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Traveller Intervention and Response

Policy Statement

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Table of Contents

1. Purpose	3
2. Scope	3
3. Policy Statement	3
3.1. Background and Legislative Framework	3
3.2. Power of ABF officer to use under certain locations	4
Designated Place	4
Customs Place	4
3.3 Customs Act Powers	5
Power to question	5
Power to detain and search	5
3.4 Migration Act	7
Power to question and detain	7
Power to search	7
Power to cancel a visa	7
4. Accountabilities and Responsibilities	8
5. Version Control	8
Attachment A – Definitions	9
Attachment B – Related Documents	11
Attachment C – Related Legislation	12
Attachment D – Consultation	12
1.1 Internal Consultation	12

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1. Purpose

This Policy Statement (PS) outlines the policy of the Department of Home Affairs (the Department), including the Australian Border Force (ABF), on intervention and response in relation to arriving travellers and their baggage while conducting border clearance activities. This PS applies to all ABF officers conducting inwards immigration and customs clearance activities.

2. Scope

2.1. In Scope

- Powers under the *Customs Act* 1901 (the Customs Act) to question, examine and detain in relation to goods subject to customs control.
- Powers under the *Migration Act* 1958 (the Migration Act) to question, examine and detain persons in relation to immigration clearance.

2.2. Out of Scope

All other activities relating to immigration and customs clearance of travellers and their accompanied goods including under the *Maritime Powers Act* 2013.

3. Policy Statement

3.1. Background and Legislative Framework

ABF officers carry out a range of functions at Australia's airports and seaports to protect the border and facilitate legitimate travel and trade including:

- checking the identity and examining travel documentation of all travellers.
- examining people, baggage, aircraft and ships for drugs, tobacco and prohibited goods and images.
- seizing forfeited goods and regulated items, for example prohibited imports.
- detecting undeclared currency; and
- collecting duty and tax on undeclared or excess imported goods carried by travellers including alcohol and tobacco.

Under policy, ABF officers must ensure that intervention and response activities are commensurate with any suspected or identified risks and are conducted in accordance with the relevant legislated powers.

The Department's legislative framework includes the Migration Act, the Customs Act, and the regulations made under those two Acts. This framework provides ABF officers with the authority to exercise powers to help in ensuring travellers comply with Australia's immigration and customs laws. These powers provide discretion to ABF officers to respond where there are grounds to suspect a person may be non-compliant with immigration or customs laws.

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3.2. Power of ABF officer to use under certain locations

Designated Place

Under both the Customs Act and Migration Act, ABF officers have various powers relating to travellers and their goods when entering and departing Australia.

Some of these powers will be exercised in defined areas, although, the availability of the power will not necessarily be contingent on being within the defined area, it depends on the specific power. Each power needs to be considered as to whether it has any specific preconditions which need to be met before it can be exercised.

A 'designated place' is generally anywhere that the ABF processes arriving or departing ships, aircrafts and (or) international travellers. 'Designated place' is defined under section 4 of the Customs Act as:

- a port, airport or wharf that is appointed, and limits of which are fixed, under section [15](#); or
- a place to which a ship or aircraft has been brought because of stress of weather or other reasonable cause as mentioned in subsection [58\(1\)](#), while that ship or aircraft remains at that place; or
- a place that is subject of a permission under subsection 58(2) while the ship or aircraft to which the permission relates remains at that place; or
- a boarding station that is appointed under section 15; or
- a place from which a ship or aircraft that is subject of a permission under section [175](#) is required to depart, between the grant of that permission and the departure of the ship or aircraft; or
- a place to which a ship or aircraft that is subject of a permission under section 175 is required to return, while that ship or aircraft remains at that place.
- a section [234AA](#) place that is not a place, or a part of a place, referred to in paragraph (a), (aa), (b), (c), (d), or (e).

Customs Place

A 'Customs Place' is an area where ABF officers can use specific powers in relation to travellers and their accompanied goods. Customs place is defined under section [183UA\(1\)](#) of the Customs Act as:

(aa) a place owned or occupied by the Commonwealth for use for the purposes of the Customs Acts; or

(a) a port, airport or wharf that is appointed, and the limits of which are fixed, under [section 15](#); or

(aaa) a place to which a ship or aircraft has been brought because of stress of weather or other reasonable cause as mentioned in subsection [58\(1\)](#), while that ship or aircraft remains at that place; or

(b) a place that is the subject of a permission under subsection [58\(2\)](#); or

(c) a boarding station that is appointed under [section 15](#); or

(d) a place described in a depot licence that is granted under [section 77G](#); or

(e) a place covered by a warehouse licence that is granted under subsection [79\(1\)](#); or

(f) a place approved in an instrument under subsection (2) as a place for the examination of international mail; or

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(g) a place from which a ship or aircraft that is the subject of a permission under [section 175](#) is required to depart, between the grant of that permission and the departure of the ship or aircraft; or

(h) a place to which a ship or aircraft that is the subject of a permission under [section 175](#) is required to return, while that ship or aircraft remains at that place; or

(i) a section [234AA](#) place that is not a place, or a part of a place, referred to in paragraph (aa), (a), (aaa), (b), (c), (d), (g) or (h).

3.3 Customs Act Powers

Under the Customs Act, the ABF has a range of powers which allow persons to be questioned, detained, searched or examined in relation to the importation of goods.

Power to question

The Customs Act also includes provisions under section [64AE](#) to require the operator of a ship or aircraft to answer questions and/or produce documents in relation to the ship, aircraft, its cargo, crew, passengers, stores or voyage when requested by an officer, if the documents are in his or her possession at the time of the rest. Section 64AE applies to any ship or aircraft that falls within the remit of sections [64](#), [64AA](#), [64AAA](#), [64ACA](#) or [64ACB](#) of the Customs Act which require arrival reporting for relevant ships and aircraft.

Subsection [195\(1\)](#) of the Customs Act allows officers to question passengers on board a ship, aircraft or specified kinds of installations, believed to have disembarked from a ship or aircraft, or believed to be about to board a ship or aircraft in relation to whether they are carrying dutiable, excisable or prohibited goods. This power is not confined to a designated place or a customs place.

Under subsection [195\(2\)](#) persons are required to answer any questions posed under subsection 195(1) and failure to answer questions may constitute an offence. Under section [195A](#), officers are also able to question any persons who is in a place identified under section [234AA](#) to establish the identity of the person and their reason for being in the restricted area.

In relation to authorising the delivery into home consumption of goods, section [196C](#) gives officers the power to question persons. Officers can:

- request a person state their full name and residential address.
- ask the person if they own the goods.
- where the person states that he or she is not the owner of the goods, request the person to state the full name and residential address of the person who does own the goods; and
- request the person to produce evidence of the correctness the information provided by the collector prior to releasing goods.

In accordance with section [197](#), if the conveyance of goods is in a customs place, officers can require the conveyance to stop and request appropriate documentation authorising the movement of any goods that are subject to customs control within the meaning of section 30.

Power to detain and search

Section [219ZJB](#) of the Customs Act allows officers to detain a person who is in a designated place, where the person is suspected of having committed, currently committing or intending to commit serious Commonwealth offences or prescribed State or Territory offences. If this criterion is no longer met, the person must be released from detention immediately. This detention power is for the purpose of making the person available to police. Therefore, once a person has been detained, police must be notified as soon as practicable.

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The ABF have a number of powers available under the Customs Act to detain and search persons. Sections [219L - s219ZAE](#) detail a range of search and examination powers which allow the ABF to conduct both internal (non-medical) and external search of persons such as a frisk search, under section 219M, and where provisions of the search is reasonable and grounds for suspicion remain in accordance with subsection 219L(2) refer to [Detention and Search \(s.219 Customs Act\)](#) – PI (BC-687). A frisk search must be carried out as soon as practicable after the detainee is detained and must be by an officer who is of the same sex as the detainee. Under subsection 219M(2) of the Customs Act, before carrying out the frisk search the ABF officer must advise the detainee of their right to request for a search to be carried out in an area that would provide adequate personal privacy during the search. Where the detainee requests additional privacy, the ABF officer must take the detainee to an appropriate place prior to commencing the search.

Internal non-medical body scan

Subsection 219ZAC(1) of the Customs Act, authorises ABF to utilise 'prescribed equipment' for conducting external searches or internal non-medical scans. The officers can only exercise their power to operate the prescribed equipment once they have completed specified training and the Comptroller-General of Customs authorises them in an instrument for the purposes of subsection 219ZAA(3). The authorised instrument is updated quarterly to ensure officers who have completed the training are included and remove those who no longer require the authority.

Prior to carrying out a frisk search in a designated place, in accordance with subsection 219M(2), the officer must advise the detainee of their right to have the search carried out in an area that allows adequate personal privacy. Please note there is a risk of potential liability/litigation to the Department, if an officer does not advise the detainee of their right, or if the search is not carried out in an area that allows adequate personal privacy.

Power to Examine Goods

Section [186](#) provides general powers to the ABF officers for the examination of goods that are subject to customs control (section 30). This power is not confined to a designated place or a customs place. Under subsection 186(3), examination of goods may involve:

- Opening any package in which goods are or may be contained.
- Using a device, such as an X-ray machine or ion scanning equipment, on the goods.
- Testing or analysing the goods.
- Measuring or counting the goods.
- Reading documents directly, or with an electronic device (where the goods are a document); and
- Using of detector dogs to assist in the examination.

Section 186AA provides for goods loaded onto or unloaded from ships and aircraft at examinable places to be subject to examination including, for example:

- opening any package in which goods are in.
- using a device, such as x-ray or Ion scan.
- testing and analysis.
- measuring or counting.
- reading documents either directly or with the use of an electronic device; or
- using detector dogs.

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Documents examined under section 186 or section 186AA may be copied by an officer of Customs under section [186A](#) if the documents are found to contain relevant information as a result of an examination.

Section 234AA of the Customs Act enables the ABF to fully examine the unaccompanied, mishandled and unclaimed baggage including the use of x-ray where necessary if referred by airlines as this baggage remains subject to customs control. For more information refer to [Clearance of Unclaimed and Mishandled Baggage at the Border](#) – PI (BC-680).

3.4 Migration Act

Under the Migration Act, officers at the border ensure persons entering Australia are compliant with immigration law. Travellers entering Australia, whether an Australian citizen or a non-citizen, must be immigration cleared in accordance with section [166](#) of the Migration Act (Persons entering Australia must, without unreasonable delay, present certain evidence of identity etc. relating to protected zones) unless:

- the person is exempt from immigration clearance because section [168](#) applies (and section 166 does not apply); or
- the person is not required to comply with section 166 because section [169](#) applies (section 166 does not usually apply, relation to cruise ships) and the person is not directed by a clearance officer to comply with section 166; or
- special clearance arrangements apply under Schedule 9 to the *Migration Regulations* 1994 (the Regulations).

