a letter from a medical professional) or*
- *A letter from a medical professional outlining diagnosis and/or prognosis, as appropriate to the circumstances.*

Is travelling for necessary medical treatment not available in Australia

- *A letter from the treating Doctor outlining the individual's intended treatment and clearly stating that treatment is not available in Australia.*

Needs to pick up a minor child (adoption, surrogacy, court order etc.) and return to Australia with that child

- *Medical certificates and adoption papers from the State (if available); and / or*
- *Evidence in the form of a letter from the hospital or from the foreign country's government; and / or*
- *Proof of relationship such as birth and / or marriage certificates, or any other evidence of relationship.*

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OFFICIAL: Sensitive***Intends to complete an existing work contract – for example fly-in-fly-out (FIFO) workers and individuals with a work contract***

- Evidence that the individual has an existing work contract for employment outside of Australia.
- Evidence that travel is necessary at this time

Is travelling to an Australian territory which is outside the migration zone

- Travel itinerary showing that the individual has confirmed travel arrangements to an Australian territory outside the migration zone.

Has another compelling reason for travel where travel is for less than three months

- Evidence that the individual has compelling reason(s) to travel overseas
- Evidence that travel is necessary at this time

Is travelling on business regardless of length of intended travel

- Evidence of business meetings/conferences; and / or
- Evidence of involvement in international trade such as purchase orders, non-disclosure agreements, order forms, invoices, legal contracts; and / or
- Business reports, feasibility studies, marketing plans; and / or
- Evidence of development of a new business, such as start-up venture capital; and / or
- Any other evidence that the individual intends to travel outside Australia on business.

Has had a previous request approved and the reasons for travel have not changed

- Evidence that the individual intends to travel outside Australia for the same reason(s) as a previous request, where the reason(s) for travel have not changed including but not limited to one or more of the following:
 - Letter from a medical professional; and / or
 - Employment contract, for example for fly-in-fly-out (FIFO) workers.

Is travelling in the national interest

- Evidence that the individual is required to travel outside Australia for reasons in the national interest of Australia, including but not limited to specialised projects, participation in elite sporting teams representing Australia, relief support for disasters, and emergency service support such as fire or police work.

Is travelling in response to the COVID-19 outbreak, including the provision of aid

- A letter from a government or private entity outlining the requirement for the individual to travel outside of Australia in response to COVID-19;

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5. Accountability and Responsibility

Role	Description
AS Temporary Visas and Border Measures	Document owners are responsible for: approving documents for release
FAS Immigration Programs Division	Document reviewers are responsible for: verifying the need for a document, and reviewing drafts.
Document drafter	Document drafters are responsible for: drafting documents, consulting with stakeholders.

6. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	11 January 2021	Border Measures Program Management	First issue
1.1	12 February 2021	Border Measures Program Management	3m validity for single-use exemptions and expansion on compelling reasons
1.2	25 February 2021	Border Measures Program Management	Minor change to definition of close family and explanation of assessing usually resident in another country.
1.3	18 March 2021	Border Measures Program Management	Treatment of PNG caseload
1.4	4 May 2021	Border Measures Program Management	New Zealand addition to exemption categories and Travel to high-risk COVID-19 countries
1.5	18 May 2021	Border Measures Program Management	Vaccination eligibility

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

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7 Attachment B – Assurance and Control Matrix

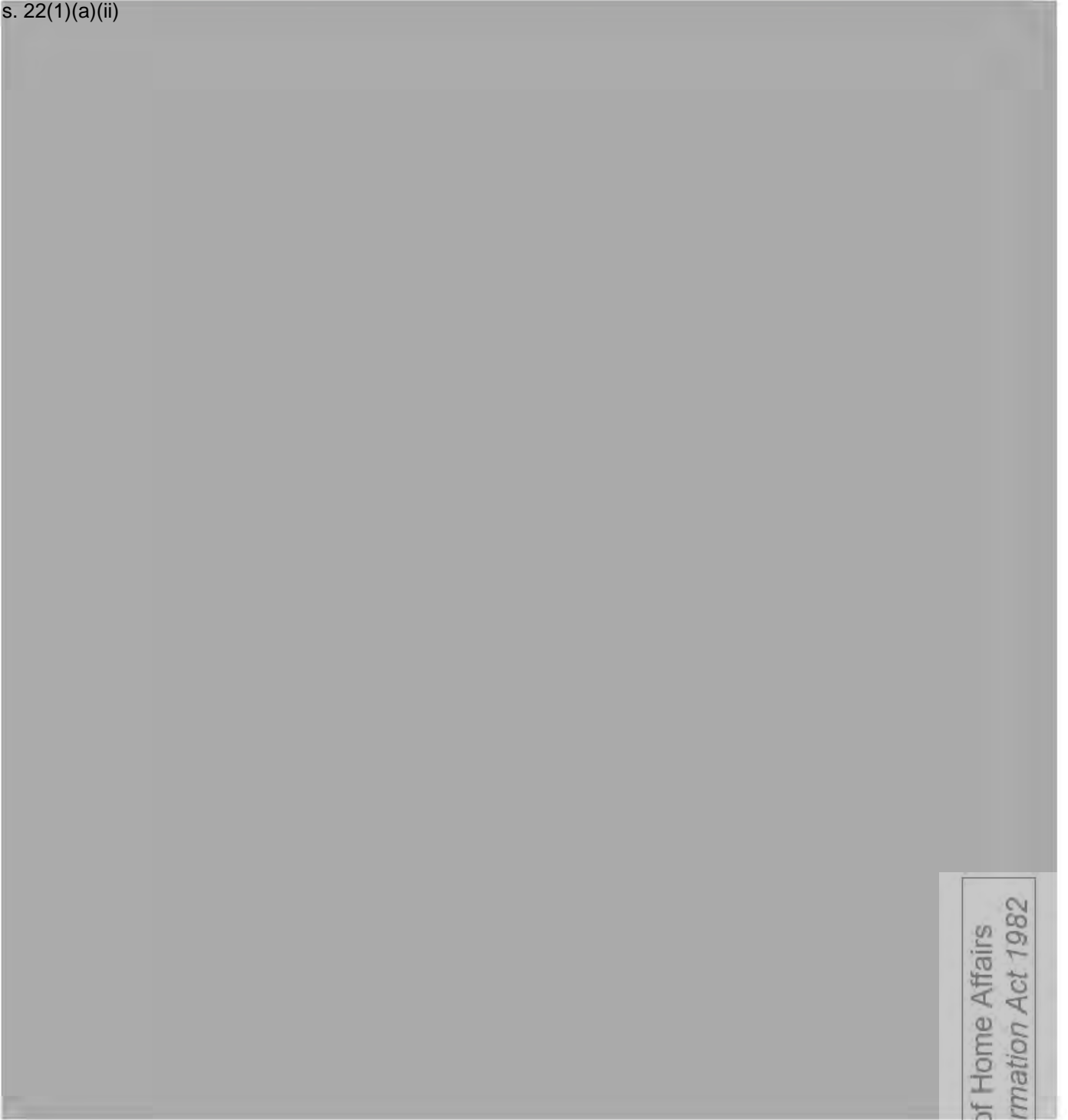
1.1. Powers and Obligations

Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
Outbound decision making	subsection 477(1)	Subsection 477(1) of the <i>Biosecurity Act 2015</i> <i>Biosecurity (Human Biosecurity Emergency) (Human coronavirus with Pandemic Potential) (Overseas Travel Ban Emergency Requirements) Determination 2020</i> Reference: F2020C00870	No	
Inwards decision making	N/A	The ABF Commissioner has been authorised by the Prime Minister to consider exemption requests on a case-by-case basis	N/A	

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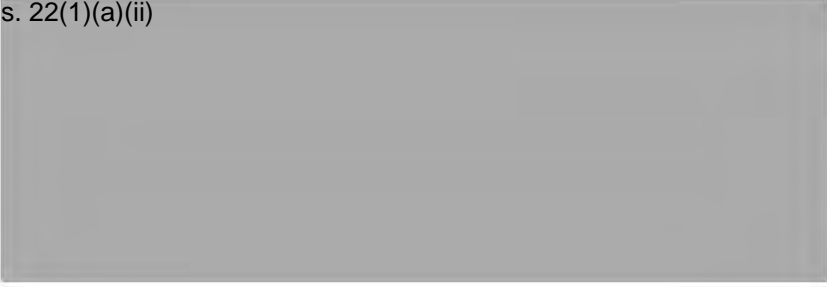


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COVID-19 Border Measures Procedural Instruction - Separation of Family (temporary residents) - Inwards

Procedural Instruction

Document ID (PPN)	<i>[PPN number will be allocated when submitted for PPCF Review]</i>
TRIM record number	s. 22(1)(a)(ii)
BCS Function	Border Measures – Travel Exemptions Procedural Instruction
Document owner	COVID-19 Border Measures Program Management
Approval date	5 February 2021
Document Contact	COVID-19 Border Measures Program Management s. 47E(d)

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1. Purpose

From 9pm AEDT on 20 March 2020, travel restrictions have been in place, prohibiting travel into Australia of all foreign nationals unless exempt. The COVID-19 Border Measures Branch manages and decides travel exemption requests in response to Australia's travel restrictions.

