

**STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE
IN THE 2026 AUTUMN SITTINGS**

MIGRATION AMENDMENT (2026 MEASURES NO. 1) BILL 2026

Purpose of the Bill

This Bill would amend the *Migration Act 1958* to establish a new framework to manage visa applications and offshore visas for specified classes of persons in emergency circumstances, including to manage travel to Australia by temporary visa holders in the specified class.

Reasons for Urgency

Introduction and passage of the Bill in the 2026 Autumn sittings is required to respond to the changing risk environment overseas.

(Circulated by authority of the Minister for Home Affairs)



Australian Government
Department of Home Affairs

Submission

For decision

PDMS Ref. Number: MS26-000617

Date of Clearance: 09/03/2026

To **Minister for Home Affairs, Minister for Immigration and Citizenship, Minister for Cyber Security**

Subject **Approval of Text: Migration Amendment (2026 Measures No. 1) Bill 2026**

Timing *For approval as soon as possible for the Bill to proceed for Legislation Approval Process (LAP) lodgement in order to support proposed introduction on 10 March 2026. Matters related to timing have been discussed with your Office.*

Recommendations

That you:

- | | |
|--|--|
| 1. approve the text of the Migration Amendment (2026 Measures No. 1) Bill 2026 (Attachment A); and | approved / not approved/
please discuss |
| 2. approve the Bill's Explanatory Memorandum (including the Statement of Compatibility with Human Rights) (Attachment B); | approved / not approved/
please discuss |
| 3. sign and date the letter to the Prime Minister seeking agreement for late Legislation Approval Process lodgement, and additional policy authority (Attachment C); | signed / not signed/
discuss |
| 4. approve the updated Statement of Reasons for Urgency for the Bill (Attachment D); | approved / not approved/
please discuss |
| 5. note the draft Second Reading Speech, Caucus submission, Talking Points, Questions and Answers and other supporting materials for the Bill will be progressed to your Office separately for consideration. | noted / please discuss |

Minister for Home Affairs, Minister for Immigration and Citizenship, Minister for Cyber Security

Date: 09/03/2026

Signature.....

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Minister's Comments

Key Issues

1. s. 47C(1)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
s. 34(3)
[Redacted]
[Redacted]
[Redacted]
2. The Department has worked with the Office of Parliamentary Counsel and the Australian Government Solicitor to develop the proposed Migration Amendment (2026 Measures No. 1) Bill 2026 (Attachment A) and its Explanatory Memorandum including the Statement of Compatibility with Human Rights (Attachment B).

3. s. 42(1)

Statutory test for making the determination

4. s. 42(1)

5.

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S. 42(1)

6. Further detail in relation to the amendments in the Bill is provided in the **Background**.

Additional policy authority and late Legislation Approval Process (LAP) lodgement

7. In the course of developing the Bill, the Office of Parliamentary Counsel advised the Department that additional policy authority is required for the purposes of the Legislation Approval Process and introduction. A letter to the Prime Minister is included at **Attachment C** for this purpose, s. 42(1)

8. S. 34(3)

Revised Statement of Reasons for Urgency

9. You previously approved a Statement of Reasons for Urgency for the Bill in MS26-000600. This Statement has been revised to reflect details of the final measures in the Bill. The Statement supports consideration of the Bill by the Senate in the same sitting period as it is introduced. The Department seeks your approval of the revised Statement, which will be circulated under your authority following introduction of the Bill. s. 42(1)

Background

10. Under the Migration Act, there is currently no general power to prevent cohorts of non-citizens who hold visas that are in effect from traveling to Australia, including in circumstances where that travel may present a risk to Australia's national interest, or to protect the safety or good order of the Australian community. Although there are powers available to the Minister to cancel a non-citizen's visa in those circumstances, those powers are only capable of being exercised in relation to individual non-citizens. They are not suited to responding at scale to events where it may be appropriate to limit travel to Australia, including during periods of international conflict. Similarly, while the *Biosecurity Act 2015* contains certain powers that were able to be used to manage risk during the Covid-19 Pandemic, these powers can only be used to prevent or control particular human diseases.

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Migration Amendment (2026 Measures No. 1) Bill 2026

11. The amendments of the Migration Act in the Bill would operate to establish a new personal power of the Minister to make an 'arrival control determination' by non-disallowable legislative instrument, and an associated framework to allow temporary restrictions on the arrival of certain classes of temporary visa holders in Australia, where this is necessary to protect the integrity and sustainability of Australia's immigration system. The Minister would be required to get the written agreement of the Prime Minister and the Foreign Minister to the proposed determination before the Minister may exercise the power. If made, the determination would operate to temporarily restrict travel to Australia by non-citizens who hold temporary visas, in the class or classes specified in the determination.

Arrival control determination provisions

12. New Subdivision AGA would be inserted in Division 3 of Part 2 of the Migration Act. This Subdivision establishes a legislative framework for the Minister to make an arrival control determination, to allow for the Minister to more effectively regulate certain classes of non-citizens who hold a temporary visa during periods of international conflict or other events or circumstances outside of Australia.
13. New section 84A would provide that the object new Subdivision AGA is to allow temporary restrictions on the arrival of certain classes of temporary visa holders in Australia, where this is necessary to protect the integrity and sustainability of Australia's migration system, including when events or circumstances outside Australia mean that there is an increased risk that certain classes of temporary visa holders will not depart Australia when their visas cease to be in effect.

Minister may make arrival control determinations

14. New section 84B of the Migration Act would establish a new personal power of the Minister to make an 'arrival control determination' by legislative instrument in relation to one or more specified classes of non-citizens. This section also sets out certain pre-conditions to the exercise of this power, including a requirement that the Minister must obtain agreement in writing from the Prime Minister and the Minister for Foreign Affairs. Per standard Office of Parliamentary Counsel drafting practice, the Minister for Foreign Affairs is identified with reference to the *Diplomatic Privileges and Immunities Act 1967*, as an Act that is consistently administered by a Minister in the Foreign Affairs Portfolio.
15. New subsection 84B(1) of the Migration Act would provide that the Minister may, by legislative instrument, make a determination (an arrival control determination) specifying that section 84E (suspension of temporary visas held by non-citizens) applies, either generally or in specified circumstances, to one or more specified classes of non-citizens.
16. New subsection 84B(2) would provide that, before making an arrival control determination, the Minister must be reasonably satisfied that:
 - an event or circumstance has occurred, or is occurring, outside Australia; and
 - one or both of the following apply:
 - having regard to the event or circumstance, non-citizens of a kind to whom the determination would apply may, if they enter Australia on a temporary visa, remain in Australia after the visa ceases to be in effect;

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- if the event or circumstance had occurred, or had been occurring, at the time non-citizens of a kind to whom the determination is to apply were to make an application for a temporary visa, the visa may not have been granted.

and that having regard to the object of the Subdivision (section 84A), it is in the national interest to make the determination.

Determination not disallowable

17. New subsection 84B(12) would provide that an arrival control determination, or an instrument to revoke a determination, would not be subject to disallowance under section 42 of the *Legislation Act 2003*. This reflects the importance of having certainty in relation to the effect of the determination for the specified period (up to 6 months). The determination is required to be tabled (under new section 84F) together with a statement of the Minister's reasons for making the determination.

Revocation of a determination

18. Subsection 84B(4) would provide that if the Minister may, by legislative instrument, revoke an arrival control determination the Minister made under subsection 84B(1).

Period of determination and related matters

19. Subsection 84B(6) would provide that, unless revoked, an arrival control determination remains in effect for a period specified in the determination, or 6 months beginning on the day after the day the determination commences, whichever occurs first.
20. This maximum period of 6 months reflects that the Minister's exercise of a personal power to make an arrival control determination is intended to be a temporary measure, and would provide the Minister with an appropriate maximum duration of time to manage any implications to the integrity and sustainability of the migration system arising out of the relevant event or circumstance. The legislation also expressly provides that:
- the period for which the determination is in force must not be longer than the period that the Minister considers appropriate in all the circumstances; and
 - the Minister must ensure only one arrival control determination is in force in relation to a particular class of non-citizens at any one time.

21.

22.

S. 42(1)

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Arrival control determination does not apply in relation to certain kinds of non-citizens

23. The arrival control determination framework does not apply in relation to permanent visas. It only operates in relation to temporary visas, and subject to certain exceptions established in the legislation.
24. New section 84C would expressly provide that an arrival control determination does not apply to certain kinds of non-citizens. Of note, an arrival control determination cannot apply in relation to:
- a protection visa that is a temporary visa; or
 - a temporary safe haven visa; or
 - a visa classified by the regulations as a Temporary (Humanitarian Concern) (Class UO) visa; or
 - a bridging visa granted as a result of an application for any of the visas mentioned above.
25. An arrival control determination does not apply at any time in relation to a non-citizen if the non-citizen is in the migration zone when the determination commences. An arrival control determination also does not apply in relation to a non-citizen who is:
- the spouse, de facto partner or dependent child (within the meaning of the regulations) of:
 - an Australian citizen;
 - the holder of a permanent visa that is in effect; or
 - a person who is usually resident in Australia and whose continued presence in Australia is not subject to a limitation as to time imposed by law (for example, a New Zealand citizen in Australia on a Special Category visa); or
 - the parent of a child who is under 18 and who is in Australia.
26. Finally, an arrival control determination does not apply to a non-citizen who is the subject of a “permitted travel certificate” that is in force.

Minister may certify that arrival control determination does not apply in relation to a particular non-citizen

27. New section 84D would confer the Minister with a delegable power to issue a “permitted travel certificate” that would provide for specific exemptions to the operation of an arrival control determination that is in force.
28. New subsection 84D(1) would provide that the Minister may issue a certificate (a permitted travel certificate) providing that an arrival control determination does not apply in relation to a particular non-citizen if the Minister is satisfied in all the circumstances that it is appropriate for the determination to not apply to that non-citizen, whether or not this certificate is requested by a non-citizen or their authorised representative under new section 84D(2).
29. New subsection 84D(3) would provide that if the Minister issues a permitted travel certificate in relation to a non-citizen, the certificate has effect despite the non-citizen falling within scope of the class of persons specified in the determination.
30. New subsection 84D(5) would provide that, if the Minister makes a permitted travel certificate, the Minister may, in writing, revoke the certificate in relation to any non-citizen at particular a time if the non-citizen is not in the migration zone at that time.

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Temporary visas of non-citizens in class specified in arrival control determination cease to be in effect

31. New section 84E would provide for the effect of an arrival control determination made by the Minister through the exercise of their personal power in new subsection 84B. The arrival control determination would operate to cease the effect of a temporary visa held by a class of person specified in the instrument, regardless of whether the visa was in effect at the time the determination was made, where they are outside the migration zone when the determination commences. This measure would operate to prevent the ability of an affected temporary visa holder, who has not been issued a permitted travel certificate, to travel into Australia while the determination is in force. This 'travel suspension' would operate subject to the exceptions described above.
32. The determination would not have any effect on the underlying expiry date or period of a temporary visa, as provided for in the definition of 'visa period' under section 5(1) of the Migration Act, and nor would it affect holders of permanent visas.
33. New section 84E would not affect a person who holds a valid temporary visa, who is in Australia when the period specified in the determination commences.