A non-citizen is refused immigration clearance if they are not able to meet immigration clearance requirements such as presenting evidence of identity, hold a visa that is in effect and complete a passenger card.

If a visa holder is required to comply with section 166 and does not, in accordance with section 174 their visa will cease to be in effect. This will result in the person becoming an unlawful non-citizen and as a result, they will be liable for detention under section [189](#).

Power to question and detain

The Migration Act allows for the detaining and questioning of travellers. Section [192](#) of the Migration Act, *Detention of visa holders whose visas liable to cancellation* specifies that if an officer knows or reasonably suspects that a non-citizen holds a visa that may be cancelled, the officer may detain the non-citizen.

Detention under section 192 is referred to as 'questioning detention' and allows a non-citizen to be held in time limited detention for the purpose of questioning in relation to the non-citizen's visa or matters relevant to the visa. For further advice on questioning detention, see [Detention at the Border - Procedural Instruction PI \(BC-2480\)](#).

Power to search

Section [252](#) of the Migration Act allows for the search of a person, their clothing and any property under their immediate control if the person is detained in Australia, or is a non-citizen who has not been immigration cleared and an authorised officer has reasonable grounds for suspecting there are reasonable grounds to cancel the person's visa. A search of a person may be conducted for the purpose of finding any articles, such as a weapon that may be used to inflict bodily injury, or help the person escape from immigration detention, or to find out whether there is a document or other thing that may be evidence for grounds for cancelling the person's visa.

Power to cancel a visa

Section [116](#) of the Migration Act and regulation [2.43](#) of the Regulations specifies the Minister or his or her delegate may cancel a person's visa if he or she is satisfied that cancellation grounds apply.

Some cancellation grounds under section 116 include where a fact or circumstance under which the visa was granted did not exist or no longer exists, the visa holder has failed to comply with a condition of the visa,

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or the visa holder's presence in Australia may pose a risk to the health, safety or good order of the Australian community.

If a person's visa is cancelled in immigration clearance, the person will not satisfy the requirements of section 166 and will be liable for detention under section 189.

4. Accountabilities and Responsibilities

Role	Description
First Assistant Secretary, Strategy and Border Modernisation	Responsible for approving the PS
Assistant Secretary, Traveller Frameworks and Modernisation Branch	Responsible for reviewing and updating this PS
Director, Traveller Policy	Responsible for reviewing and updating this PS
Superintendent, Traveller Practices, ABF	Responsible for drafting and updating procedural instructions on behalf of the ABF

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	4 January 2019	s. 22(1)(a)(ii)	Document edited
2.1	4 January 2019	s. 22(1)(a)(ii)	Document approved
3.0	September 2022	Traveller Policy	Document revised and legally cleared
4.0	August 2025	Traveller Policy	Document reviewed & legally cleared
4.1	Xx September 2025	Traveller Policy	Document Approved

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Attachment A – Definitions

Term	Acronym (if applicable)	Definition
Australian Border Force (officer)	ABF (officer)	ABF officers or other officers who are authorised to perform border clearance duties. It applies to all Immigration and Border Protection workers defined under section 4 of the <i>Australian Border Force Act 2015</i>, who occupy positions in the Australia Border Force (ABF). The ABF means the operational arm of the Department of Home Affairs, known as the Australian Border Force. The ABF, is an operationally independent body within the Department of Home Affairs, is Australia's frontline border law enforcement agency and Australia's customs service. The ABF delivers critical border protection and national security outcomes while facilitating the movement of people and goods across the border.
Baggage	Nil	Under Part XII of the <i>Customs Act 1901</i> (the Customs Act), section 183UA provides the definition of 'baggage' which means goods: (a) that are carried by or for a traveller, including the captain and crew members, on board the same ship or aircraft as the traveller; or (b) that a traveller intended to be so carried. (For example, baggage may have been inadvertently left off the flight the traveller is on but arrives on the next available flight and will be taken to be 'baggage' for clearance purposes).
Designated place	Nil	Under section 4 of the Customs Act designated place means: (a) a port, airport or wharf that is appointed, and the limits of which are fixed, under section 15; or (aa) a place to which a ship or aircraft has been brought because of stress of weather or other reasonable cause as mentioned in subsection 58(1), while the ship or aircraft remains at that place; or (b) a place that is the subject of a permission under subsection 58(2) while the ship or aircraft to which the permission relates remains at that place; or (c) a boarding station that is appointed under section 15; or (d) a place from which a ship or aircraft that is the subject of a permission under section 175 is required to depart, between the grant of that permission and the departure of the ship or aircraft; or (e) a place to which a ship or aircraft that is the subject of a permission under section 175 is required to return, while that ship or aircraft remains at that place; or (f) a section 234AA place that is not a place, or a part of a place, referred to in paragraph (a), (aa), (b), (c), (d) or (e).

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Term	Acronym (if applicable)	Definition
Port	Nil	Under subsection 5(1) of the Migration Act, 'port' is defined as: (a) A proclaimed port; or (b) A proclaimed airport
Travel Document	Nil	A document used by travellers to show their identity, issued by a recognised issuing authority, and includes a passport, Certificate of Identity, Document of Identity, ImmiCard and other documents accepted for travel to (and entry into) and from (and exit out of), Australia.
Traveller	Nil	A person who has arrived into or is departing Australia on an international flight or voyage, whether as a passenger on, or crew member of, an aircraft or vessel. It also includes a domestic passenger who travels on the domestic leg of an international flight.
Unlawful non-citizen	UNC	As defined in section 14 of the Migration Act. A UNC means a non-citizen in the migration zone who is not a lawful non-citizen. A lawful non-citizen is a non-citizen in the migration zone who holds a visa that is in effect. A person may be an unlawful non-citizen if they entered Australia without being immigration cleared (for example, without a visa) or entered lawfully on a visa that has either subsequently ceased and has not been replaced with another visa or has been cancelled since the person entered Australia.

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Attachment B – Related Documents

- Border Clearance – PS (TT-2983)
- Baggage Examination at the Border (s186 Customs Act) – PI (BC-699)
- Clearance of Unclaimed and Mishandled Baggage at the Border – PI (BC-680)
- Controlled Toilets – PI (BC-683)
- Cross Border Movement of Physical Currency and Bearer Negotiable Instruments at Airports and Seaports – PI (BC-698)
- Detained Goods Management – PI (TT-4786)
- Detention and Search (s.219 Customs Act) – PI (BC-687)
- Post Detection Procedures – PI (BC-689)
- Role of Scouts and Detector Dog Handlers in the Airports and Seaports – PI (BC-690)

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Attachment C – Related Legislation

- *Customs Act 1901*
- *Privacy Act 1988*
- *Crimes Act 1914*
- *Migration Act 1958*
- *Migration Regulations 1994*
- *Australian Border Force Act 2015*
- *Customs Regulations 2015*
- *Customs Tariffs Act 1995*
- *Acts Interpretation Act 1901*
- *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

Attachment D – Consultation

1.1 Internal Consultation

- Traveller Practices
- Ports Policy Section
- Traveller Management Section
- Border, Bridging (ABC) Visas & Events Program Management Section
- Trade and Goods Practices
- All internal Home Affairs and ABF staff
- Legal Group



Australian Government
Department of Home Affairs



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Border Clearance

Policy Statement

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Table of Contents

1. Purpose	3
2. Scope	3
2.1. In Scope	3
2.2. Out of Scope	3
3. Policy Statement	4
3.1. Border Clearance	4
3.2. Obligations in relation to arrival and departure of vessels	5
3.2.1. Arrival	5
3.2.2. Departure	5
3.3. Immigration clearance	5
3.4. 'Immigration cleared' status	6
3.5. Border clearance	7
3.6. 'Refused immigration clearance' status	7
3.7. 'Bypassed immigration clearance' status	7
3.8. 'Complying with s166	8
3.8.1 Immigration clearance of non-citizens	8
3.9. Exceptions to s166 immigration clearance arrangements	9
3.10. Australian citizens and immigration clearance	9
3.11. Visa cancellation in immigration clearance	9
3.12. Detention and removal of persons refused immigration clearance	10
3.13. Customs clearance	10
3.14. Duty Free concessions	11
3.15. Duties relating to revenue	11
3.16. Travellers suspected of carrying prohibited goods	11
3.17. Immigration clearance on departure	12
3.18. Customs clearance on departure	12
3.19. International flights or voyages with domestic legs	13
3.19.1 International passengers	13
3.19.2 Domestic passengers	14
3.19.3 Examination of goods Domestic passengers	14
4. Accountabilities and Responsibilities	14
5. Version Control	15
Attachment A – Definitions	16
Attachment B – Related Documents	19
Attachment C – Related Legislation	20
Attachment D – Consultation	22
1.1 Internal Consultation	22

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1. Purpose

This Policy Statement (PS) provides policy guidance on the Department of Home Affairs' (the Department) immigration and customs clearance processes at the border. This PS covers the clearance of international travellers in accordance with the *Migration Act 1958* (the Migration Act) and any goods being imported and exported as accompanied baggage in accordance with the *Customs Act 1901* (the Customs Act), at airports or seaports gazetted under s15 of the Customs Act and other Customs places as defined in s183UA of the Customs Act.

Border clearance refers to the processes and procedures required to allow travellers (passengers and crew) and their baggage including goods to move across Australia's physical borders while ensuring they meet the legislative requirements.

This PS outlines the legislative and policy framework that underpins these activities to ensure officers performing border clearance functions do so consistently across various ports in Australia.

2. Scope

2.1. In Scope

This PS applies to the Australian Border Force (ABF) officers engaged in the clearance activities. The following are in scope:

- Obligations relating to the arrival of travellers;
- Immigration and customs clearance of arriving travellers and their accompanied baggage; and
- Immigration and customs clearance of departing travellers and their accompanied baggage.

2.2. Out of Scope

The following are out of scope:

- Activities undertaken unrelated to border clearance and associated matters, which occur outside of Australia and its waters;
- Special border clearance arrangements that apply for offshore resources activities (s9A of the Migration Act), Allowed Inhabitants of the Protected Zone (s13(2) of the Migration Act), and persons to whom Schedule 9 to the *Migration Regulations* 1994 (the Migration Regulations) apply;
- Carrier obligations and offences (s213, s217 and s229 of the Migration Act);
- Visa cancellation and removal procedures;
- Passenger Movement Charge (PMC);
- Clearance of cargo, mail items and other goods not connected with a traveller's direct travel to or from Australia; and
- Information submission and clearance activities relating to the Australia Travel Declaration.