The purpose of this procedural guidance is to provide support to exemptions processing staff assessing exemption requests in the context of temporary residents/temporary visa holders claiming separation of family issues. Temporary residents' family members seeking to travel to Australia may request an exemption under a range of categories. Requests are assessed on a case by case basis, however circumstances under which approvals can be given remain limited.

2. Scope

This document provides procedural guidance applicable to the assessment of inwards travel exemption requests in the context of temporary residents' claims relating to separation of family.

It is recommended that users read this procedural guidance in conjunction with the following documents:

- Commissioner's Guidelines
- Inwards Travel Restrictions Operation Directive
- COVID-19 Border Measures Procedural Instruction - General s. 22(1)(a)(ii)
- COVID-19 Border Measures Procedural Instruction - Immediate Family Member s. 22(1)(a)(ii)
- COVID-19 Border Measures Procedural Instruction - NZ Citizens s. 22(1)(a)(ii)
- COVID-19 Border Measures Procedural Instruction - Critical Skills s. 22(1)(a)(ii)

Note: Travel restrictions are subject to change at short notice, therefore officers must refer to related documentation via TRIM or published versions on SharePoint or the Home Affairs website (rather than saving or printing a copy) to ensure they access the most up to date versions.

3. Procedural Instruction

3.1. Decision Maker

The ABF Commissioner will personally consider travel exemption requests as outlined in the Commissioner's Guidelines.

Assessors and decision makers will consider inwards travel exemption requests as outlined in the Commissioner's Guidelines and the Inwards Travel Restrictions Operation Directive in conjunction with the guidance on decision maker levels, please refer to *COVID-19 Border Measures Procedural Instruction - General* under subheading 3.4. *Decision Maker*.

Once a travel exemption request has been considered against all categories, if it is evident that the claimed circumstances do not meet current travel exemption requirements, and therefore cannot be assessed as exempt, officers should either request further information (expected to be appropriate in only a small number of cases) or refuse the travel exemption request. Additional text to support client communication is provided at section 3.4 *Client communication*.

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OFFICIAL - Sensitive**3.2. For consideration when assessing exemption requests, in the context of the separation of family**

All travel exemption requests must be considered against all categories prior to a decision to refuse the request is made.

This procedural instruction provides guidance on the following scenarios in the context of separation of family:

- The parent or legal guardian of a minor who is lawfully present in Australia, including when holding a temporary visa, and can establish that the minor was usually resident in Australia before the introduction of Australia's travel restrictions.
- The immediate family member(s) of a temporary or provisional visa holder in Australia where there is a high risk that the person will depart Australia if they are unable to reunite with their immediate family member(s) **and** the visa holder in Australia:
 - Has critical skills; and / or
 - Is working in a critical sector; and / or
 - Brings significant economic benefit to Australia; and / or
 - Their presence in Australia is in Australia's national interest.
- The partner of a temporary or provisional visa holder in Australia who is in the final trimester of pregnancy, or otherwise due to give birth. Refer to the COVID-19 Border Measures Procedural Instruction - Immediate Family Member s. 22(1)(a)(ii) for guidance on assessing 'partner'.
- A close family member (a close family member is defined as a parent, sibling, partner, child or grandparents) of a non-citizen requiring urgent or critical medical treatment in Australia, including medical evacuations.
- Those seeking to visit a close family member who is seriously ill where there is little support in Australia.
- Where a non-citizen requires urgent or critical medical treatment in Australia, including evacuation, an accompanying family member may also be considered where a minor requires treatment; where a medical condition is life threatening; or where medical advice supports the requirement for the family member to travel.
- Those seeking to attend a funeral of a close family member.
- Cases demonstrating strong compassionate circumstances that, if not taken into account, would result in serious, ongoing and irreversible harm and continuing hardship to an Australian citizen or an Australian family unit, where at least one member of the family is an Australian citizen or Australian permanent resident.

3.3. Supporting documentation

To be used as a guide when assessing evidentiary requirements:

Consideration should be given to all information and documentation provided by a client, as well as information and documentation in the Department's systems (e.g. visa applications, movement records, passenger cards). Where an officer has concerns about a case, they should discuss the case with an EL1 officer prior to decision.

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The parent or legal guardian of a minor who is lawfully present in Australia

- Evidence the individual is a parent or legal guardian of a minor lawfully present in Australia; and
- Evidence that the minor was usually resident in Australia before the introduction of Australia's travel restrictions.

Note: The best interests of minor children are to be treated as a primary consideration. Officers are reminded to confirm custody arrangements if there are any concerns.

Note: Officers should check a minor's Movement Records to determine that they are lawfully present in Australia at the time of making a decision and that the minor was usually resident in Australia before the introduction of Australia's travel restrictions.

The immediate family member(s) of a temporary or provisional visa holder who is in Australia and there is a high risk that the person will depart Australia if they are unable to reunite with their immediate family member and one of the following applies:

- **Critical skills/ working in a critical sector**
 - Evidence the individual is an immediate family member of a person in Australia;
 - Evidence that the person in Australia has critical skills, experience and or qualifications / is working in a critical sector;
 - Evidence that the person in Australia is working in a position which requires their critical skills / working in a critical sector; and
 - Evidence that the person in Australia who has critical skills, could depart Australia if they are unable to be reunited with their immediate family member(s) in Australia.

Note: Objective evidence of the ongoing criticality of a relevant skill from a State or Territory Government should be given considerable weight.

- **Brings significant economic benefit to Australia**
 - Evidence the individual is an immediate family member of a person in Australia;
 - Evidence that the person in Australia brings significant economic benefit to Australia; and
 - Evidence that the person in Australia who brings significant economic benefit to Australia could depart Australia if they are unable to be reunited with their immediate family member(s) in Australia.
- **Is in Australia's national interest**
 - Evidence the individual is an immediate family member of a person in Australia;
 - Evidence that the person's presence in Australia is in Australia's national interest; and
 - Evidence that the person whose presence in Australia is in Australia's national interest could depart Australia if they are unable to be reunited with their immediate family member(s) in Australia.

Note: An inwards travel exemption request from an immediate family member of a person who is a temporary or provisional visa holder in Australia, would generally satisfy the assessing officer that the person could depart Australia if they are unable to be reunited with their immediate family member(s) in Australia.

The partner of a temporary or provisional visa holder in Australia who is in the final trimester of pregnancy or otherwise due to give birth

- Evidence that a temporary or provisional visa holder in Australia is in the final trimester of pregnancy or otherwise due to give birth (e.g. letter or document from a treating medical professional); and
- Evidence the individual is the partner of the temporary or provisional visa holder in Australia.

Note: Where there are other compassionate or compelling circumstances in relation to a temporary or provisional visa holder in Australia who is pregnant, that do not fit squarely within exemption policy

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guidelines, officers should discuss the case with their supervisor prior to decision (e.g. the temporary or provisional visa holder in Australia, who is pregnant, is on medically indicated bed-rest).