Temporary visa may come into effect again

34. New subsection 84E(2) would provide for the circumstances in which, where the visa period for visa has not expired, a visa that has ceased to be in effect under subsection 84E(1) will come into effect again – for example, if the non-citizen ceases to be in the class of non-citizens specified by the determination.

Tabling requirements

35. New subsection 84D(9) would provide that the Minister must, as soon as practicable after the end of each period of 6 months beginning on 1 January or 1 July each year, cause a report to be laid before each House of the Parliament containing a statement of the number of permitted travel certificates issued during the period. This timeframe is intended to ensure appropriate transparency and accountability to the Parliament in relation to the number of permitted travel certificates have been issued to non-citizens who would otherwise be subject to arrival control determination.
36. New section 84F would provide that if the Minister makes an arrival control determination, the Minister must cause a copy of the determination and a statement of reasons for making the determination to be tabled in both Houses of Parliament within 2 sitting days after the day on which the determination is made. The section also makes clear that a failure to comply with the requirements does not affect the validity of the determination.

Other consequential amendments

37. s. 42(1)
[REDACTED]. That section provides that decisions made under specified provisions of the Migration Act are privative clause decisions. Currently, subsection 474(2) defines 'privative clause decision', with subsection 474(7) setting out a series of provisions that are covered within the meaning of the definition.
38. The Bill includes an amendment of paragraph 474(7)(a) of the Migration Act to insert a reference to new section 84B (the arrival control determination power) to provide that the

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provision is covered by the definition of privative clause decision. The effect is that only the High Court has jurisdiction to hear a challenge in relation to an arrival control determination.

Application provisions

39. Item 8 in the Schedule to the Bill would provide that new Subdivision AGA applies in relation to visas granted before, on or after the commencement of the legislation. The amendments would commence on the day after the Amendment Act receives the Royal Assent.

Consultation – Internal/External

40. Internal: Migration, Citizenship and Humanitarian Policy Division, Temporary Visas Branch, International Law and Protection Obligations section in relation to the Statement of Compatibility with Human Rights Statement
41. External: Office of Parliamentary Counsel; the Australian Government Solicitor; Office of International Law, Attorney-General's Department; Department of Foreign Affairs and Trade; Department of the Prime Minister and Cabinet.
42. The Office of Impact Analysis was also consulted and advised that a detailed impact analysis was not required under the Australian Government's policy impact analysis framework (reference OIA26-11387). Consistent with OIA guidance, the Bill's Explanatory Memorandum is therefore silent on this matter.

Client Service Implications

43. The client service implications are described in the associated policy authority submission MS26-000600. The Department will continue to engage with your Office in relation to communication with stakeholders and matters relating to implementation, in anticipation of the Bill's passage.

Risks and Sensitivities

44. 
45. 
46. The information contained in this submission is classified and should not be publicly released without the authority of the Department of Home Affairs. In accordance with our long-standing practices, should you wish for unclassified media lines to be prepared in relation to this issue please contact the Home Affairs Media Operations team – media@homeaffairs.gov.au.

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Financial/systems/legal/deregulation/media implications

47. s. 47C(1)
[Redacted]
[Redacted] s. 47C(1), s. 47E(d)
[Redacted]
[Redacted]
[Redacted]
[Redacted] s. 42(1)

Attachments

- Attachment A** Migration Amendment (2026 Measures No. 1) Bill 2026
- Attachment B** Explanatory Memorandum
- Attachment C** Letter to the Prime Minister seeking final policy authority
- Attachment D** Updated Statement of Reasons for Urgency (to support consideration by the Senate)

Authorising Officer
Cleared by:
Kevin Cunnington Assistant Secretary Legislation Branch
Date: Enter date cleared
Mob: s. 22(1)(a)(ii)

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CC Secretary
ABF Commissioner
Head National Security
Head Immigration
DS Immigration Programs
DS Immigration Compliance
DS Legal
Chief Operating Officer
Deputy Commissioner, National Operations
FAS Migration, Citizenship and Humanitarian Policy
AS Immigration Planning and Family Visa Policy
AS Citizenship and Humanitarian Policy
AS Media and Communications

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2025-2026

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Migration Amendment (2026 Measures
No. 1) Bill 2026**

No. , 2026

(Home Affairs)

**A Bill for an Act to amend the *Migration Act 1958*,
and for related purposes**

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Contents

1	Short title.....	1
2	Commencement	1
3	Schedules	2
Schedule 1—Arrival control powers		3
Part 1—Amendments		3
<i>Migration Act 1958</i>		3
Part 2—Application provision		11

OPC drafter to complete	
1. Does this Bill need a message? (See H of R Practice, seventh ed, pp. 419-424, and OGC advice.) If yes: • List relevant clauses/items— • Prepare message advice (see Drafting Direction 4.9) • Give a copy of the message advice to the Legislation area.	No
2. Does this Bill need a notice? (See H of R Standing Order 178 and Drafting Direction 3.2.) If no list relevant clauses/items—	Yes
3. Is there any constitutional reason why this Bill should not be introduced in the Senate? (See Constitution sections 53 and 55 and Drafting Direction 3.2.)	No

**A Bill for an Act to amend the *Migration Act 1958*,
and for related purposes**

The Parliament of Australia enacts:

1 Short title

This Act is the *Migration Amendment (2026 Measures No. 1) Act 2026*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not	The day this Act receives the Royal Assent.	

No. , 2026 *Migration Amendment (2026 Measures No. 1) Bill 2026*
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1 Note: This table relates only to the provisions of this Act as originally
2 enacted. It will not be amended to deal with any later amendments of
3 this Act.

4 (2) Any information in column 3 of the table is not part of this Act.
5 Information may be inserted in this column, or information in it
6 may be edited, in any published version of this Act.

8 Legislation that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.

Schedule 1—Arrival control powers

Part 1—Amendments

Migration Act 1958

1 Subsection 5(1)

Insert:

arrival control determination has the meaning given by section @84B.

permitted travel certificate has the meaning given by section @84D.

2 Subsection 5(1) (subparagraph (b)(i) of the definition of *visa period*)

After “in effect”, insert “otherwise than under section @84E”.

3 Subsection 5(1) (at the end of subparagraph (b)(ii) of the definition of *visa period*)

Add “or section @84E”.

4 After subsection 68(3)

Insert:

Note: A visa that has ceased to be in effect under section @84E may come into effect again under that section during the visa period for the visa.

5 Subsection 82(9)

Omit “sections 173 and 174”, substitute “sections @84E, 173 and 174”.

6 After Subdivision AG of Division 3 of Part 2

Insert:

Schedule 1 Arrival control powers

Part 1 Amendments

Subdivision AGA—Arrival control determinations

@84A Object of Subdivision

The object of this Subdivision is to allow temporary restrictions on the arrival of certain classes of temporary visa holders in Australia, where this is necessary to protect the integrity and sustainability of Australia's immigration system, including when events or circumstances outside Australia mean that there is an increased risk that certain classes of temporary visa holders will not depart Australia when their visas cease to be in effect.

@84B Minister may make arrival control determinations

- (1) The Minister may, by legislative instrument, make a determination (an *arrival control determination*) specifying that section @84E (suspension of temporary visas held by non-citizens) applies, either generally or in specified circumstances, to one or more specified classes of non-citizens.

Note: Section @84F requires the Minister to cause a copy of an arrival control determination to be tabled in each House of the Parliament within 2 sitting days of that House after making the determination.

- (2) Before making an arrival control determination, the Minister must be reasonably satisfied that:
- (a) an event or circumstance has occurred, or is occurring, outside Australia; and
 - (b) one or both of the following apply:
 - (i) having regard to the event or circumstance, non-citizens of a kind to whom the determination is to apply may, if they enter Australia on a temporary visa, remain in Australia after the visa ceases to be in effect;
 - (ii) if the event or circumstance had occurred, or had been occurring, at the time non-citizens of a kind to whom the determination is to apply were to make an application for a temporary visa, the visa may not have been granted; and
 - (c) having regard to the object of this Subdivision, it is in the national interest to make the determination.

- 1 (3) Before making an arrival control determination, the Minister must
2 obtain agreement in writing to the making of the determination
3 from:
4 (a) the Prime Minister; and
5 (b) the Minister administering the *Diplomatic Privileges and*
6 *Immunities Act 1967*.
- 7 (4) The Minister may, by legislative instrument, revoke an arrival
8 control determination made under subsection (1).
- 9 *When arrival control determination is in force*
- 10 (5) An arrival control determination must specify the period for which
11 the determination is in force, which must not be longer than the
12 period that the Minister considers appropriate in all the
13 circumstances.
- 14 Note: Under subsection (6), an arrival control determination cannot be in
15 force longer than the period of 6 months beginning on the day after
16 the day the determination commences.
- 17 (6) An arrival control determination is repealed at the earlier of the
18 following times (unless revoked earlier under subsection (4)):
19 (a) the end of the period specified for the purposes of
20 subsection (5);
21 (b) the end of the period of 6 months beginning on the day after
22 the day the determination commences.
- 23 *Personal power etc.*
- 24 (7) The power under subsection (1) or (4) may only be exercised by
25 the Minister personally.
- 26 (8) The rules of natural justice do not apply to an exercise of power
27 under subsection (1) or (4).
- 28 (9) Subsection 33(3) of the *Acts Interpretation Act 1901* does not
29 apply to the power under subsection (1) of this section.
- 30 Note: An arrival control determination may not be varied or amended, but
31 may be revoked under subsection (4) of this section.
- 32 (10) Nothing in this Act prevents the Minister from exercising the
33 power in subsection (1) more than once in relation to:

Schedule 1 Arrival control powers

Part 1 Amendments

- 1 (a) the same event or circumstance; or
2 (b) the same class of non-citizens.
- 3 (11) An arrival control determination may make different provision
4 with respect to different classes of non-citizens.
- 5 (12) The Minister must ensure only one arrival control determination is
6 in force in relation to a particular class of non-citizens at any one
7 time.
- 8 (13) Section 42 (disallowance) of the *Legislation Act 2003* does not
9 apply to:
- 10 (a) an arrival control determination made under subsection (1);
11 or
12 (b) a revocation of an arrival control determination under
13 subsection (4).

14 **@84C Arrival control determination does not apply in relation to**
15 **certain kinds of non-citizens**

- 16 (1) An arrival control determination does not apply at a particular time
17 in relation to a non-citizen if, at that time, the non-citizen holds:
- 18 (a) a protection visa that is a temporary visa; or
19 (b) a temporary safe haven visa; or
20 (c) a visa classified by the regulations as a Temporary
21 (Humanitarian Concern) (Class UO) visa; or
22 (d) a bridging visa granted as a result of an application for a visa
23 of a kind referred to in any of paragraphs (a), (b) or (c).
- 24 Note 1: A protection visa is a visa of a class provided for by section 35A.
25 Examples of protection visas that are temporary visas include
26 temporary protection visas (see subsection 35A(3)) and safe haven
27 enterprise visas (see subsection 35A(3A)).
- 28 Note 2: An arrival control determination does not cause permanent visas to
29 cease to be in effect (see subsection @84E(1)). As a result, permanent
30 visas such as permanent protection visas, or visas classified by the
31 regulations as a Refugee and Humanitarian (Class XB) visa are not
32 affected by an arrival control determination.
- 33 (2) Subsection (1) has effect in relation to a visa holder regardless of
34 whether the visa is granted before, on or after the time the
35 determination comes into force.
-

(3) An arrival control determination does not apply at any time in relation to a non-citizen if the non-citizen is in the migration zone at the time the determination commences.