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3. Policy Statement

3.1. Border Clearance

Border clearance is the set of processes that regulate the entry and departure of persons (travellers including crews) and their personal goods (accompanied baggage) to and from Australia. Border clearance procedures assist ABF officers to understand their roles and responsibilities and to ensure persons entering and departing Australia:

- comply with Australia's entry and departure requirements (including import and export of goods);
- provide true and correct information;
- adhere to lawful directions; and
- are subject to appropriate enforcement actions.

Immigration clearance of travellers occurs in line with [Division 5 of Part 2](#) of the Migration Act. The clearance of accompanied baggage and goods is conducted under [Parts IV and VI](#) of the Customs Act. ABF officers are responsible for regulating the entry and departure of travellers into and out of Australia, including their accompanied baggage and goods. ABF officers do this by exercising their powers, and ensuring that carriers (i.e. airlines and cruise lines), crew and travellers comply with relevant obligations provided under the Migration Act, the Customs Act, and other relevant Commonwealth legislation. This is done by:

- ensuring that carriers comply with reporting and clearance obligations when arriving from overseas, or departing internationally from a port or an airport appointed under s15 of the Customs Act;
- undertaking air and sea border security functions at places such as airports or ports including searches, patrols and operations;
- assessing travel documents and confirming a traveller's identity;
- assessing whether a traveller has the appropriate authority to enter Australia;
- clearing a traveller for entry into Australia, or refusing entry and arranging for the traveller's removal;
- clearing a traveller to depart Australia;
- clearing travellers under special conditions, such as a person in need of protection, a traveller with a mental impairment, or minors in accordance with the Child Safeguarding Framework – PS (BE-916) and its associated documents;
- liaising with other government agencies at ports including the Department of Agriculture, Fisheries and Forestry (DAFF) Biosecurity officers and the Australian Federal Police (AFP);
- actioning traveller alerts and referrals;
- conducting searches of travellers and their baggage; and
- questioning non-citizens in relation to their reasons for travel (i.e. assessing bona fides).

Delegations and authorisations for ABF officers to carry out certain functions and make decisions under legislation are available on LEGEND ([ABF Delegations](#)) on the Department's intranet page and via the following links:

- [ABF \(S\) No.1 of 2018.pdf \(border.gov.au\)](#);
- [ABF \(M\) No.1 of 2018.pdf \(border.gov.au\)](#); and
- [MS20-002592%20-%20Minister%20signed.pdf \(border.gov.au\)](#).

In some remote locations such as Cocos (Keeling) Islands where there is no ABF presence, officers in certain agencies such as the AFP are delegated to perform a number of these clearance functions on the Department's behalf.

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Authorised ABF officers may perform activities on behalf of other agencies and exercise powers under legislation administered by other departments as lawfully and operationally required. This includes collecting and disseminating information and intelligence to law enforcement agencies, undertaking joint operations with agencies such as the AFP, and providing assistance through joint airport investigative and intelligence teams and groups.

3.2. Obligations in relation to arrival and departure of vessels

3.2.1. Arrival

Ships or aircraft (jointly referred to as 'vessel' in s5 the Migration Act) arriving from, or departing for, a place overseas, must arrive in and depart from, ports or airports appointed under [s15](#) of the Customs Act. Arriving vessels must present at a Boarding Station that has been appointed within that port or airport as specified in [s60](#) of the Customs Act, where masters and pilots must allow the vessel to be boarded. Limited exemptions under [s58](#) apply to vessels presenting at a port or airport or boarding station where a reasonable cause exists, such as stress of weather or with permission from the Department.

For migration purposes, refer to [s247](#) and [s248](#) of the Migration Act which has similar provisions to the Customs Act. Off-Terminal Clearance is permissible where the ABF agrees to a clearance request of an aircraft and its travellers at a location away from the international terminal building but within the [s15](#) airport boundary (often referred to as the General Aviation precinct) refer to [Off Terminal Clearance, Alternative and Remote Airport Clearance – SOP \(TT-6656\)](#).

If a ship or aircraft seeks to enter Australia at a place other than a place appointed under s15 of the Customs Act, prior permission is required. Permission is required under [s58\(2\)](#) of the Customs Act and an exemption from the Minister personally under [s248](#) of the Migration Act prior to any arrival.

Regulation 3.13 of the Migration Regulations defines an international passenger aircraft as an aircraft providing regular international passenger air service or an international passenger charter air service, an international cargo ships as a civilian vessel that has a gross tonnage of at least 500t, and an international passenger cruise ship as a ship with sleeping facilities for at least 100 passenger berths. The operator of these overseas vessels that are arriving in Australia must report their passengers and crew under [s245L](#) of the Migration Act. Reporting must be done through the Advance Passenger Processing (APP) system which is the authorised system under [s245J](#) of the Migration Act. All other vessels such as private aircraft and super yachts must report their passenger and crew information in line with provisions set out at [s64ACA](#) and [s64ACB](#) of the Customs Act. This is referred to as Advance Passenger Information (API) and is provided to the ABF via emailing the required forms within the required reporting time frames. An impending arrival report is also required for all ships and aircraft arriving into Australia in accordance with [s64](#) of the Customs Act.

3.2.2. Departure

In accordance with [s245LA](#) of the Migration Act, an operator of an aircraft providing regular international passenger air service or an international passenger charter air service, an international cruise ship with at least 100 passenger berths, or an international cargo ship of at least 500t must also report expected crew and passengers prior to departure.

3.3. Immigration clearance

The Migration Act sets out the primary requirements relating to the immigration clearance of travellers at the Australian border, as follows:

- Section 166 outlines the requirement to be immigration cleared and the evidence to be produced by citizens and non-citizens;
- Section 167 provides for when and where evidence for the purpose of s166 is to be presented;
- Section [172\(1\)](#) provides the circumstances for when a person is immigration cleared;

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- Section [175](#) provides the evidence that a clearance officer may request on a person's departure.
- Several other sections of the Migration Act are also important in the context of immigration clearance:
- Section [42](#) - states that a visa is essential for a non-citizen to travel to Australia;
 - Section [43](#) - visa holders must usually enter at a port, noting that s43 does not apply to Special Purpose Visa (SPV) holders;
 - Section [80](#) - outlines when a person is taken not to have left Australia.

The Migration Regulations specify which visas can be applied for in immigration clearance. These include:

- Subclass 444 (Special Category) visa (SCVs) for New Zealand citizens presenting a valid New Zealand passport that is in force and completed Incoming Passenger Card (IPC: and see [s32](#) of the Migration Act and the Migration Regulations for the criteria for this visa);
- Subclass 773 (Border) visas (Generally available for air arrivals but can be used for sea arrivals in limited circumstances);
- Subclass 601 (Electronic Travel Authority) visas (ETA).

The [Migration Amendment \(Unauthorised Maritime Arrivals and Other Measures\) Act 2013](#) specifically amended the Migration Act to provide that a non-citizen who enters Australia by sea and in doing so becomes an unlawful non-citizen (UNC) is an unauthorised maritime arrival (UMA), unless they are an excluded maritime arrival. Excluded maritime arrivals include New Zealand citizens who hold and produce a New Zealand passport that is in force and persons who hold and produce an ETA-eligible passport. Section 46A of the Act provides that a UMA who is in Australia and who is a UNC or who holds a temporary protection visa, a bridging visa, or a visa prescribed by r2.11A of the Migration Regulations cannot make a valid application for a visa.

Under the Migration Act, a traveller arriving in Australia must present to a clearance authority (a clearance officer or authorised system) to satisfy the requirements to be immigration cleared under s166(1) of the Migration Act. The different statuses related to immigration clearance are:

- Immigration cleared (s172(1)); or
- In immigration clearance (s172(2)); or
- Refused immigration clearance (s172(3)); or
- Bypassed immigration clearance (s172(4)).

3.4. 'Immigration cleared' status

Under [s172\(1\)\(a\)](#) and [s172\(1\)\(b\)](#) of the Migration Act, persons (whether Australian citizens or non-citizens) are immigration cleared if, and only if they;

- enter Australia at either a port as defined in the Migration Act, or at a place other than a port; and
- comply with s166; and
- leave the port or prescribed place at which they have complied with the permission of a clearance authority; and
- for non-citizens, are not in immigration detention.

Section [172\(1\)\(ba\)](#) also provides that a person is immigration cleared if they were taken under [s10](#) to have entered Australia (that is, at time of their birth) and at the time of their birth, they had at least one parent who was immigration cleared on the parent's last entry into Australia.

Section [172\(1\)\(c\)](#) provides that a person who is refused immigration clearance or bypassed immigration clearance is immigration cleared if the person is later granted a substantive visa.

Section [172\(1\)\(d\)](#) provides that a person is immigration cleared if the person is in a prescribed class of persons. There is currently no class of persons prescribed for this section.

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3.5. Border clearance

Under [s172\(2\)](#) of the Migration Act, a person is in immigration clearance if the person is with an officer, or at an authorised system for the purpose of satisfying the requirements of [s166](#), and has not been refused immigration clearance.

3.6. 'Refused immigration clearance' status

Under [s172\(3\)](#) of the Migration Act, a non-citizen is refused immigration clearance if they are in immigration clearance with a clearance officer and:

- had their visa cancelled in immigration clearance (and have not been subsequently granted another visa); or
- have refused to, or are unable to, present to a clearance officer evidence of their identity (such as travel documents or immi card, or other forms of identity document) and a visa in effect, as required by [s166\(1\)\(a\)](#); or
- refused to, or are unable to, provide to a clearance officer the information required on a passenger card, as required by [s166\(1\)\(b\)](#); or
- refused to, or are unable to, comply with any requirements referred to in [s166\(1\)\(c\)](#) to provide one or more personal identifiers to a clearance officer.

Non-citizens who are refused immigration clearance will become a UNC. Under s189 of the Migration Act, non-citizens who are refused immigration clearance must be detained by an officer, if the officer knows or reasonably suspects that they are an UNC.

An Australian citizen cannot be refused immigration clearance. They will either be immigration cleared or bypass immigration clearance when they fail to comply. Please see section 3.10 below in relation to clearance of Australian citizens.

3.7. 'Bypassed immigration clearance' status

Under [s172\(4\)](#) of the Migration Act, a person, other than a person who is refused immigration clearance, bypasses immigration clearance if they are required to comply with [s166](#) but they;

- leave the port where they entered Australia without complying with s166; or
- enter Australia at a place other than a port and do not comply with s166 within the prescribed period; or
- enter at a place other than a port and [s43\(1\)\(c\)](#) of the Migration Act does not apply - i.e., there was no risk to a person's health and safety or a prescribed reason that necessitated entry at a place other than a port; or
- enter Australia at a place other than a port and, while [s43\(1\)\(c\)](#) applies (that is, a visa holder is required to enter at a port or on a precleared flight except where the person has to enter in another way because the health or safety of a person or a prescribed reason, make it necessary to enter that other way), fails to comply with s166 at a prescribed place, within a prescribed period, after entering (as provided for by [s167\(2\)](#) and reg [3.04](#) of the Migration Regulations). The prescribed period for a person to comply with s166 is within 2 working days after a person has entered Australia.