A close family member of a non-citizen requiring urgent or critical medical treatment in Australia, including medical evacuations. Examples may include:

- A minor or adult requires urgent treatment / medical evacuation (evacuations are relatively common from the Pacific region)
- A medical condition is life threatening
- Medical advice supports the requirement for the family member to travel
- The required treatment can only be provided in Australia
- Evidence that a non-citizen requires urgent or critical medical treatment in Australia;
- Evidence that the individual requesting an inwards travel exemption is needed to support the non-citizen during travel and / or during the urgent or critical medical treatment in Australia;
- Evidence that the non-citizen who requires urgent or critical medical treatment in Australia is exempt from travel restrictions; and
- Evidence the individual requesting an inwards travel exemption is a close family member of the non-citizen requiring urgent or critical medical treatment in Australia.

Those seeking to visit a close family member who is seriously ill, where there is little support in Australia

Note: The person who is seriously ill could be an Australian citizen, Australian permanent resident or a temporary or provisional visa holder who resides in Australia. To demonstrate 'little support' an individual would need to provide evidence that no other family in Australia could provide the level of support required.

- **General**
 - Evidence that a person in Australia is seriously ill (e.g. letter from a medical professional);
 - Evidence that the purpose of the individual's travel to Australia is to support the person in Australia who is seriously ill;
 - Evidence that the individual requesting an inwards travel exemption is a close family member of the person in Australia who is seriously ill; and
 - Evidence that the person in Australia who is seriously ill has little support in Australia (e.g. are there any identifiable close family members already in Australia?).
- **Postnatal Depression/Anxiety**
 - Evidence that a person in Australia is currently suffering from mild, moderate or severe Postnatal Depression/Anxiety, where the diagnosis was made in the last 6 months by a:
 - Psychologist; and / or
 - Psychiatrist; and / or
 - General Practitioner;
 - Evidence that the individual requesting an inwards travel exemption is a close family member of the person in Australia who was diagnosed;
 - Evidence that the person in Australia who was diagnosed currently has little support in Australia (e.g. are there any identifiable close family members already in Australia? A systems check and statement from the person may suffice);
 - Evidence that the purpose of the individual's travel to Australia is to support the person in Australia who was diagnosed; and

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- In instances where support is required due to a partner not being available to provide support, evidence that the individual's partner is unable to provide support, for reasons including but not limited to, currently undertaking critical, frontline, regional and / or "Fly In Fly Out" work.

Note: A letter from a counsellor alone is not sufficient evidence of a diagnosis of postnatal depression/anxiety. Where sufficient evidence has not been provided, a "request for information" must be sent before finalising the case.

Those seeking to attend a funeral of a close family member

- Evidence that a funeral for a close family member will take place in Australia; and
- Evidence that the individual who intends to travel to Australia is a close family member of the person who died.

Cases demonstrating strong compassionate circumstances

- Evidence that an Australian citizen or Australian permanent resident (adult or minor) would experience serious, ongoing and irreversible harm and continuing hardship due to strong compassionate circumstances if a close family member cannot travel to Australia to support them.

Note: The circumstances may include a range of scenarios and therefore a range of evidence may be appropriate. Decision makers should use their judgement and consult with EL1s and above if they need guidance. The best interests of minor children in Australia are to be treated as a primary consideration.

Note: Individuals who do not meet the policy guidelines for one inwards travel exemption category should be considered under all other categories, however they would need to provide evidence that they meet the requirements of another category.

3.4. Client communication

The following standard words should be included in requests for information and refusal communication with clients, using the TEP template.

Note: Officers should not request further information if it is likely that the individual will not meet the guidelines, even with provision of additional documentation.

Client Communication – additional script for use when requesting further information:

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

Dear \${consumer.first_name} \${contact.first_name}

I refer to your request for an exemption from Australia's current travel restrictions.

Unfortunately, you have not provided sufficient information for an assessment of whether your circumstances warrant an exemption to the travel restrictions.

Before your request can be considered further, you will need to log in to your account at \${mail_script.tep_portal_url} and upload the following documents:

The parent or legal guardian of a minor who is lawfully present in Australia

- *Documentary evidence that the individual is a parent or legal guardian of a minor lawfully present in Australia; and*
- *Evidence that the minor was usually resident in Australia before the introduction of Australia's travel restrictions.*

The immediate family member(s) of a temporary or provisional visa holder who is in Australia and there is a high risk that the person will depart Australia if they are unable to reunite with their immediate family member(s) and:

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- **Critical skills/ working in a critical sector**
 - Evidence the individual is an immediate family member of a person in Australia;
 - Evidence that the person in Australia has critical skills, experience and or qualifications / is working in a critical sector;
 - Evidence that the person in Australia is working in a position which requires their critical skills / working in a critical sector; and
 - Evidence that the person in Australia who has critical skills, could depart Australia if they are unable to be reunited with their immediate family member(s) in Australia.
- **Brings significant economic benefit to Australia**
 - Evidence the individual is an immediate family member of a person in Australia; and
 - Evidence that the person in Australia brings significant economic benefit to Australia; and
 - A statement from the person in Australia who brings significant economic benefit to Australia that they may depart Australia if they are unable to reunite with their immediate family member(s)
- **Is in Australia's national interest**
 - Evidence the individual is an immediate family member of a person in Australia; and
 - Evidence that the person's presence in Australia is in Australia's national interest; and
 - A statement from the person whose presence in Australia is in Australia's national interest that they may depart Australia if they are unable to reunite with their immediate family member(s)

The partner of a temporary or provisional visa holder in Australia who is in the final trimester of pregnancy or otherwise due to give birth

- Evidence that a temporary or provisional visa holder in Australia is in the final trimester of pregnancy or otherwise due to give birth; and
- Evidence the individual is the partner of the temporary or provisional visa holder in Australia.

A close family member of a non-citizen requiring urgent or critical medical treatment in Australia, including medical evacuations

- Evidence that a non-citizen requires urgent or critical medical treatment in Australia; and
- Evidence that the individual requesting an inwards travel exemption is needed to support the non-citizen during travel and / or during the urgent or critical medical treatment in Australia; and
- Evidence that the non-citizen who requires urgent or critical medical treatment in Australia is exempt from travel restrictions; and
- Evidence the individual requesting an inwards travel exemption is a close family member of the non-citizen requiring urgent or critical medical treatment in Australia.

Those seeking to visit a close family member who is seriously ill where there is little support in Australia

- Evidence that a person in Australia is seriously ill; and
- Evidence that the purpose of the individual's travel to Australia is to provide support to the person in Australia who is seriously ill; and
- Evidence that the individual requesting an inwards travel exemption is a close family member of the person in Australia who is seriously ill; and
- Evidence that the person in Australia who is seriously has little support in Australia;

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Those seeking to visit a close family member who has Postnatal Depression/Anxiety

- Evidence that a person in Australia is currently suffering from postnatal Depression/Anxiety (severity to be defined), where the diagnosis was made in the last 6 months by a:
 - Psychologist; and / or
 - Psychiatrist; and / or
 - General Practitioner; and
- Evidence that the individual requesting an inwards travel exemption is a close family member of the person in Australia who was diagnosed; and
- Evidence that the person in Australia who was diagnosed currently has little support in Australia; and
- Evidence that the purpose of the individual's travel to Australia is to provide support to the person in Australia who was diagnosed; and
- Where the individual's spouse or partner is unable to provide support, evidence that the individual's partner is unable to provide support for reasons including but not limited to currently undertaking critical, frontline, regional and / or "Fly In Fly Out" work.

Those seeking to attend a funeral of a close family member

- Evidence that a funeral for a close family member will take place in Australia; and
- Evidence that the individual who intends to travel to Australia is a close family member of the person who died.

Cases demonstrating strong compassionate circumstances

- Evidence that an Australian citizen or Australian permanent resident (adult or minor) would experience serious, ongoing and irreversible harm and continuing hardship due to strong compassionate circumstances if a close family member cannot travel to Australia to support them.

If these documents are not provided by midnight (Australian Eastern Standard Time) on **#{rfi_due_date}**, your request will continue to be processed based on the information available.