(4) An arrival control determination does not apply in relation to a non-citizen at a particular time if, at that time, the non-citizen is:

(a) the spouse, de facto partner or dependent child (within the meaning of the regulations) of:

(i) an Australian citizen; or

(ii) the holder of a permanent visa that is in effect; or

(iii) a person who is usually resident in Australia and whose continued presence in Australia is not subject to a limitation as to time imposed by law; or

(b) the parent of a child who is under 18 and who is in Australia; or

(c) the subject of a permitted travel certificate that is in force.

Note: An arrival control determination does not apply to a non-citizen if the Minister issues a permitted travel certificate in relation to the non-citizen (see subsection @84D(1)). Under subsection @84D(5), a permitted travel certificate may not be revoked while the non-citizen is in the migration zone.

(5) Subsections (1), (3) and (4) apply despite anything in an arrival control determination.

@84D Minister may certify that arrival control determination does not apply in relation to a particular non-citizen

(1) The Minister may issue a certificate (a *permitted travel certificate*) providing that an arrival control determination does not apply in relation to a particular non-citizen if the Minister is satisfied in all the circumstances that it is appropriate for the determination not to apply to that non-citizen (whether or not the certificate is requested under subsection (2)).

(2) A non-citizen, or a person authorised to act on behalf of the non-citizen, may make a request in writing to the Minister for a permitted travel certificate in relation to the non-citizen.

Schedule 1 Arrival control powers

Part 1 Amendments

1 (3) If the Minister issues a permitted travel certificate in relation to a
2 non-citizen, the certificate has effect despite anything in the arrival
3 control determination.

4 Note: An arrival control determination may specify that section @84E
5 (suspension of temporary visas held by non-citizens) applies, either
6 generally or in specified circumstances, to one or more specified
7 classes of non-citizens.

8 (4) A permitted travel certificate must be in writing.

9 (5) The Minister may, in writing, revoke a permitted travel certificate
10 in relation to a non-citizen at a particular time if the non-citizen is
11 not in the migration zone at that time.

12 *Other matters*

13 (6) Each of the following is not a legislative instrument:

- 14 (a) a permitted travel certificate;
15 (b) a revocation under subsection (5).

16 (7) The rules of natural justice do not apply to an exercise of power
17 under subsection (1) or (5).

18 (8) The Minister does not have a duty to consider whether to exercise
19 the power to issue a permitted travel certificate in relation to a
20 particular non-citizen, whether the Minister is requested to do so
21 under subsection (2), or in any other circumstances.

22 *Report to Parliament*

23 (9) The Minister must, as soon as practicable after the end of each
24 period of 6 months beginning on 1 January or 1 July, cause a report
25 to be laid before each House of the Parliament containing a
26 statement of the number of permitted travel certificates issued
27 under this section during the period.

@84E Temporary visas of non-citizens in class specified in arrival control determination cease to be in effect etc.

Temporary visa of non-citizen not in the migration zone ceases to be in effect

- (1) A temporary visa held by a non-citizen ceases to be in effect if an arrival control determination that is in force applies to the non-citizen.

Note 1: In general, non-citizens must not travel to Australia without a visa that is in effect (see section 42). Visa holders are usually required to enter Australia at a port (see section 43). A person who enters Australia must provide evidence of their identity (see section 166).

Note 2: An arrival control determination does not apply in relation to certain non-citizens, including a non-citizen who is in the migration zone at the time the determination commences, or a non-citizen who is the subject of a permitted travel certificate that is in force (see section @84C).

Note 3: Under subsection @84D(5), a permitted travel certificate may not be revoked while the non-citizen is in the migration zone.

Temporary visa may come into effect again

- (2) If a temporary visa held by a non-citizen has ceased to be in effect under subsection (1), the visa comes into effect again at a particular time during the visa period for the visa if, at that time:
- (a) the arrival control determination referred to in that subsection is revoked or otherwise ceases to be in effect; or
 - (b) the non-citizen ceases to be in a class of non-citizens specified in the determination mentioned in paragraph (a); or
 - (c) the non-citizen becomes a non-citizen to whom the determination mentioned in paragraph (a) does not apply.

Other cessation provisions not limited or otherwise affected

- (3) This section does not limit, or otherwise affect, any other provision of this Act under which a visa ceases to be in effect.

Note: A non-citizen's visa may cease to be in effect under another provision of this Act. If that occurs, the visa period for the visa ends (see subparagraph (b)(i) of the definition of **visa period** in subsection 5(1)) and the non-citizen will no longer hold the visa (see section 77).

Schedule 1 Arrival control powers

Part 1 Amendments

1 **@84F Statement relating to arrival control determination etc. to be**
2 **laid before Parliament**

3 (1) If the Minister makes an arrival control determination, the Minister
4 must cause to be laid before each House of the Parliament:

5 (a) a copy of the determination; and

6 (b) a statement of the Minister's reasons for making the
7 determination.

8 (2) The Minister must comply with subsection (1) within 2 sitting days
9 of each House of the Parliament after the day on which the
10 determination is made.

11 (3) A failure to comply with subsection (1) or (2) does not affect the
12 validity of the determination.

13 **7 Paragraph 474(7)(a)**

14 After "paragraph 72(1)(c),", insert "section @84B,".

1 **Part 2—Application provision**

2 **8 Application provision**

3 Subdivision AGA of Division 3 of Part 2 of the *Migration Act 1958*, as
4 inserted by this Schedule, applies in relation to visas granted before, on
5 or after the commencement of this item.

2025-2026

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

MIGRATION AMENDMENT (2026 MEASURES NO. 1) BILL 2026

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Home Affairs, the Hon Tony Burke MP)

MIGRATION AMENDMENT (2026 MEASURES NO. 1) BILL 2026

GENERAL OUTLINE

The Migration Amendment (2026 Measures No. 1) Bill 2026 (the Bill) amends the *Migration Act 1958* (the Migration Act) to establish a new legislative framework that provides the Minister administering the Act with powers to more effectively regulate travel into Australia by specified classes of non-citizens who hold a temporary visa in circumstances where this is necessary to protect the integrity and sustainability of Australia's migration system, including during periods of international conflict or in response to other events or circumstances outside Australia.

Currently, the Migration Act does not contain a general power to prevent cohorts of non-citizens who hold visas that are in effect from traveling to Australia, including in circumstances where that travel may present a risk to Australia's national interest,. Although there are powers under the Migration Act to cancel a non-citizen's visa in those circumstances, those powers are only capable of being exercised in relation to individual non-citizens. The existing powers are therefore resource intensive, and are not suited to responding at scale to events occurring overseas where it is appropriate and in the national interest to limit or prevent travel to Australia for current holders of a temporary visa who are outside of Australia.

This may include during periods of international conflict or other rapid international developments that place unsustainable strains on the functioning of the migration system, which is desirable the Government to respond by placing limitations on the ability of certain cohorts of non-citizens from travelling to Australia.

The amendments of the Migration Act in this Bill will operate to establish a personal power of the Minister to make an arrival control determination by legislative instrument which operates to specify that a suspension of temporary visas applies to one or more specified classes of non-citizens in specified circumstances. Before making an arrival control determination, the Minister must obtain written agreement from the Prime Minister and the Foreign Affairs Minister.

The Minister must also be reasonably satisfied that an event or circumstance has occurred or is occurring outside Australia, and one or both of the following apply:

- having regard to the event or circumstance – non-citizens of a kind to whom the determination is to apply may, if they enter Australia on a temporary visa, remain in Australia after the visa ceases to be in effect; or
- if the event or circumstance had occurred, or had been occurring, at the time non-citizens of a kind to whom the determination is to apply were to make an application for a temporary visa, the visa may not have been granted.

For example, a criterion for the grant of most temporary visas is that the applicant intends to remain in Australia temporarily or for the purpose for which the visa is granted and that all relevant public interest criteria are met. In considering whether to grant the visa, the Minister would usually consider whether a person will remain in Australia after the visa validity period, having regard to the circumstances in the person's country of usual residence. These amendments would enable the Minister to suspend temporary visas held by one or more specified classes of offshore non-citizens in circumstances where the

circumstances since the time the visa was granted have changed, and the Minister can act where circumstances have changed and there is a need for a rapid response.

Before making the arrival control determination the Minister must also be satisfied that it is in the national interest to make the determination.

A determination can be in effect for a maximum period of 6 months. The Minister will also be conferred with an express power to revoke the determination but cannot ‘vary’ or ‘extend’ a determination that is currently in force.

The Bill expressly provides that an arrival control determination does not apply to non-citizens who are the parent of a child under 18 years who is in Australia, or the spouse, de facto partner, or dependent child of an Australian citizen or permanent resident or a non-citizen who is the holder of a protection or humanitarian visa. A new determination can be issued upon expiry, but only where all elements of the legislative test are met.

Significantly, the temporary cessation of an offshore non-citizen’s temporary visa by the arrival control determination does not have any effect on the expiry date of their temporary visa and do not impact any current holders of a permanent visa, or a temporary visa holder who is in the migration zone when the period of time specified in the determination comes into force but subsequently departs.

The Bill will provide appropriate flexibility to consider individual circumstances by providing the Minister with a power to exempt a non-citizen from the operation of the determination on a case-by-case basis, enabling travel to Australia for that individual (by issuing a permitted travel certificate). This would, for example, allow for travel where the temporary reason for travel remains genuine, in compelling or compassionate cases, or where it is in Australia’s foreign policy interest or the public interest to do so.

The Bill also contains amendments to ensure the Minister is accountable to the Parliament when exercising the arrival control determination power. If the Minister makes an arrival control determination, the Minister must table before each House of the Parliament a copy of the determination and a statement of reasons for making the determination within 2 sitting days after the day on which the determination is made.

FINANCIAL IMPACT STATEMENT

The amendments in the Bill have low financial impact.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

A statement of compatibility with human rights has been prepared for the Bill, in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The assessment is that the Bill is compatible with human rights, with any limitations reasonable, necessary and proportionate to achieve the legitimate objective of regulating the integrity and sustainability of Australia’s migration system, through temporary restrictions on the arrival of temporary visa holders for permission to enter and remain in Australia during periods of international conflict, or in response to other events or circumstances outside Australia.

The Statement is included at Attachment A.

COMMON ABBREVIATIONS AND ACRONYMS

Abbreviation or acronym	Meaning
Amendment Act	<i>Migration Amendment (2026 Measures No. 1) Act 2026</i> (once enacted)
Acts Interpretation Act	<i>Acts Interpretation Act 1901</i>
Bill	Migration Amendment (2026 Measures No. 1) Bill 2026
Department	Department of Home Affairs
Migration Act	<i>Migration Act 1958</i>
Migration Regulations	<i>Migration Regulations 1994</i>

MIGRATION AMENDMENT (2026 MEASURES NO. 1) BILL 2026

NOTES ON INDIVIDUAL CLAUSES

Section 1 Short title

1. Section 1 provides that the short title of this Bill, once enacted, will be the *Migration Amendment (2026 Measures No. 1) Act 2026*.