Section 174 of the Migration Act provides that a visa ceases to be in effect if a visa holder is required to comply with s166 and does not comply. For example, a ship's crew member who 'jumps' ship just before the ship arrives at a boarding station and swims to shore may be found to have bypassed immigration clearance as [s43\(1\)\(c\)](#) does not apply to the crew.

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3.8. 'Complying with s166

Persons are required to comply with s166 of the Migration Act without unreasonable delay. In relation to immigration clearance at airports, 'without unreasonable delay' should be taken to mean as soon as practicable after disembarkation from the aircraft, after allowing for comfort stops, shopping and other activities. At seaports, travellers may have ship-imposed disembarkation times spread over a number of hours to ease congestion at the terminal or wharf.

Section 167 of the Migration Act provides for when and where a person must comply with s166. As per s167(1), all persons entering Australia must comply with immigration clearance at the first port of arrival unless ABF have agreed to clear travellers at on on-port. Agreements for on-port clearance should be made between ports and where practicable, enable travellers to comply with immigration and customs clearance at their final port.

3.8.1 Immigration clearance of non-citizens

A non-citizen will fail to comply with s166(1)(a)(ii) and s166(1)(b) of the Migration Act if one or more of the following apply:

- They do not hold a visa and cannot, or do not make an application for a visa that can be granted while in immigration clearance;
- They do not hold a visa and their application for a visa in immigration clearance is refused; or
- The visa they held is cancelled in immigration clearance (or while in-flight to enter Australia);
- They do not hold a visa, or their visa is cancelled, and their application for a visa cannot be decided within a reasonable time (for example, the person has sought to engage Australia's protection obligations);
- They cannot provide a clearance authority with a valid passport or other travel document as an acceptable evidence of identity. For example;
 - the person has lost their passport (the ABF officer may ask for a search of the vessel or aircraft to establish whether the document was left behind);
 - a document the person presents is found to be fraudulent and was used to obtain a visa;
 - a passenger presents as an impostor using another person's passport (e.g. a stolen passport).

As well as complying with the travel document requirement, non-citizens must also;

- comply with any requirement, made by a clearance officer before an event referred to in s172(1)(a)(iii) or s172(1)(b)(iii) or s172(1)(c) of the Migration Act occurs, to provide one or more personal identifiers to a clearance authority; and
- if the person presents evidence to an authorised system - provide to the authorised system a photograph or other image of the person's face.

If an officer knows or reasonably suspects that a non-citizen holds a visa that may be cancelled under specified subdivisions or sections of the Migration Act, and they need to make further enquiries to make a decision about a person's right to remain in Australia, in certain circumstances an officer may detain the non-citizen for questioning. This is referred to as 'questioning detention' (s192 of the Migration Act). It is distinguishable from s189 detention as it is limited by time.

Section 192 detention allows for the person to be questioned about matters related to their visa for up to 4 hours. The person may however be held for a longer period for a number of reasons including providing adequate rest time, transit to a suitable place to conduct the interview and allowing the person to obtain advice, or a translator (see s192(7))

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Section [191](#) of the Migration Act provides for the release of a person who has been detained under [s190](#) from immigration detention in clearance, or at another place if the person complies with s166 and either shows an officer evidence of being a lawful non-citizen or is granted a visa.

3.9. Exceptions to s166 immigration clearance arrangements

Section [168](#) of the Migration Act and reg [3.06](#) of the Migration Regulations provide for exceptions to the requirement to comply with immigration clearance processes. Persons who are not required to comply with Immigration clearance arrangements are specified in [Part 2 of Schedule 9](#) to the Migration Regulations.

Schedule 9 to the Migration Regulations - [Schedule 9 – Special Traveller Border Clearance Arrangements](#) - PS (TT-4911) provides for classes of persons to whom special arrangements apply under s166 of the Migration Act (Schedule 9 Part 1), and for classes of persons who are not required to comply with (Schedule 9 Part 2) s166 of the Migration Act. Classes of persons include airline crew members, Guests of Government (as declared by the Department of Prime Minister and Cabinet (PM&C)), certain military persons, transit passengers, transit airline crew members, members of the (British) Royal Family and Royal party, certain persons who may be eligible for a Special Purpose visa, Indonesian traditional fishermen visiting the territory of Cartier and Ashmore Islands, and designated foreign dignitaries.

Section [168](#) of the Migration Act also provides that an 'allowed inhabitants of the Protected Zone' who enters a protected area in connection with the performance of traditional activities is not required to comply with s166. In accordance with 168(2), the exemption from complying with s166 only applies where the person remains in the protected area. If a person goes from the protected zone to another part of the migration zone that is not the protected area, they are required to comply with s166 within the prescribed period. Refer to [Allowed inhabitants of the Protected Zone](#) – PS (TT-2987).

There may be special arrangements put into place for emergencies and major events and for those arriving on Criminal Justice Entry Visas.

Foreign military arriving on vessels at non-proclaimed ports may have special clearance arrangements.

3.10. Australian citizens and immigration clearance

Australian citizens cannot be refused immigration clearance. If a person in immigration clearance claims to be an Australian citizen, but cannot provide an Australian passport or other acceptable evidence or proof of Australian citizenship, an ABF officer should verify the person's claims against departmental holdings.

If the officer is satisfied that the person is an Australian citizen, they can still request other evidence requirements (for example, an IPC) under s166 of the Migration Act, and if provided, clear that person under s166(4) (a person is taken to have complied with subparagraph s166(1)(a)(i) if a clearance officer knows or reasonably believes that the person is an Australian citizen).

If the Australian citizen does not meet the other evidence requirements under s166, they will be taken to have bypassed immigration clearance.

If the officer does not reasonably believe the person is an Australian citizen and they do not present any evidence concerning their right to enter, they will be refused immigration clearance. This may result in the person being detained for failing to comply with s166. Where a person is detained because of [s190](#), [s191\(1\)](#) of the Migration Act provides for the release of a person from immigration detention in clearance, or at another place if:

- the person gives evidence of their identity and Australian citizenship; or
- an officer knows or reasonably believes that the person is an Australian citizen.

3.11. Visa cancellation in immigration clearance

Section [117](#) of the Migration Act provides the authority for a delegate of the Minister to cancel a person's visa under [s116](#) of the Migration Act while the person is in immigration clearance (s117(1)(b)).

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The grounds for cancelling a visa while the visa holder is in immigration clearance are covered by s116 of the Migration Act and [r2.43\(1\)](#) of the Migration Regulations.

Where a non-citizen has not been immigration cleared and an authorised officer suspects there are reasonable grounds for visa cancellation and the non-citizen is not in detention, [s252\(2\)](#) of the Migration Act provides an authorised officer may search (without warrant) the person's clothing or property under the immediate control of the person to be searched. The purpose of this search is to identify any objects hidden on the person, in their clothing or in their property that may be used as a weapon to harm themselves or an officer, or used as a means to escape from immigration detention; or may be used as evidence to support visa cancellation (see paragraphs 252(4)(a) and (4A)(a)).

A non-citizen may have their visa cancelled, and be refused immigration clearance, whilst they remain within the perimeter of the port or other prescribed place as per r3.04 of the Migration Regulations at which they have been in the company of an authorised officer.

3.12. Detention and removal of persons refused immigration clearance

As previously stated, an officer must detain a non-citizen whom they know or reasonably suspect is a UNC under s189(1) of the Migration Act once they have been refused immigration clearance.

Subsection [198\(2\)](#) of the Migration Act provides for the removal of UNCs from Australia. A UNC who has been refused immigration clearance and has not applied for a substantive visa, or who had a substantive visa application finally determined must be removed as soon as reasonably practicable. If a UNC detained in immigration clearance cannot be removed immediately – for example, if the next available flight is not until the following day or later – they may be transferred to an immigration detention facility or an alternative place of detention.

In the seaport environment, the person may be prevented from leaving the vessel (ship) that the person arrived on where an officer reasonably suspects that the person is a UNC. While the person is prevented from leaving the ship in accordance with [s249](#) of the Migration Act, the person is in immigration detention.

3.13. Customs clearance

The Customs Act, the *Customs Regulation 2015* (Cth) (the Customs Regulations), the *Customs (Prohibited Imports) Regulations 1956* (Cth) (the PI Regulations), and the *Customs (Prohibited Exports) Regulations 1958* (Cth) (the PE Regs) and associated legislation, authorise ABF officers to investigate matters and make decisions relating to the clearance of goods imported and exported by travellers arriving and departing Australia.

Part [IV](#) of the Customs Act sets out the requirements for the general importation of goods. Part [VI](#) sets out the general requirements for exportation of goods.

Division 1 of Part XII of the Customs Act sets out the general regulatory powers ABF officers have in relation to travellers and their accompanied baggage and goods, as follows:

- Section [186](#) – General powers of examination of goods subject to customs control;
- Section [186AA](#) – General powers of examination of goods loaded onto or unloaded from ships or aircraft undertaking a domestic leg of an international voyage;
- Section [186A](#) – Power to make copies of, and take extracts from, documents in certain circumstances;
- Section [187](#) – Power to board and search;
- Section [195](#) – Power to question passengers;
- Section [195A](#) – Power to question persons found in restricted areas
- Section [196C](#) – Power to question persons claiming packages; and

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- Section [203B](#) – Power to seize special forfeited goods at a customs place without warrant.

In accordance with the s195 of the Customs Act to question passengers, it is important to remember that this power only allows officers to require persons found on board (or those who have got off or are about to board) a ship, or an aircraft or an installation to answer questions relating to dutiable, excisable or prohibited goods (which includes goods subject to customs control) (under s195 of the Customs Act). Answers cannot be compelled unless the questions relate to any of the types of goods mentioned above.

Officers examining travellers' baggage or goods may do, or arrange for another officer of Customs or another person having the necessary experience to do, whatever is reasonably necessary to permit the examination of the goods concerned (see s186). This may include using detection tools such as detector dogs, x-ray machines, video scopes, Closed Circuit Television (CCTV) and illicit drug trace detection equipment to assist their activities, and may need to work with specialist non-ABF staff such as a Licensed Aircraft Maintenance Engineer. The officer may undertake an examination of a traveller's baggage by physical searches, x-ray and electronic screening, and materials testing. The intervention may also extend to copying of documents (including electronic media), once certain pre-conditions are met (s186A of the Customs Act)

Other operations may involve physical patrols, use of general CCTV, and examination of goods including any passenger and crew baggage to identify and respond to the suspected illegal movement of goods by port workers, and the illegal movement of dutiable, excisable, prohibited or restricted goods across Australia's border.