Kind regards

#{mail_script:tea_officer_first_name}

Travel Exemption Requests

Department of Home Affairs | Australian Border Force

<https://covid19.homeaffairs.gov.au/>

Client Communication – additional script for refusal communication:

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

Dear #{consumer.first_name} #{contact.first_name}

I refer to your request for an exemption from the current travel restrictions for travel to Australia. This advice applies to the following travellers:

- #{mail_script:tep_outcome_travellers}

Based on the information provided, your circumstances do not meet the requirements for a travel exemption. If you are able to provide more information, or if your circumstances change, please submit a new request.

You remain subject to the travel restrictions and, should you attempt to travel to Australia, your visa may be considered for cancellation while those travel restrictions remain in force.

If you submit a new request you will need to provide evidence of:

The parent or legal guardian of a minor who is lawfully present in Australia

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- Evidence that supports the individual is a parent or legal guardian of a minor lawfully present in Australia; and
- Evidence that the minor was usually resident in Australia before the introduction of Australia's travel restrictions.

The immediate family member(s) of a temporary or provisional visa holder who is in Australia and there is a high risk that the person will depart Australia if they are unable to reunite with their immediate family member(s) and:

- **Critical skills/ working in a critical sector**
 - Evidence the individual is an immediate family member of a person in Australia;
 - Evidence that the person in Australia has critical skills, experience and or qualifications / is working in a critical sector;
 - Evidence that the person in Australia is working in a position which requires their critical skills / working in a critical sector; and
 - Evidence that the person in Australia who has critical skills, could depart Australia if they are unable to be reunited with their immediate family member(s) in Australia.
- **Brings significant economic benefit to Australia**
 - Evidence the individual is an immediate family member of a person in Australia; and
 - Evidence that the person in Australia brings significant economic benefit to Australia; and
 - A statement from the person in Australia who brings significant economic benefit to Australia that they may depart Australia if they are unable to reunite with their immediate family member(s)
- **Is in Australia's national interest**
 - Evidence the individual is an immediate family member of a person in Australia; and
 - Evidence that the person's presence in Australia is in Australia's national interest; and
 - A statement from the person whose presence in Australia is in Australia's national interest that they may depart Australia if they are unable to reunite with their immediate family member(s)

The partner of a temporary or provisional visa holder in Australia who is in the final trimester of pregnancy or otherwise due to give birth

- Evidence that a temporary or provisional visa holder in Australia is in the final trimester of pregnancy or otherwise due to give birth; and
- Evidence the individual is the partner of the temporary or provisional visa holder in Australia.

A close family member of a non-citizen requiring urgent or critical medical treatment in Australia, including medical evacuations

- Evidence that a non-citizen requires urgent or critical medical treatment in Australia; and
- Evidence that the individual requesting an inwards travel exemption is needed to support the non-citizen during travel and / or during the urgent or critical medical treatment in Australia; and
- Evidence that the non-citizen who requires urgent or critical medical treatment in Australia is exempt from travel restrictions; and
- Evidence the individual requesting an inwards travel exemption is a close family member of the non-citizen requiring urgent or critical medical treatment in Australia.

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Those seeking to visit a close family member who is seriously ill where there is little support in Australia

- **General**

- Evidence that a person in Australia is seriously ill; and
- Evidence that the purpose of the individual's travel to Australia is to provide support to the person in Australia who is seriously ill; and
- Evidence that the individual requesting an inwards travel exemption is a close family member of the person in Australia who is seriously ill; and
- Evidence that the person in Australia who is seriously has little support in Australia;

- **Postnatal Depression/Anxiety**

- Evidence that a person in Australia is currently suffering from postnatal Depression/Anxiety (severity to be defined), where the diagnosis was made in the last 6 months by a;
 - Psychologist; and / or
 - Psychiatrist; and / or
 - General Practitioner; and
- Evidence that the individual requesting an inwards travel exemption is a close family member of the person in Australia who was diagnosed; and
- Evidence that the person in Australia who was diagnosed currently has little support in Australia; and
- Evidence that the purpose of the individual's travel to Australia is to provide support to the person in Australia who was diagnosed; and
- Where the individual's spouse or partner is unable to provide support, evidence that the individual's partner is unable to provide support for reasons including but not limited to currently undertaking critical, frontline, regional and / or "Fly In Fly Out" work.

Those seeking to attend a funeral of a close family member

- Evidence that a funeral for a close family member will take place in Australia; and
- Evidence that the individual who intends to travel to Australia is a close family member of the person who died.

Cases demonstrating strong compassionate circumstances

- Evidence that an Australian citizen or Australian permanent resident (adult or minor) would experience serious, ongoing and irreversible harm and continuing hardship due to strong compassionate circumstances if a close family member cannot travel to Australia to support them.

This assessment is against current COVID-19 travel restrictions and exemptions policy settings only and is not an assessment against any criteria relevant to the grant of a visa. It does not affect any future visa application that may be lodged. Any current or future visa application will be assessed against the relevant legislative criteria.

For further information on Australia's travel restrictions, please refer to our website at:
<https://covid19.homeaffairs.gov.au/>

Kind regards

\$(mail_script:tea_officer_first_name)

Travel Exemption Requests

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COVID-19 Border Measures
Procedural Instruction -
Separation of Family (temporary

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s. 47E(d)



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Role	Description
Senior Director Border Measures Branch	Document owners are responsible for: approving documents for release
FAS Immigration & Settlement Services Groups	Document reviewers are responsible for: verifying the need for a document, and reviewing drafts.
Document drafter	Document drafters are responsible for: drafting documents, consulting with stakeholders.

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	5 February 2021	Program Management	First issue

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Attachment A – Definitions

Note: Legislation references are included to provide guidance to decision makers only.

Term	Definition
Immediate Family member	Legal guardian, spouse, de facto partner or dependent child. It is policy to have regard to the definition of the term “member of the immediate family” in <u>regulation 1.12AA of the Migration Regulations 1994</u> when determining whether someone is an immediate family member of another person.
Close family member	A parent, sibling, partner, child and grandparents.
Parent	Someone is the parent of a person if the person is his or her child. The policy is to have regard to the definition of the term ‘parent’ in <u>s5(1) of the Migration Act 1958</u> and ‘dependent’ child in <u>r1.03 of the Migration Regulations 1994</u>
Sibling	A brother, sister, step brother, step sister, half-brother or half-sister.
Partner	De facto partner. The policy is to have regard to <u>Section 5CB of the Migration Act 1958</u>
Spouse	Person in a married relationship. The policy is to have regard to <u>Section 5F of the Migration Act 1958</u> .
Child	Dependent child. Having regard to the definition of the term ‘dependent child’ in <u>r1.03 of the Migration Regulations 1994</u>
Grandparents	A parent of one’s father or mother.
Legal guardian	Guardian. The policy is to have regard to the definition of the term ‘guardian’ in <u>r1.03 of the Migration Regulations 1994</u> and “child of a person” in <u>Section 5CA of the Migration Act 1958</u>
Relationships and family members – Custody (parental responsibility) for minor children	The policy is to have regard to <u>s 5G of the Migration Act 1958</u> and the policy guidance at <u>s 5G - Relationships and family members - Custody (parental responsibility) for minor children</u> (which also provides guidance about consent).
National interest	What is best for Australia including economic and security interests.
Usually resident	Have been lawfully resident in Australia for a reasonable period.