Section 2 Commencement

2. Section 2 sets out the times at which the various provisions of the Amendment Act commence.
3. Subsection 2(1) provides that each provision of the Amendment Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.
4. Schedule 1 to the Amendment Act commences on the day after the Act receives the Royal Assent.
5. A note is included to clarify that this table relates only to the provisions of this Act as originally enacted, and that it will not be amended to deal with any later amendments of this Act.
6. Subsection 2(2) provides that any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

Section 3 Schedules

7. This section provides that legislation specified in a Schedule to the Amendment Act is amended or repealed as set out in the applicable items in the Schedule concerned. This section also provides that any other item in a Schedule to the Amendment Act has effect according to its terms.

SCHEDULE 1 Arrival control powers

Part 1 Amendments

Migration Act 1958

Item 1 Subsection 5(1)

1. This item inserts definitions for the following expressions that are inserted into the *Migration Act*:

- ***arrival control determination*** is defined to have the meaning given by new section 84B of the Act.
- ***permitted travel certificate*** is defined to have the meaning given by new section 84D of the Act.

Item 2 Subsection 5(1) (subparagraph (b)(i) of the definition of *visa period*)

2. This item amends the definition of *visa period* in subsection 5(1) of the Migration Act to insert a reference to new section 84E of the Act at the end of subparagraph (b)(i) of the definition.
3. The effect of this amendment is to provide that the *visa period*, in relation to a visa, is defined to mean the period beginning when the visa is granted, and in the case of a visa other than a bridging visa, ends when the visa ceases to be in effect, otherwise than under section 84E of the Migration Act.
4. The amendment of the definition of *visa period* is necessary to support the insertion of new section 84E, which outlines the effect of an arrival control determination on a visa. This amendment ensures that an arrival control determination, which operates to provide that a temporary visa held by an affected non-citizen ceases to be in effect (other than a bridging visa). An equivalent amendment in relation to the visa period for a bridging visa is provided for in the item below.

Item 3 Subsection 5(1) (at the end of subparagraph (b)(ii) of the definition of *visa period*)

5. This item amends the definition of *visa period* under subsection 5(1) of the Migration Act to insert a reference to section 84E of the Migration Act at the end of subparagraph (b)(ii) of the definition. The effect of this amendment is to provide that the *visa period*, in relation to a visa, is defined to mean the period beginning when the visa is granted, and in the case of a bridging visa, ends when the visa ceases to be in effect, otherwise than under subsection 82(3) or new section 84E of the Migration Act.

Item 4 After subsection 68(3)

6. This item inserts a new Note after subsection 68(3) of the Migration Act to draw the reader's attention to the operation of new section 84E of the Act. A visa that has ceased to be in effect under section 84E may come into effect again under section 84E during the visa period for the visa.

7. This amendment supports the insertion of new section 84E of the Migration Act, which provides for the circumstances in which a temporary visa held by a non-citizen ceases to be in effect, due to an arrival control determination. Subsection 84E(3) sets out circumstances in which a temporary visa that has ceased to be in effect under subsection 84E(1) may come into effect again.

Item 5 Subsection 82(9)

8. This item makes a minor consequential amendment to current subsection 82(9) of the Migration Act to insert a reference to new section 84E of the Migration Act.
9. Section 82 of the Migration Act provides for when a visa ceases to be in effect, with subsection 82(9) providing that section 82 does not affect the operation of any other provisions under which the visa ceases to be in effect. The insertion of the reference to new section 84E is required to provide clarity that a temporary visa held by a non-citizen ceases to be in effect if an arrival control determination that is in force applies in relation to the non-citizen.

Item 6 After Subdivision AG of Division 3 of Part 2

10. This item inserts new Subdivision AGA of Division 3 of Part 2 of the Migration Act.
11. New Subdivision AGA establishes a legislative framework for the Minister to make an arrival control determination, to effectively regulate the entry of certain classes of non-citizens who hold temporary visas during periods of international conflict or other events or circumstances occurring outside of Australia.

Section 84A - Object of Subdivision

12. New section 84A provides that the object of this Subdivision is to allow temporary restrictions on the arrival of certain classes of temporary visa holders in Australia, where this is necessary to protect the integrity and sustainability of Australia's migration system, including when events or circumstances outside Australia mean that there is an increased risk that certain classes of temporary visa holders will not depart Australia when their visas cease to be in effect.

Section 84B – Minister may make arrival control determinations

13. New section 84B of the Migration Act establishes a new personal power of the Minister to make an 'arrival control determination' by legislative instrument in relation to one or more classes of non-citizens, specified in the determination. This section also sets out certain pre-conditions to the exercise of this power, including a requirement that the Minister must obtain agreement in writing to the making of the determination from the Prime Minister and the Minister for Foreign Affairs.
14. Subsection 84B(1) of the Migration Act provides that the Minister may, by legislative instrument, make a determination (an *arrival control determination*) specifying that section 84E (suspension of temporary visas held by non-citizens) applies, either generally or in specified circumstances, to one or more specified classes of non-citizens.

15. If an arrival control determination is in force in relation to a non-citizen and it specifies that section 84E applies, new section 84E of the Migration Act will cease any temporary visa held by a non-citizen in this specified class.
16. The Note under subsection 84B(1) directs the reader to section 84F which requires the Minister to table a copy of that arrival control determination in each House of the Parliament within 2 sitting days of that House after making the determination.
17. Subsection 84B(2) of the Migration Act provides that, before making an arrival control determination, the Minister must be reasonably satisfied that:
 - an event or circumstance has occurred, or is occurring, outside Australia; and
 - one or both of the following apply:
 - having regard to the event or circumstance, non-citizens of a kind to whom the determination is to apply may, if they enter Australia on a temporary visa, remain in Australia after the visa ceases to be in effect;
 - if the event or circumstance had occurred, or had been occurring, at the time non-citizens of a kind to whom the determination is to apply were to make an application for a temporary visa, the visa may not have been granted.
 - having regard to the object of the Subdivision, it is in the national interest to make the determination.
18. These pre-conditions to the exercise of the Minister's power makes clear that an arrival control determination can only be made in response to an event or circumstance outside Australia, and where it is in the national interest to make the determination, having regard to the object of the Subdivision.
19. In certain circumstances, such an event or circumstance may have the effect that non-citizens holding a temporary visa who seek to enter Australia may no longer be travelling to Australia for the intended purpose of their original stay, informed by consideration of their application and supporting information at the time of visa grant. Having regard to the changed circumstances, the non-citizen may not have met the legislative requirements for the grant of the visa if they had applied following the occurrence of the event or circumstance. For example, where a criterion for the grant of the visa is that the applicant genuinely intends to stay temporarily in Australia for a particular purpose, given the impact of the international conflict and or crisis that has arisen, the Minister may – if the application were being considered in relation to those new circumstances - no longer be satisfied that particular non-citizens would remain in Australia temporarily.

20. It is intended that the Minister will only exercise this discretion to make an arrival control determination during periods of international conflict, or in response to other events or circumstances of a similar scale. This approach recognises that such circumstances may require a response at scale to suspend the temporary visas held by non-citizens who are outside Australia. This is to provide the Government with time to assess the evolving situation and take necessary steps to manage the integrity and sustainability of Australia's migration system, before those risks manifest. It is not possible to manage this within existing arrangements, noting the only way to prevent travel without a determination is to individually assess whether there are grounds to cancel each visa – a process which is resource intensive, and not suited to responding at scale to rapidly evolving international circumstances.
21. An arrival control determination can also only be made with the written agreement of the Prime Minister and the Minister for Foreign Affairs, and can only be in force for a period of up to 6 months.
22. Subsection 84B(3) of the Migration Act provides that before the Minister makes a declaration under subsection 84B(1), the Minister must obtain agreement in writing to the making of the determination from the Prime Minister and the Minister administering the *Diplomatic Privileges and Immunities Act 1967* (the Minister for Foreign Affairs). This condition on the exercise of the Minister's power under subsection 84B(1) ensures that Australia's bilateral relationships and the international landscape and Australia's national interests are considered more broadly before the power to make an arrival control determination is exercised, and inform the Minister's consideration. This provision provides the appropriate level of oversight to ensure the power to make an arrival control determination in relation to a specified class of persons is appropriately informed by Australia's national interest and the national and international implications of the exercise of the power and its effect.
23. Subsection 84B(4) of the Migration Act provides that the Minister may, by legislative instrument, revoke an arrival control determination made under subsection 84B(1).
24. Subsection 84B(5) of the Migration Act provides that an arrival control determination must specify the period for which the determination is in force, which must not be longer than the period that the Minister considers appropriate in all the circumstances. This is to ensure that arrival control determinations are only imposed for the period which is necessary to achieve the objects of the subdivision, in the particular circumstances. This represents a key safeguard on the exercise of the power to ensure that visa suspensions are tailored and proportionate to the impact of the event or circumstance to the Australian immigration system.
25. The Note under subsection 84B(5) clarifies that under subsection 84B(6), an arrival control determination cannot be in force longer than the period of 6 months beginning on the day after the day the determination commences.
26. Subsection 84B(6) of the Migration Act provides that an arrival control determination is repealed at the earlier of the following times (unless revoked earlier under subsection 84B(4)):
 - the end of the period specified for the purposes of subsection 84B(5);

- the end of the period of 6 months beginning on the day after the day the determination commences.

27. This limit of 6 months reflects that the Minister's exercise of a personal power to make an arrival control determination is intended to be a temporary measure. Any further exercise of the power to make a determination in relation to the same class or classes of non-citizen would be subject to the same statutory requirements.

Personal power etc.

28. Subsection 84B(7) provides that the power under subsection 84B(1) or (4) may only be exercised by the Minister personally. This reflects the significance of the power and the Minister's role as a member of the Executive Government—and where the power may only be exercised following written agreement from both the Prime Minister and the Minister for Foreign Affairs as required under subsection 84B(3).
29. Subsection 84B(8) provides that the rules of natural justice do not apply to the exercise of the statutory power under subsection 84B(1) or (4). This is consistent with the characterisation of the power as a legislative rather than administrative power, and is consistent with other powers enabling the Minister to make a legislative instrument. The tabling requirements in new section 84F also provide for appropriate accountability to the Parliament following the exercise of this legislative power.
30. Subsection 84B(9) provides that subsection 33(3) of the *Acts Interpretation Act 1901* (Acts Interpretation Act) does not apply to the power under subsection 84B(1). It is considered appropriate that once an arrival control order has been made it cannot be varied. In addition, the intention is that an arrival control order can be revoked by the Minister without needing to consult with the Prime Minister and Minister for Foreign Affairs.
31. The Note under subsection 84B(9) clarifies that an arrival control determination may not be varied or amended but may be revoked under subsection (4) of this section.
32. Subsection 84B(10) provides that nothing in this Act prevents the Minister from exercising the power in subsection 84B(1) more than once in relation to the same event or circumstance, or the same class of non-citizens.
33. This provision ensures the Minister can make an arrival control determination in relation to the same event or circumstance or class of non-citizens, subject to meeting the pre-conditions set out in subsections 84B(2) and (3) before exercising the power. This power cannot be exercised in relation to a class of non-citizen if there is an instrument in force in relation to that same class of non-citizen.
34. Subsection 84B(11) provides that an arrival control determination may make different provision with respect to different classes of non-citizens.
35. Subsection 84B(12) provides that the Minister must ensure only one arrival control determination is in force in relation to a particular class of non-citizens at any one time.