Under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, ABF officers are authorised to request, search for and report (to the AFP (for undeclared or intelligence purposes) and Australian Transaction Report Analysis Centre (AUSTRAC) (reporting and intelligence)) any currency including cheques, money orders, bearer negotiable instruments and any other monetary instruments where the combined total is AUD 10,000 or more that is brought into or out of Australia. The ABF officer should ensure that the passenger completes the appropriate forms for submission through to AUSTRAC.

3.14. Duty Free concessions

ABF officers administer the duty-free concession scheme available to arriving travellers (see [Traveller Duty Free Concessions](#) – PS (TT-2981) and [Passenger and Crew Duty Free Concessions](#) – PI (BC-654)).

3.15. Duties relating to revenue

ABF officers are delegated to perform certain revenue duties including estimating, administering, and collecting monies, under legislation relating to customs duties, the TRS, other indirect taxes (s195 of *A New Tax System (Goods and Services Tax) Act 1999*), and infringements (see [Tourist Refund Scheme](#) – PS (TT-4904) and [Tourist Refund Scheme](#) – PI (TI-2874)).

3.16. Travellers suspected of carrying prohibited goods

Division 1B of [Part XII - s219L - s219ZJ](#) of the Customs Act outlines the powers of ABF officers to detain and search persons suspected of carrying prohibited goods on their person (s219L – s219RAA) or suspicious substances inside their body (s219S – s219Z). For further information, refer to [Traveller intervention and response](#) – PS (TT-2985) and [Detention and Search \(s.219 Customs Act\)](#) – PI (BC-687).

Where a detention officer suspects on reasonable grounds that a person is unlawfully carrying prohibited goods on his or her body, a customs officer may detain the person and search the traveller in accordance with Division 1B of Part XII. Powers available under this Division include:

- Upgrading an examination to conduct a frisk search, external search or non-medical body scan (ss219L- 219ZJ of the Customs Act);

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- Upgrading an examination to make arrangements for internal medical search where the officer suspects on reasonable grounds that the traveller is internally concealing a suspicious substance (s219Z).

3.17. Immigration clearance on departure

There are no general provisions under the Migration Act to prevent a person from leaving Australia.

There is no power in the Migration Act to require an Australian citizen travelling on a valid passport of another nationality to disclose their Australian citizenship.

Under s175, a clearance officer **may** require a person who is on board, or is about to board, a vessel that is due to depart Australia (whether calling at other places in Australia or not) to;

- present certain evidence (which might include a personal identifier) to a clearance authority;
 - if the person is an Australian citizen - the person's Australian passport or prescribed other evidence of the person's identity and Australian citizenship;
 - if the person is a non-citizen; evidence of the person's identity and permission to remain in Australia;
- provide to a clearance authority any information (including the person's signature, but not any other personal identifier) required by the Migration Act or the Migration Regulations; and
- comply with any requirement made by a clearance officer under s257A to provide one or more personal identifiers to a clearance authority; and
- if the person presents evidence to an authorised system, provide to the authorised system a photograph or other image of the person's face.

The immigration clearance procedures under s175 of the Migration Act for departing persons (that is, persons on board, or about to board, a vessel that is to leave Australia) are similar to those under s166 for arriving persons in terms of presenting a passport or travel document and other evidence. However, the requirement for departing travellers to present evidence of identity under s175 is discretionary while s 166 is mandatory for travellers (unless exempt from complying with s 166 under s168). ABF officers should conduct face to passport checks and record outward movements for all travellers unless an operational policy or procedure provides for an exception from complying with s175.

3.18. Customs clearance on departure

There are no provisions under the Customs Act to prevent a person from leaving Australia, unless they are to be detained under ss219ZJB - 219ZJCA of the Customs Act, or subject to arrest under s210 of the Customs Act.

Division 1BA of Part XII of the Customs Act (ss219ZJA – 219ZJJ) outlines the 'detention and search of persons' powers of officers of Customs (if those persons are in a designated place). This includes travellers who may have an 'Alert' placed on them by another agency. An ABF officer may detain the traveller if;

- the officer has reasonable grounds to suspect that the person has committed, is committing, or intends to commit a serious Commonwealth offence or a prescribed State or Territory offence (s219ZJB); or
- the officer has reasonable grounds to suspect that the person intends to leave a designated place and there is either;
 - a warrant for their arrest in relation to a Commonwealth offence or a prescribed State or Territory offence; or
- the person is on bail in relation to a Commonwealth or prescribed State or Territory offence and/or for whom leaving Australia would breach their bail conditions (s219ZJC); or

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- the officer is satisfied that the person is or is likely to be involved in an activity that is a threat to national security or the security of a foreign country ([s219ZJCA](#)).

A 'serious Commonwealth offence' is defined at s219ZJA as an offence against a law of the Commonwealth that is punishable, on conviction, by imprisonment for 12 months or more. There are currently no prescribed State or Territory offences at the time this PS was published.

The ABF officer must notify a police officer and make the person available to a police officer (see [Detention and Search \(s.219 Customs Act\)](#) – PI (BC-687)).

The officer must immediately release the person if their suspicions have been allayed and no further action is required.

Although the procedures for Customs Act searches are used for all personal searches, where a person is detained for the purposes of a search under another Act the search is conducted under that Act and not the Customs Act. The officer must ensure compliance with the appropriate rights and obligations according to the Act under which the person has been detained and searched.

Similar to arriving passengers, under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* ABF officers are authorised to request, search for and report (to the AFP (for undeclared or intelligence purposes) and AUSTRAC (reporting and intelligence)) any currency including cheques, money orders, bearer negotiable instruments and any other monetary instruments where the combined total is AUD 10,000 or more that is brought into or out of Australia. The ABF officer should ensure that the passenger completes the appropriate forms for submission through to AUSTRAC.

All goods for export (eg international passenger's luggage) taken to a prescribed place for export (section 15 airport or section 15 wharf) will be goods subject to customs control and can be examined under section 186 of the Customs Act.

3.19. International flights or voyages with domestic legs

Some carriers will arrive as an international flight but then operate as a domestic flight or to another international airport within Australia. Domestic legs of these flights may include both international and domestic travellers.

3.19.1 International passengers

Inwards Clearance

Section 167 of the Migration Act allows a person entering Australia to comply with the immigration clearance requirements in s166 of the Migration Act at the first port of entry or at another port, if there is a prior agreement with an officer to be cleared at the on-port. Section 167 provides an officer with the discretion to make a decision as to whether passengers on board an international flight can comply with clearance requirements at an on-port. This allows travellers arriving on an international flight and transferring onto a domestic leg of an international flight to be immigration cleared at the final port of their arrival provided they remain airside at the first port. Following their arrival, passengers must comply with immigration clearance and custom clearance at their final port. The passenger movement record must reflect the port at which they are immigration cleared. This process would apply to all passengers who remain on the same airline for the international and domestic leg, including where the flight number changes. These passengers would not require the airline to issue a boarding pass with "D" for the domestic leg.

Outwards clearance

Similarly, passengers departing on a domestic sector of an international flight immediately prior to an international departure, may be required to undergo outward immigration clearance at the first port of embarkation and remain in the transit lounge at the final port before the international departure. An officer at the final port may still require the passenger to provide information even if they have been previously outwards cleared. The passenger movement record must reflect the port of departure at which they are outwards cleared. This applies regardless if the passenger travels in the same flight or transfers to a different international flight for departure.

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3.19.2 Domestic passengers

There are separate clearance procedures and requirements in place that airlines and ABF officers follow to ensure that domestic travellers are identified and separated from international travellers (see [Processing domestic travellers on international flights](#) - SOP (BC-2725)).

Section [170](#) of the Migration Act and [r3.09](#) of the Migration Regulations relate to the requirement for passengers travelling domestically through an international terminal to present identification. Domestic passengers are not required to carry a passport but must be able to present evidence of identity such as a driver licence or a document issued by the Commonwealth, State or Territory authority that is in force with a photograph and full name of the person. These passengers are not required to complete an IPC. ABF officers will still conduct a face to passport (or other form of identification such as a driver's licence) check for a person travelling on a domestic flight through an international terminal. The boarding pass should be marked with a "D" from the airline to identify that the traveller is on a domestic sector. For minors who are under the age of 18 and who cannot produce an identity document, the accompanying person are to write the minors full name in their boarding pass.

3.19.3 Examination of goods Domestic passengers

All goods that are placed on or are to be taken off the vessel or aircraft that is undertaking a domestic leg of an international voyage can be examined under section 186AA of the Customs Act. This will include domestic passengers' luggage.

4. Accountabilities and Responsibilities

Role	Description
First Assistant Secretary, Strategy and Border Modernisation	Approves this PS. Ensures compliance of the PS with the Policy and Procedural Control Framework (PPCF).
Assistant Secretary, Traveller Frameworks and Modernisation Branch	Responsible for reviewing and updating this PS.
Director, Traveller Policy	Responsible for reviewing and updating this PS.
Superintendent, Traveller Practices, ABF	Responsible for drafting related Procedural Instructions on behalf of the ABF.