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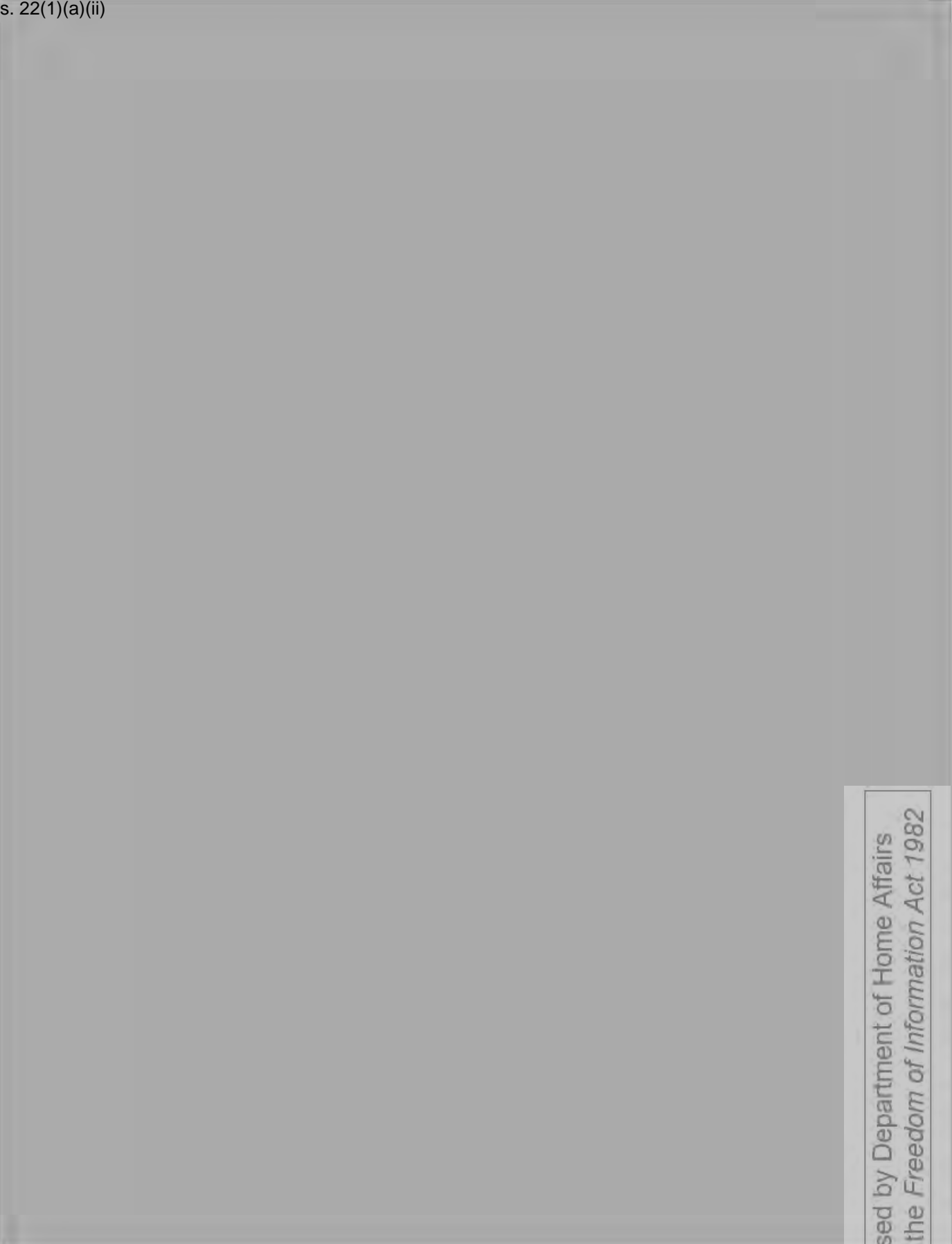
OFFICIAL - Sensitive**Attachment B – Assurance and Control Matrix****1.1. Powers and Obligations**

Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
Outbound decision making	subsection 477(1)	Subsection 477(1) of the <i>Biosecurity Act 2015</i> <i>Biosecurity (Human Biosecurity Emergency) (Human coronavirus with Pandemic Potential) (Overseas Travel Ban Emergency Requirements) Determination 2020</i> Reference: F2020C00870	No	
Inwards decision making	N/A	The ABF Commissioner has been authorised by the Prime Minister to consider exemption requests on a case-by-case basis	N/A	

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COVID-19 Border Measures Procedural Instruction - Humanitarian – Inwards

Procedural Instruction

Document ID (PPN)	s. 22(1)(a)(ii)
TRIM record number	s. 22(1)(a)(ii)
BCS Function	Border Measures – Travel Exemptions Procedural Instruction
Document owner	COVID-19 Border Measures Program Management
Approval date	11 February 2021
Document Contact	COVID-19 Border Measures Program Management s. 47E(d)

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1. Purpose

From 9pm AEDT on 20 March 2020, travel restrictions have been in place, prohibiting travel into Australia of all foreign nationals unless exempt. The COVID-19 Border Measures Branch manages and decides travel exemption requests in response to Australia's travel restrictions. This procedural guidance is designed to be used as an explanatory support for exemptions processing staff and exemptions decision makers.

The purpose of this procedural guidance is to provide support to exemptions processing staff assessing exemption requests for individuals who fall within the Protection, Refugee and Humanitarian cohort. Individuals who fall within the Protection, Refugee and Humanitarian cohort seeking to travel to Australia are generally considered under the discretionary category of compelling and compassionate. Requests are assessed on a case by case basis.

2. Scope

This document provides procedural guidance applicable to the assessment of inwards travel exemption requests for individuals who fall within the Protection, Refugee and Humanitarian cohort only.

It is recommended that users read this procedural guidance in conjunction with the following documents:

- Commissioner's Guidelines
- Inwards Travel Restrictions Operation Directive
- COVID-19 Border Measures Procedural Instruction - General s. 22(1)(a)(ii)
- Inward Travel Exemptions Process Guide s. 22(1)(a)(ii)

Note: Travel restrictions are subject to change at short notice, therefore officers must refer to related documentation via TRIM or published versions on the Home Affairs website (rather than saving or printing a copy) to ensure they access the most up to date versions.

3. Procedural Instruction

3.1. Decision Maker

All inwards travel exemption requests for visa holders who fall within the at risk / refugee / humanitarian cohort, e.g. Class XB visa holders, which are supported by the Assistant Secretary Humanitarian Program Capability Branch must be personally considered and decided by the Commissioner.

Travel exemption requests for this visa cohort, which are not supported by the Assistant Secretary Humanitarian Program Capability Branch, can be considered and decided by an ISSG EL2 authorised decision maker.

Where an ISSG EL2 decision maker has any concerns about a case that is not supported by the Assistant Secretary Humanitarian Program Capability Branch, the case should be referred to the Commissioner.

Border Measures Shift Leads will manage the allocation of cases that fall within this cohort.

3.2. For officers who are not trained to manage Protection, Refugee and Humanitarian exemption requests

- Requests for Protection, Refugee and Humanitarian visa holders (subclasses 866, 200, 201, 202, 203, 204, 785 and 790) should automatically filter into the Protection, Refugee and Humanitarian list in the Travel Exemption Portal (TEP).

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- Protection, Refugee and Humanitarian cases will be allocated to a trained officer by the Border Measures Operations Shift Lead.
- If you are allocated a Protection, Refugee or Humanitarian case (this may happen if the client did not select the correct Visa Class / subclass in the TEP) and you are not trained to manage this category you should:
 1. Check if the 'Visa Class / subclass' field has been incorrectly recorded and update where required; and
 2. Unallocate the case by removing your name from the 'Assigned to' field.

The case should then automatically workflow to the Protection, Refugee and Humanitarian list.

3.3. For officers who are trained to manage Protection, Refugee and Humanitarian exemption requests

Class XA – Protection (Subclass 866) visa:

- Subclass 866 visas can only be granted to a person while they are in Australia. Subclass 866 visa holders are permanent residents and are exempt from inwards travel restrictions.
- Where an inwards travel exemption request is submitted for a subclass 866 visa holder, an "Assessed Exempt" notification email can be sent and a Client Additional Information note recorded in ICSE as per instructions in Inward Travel Exemptions Process Guide - s. 22(1)(a)(ii)

Class XB – Refugee and Humanitarian – Subclasses 200 (Refugee), 201 (in-country Special Humanitarian), 202 (Global Special Humanitarian), 203 (Emergency Rescue) and 204 (Woman at Risk):

Refugee and Humanitarian (Class XB) visa holders are not considered to be a permanent resident of Australia unless they have already entered Australia while holding the relevant visa. Class XB visa holders who have not yet travelled to Australia are not able to enter Australia at this time, unless they have applied for and been granted an exemption.