36. This means that if after making an arrival control determination the Minister intends to make an arrival control determination for a different period, or for the determination to apply to a different event or circumstance, for the same class of non-citizens, the Minister must revoke the determination that is in force, and consider the preconditions provided for in subsections 84B(2) to (3) before making a new determination.
37. Subsection 84B(12) provides that section 42 (disallowance) of the *Legislation Act 2003* does not apply to an arrival control determination made under subsection 84B(1) or a revocation of an arrival control determination made under subsection 84B(4).
38. An arrival control determination and an instrument to revoke a determination are both legislative instruments; however, it is appropriate and necessary for these instruments not to be subject to disallowance, in order to provide immediate certainty in relation to the effect of the determination and for the period specified in the determination. This reflects the matters that are necessary to be weighed by the Minister before exercising to the power to make a determination, and where the Minister must be satisfied it is in the national interest to do so having regard to the object of the subdivision (as provided for in section 84A). In circumstances where an arrival control determination is made, appropriate accountability to the Parliament is provided through section 84F, which requires that the Minister must table the determination and a statement of reasons before each House of the Parliament within 2 sitting days after the day in which the determination is made. The requirement to obtain the written agreement of the Prime Minister and the Foreign Minister before making a determination also ensures appropriate oversight, as well as informing the Minister's consideration of whether to make the determination, and what period to specify. That period must be no longer than the period that the Minister considers appropriate in all the circumstances (as required under subsection 84B(5)).

Section 84C– Arrival control determination does not apply in relation to certain kinds of non-citizens

39. New section 84C of the Migration Act expressly provides that an arrival control determination does not apply to certain kinds of non-citizens, including holders of protection visas that are temporary visas, temporary safe haven visas, temporary humanitarian visas or non-citizens who are the spouse, de facto partner or dependent child of an Australian citizen or permanent visa holder.
40. Subsection 84C(1) provides that an arrival control determination does not apply at a particular time in relation to a non-citizen if the non-citizen holds one of the following visas:
 - a protection visa that is a temporary visa; or
 - a temporary safe haven visa; or
 - a visa classified by the regulations as a Temporary (Humanitarian Concern) (Class UO) visa; or
 - a bridging visa granted as a result of an application for a visa of the kind mentioned above.

41. The purpose of expressly providing that an arrival control determination does not apply in relation to a visa set out in subsection 84C(1) is to ensure that the determination does not apply to holders of protection and humanitarian visas. It will also not prevent any person who holds a Bridging visa in association with a valid application for a one of these visas, from returning to Australia. This is to ensure that those with a genuine need for humanitarian assistance can still apply for, be granted and travel to Australia on a temporary refugee, humanitarian or protection visa (and subject to meeting the requirements for the grant of that visa).
42. Note 1 under subsection 84C(1) clarifies that a protection visa is a visa of a class provided for by section 35A. Examples of a protection visa that is a temporary visa includes temporary protection visas (see subsection 35A(3)) and safe haven enterprise visas (see subsection 35A(3A)).
43. Note 2 under subsection 84C(1) clarifies that an arrival control determination does not cause permanent visas to cease to be in effect (see subsection 84E(1)). As a result, permanent visas such as permanent protection visas, or visas classified by the regulations as a Refugee and Humanitarian (Class XB) visa are not affected by an arrival control determination. As such, there is no need to provide in the substantive provision that an arrival control determination does not apply to permanent refugee, humanitarian or protection visas, as the arrival control determination provisions do not operate in relation to permanent visas.
44. Subsection 84C(2) provides that subsection 84C(1) has effect in relation to a visa holder regardless of whether the visa is granted before, on or after the time the determination comes into force. This means that if a person is granted one of the visas listed in subsection 84C(1) after the arrival control determination is made but while it is still in force, the arrival control determination will not apply and that visa will not cease to be in effect.
45. Subsection 84C(3) provides that an arrival control determination does not apply in any time in relation to a non-citizen if the non-citizen is in the migration zone at the time the determination commences. As such, if a non-citizen is captured by an arrival control determination and they are in the migration zone when the determination commences their visa will not cease to be in effect.
46. Subsection 84C(4) provides that an arrival control determination does not apply in relation to a non-citizen at a particular time if the non-citizen is:
 - the spouse, de facto partner or dependent child (within the meaning of the regulations) of:
 - an Australian citizen; or
 - the holder of a permanent visa that is in effect; or
 - a person who is usually resident in Australia and whose continued presence in Australia is not subject to a limitation in time imposed by law; or
 - the parent of a child who is under 18 and who is in Australia; or

- the subject of a permitted travel certificate that is in force.
47. The purpose of proving that an arrival control determination does not apply in relation to these non-citizens is to ensure that a determination does not result in the splitting up of Australian family units. It does this by allowing non-citizens who are the spouse, de facto partner, or the dependent child of Australian citizens or permanent residents, to enter Australia.
 48. The Note under subsection 84C(4) provides that an arrival control determination does not apply to a non-citizen if the Minister issues a permitted travel certificate in relation to the non-citizen (see subsection 84D(1)). Under subsection 84D(5), a permitted travel certificate may not be revoked while the non-citizen is in the migration zone.
 49. Subsection 84C(5) provides that subsections (1), (3) and (4) apply despite anything in an arrival control determination. This provision puts beyond doubt that an arrival control determination does not apply in relation to a non-citizen covered by one of these subsections, even if they would otherwise be in a class of persons specified in the determination.

Section 84D— Minister may certify that arrival control determination does not apply in relation to a particular non-citizen

50. Section 84D of the Migration Act empowers the Minister to issue a permitted travel certificate to non-citizens who would otherwise be subject to an arrival control order. This power may be delegated under subsection 496(1) of the Act. It is appropriate for this power to be delegable to support the effective administration of the scheme.
51. Subsection 84D(1) provides that the Minister may issue a certificate (*a permitted travel certificate*) providing that an arrival control determination does not apply in relation to a particular non-citizen if the Minister is satisfied in all the circumstances that it is appropriate for the determination to not apply to that non-citizen, whether or not this certificate is requested under subsection 84D(2).
52. Subsection 84D(2) provides that a non-citizen, or a person authorised to act on behalf of the non-citizen, may make a request, in writing to the Minister for a permitted travel certificate in relation to the non-citizen. The capacity for a non-citizen to authorise another person allows for flexibility in circumstances where the non-citizen's capacity to contact the Department directly may be limited, and where they may, for example, authorise a close family member to act for them in requesting the certificate. This process would be supported by information on the Department's website for affected persons, and appropriate policies and procedures to ensure compliance with other legislation, including the Privacy Act 1988.
53. Subsection 84D(3) provides that if the Minister issues a permitted travel certificate in relation to a non-citizen, the certificate has effect despite anything in the arrival control determination.
54. The Note under subsection 84D(3) provides that an arrival control determination may specify that section 84E (suspension of temporary visas held by non-citizens) applies, either generally or in specified circumstances, to one or more specified classes of non-citizens.

55. Subsection 84D(4) provides a determination made under subsection 84D(1) must be in writing.
56. Subsection 84D(5) provides that, the Minister may, in writing, revoke a permitted travel certificate in relation to any non-citizen at particular a time if the non-citizen is not in the migration zone at that time.
57. This provision ensures that a non-citizen who has been issued a permitted travel certificate, who subsequently enters the migration zone, cannot have their visa suspended due to an arrival control determination while they remain in the migration zone.

Other matters

58. Subsection 84D(6) clarifies that permitted travel certificates issued under subsection 84D(1), and a revocation of a permitted travel certificate under subsection 84D(5), are not legislative instruments. This provision is intended to assist the reader by making clear that a travel certificate and a revocation of a permitted travel certificate are not legislative instruments within the meaning of subsection 8(1) of the *Legislation Act 2003*. This provision is merely declaratory of the law; it is not an exemption from the Legislation Act.
59. Subsection 84D(7) provides that the rules of natural justice do not apply to the exercise of the statutory power under subsections 84D(1) or (5).
60. Subsection 84D(8) expressly provides that the exercise of the power under subsection 84D(1) is non-compellable. The Minister does not have a duty to consider whether to exercise the power to issue a permitted travel certificate in relation to a particular non-citizen, whether the Minister is requested to do so under subsection 84D(2), or in any other circumstances.
61. Subsection 84D(9) provides that the Minister must, as soon as practicable after the end of each period of 6 months beginning on 1 January or 1 July, cause a report to be laid before each House of the Parliament containing a statement of the number of permitted travel certificates issued under this section during the period. This timeframe is intended to ensure appropriate transparency and accountability to the Parliament in relation to the number of permitted travel certificates have been issued to non-citizens.

Section 84E – Temporary visas of non-citizens in class specified in arrival control determination cease to be in effect etc.

62. Section 84E of the Migration Act provides for the effect of an arrival control determination made by the Minister through the exercise of their personal power in new subsection 84B. The arrival control determination will operate to temporarily cease the effect of a temporary visa held by a non-citizen if an arrival control determination that is in force applies to the non-citizen, regardless of whether the visa was in effect at the time the determination was made. In accordance with 84C(3) this section will not apply to persons in the migration zone when the determination commences. This suspends the ability of an affected temporary visa holder, who has not been issued a permitted travel certificate, to travel into Australia while the determination is in force.

63. Section 166 of the Migration Act will operate to prevent an affected non-citizen from being immigration cleared for the purposes of section 172, as a non-citizen who enters Australia must, without unreasonable delay, provide evidence of a visa that is in effect and is held by that person.
64. The arrival control determination will not have the effect of cancelling a temporary visa, as the affected non-citizen will still hold the visa during the visa period for the purposes of section 77 of the Migration Act. The determination will also not have any effect on the existing visa period (expiry date) of the visa, as provided for in the definition of 'visa period' under section 5(1) of the Migration Act.
65. Section 84E will not affect a person who holds a valid temporary visa, who is in Australia when the period specified in the determination commences.

Temporary visa of non-citizens in class specified in arrival control determination cease to be in effect etc.

66. New subsection 84E(1) provides that a temporary visa held by a non-citizen ceases to be in effect if an arrival control determination that is in force applies to the non-citizen.
67. This provision operates to cease the effect of a visa held by a non-citizen outside the migration zone at the time the determination commences to whom the determination applies, but does not cancel the visa or affect the duration of the visa period. It operates regardless of whether the visa was in effect at the time the determination was made and therefore applies to visas granted after the commencement of the determination.
68. This section does not affect a non-citizen who is in the migration zone when the determination commences. The policy intent is that such a person should continue to have a temporary visa that is in effect, and be able to travel to and from Australia in accordance with the conditions of the temporary visa, unaffected by the arrival travel determination.
69. Note 1 under new subsection 84E(1) provides that, in general, non-citizens must not travel to Australia without a visa that is in effect (see section 42). Visa holders are usually required to enter Australia at a port (see section 43). A person who enters Australia must provide evidence of their identity (see section 166).
70. Note 2 under new subsection 84E(1) clarifies that an arrival control determination does not apply in relation to certain non-citizens, including a non-citizen who is in the migration zone at the time the determination commences, or a non-citizen who is the subject of a permitted travel certificate that is in force (see section 84C).
71. Note 3 under new subsection 84E(1) clarifies that this subsection does not apply to a non-citizen who is the subject of a permitted travel certificate that is in force (see paragraph 84C(4)(c). Under subsection 84D(5), a permitted travel certificate may not be revoked while the non-citizen is in the migration zone.

