



Australian Government
Department of Home Affairs

Submission

For decision

PDMS Ref. Number: MS24-000404

Date of Clearance: 03/04/2024

S. 47F(1)

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Minister's Comments
S. 47F(1)

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Background

S. 47F(1)

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s. 47F(1)

Your power under section 48B of the *Migration Act 1958*

24. s. 47F(1) is consequently barred from making a valid application for a protection visa under section 48A of the Act, unless you exercise your non-compellable and non-delegable power under section 48B of the Act.

25. Under section 48B of the Act, you are provided with the power to intervene and lift the section 48A of the Act application bar, to allow a person to make a subsequent protection visa application, if you consider it in the public interest to do so.
26. The section 48A application bar, as specified in the Act, would only be lifted for a period of seven working days, ending at the end of the seventh working day after the day on which the notice is taken to be received.
27. If you agree to lift the application bar, s. 47F(1) be invited to apply for a PV within seven days of notification. Following assessment of s. 47F(1) claims, if s. 47F(1) is found to engage Australia's protection obligations, checks in relation to the remaining visa requirements, including health, character, identity and security will be undertaken, and must be met by s. 47F(1) to be eligible for visa grant.

Consultation – internal/external

28. Nil.

Consultation – Secretary / Associate Secretary / ABF Commissioner

29. Neither the Secretary, Associate Secretary nor the ABF Commissioner were consulted on the approach in the submission.

Client service implications

30. Nil.

Risks and Sensitivities

31. The information contained in this submission is classified and should not be publicly released without the authority of the Department of Home Affairs. In accordance with our long standing practices, should you wish for unclassified media lines to be prepared in relation to this issue please contact the Home Affairs Media Coordination team – media@homeaffairs.gov.au.

Financial/systems/legal/deregulation/media implications

32. Nil

Attachments

Attachment A Decision Instrument for section 48B of the Act

Attachment B Statement to Parliament under section 48B

s. 47F(1)

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Authorising Officer

Cleared by:

Jill Ogden
Assistant Secretary
Humanitarian Program Operations Branch
Refugee Humanitarian and Settlement Division

Date: 03/04/2024

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CC Minister for Home Affairs, Minister for Cyber Security
Associate Secretary Immigration
ABF Commissioner
FAS Refugee, Humanitarian and Settlement Division
Assistant Secretary, Humanitarian and Child Wellbeing Policy and Capability Branch
Assistant Secretary, Status Resolution Branch
Senior Director, Status Resolution Network

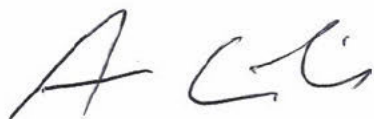
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Attachment A

**NOTICE UNDER SUBSECTION 48B(1) OF THE *MIGRATION ACT 1958* THAT SECTION 48A DOES NOT APPLY TO
PREVENT AN APPLICATION FOR A PROTECTION (CLASS XA) VISA**

I consider it is in the public interest to exercise my power under section 48B of the *Migration Act 1958* (the Act) and I have determined that section 48A of the Act does not apply to prevent an application for a protection visa application made by the below named person.

Pursuant to subsection 48B(1) of the Act, this determination has effect, in its application to the below named person, for a period of seven (7) working days, starting the day after the notice of this determination is taken to be received.

s. 47F(1)

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THE HON ANDREW GILES MP

Minister for Immigration, Citizenship and Multicultural Affairs

11/4 2024

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EXERCISE OF MINISTERIAL DISCRETION
SECTION 48B OF THE *MIGRATION ACT 1958*

- STATEMENT TO PARLIAMENT -

Exercising my power, under section 48B of the *Migration Act 1958* (the Act), I have decided to allow this person to make a further protection visa application.

1. The particular circumstances of this person is that they had their protection visa application refused. Their claims were reviewed by the Department and a determination was made that they are not a person to whom Australia has protection obligations.
2. Although this person has previously had their protection visa application refused, I consider it is in the public interest to allow them to make a further application for a Protection (Class XA) visa.
3. Accordingly, it is appropriate in the circumstances of this person that I exercise my power under section 48B of the Act.



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THE HON ANDREW GILES MP

Minister for Immigration, Citizenship and Multicultural Affairs

11/4/2024