OFFICIAL

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	22 August 2018	s. 22(1)(a)(ii)	Document created
2.0	21 November 2018	s. 22(1)(a)(ii)	Document edited
3.0	4 January 2019	s. 22(1)(a)(ii)	Document approved
3.1	5 September 2019	s. 22(1)(a)(ii)	Document edited
3.2	November 2021	s. 22(1)(a)(ii)	Document edited
3.3	December 2021	Legal Group	Legal review
3.4	January 2022	Legal Group	Legal review
3.5	September 2022	Traveller Policy	Final PS
4.0	July 2023	Traveller Policy	Document edited
4.1	December 2025	Traveller Policy	PPCF cleared & Legal cleared
4.2	December 2025	Traveller Policy	Final PS

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Attachment A – Definitions

Term	Acronym (if applicable)	Definition
Australian Border Force (officer)	ABF (officer)	ABF officers or others who are authorised to perform border clearance duties. It applies to all Immigration and Border Protection workers defined under s4 of the <i>Australian Border Force Act 2015</i> , who occupy positions in the ABF.
Authorised officer		An ABF officer who has undertaken the necessary training through the ABF College and/or; under s 5(1) of the Migration Act means an officer authorised in writing by the Minister, Secretary, or ABF Commissions for the purpose of the relevant provision.
Authorised system		Under s5(1) of the Migration Act means an automated system authorised in writing by the Minister or the Secretary for the purposes of that provision.
Baggage		Under Part XII of the Customs Act, s183UA provides the definition of 'baggage' which means goods: (a) that are carried by or for a traveller, including the captain and crew members, on board the same ship or aircraft as the traveller; or (b) that a traveller intended to be so carried. (For example, baggage may have been inadvertently left off the flight the traveller is on, but arrives on the next available flight and will be taken to be 'baggage' for clearance purposes).
Biosecurity officers		Officers of the Department of Agriculture, Fisheries and Forestry who protect the border from biosecurity risks (previously the Department of Agriculture, Water and the Environment or DAWE), and are often located in SEA (see definition below) at international airports alongside the ABF officers and at port areas in the maritime environment.
Carrier		Controller of a vessel or aircraft
Clearance authority		Under s165 of the Migration Act means: (a) a clearance officer; or (b) an authorised system for the purpose of the relevant provision.
Designated place		Under s4 of the Customs Act designated place means: (a) a port, airport or wharf that is appointed, and the limits of which are fixed, under s15; or (aa) a place to which a ship or aircraft has been brought because of stress of weather or other reasonable cause as mentioned in s58(1), while the ship or aircraft remains at that place; or

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Term	Acronym (if applicable)	Definition
		(b) a place that is the subject of a permission under s58(2) while the ship or aircraft to which the permission relates remains at that place; or (c) a boarding station that is appointed under s15; or (d) a place from which a ship or aircraft that is the subject of a permission under s175 is required to depart, between the grant of that permission and the departure of the ship or aircraft; or (e) a place to which a ship or aircraft that is the subject of a permission under s175 is required to return, while that ship or aircraft remains at that place; or (f) a s234AA place that is not a place, or a part of a place, referred to in paragraph (a), (aa), (b), (c), (d) or (e).
Migration zone		Under s5(1) of the Migration Act the migration zone means the area consisting of the States, the Territories, Australian resource installations and Australian sea installations and, to avoid doubt, includes: (a) land that is part of a State or Territory at mean low water; and; (b) sea within the limits of both a State or a Territory and a port; and (c) piers, or similar structures, any part of which is connected to such land or to ground under such sea; but does not include sea within the limits of a State or a Territory but not in a port. See also s9A of the Migration Act, which concerns offshore resources activities.
Off Terminal clearance	OTC	Describes the concept where the ABF agrees to a clearance request of an aircraft and its travellers at a location (often called the General Aviation precinct) away from the international terminal building, but within the limits of an airport under s15 of the Customs Act.
Port		Port is defined in s5 of the Migration Act to mean: A proclaimed port: or A proclaimed airport. Port is defined in s4 of the Customs Act to means a port appointed under section 15.
Proclaimed Port		Proclaimed port is defined under s5 of the Migration Act as:
		(a) a port appointed under section 15 of the Customs Act; or
		(b) a port appointed by the Minister under subsection (5).
Proclaimed Airport		Proclaimed Airport is defined under s5 of the Migration Act as:
		(a) an airport appointed under section 15 of the Customs Act; or
		(b) an airport appointed by the Minister under subsection (5);
Protected Area		Protected area means an area that is: (a) part of the migration zone; and in, or in an area in the vicinity of, the Protected Zone.

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Term	Acronym (if applicable)	Definition
Protected Zone		Protected Zone means the zone established under Article 10 of the Torres Strait Treaty, being the area bounded by the line described in Annex 9 to that Treaty.
Primary Line		The place where travellers first present to ABF officers(sometimes called 'Primary Line Officers') for them to consider either inwards or outwards immigration clearance matters. This could be either a place where travel documents can be manually and/or machine inspected, or a SmartGate with its associated ABF referral desk. It may also be described as Entry Control Points (ECP) and Outwards Control Points (OCP).
Travel Document		A document used by travellers to show their identity, issued by a recognised issuing authority, and includes a passport, Emergency passport, Certificate of Identity, Document of Identity, ImmiCard and other documents accepted for travel to (and entry into) and from (and exit out of), Australia.
Traveller		A person who has arrived in or is departing Australia on an international flight or voyage, whether as a passenger on, or crew member of, an aircraft or vessel. It also includes a domestic passenger who travels on the domestic leg of an international flight.
Unlawful non-citizen	UNC	A non-citizen in the migration zone who is not a lawful non-citizen is an unlawful non-citizen - s14(1) of the Migration Act.

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Attachment B – Related Documents

Related framework documents include those 'owned' by other policy areas in the Department such as visa, compliance, detention, identity, goods and revenue areas.

The following PPCF documents are on related border clearance topics:

- Schedule 9: Special Traveller Border Clearance Arrangements - PS (TT-4911)
- Schedule 4 - Public Interest Criteria 4021 (the passport requirement) - PS (TT-2988)
- Traveller Intervention and Response - PS (TT-2985)
- Passenger Cards and Crew Declaration forms - PS (TI-341)
- Division 3.1 (Migration Regulations) - Information to be given by arriving persons - PS (TT-2991)
- Allowed Inhabitants of the Protected Zone - PS (TT-2987)
- Immigration Compliance and Status Resolution Framework - PS (SM-5122)
- Traveller Duty Free Concessions - PS (TT-2981) & PI (BC-654)
- Tourist Refund Scheme - PS (TT-4904) & PI (TT-2874)
- Arrival, Immigration Clearance and Entry – Immigration clearance at airports and seaports - PI (BC-536)
- Outwards Immigration Clearance - PI (BC-2535)
- Immigration Clearance of Australian Citizens - PI (BC-2536)
- Types of Documentary Evidence required for Immigration Clearance - PI (BC-666)
- Detention and Search (s219 Customs Act) - PI (BC-687)
- Off Terminal Clearance, Alternative and Remote Airport Clearance - SOP (TT-6656)

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Attachment C – Related Legislation

Acts:

- *A New Tax System (Goods and Services Tax) Act 1999*
- *A New Tax System (Wine Equalisation Tax) Act 1999*
- *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*
- *Australian Border Force Act 2015*
- *Australian Citizenship Act 2007*
- *Australian Passports Act 2005*
- *Australian Security Intelligence Organisation Act 1979*
- *Aviation Transport Security Act 2004*
- *Biosecurity Act 2015*
- *Border Protection (Validation and Enforcement Powers) Act 2001*
- *Commerce (Trade Descriptions) Act 1905*
- *Copyright Act 1968*
- *Crimes (Currency) Act 1981*
- *Customs Act 1901*
- *Customs Tariff Act 1995*
- *Diplomatic Privileges and Immunities Act 1967*
- *Environment Protection and Biodiversity Conservation Act 1999*
- *Financial Transaction Reports Act 1988*
- *Foreign Passports (Law Enforcement and Security) Act 2005*
- *Freedom of Information Act 1982*
- *Intelligence Services Act 2001*
- *Major Sporting Events (Indicia and Images) Protection Act 2014*
- *Maritime Powers Act 2013*
- *Maritime Transport and Offshore Facilities Security Act 2003*
- *Migration Act 1958*
- *Offshore Petroleum and Greenhouse Gas Storage Act 2006*
- *Olympic Insignia Protection Act 1987*
- *Passenger Movement Charge Act 1978*
- *Passenger Movement Charge Collection Act 1978*
- *Privacy Act 1988*
- *Public Service Act 1999*
- *Telecommunications (Interception and Access) Act 1979*
- *Torres Strait Treaty Act 1984*

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- *Torres Strait Fisheries Act 1984*
- *Trade Marks Act 1995*

Regulations:

- *Aviation Transport Security Regulations 2005*
- *Customs (Prohibited Imports) Regulations 1956*
- *Customs (Prohibited Exports) Regulations 1958*
- *Customs Regulation 2015*
- *Customs (International Obligations) Regulations 2015*
- *Maritime Powers Regulations 2014*
- *Migration Regulations 1994*

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Attachment D – Consultation

1.1 Internal Consultation

- Traveller Practices Section
- Ports Policy Section
- Special Purpose, Special Category and Border Visas Section
- ABF Operational Practices
- Legal Group
- All internal staff – Home Affairs and ABF



Australian Government
Department of Home Affairs

Allowed Inhabitants of the Protected Zone

Policy Statement

Document ID (PPN)	TT-2987
TRIM Record Number	ADD2025/5546622
BCS Function	Trade and traveller clearance management
Document Owner	Strategy and Policy Division (Australian Border Force)
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Table of Contents

1. Purpose	Error! Bookmark not defined.
2. Scope	3
2.1 In Scope	3
2.2 Out of Scope	3
3. Policy Statement	3
3.1. Overview	3
3.2 Legislative Framework	Error! Bookmark not defined.
3.3 Traditional Activities	5
3.4 Movement by allowed inhabitants of the Protected Zone	6
4. Accountabilities and Responsibilities	8
5. Version Control	8
Attachment A – Definitions	Error! Bookmark not defined.
Attachment B – Related Documents	Error! Bookmark not defined.
Attachment C – Related Legislation	Error! Bookmark not defined.
Attachment D – Consultation	Error! Bookmark not defined.4
1.1 Internal Consultation	Error! Bookmark not defined.4

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1. Purpose

This Policy Statement (PS) addresses the provisions in the *Migration Act 1958* (Migration Act) and the *Customs Act 1901* (Customs Act) that give effect to certain provisions in the *Torres Strait Treaty*¹ (the Treaty). The Treaty establishes the Protected Zone in the Torres Strait and allows for the free movement between Australia and Papua New Guinea (PNG) for traditional inhabitants undertaking traditional activities in and in the vicinity of the Protected Zone.

The provisions of the Migration Act and the Customs Act implement the Treaty to promote the free movement of certain 'allowed inhabitants' (relevantly citizens from PNG who are *traditional inhabitants* of the Protected Zone under Article 1(m) of the Treaty) to allow them to engage in certain activities within the Protected Zone, without being subject to customs examination, payment of duties as well as migration processes, while ensuring any identified risks and concerns are dealt with appropriately.

2. Scope

2.1. In Scope

This PS applies to immigration and customs clearance processes associated with allowed inhabitants of the Protected Zone conducting traditional activities facilitated under the Treaty.

2.2. Out of Scope

Immigration and customs clearance of travellers who are not allowed inhabitants of the Protected Zone and who are not engaging in traditional activities facilitated under the Treaty. Please see [Border Clearance](#) – PS (TT-2983).

3. Policy Statement

3.1. Overview

As stated in Article 10.3 of the Treaty, 'The principal purpose of the Parties in establishing the Protected Zone, and in determining its northern, southern, eastern and western boundaries, is to acknowledge and protect the traditional way of life and livelihood of the traditional inhabitants including their traditional fishing and free movement.' Pursuant to the Treaty, free movement for the performance of traditional activities is available to the citizens of PNG who inhabit 13 named villages in a portion of PNG in close proximity to the Protected Zone as well as the Australian citizens who live on the 14 inhabited Australian islands of the Torres Strait within the Protected Zone.