Temporary visa may come into effect again

72. New subsection 84E(2) provides for the circumstances in which a visa that has ceased to be in effect under subsection 84E(1) will come into effect again. The visa will come into effect again at a particular time during the visa period for the visa if:

- the arrival control determination referred to in that subsection is revoked or otherwise ceases to be in effect; or
- the non-citizen ceases to be in the class of non-citizens specified by the determination mentioned in paragraph 84E(1)(a);
- the non-citizen becomes a non-citizen to whom the determination mentioned in paragraph 84E(1)(a) does not apply

Other cessation provisions not limited or otherwise affected

73. New subsection 84E(3) provides that section 84E does not limit, or otherwise affect, any other provision of this Act under which a visa ceases to be in effect.

74. The Note under 84E(3) clarifies that a non-citizen's visa may cease to be in effect under another provision this Act. If that occurs, the visa period ends (see subparagraph (b)(i) of the definition of visa period in subsection 5(1)) and the non-citizen will no longer hold the visa (see section 77).

Section 84F – Statement relating to arrival control determination etc. to be laid before Parliament

75. Section 84F of the Migration Act provides for tabling requirements in relation to the Minister's exercise of their personal power to make an arrival control determination. This section operates to ensure the appropriate level of Parliamentary oversight, transparency and accountability of the Minister's power to make an arrival control determination.

76. New subsection 84F(1) requires the Minister to cause to be laid before each House of Parliament a copy of the statement, and a statement of the Minister's reasons for making the determination.

77. Subsection 84F(3) requires the Minister to comply with the tabling requirement within 2 sitting days of each House of Parliament after the day on which the instrument is made. This timeframe is intended to ensure appropriate transparency and accountability to the Parliament, especially as these instruments are not subject to disallowance.

78. Subsection 84F(3) provides that a failure to comply with subsection (1) or (2) does not affect the validity of the determination.

Item 7 Paragraph 474(7)(a)

79. Section 474 of the Migration Act provides that decisions made under specified provisions of the Migration Act are privative clause decisions. Currently, subsection 474(2) defines *privative clause decision*, with subsection 474(7) setting out a series of provisions that are covered within the meaning of the definition.

80. This item amends paragraph 474(7)(a) of the Migration Act by inserting a reference to section 84B to ensure that the provision is covered by the definition of *privative clause decision*. The effect is that only the High Court has jurisdiction to hear a challenge in relation to an arrival control determination.

Part 2 Application provision

Item 8 Application provision

81. This item provides that new Subdivision AGA of Division 3 of Part 2 of the *Migration Act 1958*, as inserted by this Schedule, applies in relation to visas granted before, on or after the commencement of this item.
82. The purpose of this application provision is to ensure that the suspension of a temporary visa held by a non-citizen that is provided for under 84E of the Migration Act, applies to visas granted before on or after commencement.

Attachment A**Statement of Compatibility with Human Rights**

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Migration Amendment (2026 Measures No. 1) Bill 2026

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

The Migration Amendment (2026 Measures No. 1) Bill 2026 (the Bill) amends the *Migration Act 1958* (the Migration Act) to establish a legislative framework that will provide the Minister of Home Affairs (the Minister) with powers to more effectively regulate travel into Australia by classes of non-citizens who hold temporary visa during periods of international conflict or in response to other events or circumstances outside of Australia, where it would be in the national interest to limit or prevent travel to Australia by non-citizens who are outside Australia

The Migration Act does not currently contain a general power to prevent cohorts of non-citizens who hold visas that are in effect from traveling to Australia, including in circumstances where that travel may present a risk to Australia's national interest, or to protect the safety or good order of the Australian community. Current powers under the Migration Act to cancel a non-citizen's visa are only capable of being exercised in relation to individual non-citizens. The existing powers are resource intensive and slow, and are not suited to responding at scale to events where it is appropriate to limit travel to Australia.

The amendments to the Migration Act will operate to establish a personal power of the Minister to make an 'arrival control determination' by legislative instrument which specifies that the temporary visas held by one or more specified classes of non-citizens not in the migration zone cease to be in effect.

It is intended that the Minister will only exercise this discretion to make an arrival control determination during periods of international conflict, or in response to other events or circumstances of a similar scale. This approach recognises that such circumstances may require a response at scale to suspend the travel authority of temporary visas which are held by non-citizens who are outside Australia. This is to provide the Government with time to assess the evolving situation and take necessary steps to manage any risks to Australia and its migration system, before those risks manifest in Australia. This is not possible to be

managed within existing arrangements, noting the only way to prevent travel without a determination is to individually assess whether there are grounds to cancel each visa – a process which is resource intensive, slow, and not suited to responding at scale to rapidly evolving international circumstances.

Before making an arrival control determination, the Minister must obtain the written agreement of the Prime Minister and the Foreign Affairs Minister. This condition on the exercise of the Minister's power ensures that the Minister's consideration of the national interest and thinking in relation to making an arrival control determination is appropriately informed by Australia's national interest, and by the national and international implications of the exercise of the power and its effect.

The Minister must also be reasonably satisfied that an event or circumstance has occurred or is occurring outside Australia, and one or both of the following apply:

- having regard to the event or circumstance – non-citizens of a kind to whom the determination applies may, if they enter Australia on a temporary visa, remain in Australia after the visa ceases to be in effect; or
- if the event or circumstance had existed at the time, non-citizens of a kind to whom the determination applies were to make an application for a temporary visa, the visa may not have been granted.

For example, a criterion for the grant of most temporary visas is that the applicant intends to remain in Australia temporarily or for the purpose for which the visa is granted. In considering whether to grant the visa, the Minister would usually consider whether a person will remain in Australia after the visa validity period, having regard to the circumstances in the person's country of usual residence. These amendments would enable the Minister to cease an offshore temporary visa holder's visa in circumstances where a rapid response is required and the Minister would be unable to assess each non-citizen's individual circumstances.

Before making the arrival control determination the Minister must also be satisfied that it is in the national interest to suspend temporary visas held by non-citizens who are outside Australia.

This determination can be in effect for a maximum period of 6 months. The Minister will also be conferred with an express power to revoke the determination but cannot 'vary' or 'extend' a determination that is currently in force. A new determination can be issued upon expiry, but only where all elements of the legislative test are met.

The Bill expressly provides that an arrival control determination does not apply to non-citizens who are the parent of a child under 18 years who is in Australia, or the spouse, de facto partner, or dependent child of an Australian citizen or permanent resident, or to a non-citizen who is the holder of a protection or humanitarian visa. Further, the Bill specifies that the arrival control determination does not apply to certain kinds of non-citizens.

Significantly, the cessation of an offshore non-citizen's temporary visa does not have any effect on the expiry date of their temporary visa and does not impact any current holders of a permanent visa, or a temporary visa holder who is in Australia when the period of time specified in the determination comes into force, but the non-citizen subsequently departs Australia.

The Bill will also provide flexibility where required, by providing the Minister with a power to exempt the operation of the determination on a case-by-case basis through the issuing of a permitted travel certificate, enabling travel for those individuals. This will be a delegable power of the Minister, allowing sufficient flexibility where it may be appropriate or necessary to enable a particular non-citizen to travel to Australia despite the broader suspension. This would, for example, allow for travel where there remains a demonstrated need to temporarily enter Australia, or in compelling or compassionate cases, or where it is in Australia's foreign interest or the public interest to do so.

The Bill also contains a requirement that if the Minister makes an arrival control determination, the Minister must table before each House of the Parliament a copy of the determination and a statement of reasons for making the determination within two sitting days after the day on which the determination is made.

Human rights implications

This Bill Instrument engages the following rights:

- Rights relating to families and children, including those in Articles 17 and 23 of the *International Covenant on Civil and Political Rights* (ICCPR) and Articles 3, 10 and 16 of the *Convention on the Rights of the Child* (CRC);
- The right to enter one's own country in Article 12(4) of the ICCPR;
- The right to liberty and freedom from arbitrary detention in Article 9 of the ICCPR; and
- *Non-refoulement* obligations in Articles 6 and 7 of the ICCPR and Article 3 of the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT).

Rights relating to families and children

Article 17(1) of the ICCPR states:

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

Article 23 (1) of the ICCPR states:

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 3(1) of the CRC states:

In all actions concerning children, whether undertaken by a public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Article 10 of the CRC states that:

In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for members of their family.

Article 16 of the CRC states:

- 1) No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.*
- 2) The child has the right to the protection of the law against such interference and attacks.*

The power to make an arrival control determination, resulting in the temporary visas of specified classes of non-citizens outside Australia ceasing to be in effect, engages rights relating to families and children.

An arrival control determination will not apply in relation to a non-citizen when that non-citizen is the spouse, *de facto* partner or dependent child of an Australian citizen, the holder of a permanent visa that is in effect, or a person who is usually resident in Australia and whose continued presence in Australia is not subject to a limitation as to time imposed by law. Nor will an arrival control determination apply in relation to a non-citizen when that non-citizen is the parent of a child who is under 18 and who is in Australia.

These exceptions to the application of an arrival control determination in relation to a non-citizen have been included to allow Australia to meet its obligations towards families and children, particularly the right in Article 10 of the CRC, by ensuring that visas that would allow for the reunification of a child and their parent(s) continue to be in effect.

Specifically, the exceptions more broadly support the right in Articles 17 and 23 of the ICCPR, and Articles 3, 10, and 16 of the CRC, by allowing the visas held by spouses, *de facto* partners, and dependent children (defined more broadly than children under 18) of Australian citizens and permanent residents, and parents of children in Australia, to continue to remain in effect despite an arrival control determination being in place that would otherwise apply to them. This will allow for continued travel to Australia for the purposes of reunion. Further, the determination does not affect visas held by persons who are already in Australia, including by those who are family members of other persons who are in Australia.

In addition, under proposed section 84D, the Minister may issue a permitted travel certificate, providing that an arrival control determination does not apply in relation to a particular non-citizen, if the Minister is of the view that it is appropriate, in all the circumstances, that the determination not apply to the non-citizen. The rules of natural justice do not apply to the Minister's exercise of this power.

The effect of a permitted travel certificate is that the non-citizen would not be subject to the arrival control determination, with the effect that any temporary visa that may be held by the non-citizen would not cease to be in effect, facilitating entry to Australia.

The power of the Minister to determine that an arrival control determination does not apply in relation to a particular non-citizen will allow the Minister to consider individual cases, such as where travel is necessary to give effect to family and children's rights.

Right to enter one's own country

Article 12(4) of the ICCPR states:

No one shall be arbitrarily deprived of the right to enter his own country.

In its *General Comment 27*, the HRC has indicated that the right of a person to enter his or her own country implies the right to remain in one's own country, as well as the right to return after having left one's own country.

'Own country' in Article 12(4) is not limited to citizens of a country but can include long term residents with strong ties to Australia and where ties to the country of nationality may have been severed.