- **For Class XB visa holders who have made their initial entry to Australia**
 - a) A Class XB visa holder who has made at least one entry to Australia (while holding a Class XB visa) is therefore a permanent resident and is exempt from inwards travel restrictions.
 - b) Check Movement records and visa(s) held while onshore (where applicable).
- **For Class XB visa holders who have not made an initial entry to Australia**
 - a) A Class XB visa holder who has not yet made an initial entry to Australia (while holding a Class XB visa) is not considered to be a permanent resident and therefore not exempt from inwards travel restrictions.
 - b) Check Movement Records and visa(s) held while onshore (where applicable).
 - c) A Class XB visa holder who is not a permanent resident must apply for an inwards travel exemption.
 - d) Humanitarian Program Capability Branch has confirmed that Australia's travel restrictions apply to any Class XB visa holder who has not yet entered Australia as the holder of a Class XB visa.

Class XD – Temporary Protection (subclass 785) (temporary visa)

- Subclass 785 visa holders are not permanent residents and are therefore not exempt from travel restrictions.
- Subclass 785 visa holders must apply for an inwards travel exemption, including pre-emptive inwards travel exemption requests, as necessary.

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Class XE – Safe Haven Enterprise (subclass 790) (temporary visa)

- Subclass 790 visa holders are not permanent residents and are therefore not exempt from inwards travel restrictions.
- Subclass 790 visa holders must apply for an inwards travel exemption, including pre-emptive inwards travel exemption requests, as necessary.

Applicable to all travel exemption requests:

If a client lodges a new request containing NO new information, attachments or changes to their circumstances and the request had previously been considered by the Director of the Offshore Humanitarian Program, Assistant Secretary of the Humanitarian Program Capability Branch and the ABF Commissioner to refuse, the subsequent decision to refuse can be decided by the authorised decision maker. Any subsequent request with new information must be referred back to the Humanitarian Program Capability Branch and the ABF Commissioner for consideration, as required.

When submitting a referral for a Commissioner pathway, ensure the relationship of the 'Parent Case' to the 'Child case(s)' e.g. spouse, son or daughter is clearly identified. In general, this information should be recorded in ICSE or ICSE Offspring notes. In case the relationship is not clearly indicated in the notes i.e. it simply says 'relative' you must seek further information from Ref/Hum Branch before finalising the initial assessment for referral.

3.4. Action – Border Measures Shift Lead

1. Check the Protection, Refugee and Humanitarian list each shift
2. Assign any cases in the list to an officer who is trained to process Protection, Refugee and Humanitarian cases
3. ISSG EL2 decision makers consider and decide cases that are **not** supported by Humanitarian Program Capability Branch.
4. Where an ISSG EL2 decision maker has any concerns about a case that is not supported by the Humanitarian Program Capability Branch, the case should be referred to the Commissioner, including sufficient explanatory note to justify departure from usual practice. Travel Exemptions Policy can provide advice on appropriate case handling by exception, as required.

3.5. Action – Trained Processing Officer

1. Review the 'explanation' field in TEP, any attachments and information in Departmental systems. Ensure any Child cases are also reviewed concurrently.
2. Prepare a summary for the Director of the Offshore Humanitarian Program (Director) and Assistant Secretary (AS) of the Humanitarian Program Capability Branch. The summary should include:
 - a) details of the person's visa subclass;
 - b) their reason for travel;
 - c) any family members seeking to travel;
 - d) any family members identified in Australia;
 - e) any community sponsorship; and
 - f) evidence provided.
3. Consideration should be given to all information and documentation provided by a client, as well as any information or documentation in the Department's systems.
4. If the person holds a Protection, Refugee or Humanitarian visa but is applying on the basis of holding critical skills or immediate family, ensure that you provide all relevant information about those

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categories in the summary (e.g. what is their critical skill, do they have a job, what relationship is their family member etc.).

5. Email the summary to the Director and AS of Humanitarian Program Capability Branch, with a request that they respond with either a:
 - a) recommendation endorsing the request; or
 - b) recommendation not endorsing the request.
6. Enter a 'private work note' in TEP recording: Email sent to Humanitarian Program Capability Branch seeking recommendation on <DD/MM/YYYY>.
7. When the response has been received, attach it to the case in TEP
8. Refer the case for consideration:
 - a) For cases endorsed by the Humanitarian Program Capability Branch: Submit the case for the Commissioner's consideration as per the steps outlined in Travel Exemptions Portal Instructions – Inwards s. 22(1)(a)(ii), including the Humanitarian Program Capability Branch response.
 - b) For cases not endorsed by the Humanitarian Program Capability Branch: Refer to an ISSG EL2 authorised decision maker for consideration and decision.

3.6. Notification of decision

A notification email should be sent to a client after the Commissioner or ISSG EL2 authorised decision maker has made a decision.

s. 47E(d)



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Role	Description
Senior Director Border Measures Branch	Document owners are responsible for: approving documents for release
FAS Immigration & Settlement Services Groups	Document reviewers are responsible for: verifying the need for a document, and reviewing drafts.
Document drafter	Document drafters are responsible for: drafting documents, consulting with stakeholders.

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	26/11/2020	Border Measures Program Management	First issue
1.1	08/02/2021	Border Measures Program Management	ISSG EL2 delegate or above approved to consider and decide cases not endorsed by the Director and AS of Humanitarian Program Capability Branch.

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

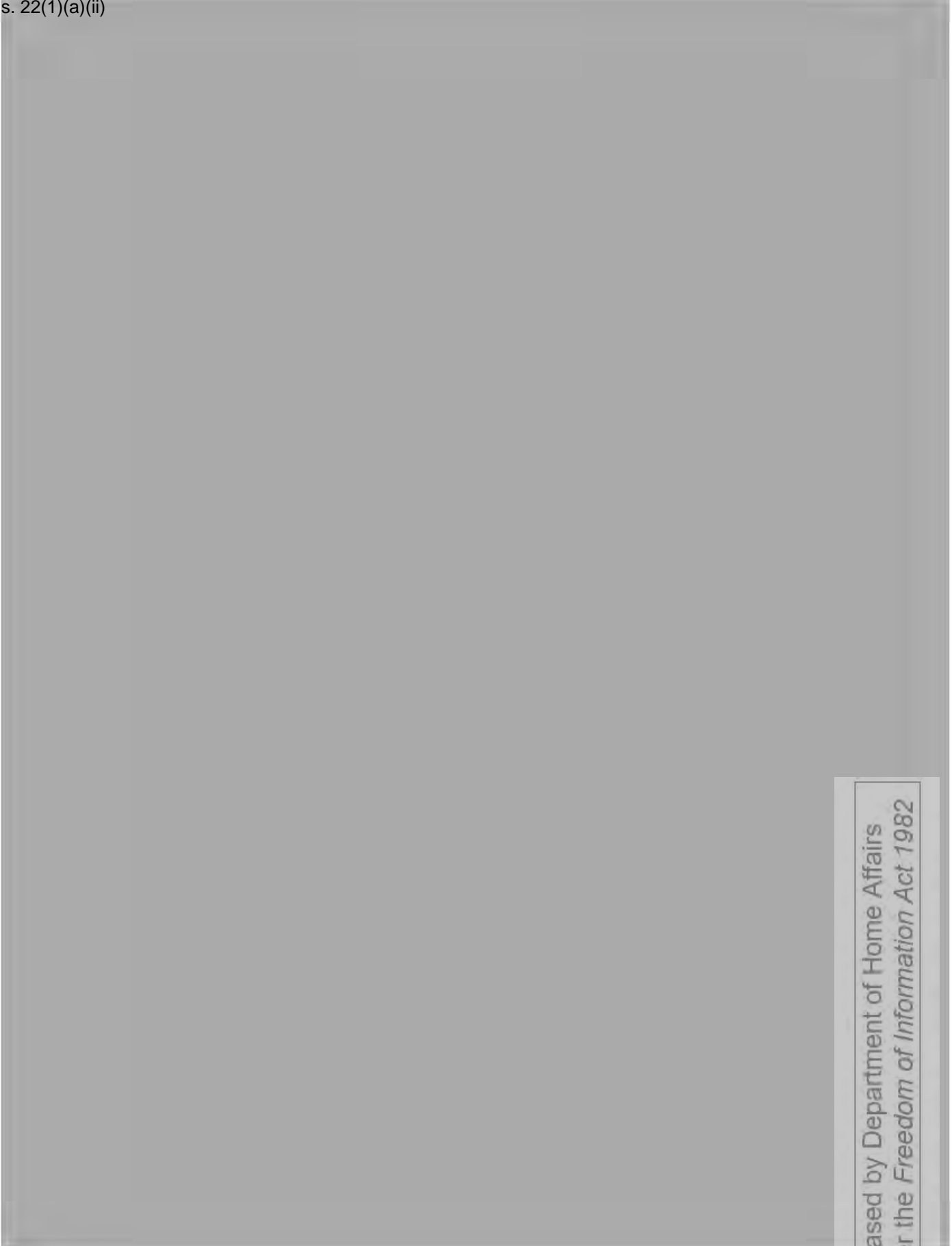
Attachment B – Assurance and Control Matrix**1.1. Powers and Obligations**

Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
Outbound decision making	subsection 477(1)	Subsection 477(1) of the <i>Biosecurity Act 2015</i> <i>Biosecurity (Human Biosecurity Emergency) (Human coronavirus with Pandemic Potential) (Overseas Travel Ban Emergency Requirements) Determination 2020</i> Reference: F2020C00870	No	
Inwards decision making	N/A	The ABF Commissioner has been authorised by the Prime Minister to consider exemption requests on a case-by-case basis	N/A	

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




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



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COVID-19 Border Measures Procedural Instruction - Elite Sportspersons – Inwards

Procedural Instruction

Document ID (PPN)	s. 22(1)(a)(ii)
TRIM record number	s. 22(1)(a)(ii)
BCS Function	Border Measures – Travel Exemptions Procedural Instruction
Document owner	COVID-19 Border Measures Program Management
Approval date	[insert date]
Document Contact	COVID-19 Border Measures Program Management s. 47E(d)

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1. Purpose

From 9pm AEDT on 20 March 2020, travel restrictions have been in place, prohibiting travel into Australia of all foreign nationals unless exempt. The COVID-19 Border Measures Branch manages and decides travel exemption requests in response to Australia's travel restrictions.

This procedural guidance is designed to be used as an explanatory support for travel exemptions processing staff and decision makers when assessing inwards exemption requests for individuals and members of elite/professional sporting teams. Requests are assessed on a case by case basis.

2. Scope

This document provides procedural guidance applicable to the assessment of exemption requests for an elite sportsperson or sporting teams who are able to demonstrate how their entry and stay is critical to Australia, including support from the relevant Commonwealth, state or territory government agency.

It is recommended that users read this procedural guidance in conjunction with the following documents:

- Commissioner's Guidelines – Inwards individual exemptions
- Inwards Travel Restrictions Operation Directive
- COVID-19 Border Measures Procedural Instruction – General s. 22(1)(a)(ii)

Note: Travel restrictions are subject to change at short notice, therefore officers must refer to related documentation via TRIM or published versions on SharePoint or the Home Affairs website (rather than saving or printing a copy) to ensure they access the most up to date versions.

3. Procedural Instruction

3.1. Decision Maker

All travel exemption requests from **elite sports persons** are managed by s. 47E(d), Operations Coordination - Travel Exemptions team. Please refer to the 'Event and Group Processing (Dec 2020)' on SharePoint or via TRIM s. 22(1)(a)(ii) for more information.

Referral to the Commissioner

All inwards travel exemption requests for elite sportspersons or members of elite sporting teams where an exemption request is anticipated for more than a single person, including accompanying family members or other support persons e.g. entourage must be referred to the Commissioner for his personal consideration.

Note: All submissions that are prepared for referral to the Commissioner must follow the Commissioner Discretion pathway in the Travel Exemption Portal (TEP), which requires review by an EL1 or above.

For guidance on triage for referral, to the Commissioner, please refer to *COVID-19 Border Measures Procedural Instruction* General Inwards - 3.4 Decision Maker.

A single sportsperson not part of a team and with no accompanying persons

Appropriately trained APS6 level and above staff in the Border Measures Operations Coordination Team (Events and Groups) may approve or refuse travel exemption requests from a single sportsperson. **The exception** to this process would be a request from an individual to join a team that has already been considered by the Commissioner, for example if an international rugby team wanted to add an additional player mid-season. In this instance, the individual request would be considered by the Commissioner.

OFFICIAL: Sensitive**3.2. High-Profile cases and high volume groups**

Border Measures Operations Coordination Team (Events and Groups) EL2 monitor and manage cases that are likely to draw media attention, high-profile cases, sensitive cases and high-volume groups where additional coordination is required.

During large-scale events the Director of Border Measures Operations Coordination Team (Events and Groups) may allocate travel exemption requests to other appropriately trained officers.

Note: Officers are reminded to only access departmental systems when they have a business requirement and a need to know, and not to discuss cases with those who do not have a need to know. High profile cases in particular may attract significant attention and may be sensitive. As such, these cases must not be distributed beyond those with a need to know. If an officer wishes to distribute further, they need to seek approval from the Border Measures Operations Shift Lead.

3.3. Supporting Documentation**Members of elite sporting teams and/or individual sportspersons travelling to Australia**

Any request for a travel exemption submitted by an individual sportsperson or sporting team must include the following supporting evidence, however, the Commissioner may request additional information in certain cases:

- Evidence of a viable elite sporting competition
- Confirmation from the relevant sporting code attesting the elite sportsperson, or members of the elite sporting team, are critical to the competition and their entry to and stay in Australia provides a critical benefit to Australia.
- Proof clearly outlining the economic activity expected to be generated in relation to that sport or sporting event
- Support from state or territory government, where the competition is held, confirming that there is community interest, and
- Confirmation that quarantine will be undertaken as directed by the relevant State or Territory government

An 'Elite' sports person would generally be linked to state, territory, national or international level professional sporting codes and events such as AFL, NRL, Australian Open, Grand Prix, cricket, soccer, basketball or netball. This could include development squads where they are linked to 'elite' level programs.

It also includes non-professionals competing at World Championships or Commonwealth Games. However, an individual who submits a request in relation to semi-professional or amateur sport at the district, regional or local community level would be unlikely to meet the threshold for submission.

Accompanying family member of an elite sportsperson and/or sporting team member

Any request for a travel exemption submitted by a family member of an individual sportsperson, or sporting team, must include the following supporting evidence:

- Evidence that the person is an immediate family member of an elite sportsperson and/or sporting team member, for example a birth certificate or marriage certificate; and
- Evidence of the persons intended duration of stay in Australia will be 12 months or longer for example the sportsperson's contract.

Exemptions for accompanying family members can only be approved if and when the associated elite sportsperson and/or sporting team member's exemption has been approved. Accompanying family members will generally only be approved where the stay in Australia is for 12 months or more.

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OFFICIAL: Sensitive**Other support person/s of an elite sportsperson or sporting team, travelling with the team**

Any request for a travel exemption submitted by a support person of an individual sportsperson, or sporting team, must include the following supporting evidence:

- Evidence that the person is a support person of an elite sportsperson and/or sporting team member, by way of a letter from the relevant sporting code clarifying the support person/s' role/s and attesting that the support person/s is/are critical to the team competing in the event.

Exemptions for support person/s can only be approved if and when the associated elite sportsperson and/or sporting team member's exemption has been approved.

3.4. Client communication

The following standard words should be included in requests for information and refusal communication with clients, using the TEP templates:

Client Communication – additional script for use when requesting further information:

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

Dear \${consumer.first_name} \${contact.first_name}

I refer to your request for an exemption from Australia's current travel restrictions.

Unfortunately, you have not provided sufficient information for an assessment of whether your circumstances warrant an exemption to the travel restrictions.