In supporting this, Australia allows certain traditional inhabitants free movement into and around the Protected Zone without them having to hold a passport, visa or any identity documents as long as they substantiate their identity as traditional inhabitants and are undertaking traditional activities. A visitor pass system is used to assist with the confirmation of identity and purpose of visit to facilitate the orderly movement of traditional inhabitants. This system is an administrative process and does not provide a basis for refusing entry or directing departure. Visitors are to obtain a pass from their Village Chairman, Councillor or Leader before travel. For further information about visitor pass requirements, refer to the Guidelines for traditional visitors travelling under the Torres Strait Treaty (Department of Foreign Affairs and Trade (DFAT)

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Guidelines) on DFAT's website². Please see [Managing traveller movements through the Protected Zone in the Torres Strait – PI \(BC-6573\)](#).

This PS acknowledges that the processes and procedures the Department (which includes the Australian Border Force (ABF)) use to manage the movement of people across the border in accordance with the Treaty differ from the standard processes for border clearance applied to all other travellers.

3.2. Legislative Framework

The Migration Act

The Migration Act provides the legislative framework for non-citizens to travel to, enter and remain in Australia. It relevantly provides that;

- an unauthorised maritime arrival (UMA) is a person who enters Australia by sea, because of that entry becomes an unlawful non-citizen and is not an excluded maritime arrival (subsections 5AA(1) and (3)).
- a non-citizen in the migration zone who holds a visa that is in effect is a lawful non-citizen (subsection [13\(1\)](#));
- an allowed inhabitant of the Protected Zone who is in a Protected Area in connection with the performance of traditional activities is a lawful non-citizen (subsection [13\(2\)](#)). This means that a person who falls within the description in subsection [13\(2\)](#) is not required to hold a visa to be a lawful non-citizen in a Protected Area;
- a non-citizen in the migration zone who is not a lawful non-citizen is an unlawful non-citizen (subsection [14\(1\)](#));
- subject to some exceptions, a non-citizen must not travel to Australia without a visa that is in effect (subsection [42\(1\)](#));
- subsection [42\(1\)](#) does not apply to an allowed inhabitant of the Protected Zone travelling to a Protected Area in connection with traditional activities (subsection [42\(2\)](#));
- an allowed inhabitant of the Protected Zone who enters a Protected Area in connection with the performance of traditional activities is not required to comply with the immigration clearance requirements in section [166](#) (subsection [168\(1\)](#));
- if an allowed inhabitant of the Protected Zone enters a Protected Area in connection with the performance of traditional activities and goes from the Protected Area to a part of the migration zone outside that area, they must comply with section 166 at a prescribed place within a prescribed period (subsection [168\(2\)](#). Relevantly, regulation [3.05](#) of the *Migration Regulations 1994* (the Migration Regulations) specifies the prescribed period is 5 working days after the person goes to a part of the migration zone outside the protected area and the place is a regional or area office of the Department or any place where there is a clearance officer;
- if an officer knows or reasonably suspects that a person in a Protected Area is a citizen of PNG and is an unlawful non-citizen, the officer **may** detain the person (subsection [189\(3A\)](#)).

The terms 'allowed inhabitant of the Protected Zone', 'inhabitant of the Protected Zone', 'Protected Area', 'Protected Zone', 'Torres Strait Treaty', 'traditional activities' and 'traditional inhabitants' are defined in subsection [5\(1\)](#) of the Migration Act.

The special provisions in subsections [13\(2\)](#) and [42\(2\)](#) of the Migration Act for allowed inhabitants of the Protected Zone do not apply if their visit has no connection to the performance of traditional activities. If an allowed inhabitant of the Protected Zone enters a Protected Area for a purpose that is not in connection with

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the performance of traditional activities and does not hold an Australian visa that is in effect, they will be an unlawful non-citizen. This means that they may be detained under subsection [189\(\(3A\)\)](#) of the Migration Act.

If a PNG citizen is not an allowed inhabitant of the Protected Zone and wishes to travel to and enter Australia, they must hold an Australian visa that is in effect (subsection 42(1)). They must also meet the immigration clearance requirements in section 166 of the Migration Act. These requirements apply regardless of whether their visit is in connection with the performance of traditional activities.

If a PNG citizen is not an allowed inhabitant of the Protected Zone and arrives in a Protected Area without an Australian visa that is in effect, they will be an unlawful non-citizen and may also be an UMA. If they are detained under subsection 189((3A)) of the Migration Act (noting that detention under subsection 189((3A)) is discretionary) and are an UMA, they will be subject to the regional processing arrangements in section [198AD](#) of the Migration Act.

The procedural instruction [Managing traveller movements through the Protected Zone in the Torres Strait - PI \(BC-6573\)](#) provides guidance on how this discretionary power should be used.

Exemptions under the Torres Strait Treaty (the Customs Act)

Section [30A](#) of the Customs Act ('Exemptions Under the Torres Strait Treaty') provides for exemptions to customs control examination and duties under the Treaty for certain ships, goods and traditional inhabitants, and applies to allowed inhabitants arriving on small craft in the Protected Area to perform traditional activities (including barter).

3.3. Traditional Activities

The term 'traditional activities' is defined in subsection [5\(1\)](#) of the Migration Act to have the same meaning as in the Treaty. The definition in Article 1(k) of the Treaty provides that:

"traditional activities" means activities performed by the traditional inhabitants in accordance with local tradition, and includes, when so performed -

- I. activities on land, including gardening, collection of food and hunting;
- II. activities on water, including traditional fishing;
- III. religious and secular ceremonies or gatherings for social purposes, for example, marriage celebrations and settlement of disputes; and
- IV. barter and market trade.

In the application of this definition, except in relation to activities of a commercial nature, "traditional" shall be interpreted liberally and in the light of prevailing custom.

The Department usually relies on advice from the local Treaty Liaison Officer (TLO) and/or the Island Councils as to what constitutes a traditional activity.

DFAT's Guidelines provide the following advice to those PNG citizens wishing to arrive in a Protected Area under the Treaty provisions in relation to traditional activities;

- traditional visits do not include activities that are not traditional. Visits for health treatment, attending court cases, shopping at the store, picking up deliveries from the barge, babysitting, working or accessing money from the ATM are not considered traditional activities;
- the Treaty bans commercial activity, business dealings and working for money during traditional visits (e.g. cray fishing from a licenced Australian cray boat, selling artefacts to commercial operators, paid domestic assistance). Selling goods to non-traditional inhabitants is not permitted under the Treaty;
- children must travel with their parents or legal guardians;
- do not bring non-traditional or non-approved objects to trade.

DFAT's Guidelines also provide special instructions that a person may be turned away and prevented from entering Australia under the Treaty if they;

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- bring non-Treaty people into the Torres Strait;
- travel with children without their parent or legal guardian on board;
- travel with a person banned from making traditional visits.

Assistance may be sought by the ABF from the Island Council (each Torres Strait island has its own Council) to liaise with the PNG visitor's village Councillor to try and resolve any issues with the operation of the free movement provisions, such as those with the pass system (see 3.4 below). Issues may also be raised during DFAT Treaty Awareness visits, Joint Advisory Committee (JAC) meetings, and subcommittee meetings that report to JAC such as the Traditional Inhabitants' Meetings (TIM).

3.4 Movement by allowed inhabitants of the Protected Zone

Articles 11 and 16(1) of the Treaty set out the free movement provisions for traditional inhabitants in connection with traditional activities. DFAT's Guidelines provide guidance for visitors travelling under the treaty. Relevantly to the Department, the DFAT Guidelines provide that;

- allowed inhabitants of the Protected Zone can travel to a Protected Area only by dinghy or canoe or similar, but not by aircraft;
- arrivals should come to the designated and approved landing points, as advised throughout the Torres Strait and report to authorities before entering the community;
- allowed inhabitants must get a 'prior advice notice' or pass requesting a visit signed by the registered signatory - the Village Chairman, Councillor or Leader prior to travel. A Councillor from one village cannot sign a pass for someone from another village.

The signed pass requesting permission to visit must be provided, via email or post or another agreed mechanism, to the relevant community before the visit occurs. Allowed inhabitants should not travel until they receive approval (signed pass) back from the community being visited. The need for a signed pass before travel is not always observed by allowed inhabitants, and the ABF has local procedures in place to deal with such arrivals.

The maximum period for a visit under DFAT's Guidelines is three weeks, however there is no time limit imposed by legislation if a traditional inhabitant is unable to leave the islands in the Torres Strait within the period specified in their pass. If an allowed inhabitant is unable to leave within the nominated timeframe granted with their pass due to unforeseen circumstances such as bad weather, then this should be brought to the attention of the ABF Border Monitoring Officers (BMOs) straight away so that they can be considered for an extension in their stay.

Under Article 16 of the Treaty, traditional movements can be restricted in certain cases to control abuses involving illegal entry or evasion of justice or in situations such as epidemics or biosecurity concerns. This could be where people do not follow Australian laws or Treaty-related procedures or their continued presence in the Protected Zone otherwise may be undesirable. Section 16 of the Migration Act allows the Minister to declare, in writing, that it is undesirable that a specified inhabitant of the Protected Zone continue to be permitted to enter or remain in Australia.

Breaches of the free movement provisions

The most common breaches involve traditional visitors who overstay their approved period (noting that there is no statutory or Treaty limitation on the period of stay), or who start to engage in non-traditional activities to the extent that they can no longer be said to be in a Protected Area in connection with the performance of traditional activities. This will be a question that will form part of the assessment process in each case.

Once the ABF becomes aware of any possible breaches of the free movement provisions, the breach is to be investigated to determine whether the person continues to satisfy the legislative requirements under the Migration Act.

Removal of immigration rights of inhabitants in the Protected Zone

As noted above, section 16 of the Migration Act allows the Minister to declare, in writing, that it is undesirable that a specified inhabitant of the Protected Zone continue to be permitted to enter or remain in Australia. The

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power to removal of immigration rights of Allowed inhabitants in the Protected Zone has been delegated to the ABF officers in an instrument [ABF \(M\) No.1 of 2018.pdf](#). For more information on delegations refer to [ABF Delegations](#).

Declarations made under section [16](#) of the Migration Act should be made in consultation with the Island Council or representative, Queensland Police Service, and other state or federal government agencies as appropriate.