The power to make an arrival control determination will have no impact on the ability of Australian citizens and existing permanent visa holders to travel to and from Australia. Former visa holders who find themselves outside Australia at the time a determination is made without a visa to return and are of a specified class of non-citizen in the determination will continue to be able to be considered for grant of a Resident Return Visas. These visas allow permanent residents, as well as former citizens, to return to Australia if the travel facility on their initial permanent visa has ceased, which occurs 5 years after their permanent visa was granted. Permanent residents are encouraged to apply for these visas before departing Australia and the determination would not affect those applications made in Australia. However in some cases a person may forget or not have time to apply prior to their departure. The ability to apply for those visas by persons outside Australia, ensures that persons for whom Australia is their own country are able to re-enter Australia consistently with the right in Article 12(4).

To the extent that the power may impact a non-citizen temporary visa holder outside Australia who has very close and enduring ties to Australia such that Australia may be considered their 'own country', the power of the Minister to issue a permitted travel certificate providing that an arrival control determination does not apply in relation to a particular non-citizen will allow specified persons, such as those with strong ties to

Australia, to be issued a permitted travel certificate where the Minister is satisfied, in all the circumstances, that it is appropriate for the determination not to apply to the non-citizen. This power will help ensure that persons for whom Australia is their own country are able to re-enter Australia consistently with the right in Article 12(4).

Right to liberty and freedom from arbitrary detention

Article 9(1) of the ICCPR states:

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.

Article 9(1) requires that detention must be in accordance with procedures established under domestic law and must not otherwise be arbitrary.

The proposed arrival control determination causes a temporary visa of a non-citizen to cease to be in effect if they are not in the migration zone at the time the determination commences. There is a possibility that, as a result, a non-citizen may arrive in Australia without a valid visa in effect (for example where they are in transit at the time a determination is made causing their visa to immediately cease to be in effect while travelling). In such circumstances the non-citizen may become an unlawful non-citizen, liable to removal from Australia, and to mandatory immigration detention pending that removal where they are not able to be immediately returned to their port of departure.

Under proposed section 84D, the Minister will have the power to issue a permitted travel certificate providing that an arrival control determination does not apply in relation to a particular non-citizen where they consider it is appropriate in all the circumstances that the determination not apply to that non-citizen. The effect of the issuing of permitted travel certificate is that the non-citizens temporary visa will come into effect again.

Immigration detention of unlawful non-citizens is authorised by, and operates in accordance with, the Migration Act. Accordingly, it complies with the requirement in Article 9(1) that deprivation of liberty not occur except in accordance with grounds and procedures prescribed by law. Non-citizens are also able to challenge the lawfulness of their detention by seeking a writ of habeas corpus.

Whether detention is arbitrary involves consideration of whether it pursues a legitimate aim and is reasonable, necessary and proportionate in light of the circumstances. The objective of immigration detention pending an unlawful non-citizen's removal from Australia under the Migration Act is to ensure that the person is available to be removed once that removal becomes reasonably practicable. It is intended that any person who is detained as an unlawful non-citizen will be removed from Australia as expeditiously as is reasonably practicable. Detention in these circumstances is a predictable operation of law, and is necessary, reasonable and proportionate to the objective of removing unlawful non-citizens from Australia when they no longer have a right to remain.

To the extent that detention that initially complies with Article 9 may become arbitrary if it continues beyond the period for which it can be justified, the Government has processes in place to mitigate the risk of a person's immigration detention becoming prolonged or arbitrary through internal administrative review processes; Commonwealth Ombudsman enquiry processes, reporting and Parliamentary tabling; and, ultimately the use of the Minister's personal intervention powers to grant a visa or residence determination where it is considered in the public interest.

Held detention in an immigration detention centre is a last resort for the management of unlawful non-citizens, particularly individuals whose removal may not be practicable in the reasonably foreseeable future. The Minister has a personal discretionary power under the Migration Act to intervene in an individual case and grant a visa, including a bridging visa, to a person in immigration detention, if the Minister thinks it is in the public interest to do so. What is and what is not in the public interest is for the Minister to decide.

The Minister also has a personal discretionary power to allow a detainee to reside outside of an immigration detention facility at a specified address in the community (residence determination). While a residence determination permits an individual to be placed in the community subject to certain conditions, it continues to be a detention placement.

The Minister's powers to consider whether to grant a visa to permit an unlawful non-citizen's release from immigration detention, or to permit a community placement under a residence determination, until they are able to be removed from Australia, means that the person's individual circumstances, and the risk they may pose to the Australian community can be taken into account. This enables the least restrictive option to be implemented for the person having regard to their circumstances.

As a result, any period of immigration detention resulting from a visa ceasing to be in effect as a result of an arrival control determination would be lawful and not arbitrary, and therefore consistent with the rights under Article 9.

Non-refoulement obligations

Article 6 of the ICCPR states:

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 7 of the ICCPR states:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 3(1) of the CAT states:

No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

The proposed amendments do not affect Australia's ability to comply with its international *non-refoulement* obligations. Proposed section 84C provides that an arrival control determination does not apply in relation to non-citizens who hold a protection visa that is a temporary visa, or a bridging visa associated with an application for such a visa, and makes clear that an arrival control determination does not cause a permanent protection visa to cease. The proposed provisions relating to a temporary visa ceasing to be in effect will not apply to visas utilised to give effect to Australia's *non-refoulement* obligations.

Conclusion

The Bill is compatible with human rights. Where the amendments engage Australia's human rights obligations, any limitations are reasonable, necessary and proportionate to achieve the legitimate objective of regulating the integrity and sustainability of Australia's immigration system, through temporary restrictions on the arrival of specified classes of non-citizen temporary visa holders in Australia during periods of international conflict, or in response to other events or circumstances outside Australia.

The Hon Tony Burke MP

Minister for Home Affairs and Minister for Immigration and Citizenship



The Hon Tony Burke MP
 Minister for Home Affairs
 Minister for Immigration and Citizenship
 Minister for Cyber Security
 Minister for the Arts
 Leader of the House

Ref No: MS26-000617

The Hon Anthony Albanese MP
 Prime Minister
 Parliament House
 Canberra ACT 2600

Dear Prime Minister

s. 34(3)

s. 34(3)
 [Redacted]
 [Redacted]
 [Redacted] s. 47C(1)
 [Redacted]
 [Redacted]
 [Redacted]
 [Redacted]
 [Redacted]
 [Redacted]
 [Redacted]

There is currently no general power under the *Migration Act 1958* to prevent cohorts of non-citizens who hold visas that are in effect from traveling to Australia, where circumstances or events overseas mean there is an increased risk that certain classes of temporary visa holders will not depart Australia when their visas cease to be in effect. Although there are powers available to the Minister to cancel a non-citizen's visa in those circumstances, those powers are only capable of being exercised in relation to individual non-citizens. They are not suited to responding at scale to events where it may be appropriate to limit travel to Australia, including during periods of international conflict.

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

This Bill would amend the Migration Act to establish a new personal power of the Minister to make an 'arrival control determination' (a non-disallowable legislative instrument). This would allow temporary restrictions on the arrival of certain classes of temporary visa holders in Australia. An arrival control determination may only be made by the Minister following the written agreement of the Prime Minister and the Foreign Minister.

To make the determination, the Minister must be satisfied that an event or circumstance has occurred (or is occurring) outside Australia, and either one or both of the following apply:

- having regard to the event or circumstance, non-citizens of a kind to whom the determination would apply may, if they enter Australia on a temporary visa, remain in Australia after the visa ceases to be in effect;
- if the event or circumstance had occurred (or had been occurring) when non-citizens of a kind covered by the determination were to make an application for a temporary visa, the visa may not have been granted.

The Minister must also be satisfied that it is in the national interest to make the determination, having regard to the objects of the legislation.

If a class of non-citizens is specified in the determination, and a non-citizen in that class is outside Australia, this would result in their temporary visa being put temporarily 'out of effect' for the period specified in the determination. This would have the effect of suspending the visa holder's ability to travel to Australia, while the determination is in force, and subject to certain exceptions.

S. 42(1)

The Minister may exercise the determination power more than once in relation to the same cohort of temporary visa holders, but only when the first determination is no longer in force. In doing so, the Minister would be required to consider the same statutory test, having regard to the relevant event or circumstances at the relevant time, and the risk that certain classes of temporary visa holders will not depart Australia when their visas cease to be in effect.

S. 42(1)

S. 42(1)

The effect of the determination is limited to temporary visas; it cannot be exercised in relation to any permanent visas. The legislation also provides for a number of clear exemptions from the effect of the determination. Of note, an arrival control determination cannot apply in relation to a non-citizen who holds:

- a protection visa that is a temporary visa; or
- a temporary safe haven visa; or
- a visa classified by the regulations as a Temporary (Humanitarian Concern) (Class UO) visa;
- a bridging visa granted as a result of an application for any of the visas mentioned above.

A statutory note has been included to make clear that any permanent visa, and particularly a permanent protection or humanitarian visa, is outside the scope of the scheme.

An arrival control determination does not apply at any time in relation to a non-citizen if the non-citizen is in the migration zone when the determination commences. An arrival control determination also does not apply in relation to a non-citizen who is:

- the spouse, de facto partner or dependent child (within the meaning of the regulations) of:
 - an Australian citizen;
 - the holder of a permanent visa that is in effect; or
 - a person who is usually resident in Australia and whose continued presence in Australia is not subject to a limitation as to time imposed by law; or
- the parent of a child who is under 18 and who is in Australia; or

Finally, an arrival control determination does not apply to a non-citizen who is the subject of a "permitted travel certificate" that is in force. A permitted travel certificate may be issued to a non-citizen by the Minister or a delegate of the Minister on a case by case basis, having regard to their individual circumstances. If the non-citizen has a permitted travel certificate, this reactivates their visa to enable them to travel to Australia. A permitted travel certificate cannot be revoked while the non-citizen is in Australia, ensuring their temporary visa remains in effect according to its usual terms and stay period while the non-citizen is in Australia.

s. 47C(1)

My Department has been engaging with your Department and the Department of Foreign Affairs and Trade in relation to this legislation, including in relation to the requirement to consult and obtain the written agreement of the Prime Minister and the Minister for Foreign Affairs to any proposed determination. I also acknowledge the work done by the Australian Government Solicitor, the Office of Parliamentary Counsel and my Department to develop and deliver this legislation.

The contact officer in my Department is Kevin Cunnington, Assistant Secretary, Legislation Branch, who can be contacted on s. 22(1)(a)(ii) or s. 22(1)(a)(ii) @homeaffairs.gov.au.

Yours sincerely



Tony Burke

09/ 03/ 2026

cc:

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

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under the Freedom of Information Act 1982

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2026 AUTUMN SITTINGS

MIGRATION AMENDMENT (2026 MEASURES NO. 1) BILL 2026

Purpose of the Bill

The Migration Amendment (2026 Measures No. 1) Bill 2026 would amend the *Migration Act 1958* to provide the Minister with a personal power to make an 'arrival control determination', following written agreement from the Prime Minister and Foreign Minister, that would temporarily restrict travel to Australia by a class or classes of temporary visa holders.