Before your request can be considered further, you will need to log in to your account at \${mail_script.tep_portal_url} and upload the following documents:

Members of elite sporting teams and/or individual sportsperson travelling to Australia

- Evidence of a viable elite sporting competition
- Confirmation from the relevant sporting code attesting either the elite sporting individual or the members of the elite sporting teams are critical to the competition
- Proof that there is economic activity related to that sportsperson or sporting team (e.g. revenue, contracts etc.)
- Support from State or Territory government, where the competition is held, confirming that there is community interest
- Confirmation that quarantine will be undertaken as directed by the relevant State or Territory government

Accompanying family member of an elite sportsperson

[For definition on 'immediate family member – refer to: DRAFT - COVID-19 Border Measures Procedural Instruction - Immediate Family - 04NOV2020 s. 22(1)(a)(ii) s. 22(1)(a)(ii)]

- Evidence that the person is an immediate family member of an elite sportsperson, who is exempt from Australia's travel restrictions.
- Evidence to demonstrate the length of time you anticipate residing in Australia as the family member of an elite sportsperson.

Other support person/s of an elite sporting team, intending to travel with the team

- Confirmation from the relevant sporting code clarifying the support person/s' role/s and attesting that the support person/s is/are critical to the team competing in the event.

If these documents are not provided by midnight (Australian Eastern Standard Time) on \${rfi_due_date}, your request will continue to be processed based on the information available.

Kind regards
COVID-19 Border Measures
Procedural Instruction - Elite
Sportspersons – Inwards

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\${mail_script:tea_officer_first_name}
 Travel Exemption Requests
 Department of Home Affairs | Australian Border Force
<https://covid19.homeaffairs.gov.au/>

Client Communication – additional script for refusal communication:

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

Dear \${consumer.first_name} \${contact.first_name}

I refer to your request for an exemption from the current travel restrictions for travel to Australia. This advice applies to the following travellers:

- \${mail_script:tep_outcome_travellers}

Based on the information provided, your circumstances do not meet the requirements for a travel exemption. If you are able to provide more information, or if your circumstances change, please submit a new request.

You are still subject to the travel restrictions and, should you attempt to travel to Australia, your visa may be considered for cancellation while those travel restrictions remain in force.

If you submit a new request you will need to provide evidence of:

Members of elite sporting teams and/or individual sportsperson travelling to Australia

- Evidence of a viable elite sporting competition
- Confirmation from the relevant sporting code attesting either the elite sporting individual or the members of the elite sporting teams are critical to the competition
- Proof that there is economic activity related to that sportsperson or sporting
- Support from State or Territory government, where the competition is held, confirming that there is community interest
- Confirmation that quarantine will be undertaken as directed by the relevant State or Territory government

Accompanying family member of an elite sportsperson

[For definition on 'immediate family member – refer to: DRAFT - COVID-19 Border Measures Procedural Instruction - Immediate Family - 04NOV2020 s. 22(1)(a)(ii) . s. 22(1)(a)(ii)]

- Evidence that the person is an immediate family member of an elite sportsperson, who is exempt from Australia's travel restrictions.
- Evidence to demonstrate the length of time you anticipate residing in Australia as the family member of an elite sportsperson.

Other support person/s of an elite sporting team travelling with the team

- Confirmation from the relevant sporting code clarifying the support person/s' role/s and attesting that the support person/s is/are critical to the team competing in the event

This assessment is against current COVID-19 travel restrictions and not your entitlement to a visa. It does not affect any future visa application which you may lodge. Any visa application will be assessed on the basis of information available at that time.

For further information on Australia's travel restrictions, please refer to our website at:
<https://covid19.homeaffairs.gov.au/>

Kind regards

\${mail_script:tea_officer_first_name}
 Travel Exemption Requests
 Department of Home Affairs | Australian Border Force
<https://covid19.homeaffairs.gov.au/>
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FAS Immigration Programs Division	Document reviewers are responsible for: verifying the need for a document, and reviewing drafts.
Document drafter	Document drafters are responsible for: drafting documents, consulting with stakeholders.

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	09/03/2021	Border Measures Program Management	Approved for release

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

Attachment B – Assurance and Control Matrix

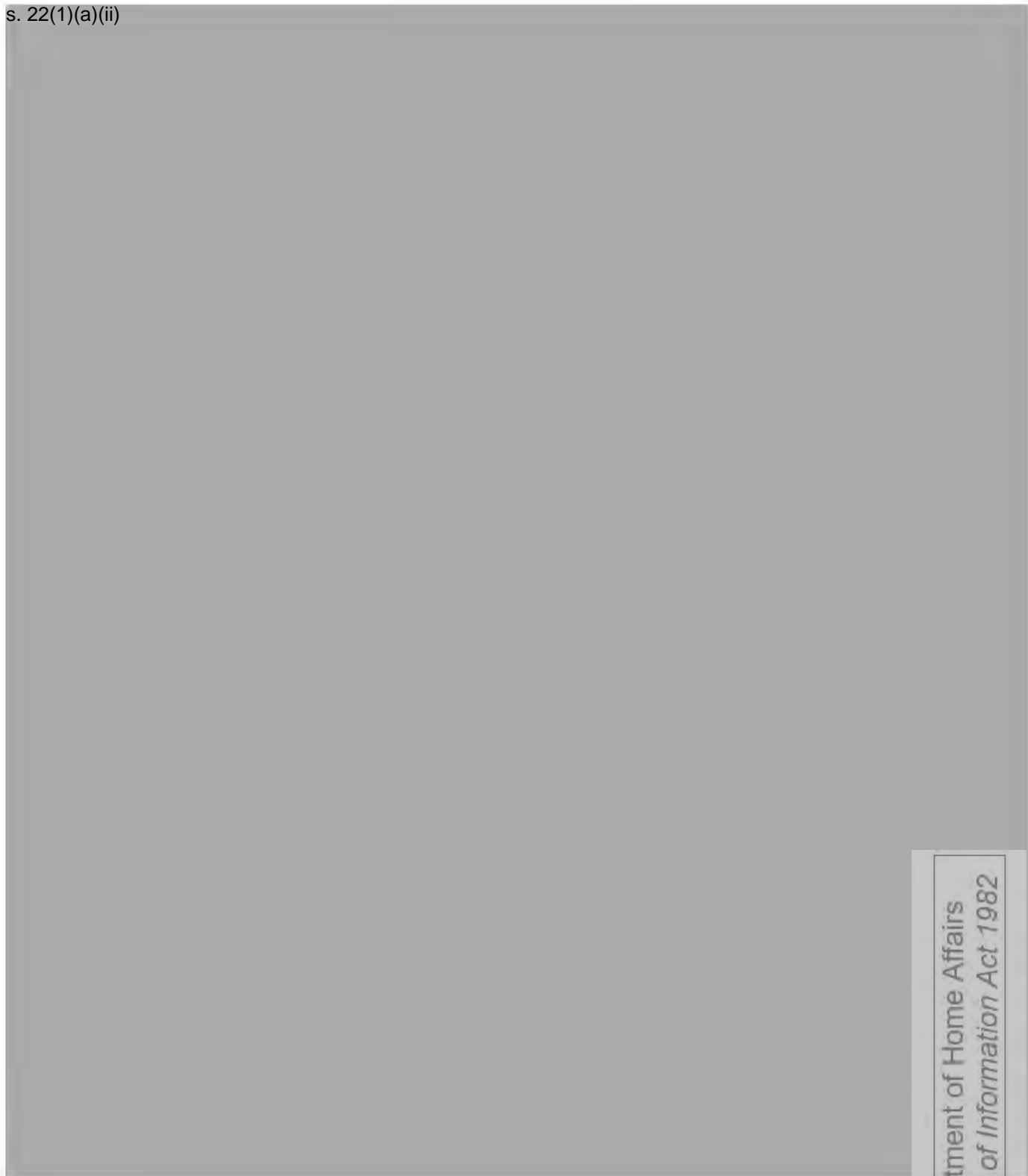
1.1. Powers and Obligations

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Legislation	Reference (e.g. section)	Provision		
Outbound decision making	subsection 477(1)	Subsection 477(1) of the <i>Biosecurity Act 2015</i> <i>Biosecurity (Human Biosecurity Emergency) (Human coronavirus with Pandemic Potential) (Overseas Travel Ban Emergency Requirements) Determination 2020</i> Reference: F2020C00870	No	
Inwards decision making	N/A	The ABF Commissioner has been authorised by the Prime Minister to consider exemption requests on a case-by-case basis	N/A	

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