Some of the factors that may be taken into account in deciding whether or not to declare under section [16](#) of the Migration Act that it is undesirable that a specified inhabitant of the Protected Zone continue to be permitted to enter or remain in Australia are;

- the inhabitant behaves or conducts themselves in a manner which has given, or could give, rise to concerns in the local community or a segment of it;
- the inhabitant is a member of, or has an association with another person, group or organisation whom is/are reasonably suspected of being involved in criminal activity;
- the commission of offences against the Migration Act which involve penalties (either actually imposed or with a liability arising from the breach that could lead to such penalties being imposed), including escaping or attempting to escape from lawful immigration detention and offences relating to people smuggling;
- repeatedly engaging in activities of a non-traditional nature, noting the definition of 'traditional activities' Article 1(k) of the Treaty and/or;
- any other general conduct or activity which in the Minister's opinion would lead to a conclusion that the inhabitant is not of good character.

A section [16](#) declaration can be revoked at any time. The ABF has established processes that provide procedural fairness to those specified inhabitants of the Protected Zone where consideration is being given to making a declaration under section [16](#) and to notify a specified inhabitant where a section 16 notice has been revoked – [Managing traveller movements through the Protected Zone in the Torres Strait - PI \(BC-6573\)](#).

Non-Treaty movements by traditional inhabitants

Where an allowed inhabitant of the Protected Zone arrives in a Protected Area and, upon questioning, it is determined that they are not in the Protected Area in connection with the performance of traditional activities and do not hold an Australian visa that is in effect, they will be an unlawful non-citizen. The person should be advised to return to PNG as they otherwise *may* be detained under subsection [s189\(3A\)](#) of the Migration Act. If the person entered Australia by sea, became an unlawful non-citizen because of that entry and is not an excluded maritime arrival, they will also be an UMA. If the person is an UMA and is detained under subsection [189\(3A\)](#), they will be subject to the regional processing arrangements in section [s198AD](#) of the Migration Act (unless the Minister has made a determination under subsection [s198AE\(1\)](#) of the Migration Act that section [s198AD](#) does not apply to the UMA).

Relevantly, an UMA in Australia is prevented by subsection [s46A\(1\)](#) of the Migration Act from making a valid application for a visa if they are an unlawful non-citizen (unless the Minister lifts the bar to allow an application to be made).

If an allowed inhabitant of the Protected Zone enters a Protected Area in connection with the performance of traditional activities, and then goes from the Protected Area to another part of the migration zone outside that area, they must comply with the immigration clearance requirements in section [166](#) of the Migration Act at a prescribed place and within a prescribed time (subsection [168\(2\)](#)).

Paragraph [3.05\(a\)](#) of the Migration Regulations requires allowed inhabitants of the Protected Zone to comply with section 166 of the Migration Act at a departmental office or at any place where there is a clearance officer, including a port. This will include port areas on Horn Island and Thursday Island and the departmental office located there. Paragraph 3.05(b) of the Migration Regulations requires the allowed inhabitant of the Protected Zone to comply with section 166 of the Migration Act within five working days after they go to a part of the migration zone outside the Protected Area. If an allowed inhabitant does not

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comply with section 166 within 5 working days, they will have bypassed immigration clearance in accordance with subsection [172\(4\)](#) of the Migration Act.

If the allowed inhabitant of the Protected Zone does not hold an Australian visa that is in effect and goes from a Protected Area to another part of the migration zone outside that area, they will become an unlawful non-citizen. They will also be liable for mandatory detention under subsection [189\(1\)](#) of the Migration Act and removal from Australia. People in this cohort will not be UMAs as although they entered Australia by sea (in a Protected Area); they did not become unlawful non-citizens because of that entry (as they were lawful non-citizens at the time). Refer [Immigration Compliance and Status Resolution Framework](#) - PS (SM-5122).

If an allowed inhabitant of the Protected Zone inadvertently enters a part of the migration zone outside a Protected Area, provided an officer is satisfied that there is no deliberate breach of the free movement provisions, the person should be given the option to return to the Protected Area immediately. This is because the person will be an unlawful non-citizen and liable for mandatory detention under subsection [189\(1\)](#) of the Migration Act.

4. Accountabilities and Responsibilities

Role	Description
Director Traveller Policy	Responsible for reviewing and updating the PS
Superintendent Traveller Operational Policy Section	Responsible for drafting related PIs on behalf of the ABF
Commander, Operations North, ABF	Responsible for carrying out the policy and procedures on behalf of the ABF.
First Assistant Secretary, Strategy and Capability Group	Responsible for approving the PS

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
0.1	Feb 2018	Traveller Policy Advice and Support Section	First draft
0.2	May 2019	Traveller Policy Section	Review PS taking into account PPCF QA and Legal
0.3	May 2019	Traveller Policy Section	Finalise PS
0.4	Nov 2022	Traveller Policy Section	PS Published
1.0	Feb 2025	Traveller Policy Section	Review of PS ahead of mandatory review
1.1	Aug 2025	Traveller Policy Section	Finalised and Published PS

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Attachment A – Definitions

Term	Acronym (if applicable)	Definition
Allowed Inhabitant of the Protected Zone		“An allowed inhabitant of the Protected Zone” is defined in subsection 5(1) of the Migration Act as “inhabitant of the Protected Zone, other than an inhabitant to whom a declaration under section 16 (presence declared undesirable) applies.”
Inhabitant of the Protected Zone		An “inhabitant of the Protected Zone” is defined in subsection 5(1) of the Migration Act which means, a person who is a citizen of Papua New Guinea and who is a traditional inhabitant.
Island Councils		Island Councils are responsible for local basic utilities and services such as electricity, housing and management of local community development employment projects.
Joint Advisory Committee	JAC	The JAC was established under Article 19 of the Treaty as an advisory body of Australian and PNG officials, together with traditional inhabitant representatives. Meetings are held alternately in Australia and PNG. The functions of the JAC are to: • seek solutions to problems arising at the local level that are not resolved by the TLO and the PNG Border Liaison Officer; • consider and make recommendations to the Parties on any developments or proposals which might affect the protection of the traditional way of life and livelihood of the traditional inhabitants, their free movement, performance of traditional activities and exercise of traditional customary rights; and • review from time to time as necessary, and to report and to make recommendations to the Parties on any matters relevant to the effective implementation of the Treaty, including the provisions relating to the protection and preservation of the marine environment, and fauna and flora in and in the vicinity of the Protected Zone. In the exercise of its functions, the JAC is required to ensure that the traditional inhabitants are consulted, given full and timely opportunity to comment on matters of concern to them, and that their views are conveyed in the Council's reports and recommendations. The JAC is required to transmit its report and recommendations to the Foreign Ministers of Australia and PNG.
Protected Area		‘Protected area’ is defined in subsection 5(1) of the Migration Act as meaning “an area that is part of the migration zone and in, or in the vicinity of, the Protected Zone”. This includes the

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Term	Acronym (if applicable)	Definition
		land area (the outer islands) that is part of Australia's migration zone and is in the Protected Zone.
Protected Zone		'Protected Zone' is defined in subsection 5(1) of the Migration Act as meaning "the zone established under Article 10 of the Torres Strait Treaty, being the area bounded by the line described in Annex 9 to that treaty". The practical application of the term for clearance purposes refers particularly to the land area of the specified Australian islands in the Torres Strait. It also includes the PNG coastal area that provides a linkage to the PNG traditional inhabitants who are domiciled in the 13 villages, which have been agreed to have free movement privileges.
Queensland Police Service		Queensland Police service is a state-wide organisation responsible for providing policing services to the Queensland community. In particular, Queensland Police Service assists if detention arrangements need to be made at the Thursday Island police immuring; and may accompany ABF officers on compliance exercises as operationally required.
Traditional activities		Traditional activities defined in the subsection 5(1) of the Migration Act has the same meaning as in the <i>Torres Strait Treaty</i> . It means, the Treaty between Australia and the Independent State of Papua New Guinea that was signed at Sydney on 18 December 1978.
Traditional inhabitants		Traditional inhabitants defined in the subsection 5(1) of the Migration Act has the same meaning as in the <i>Torres Strait Fisheries Act 1984</i>. In subsection 3(1) of the <i>Torres Strait Fisheries Act 1984</i> it means: (a) a person covered by the definition of traditional inhabitants in Article 1 of the <i>Torres Strait Treaty</i> (as affected by subsection (3)); or (b) a person prescribed by the regulations. Under the Treaty, "traditional inhabitants" means, in relation to Papua New Guinea, persons who- (i) live in the Protected Zone or the adjacent coastal area of Papua New Guinea, (ii) are citizens of Papua New Guinea, and (iii) maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone in relation to their subsistence or livelihood or social, cultural or religious activities.
Traditional Inhabitants Meeting	TIM	As part of the liaison and consultation arrangements under Article 18 of the Treaty, the Traditional Inhabitants Meeting (TIM) was formed. This is a forum for traditional inhabitants of both countries to discuss issues and activity in the region, and report concerns to government through their TLO.

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Term	Acronym (if applicable)	Definition
Treaty Liaison Officer from Department of Foreign Affairs and Trade	TLO DFAT	The Treaty Liaison Officer (TLO) from the Department of Foreign Affairs and Trade (DFAT) is based on Thursday Island, and the equivalent PNG border liaison officer is based on Daru (an island in the Torres Strait belonging to PNG). They are responsible for Treaty arrangements and liaison between the parties (that is, to make recommendations and refer any matters affecting the implementation of Treaty provisions not capable of resolution at the local level or requiring consideration by both parties).

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Attachment B – Related Documents

Related framework documents include those 'owned' by other policy areas in the Department such as visa, compliance, detention, identity, goods and revenue areas;

- [Managing traveller movements through the Protected Zone in the Torres Strait](#) - PI (BC-6573)
- [Border Clearance](#) - PS (TT-2983)
- [Sch4 – 4021 - The passport requirement](#) - PS (TT-2988)
- [Traveller intervention and response](#) - PS (TT-2985)
- [Incoming Passenger Card \(Form 15\) and Crew Declaration Form \(B465\)](#) - PS (TI-341)
- [Traveller Duty Free Concessions](#) - PS (TT-2981)
- [Immigration Compliance and Status Resolution Framework](#) - PS (SM-5122)
- [Detention and Search \(s.219 Customs Act\)](#) - PI (BC-687)

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Attachment C – Related Legislation

- *Migration Act 1958*
- *Customs Act 1901*
- *Biosecurity Act 2015*
- *Torres Strait Fisheries Act 1984*
- *Fisheries Administration Act 1991*
- *Fisheries Management Act 1991*
- *Public Governance, Performance and Accountability Act 2013*
- *Police Service Administration Act 1990 (QLD)*

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Attachment D – Consultation

1.1 Internal Consultation

- Traveller Operational Policy Section
- Status Resolution, Returns and Removals Policy Section
- Border and Events Visas Section
- Traveller Management Section
- Department of Home Affairs, All internal staff
- Legal Group
- All Staff Consultation

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