The amendments in the Bill would allow temporary restrictions on arrival of certain classes of temporary visa holders in Australia, where this is necessary to protect the integrity and sustainability of Australia's immigration system, including when events or circumstances outside Australia mean that there is an increased risk that certain classes of temporary visa holders will not depart Australia when their visas cease to be in effect.

Reasons for Urgency

Introduction and passage of the Bill in the 2026 Autumn sittings is required to respond to the changing risk environment overseas.

(Circulated by authority of the Minister for Home Affairs)

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

From: Alice MACLEAN s. 22(1)(a)(ii) @homeaffairs.gov.au>
Sent: Wednesday, 22 April 2026 4:22 PM
To: DLO.Burke s. 22(1)(a)(ii) @homeaffairs.gov.au>; DLO.Hill s. 22(1)(a)(ii) @homeaffairs.gov.au>; DLO.Thistlethwaite s. 22(1)(a)(ii) @homeaffairs.gov.au>; s. 22(1)(a)(ii) @homeaffairs.gov.au>; s. 22(1)(a)(ii) @homeaffairs.gov.au>; s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>; s. 22(1)(a)(ii) @homeaffairs.gov.au>; Bronwyn FAGAN s. 22(1)(a)(ii) @homeaffairs.gov.au>
Cc: Sneha CHATTERJEE s. 22(1)(a)(ii) @homeaffairs.gov.au>; Andrew KILEY s. 22(1)(a)(ii) @homeaffairs.gov.au>; Michael WILLARD s. 22(1)(a)(ii) @homeaffairs.gov.au>; Michael THOMAS s. 22(1)(a)(ii) @homeaffairs.gov.au>; Clare SHARP s. 22(1)(a)(ii) @homeaffairs.gov.au>; DS Immigration Programs Group s. 22(1)(a)(ii) @homeaffairs.gov.au>; FAS Skilled and Temporary Visa and Capability s. 22(1)(a)(ii) @homeaffairs.gov.au>; Tiali GOODCHILD s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>; Citizenship Humanitarian Family Visas & Support s. 22(1)(a)(ii) @homeaffairs.gov.au>; Citizenship Humanitarian Family Visas & Support s. 22(1)(a)(ii) @homeaffairs.gov.au>; Steph MCMANUS s. 22(1)(a)(ii) @homeaffairs.gov.au>; Office of the Secretary s. 22(1)(a)(ii) @homeaffairs.gov.au>; Timothy NEAL s. 22(1)(a)(ii) @homeaffairs.gov.au>; ABOC Duty Superintendents s. 22(1)(a)(ii) @abf.gov.au>; Arrival Control Determination s. 22(1)(a)(ii) @homeaffairs.gov.au>; MO Registration s. 22(1)(a)(ii) @homeaffairs.gov.au>; Michael PETERER s. 22(1)(a)(ii) @homeaffairs.gov.au>; Matthew WARDELL s. 22(1)(a)(ii) @homeaffairs.gov.au>; Damien KILNER s. 22(1)(a)(ii) @homeaffairs.gov.au>
Subject: Arrival Control Determination - reporting [SEC=PROTECTED]

PROTECTED

Hi all

Please find this week's ACD report for the period 13-19 April 2026. To note:

- We have decided not to issue 12 PTCs to clients s. 47E(d)
- The majority of PTCs issued s. 47E(d)

	13-19 APR 26	TOTAL SINCE 26 MAR 26
IRANIAN VISAS PAUSED	0	6,634
REQUESTS RECEIVED	81	421
EXEMPTIONS		23

ACD FOUND NOT TO APPLY – FAMILY	0	10
ACD FOUND NOT TO APPLY – CHILD IN AUSTRALIA	s. 47F(1)	
ONSHORE	s. 47F(1)	11
PERMITTED TRAVEL CERTIFICATES ISSUED		280
s. 47E(d)	72	194
	0	12
	18	74
PERMITTED TRAVEL CERTIFICATES DECLINED	12	12
s. 22(1)(a)(ii)		

*Number of people viewing the content in the specified time period.

Please note, data is drawn from the ACD Portal at a point in time and can vary when compared to historical reporting

Please let me know if you have any feedback on this reporting or any questions about our processes.

Thanks

Alice Maclean (she/her)

Assistant Secretary | Visa Support Centre

Department of Home Affairs

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

E: s. 22(1)(a)(ii)@homeaffairs.gov.au

The Visa Support Centre is supported by s. 22(1)(a)(ii) at s. 22(1)(a)(ii)@homeaffairs.gov.au or on Teams.

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

From: Alice MACLEAN s. 22(1)(a)(ii) @homeaffairs.gov.au>

Sent: Tuesday, 7 April 2026 4:11 PM

To: DLO.Burke s. 22(1)(a)(ii) @homeaffairs.gov.au>; DLO.Hill s. 22(1)(a)(ii) @homeaffairs.gov.au>; DLO.Thistlethwaite

s. 22(1)(a)(ii) @homeaffairs.gov.au>; s. 22(1)(a)(ii) @homeaffairs.gov.au>; s. 22(1)(a)(ii)

s. 22(1)(a)(ii) @homeaffairs.gov.au>; s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>; s. 22(1)(a)(ii)

s. 22(1)(a)(ii) @homeaffairs.gov.au>; Bronwyn FAGAN s. 22(1)(a)(ii) @homeaffairs.gov.au>

Cc: Sneha CHATTERJEE s. 22(1)(a)(ii) @homeaffairs.gov.au>; Andrew KILEY s. 22(1)(a)(ii) @homeaffairs.gov.au>;

Michael WILLARD s. 22(1)(a)(ii) @homeaffairs.gov.au>; Michael THOMAS s. 22(1)(a)(ii) @homeaffairs.gov.au>;

Clare SHARP s. 22(1)(a)(ii) @homeaffairs.gov.au>; DS Immigration Programs Group s. 22(1)(a)(ii) @homeaffairs.gov.au>; FAS

Skilled and Temporary Visa and Capability s. 22(1)(a)(ii) @homeaffairs.gov.au>; Tiali GOODCHILD

s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>; Citizenship Humanitarian Family Visas & Support

s. 22(1)(a)(ii) @homeaffairs.gov.au>; Citizenship Humanitarian Family Visas & Support

s. 22(1)(a)(ii) @homeaffairs.gov.au>; Steph MCMANUS s. 22(1)(a)(ii) @homeaffairs.gov.au>; Office of the Secretary

s. 22(1)(a)(ii) @homeaffairs.gov.au>; Timothy NEAL s. 22(1)(a)(ii) @homeaffairs.gov.au>; ABOC Duty

Superintendents s. 22(1)(a)(ii) @abf.gov.au>; Arrival Control Determination

s. 22(1)(a)(ii) @homeaffairs.gov.au>; MO Registration s. 22(1)(a)(ii) @homeaffairs.gov.au>;

Michael PETERER s. 22(1)(a)(ii) @homeaffairs.gov.au>; Matthew WARDELL

s. 22(1)(a)(ii) @homeaffairs.gov.au>; Damien KILNER s. 22(1)(a)(ii) @homeaffairs.gov.au>

Subject: Arrival Control Determination - reporting [SEC=PROTECTED]

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Hi team

If there is no significant change in numbers or public reporting on the Arrival Control Determination, I propose to cease daily reporting and send this report on Wednesday for the next few weeks. Ad hoc reports can, of course, be provided at any time to support decision making or engagements. Please let me know if this arrangement doesn't suit your needs and we can adjust.

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

The impact of the long weekend means finalisations of requests was a little lower than what we received. Finalisations will increase over the next couple of days.

	2-6 APR 26	TOTAL SINCE 26 MAR 26
IRANIAN VISAS PAUSED	0	6,634
PORTAL REQUESTS RECEIVED	39	264
EXEMPTIONS		
ACD FOUND NOT TO APPLY – FAMILY	0	9
ACD FOUND NOT TO APPLY – CHILD IN AUSTRALIA	0	s. 47F(1)
ONSHORE	0	s. 47F(1)
PERMITTED TRAVEL CERTIFICATES		
s. 47E(d)	16	99
	0	11
	s. 47F(1)	41
s. 22(1)(a)(ii)		

*Number of people viewing the content in the specified time period.

s. 47E(d)

Data is not cleared for release or publication and comes from operational systems. Please let me know if you would like us to seek clearance.

Please continue to raise any suggestions for improvements.

Thanks

Alice Maclean (she/her)

Assistant Secretary | Visa Support Centre

Department of Home Affairs

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

E: s. 22(1)(a)(ii)@homeaffairs.gov.au

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

From: Alice MACLEAN s. 22(1)(a)(ii) @homeaffairs.gov.au>

Sent: Wednesday, 15 April 2026 2:03 PM

To: DLO.Burke s. 22(1)(a)(ii) @homeaffairs.gov.au>; DLO.Hill s. 22(1)(a)(ii) @homeaffairs.gov.au>; DLO.Thistlethwaite

s. 22(1)(a)(ii) @homeaffairs.gov.au>; s. 22(1)(a)(ii) @homeaffairs.gov.au>; s. 22(1)(a)(ii)

s. 22(1)(a)(ii) @homeaffairs.gov.au>; s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>; s. 22(1)(a)(ii)

s. 22(1)(a)(ii) @homeaffairs.gov.au>; Bronwyn FAGAN s. 22(1)(a)(ii) @homeaffairs.gov.au>

Cc: Sneha CHATTERJEE s. 22(1)(a)(ii) @homeaffairs.gov.au>; Andrew KILEY s. 22(1)(a)(ii) @homeaffairs.gov.au>;

Michael WILLARD s. 22(1)(a)(ii) @homeaffairs.gov.au>; Michael THOMAS s. 22(1)(a)(ii) @homeaffairs.gov.au>;

Clare SHARP s. 22(1)(a)(ii) @homeaffairs.gov.au>; DS Immigration Programs Group s. 22(1)(a)(ii) @homeaffairs.gov.au>; FAS

Skilled and Temporary Visa and Capability s. 22(1)(a)(ii) @homeaffairs.gov.au>; Tiali GOODCHILD

s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>; Citizenship Humanitarian Family Visas & Support

s. 22(1)(a)(ii) @homeaffairs.gov.au>; Citizenship Humanitarian Family Visas & Support

s. 22(1)(a)(ii) @homeaffairs.gov.au>; Steph MCMANUS s. 22(1)(a)(ii) @homeaffairs.gov.au>; Office of the Secretary

s. 22(1)(a)(ii) @homeaffairs.gov.au>; Timothy NEAL s. 22(1)(a)(ii) @homeaffairs.gov.au>; ABOC Duty

Superintendents s. 22(1)(a)(ii) @abf.gov.au>; Arrival Control Determination

s. 22(1)(a)(ii) n@homeaffairs.gov.au>; MO Registration s. 22(1)(a)(ii) @homeaffairs.gov.au>;

Michael PETERER s. 22(1)(a)(ii) @homeaffairs.gov.au>; Matthew WARDELL

s. 22(1)(a)(ii) @homeaffairs.gov.au>; Damien KILNER s. 22(1)(a)(ii) @homeaffairs.gov.au>

Subject: Arrival Control Determination - reporting [SEC=PROTECTED]

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Hi all

Please find this week's ACD report for the period 7-12 April 2026. From next week, we will be on a weekly Mon-Sun reporting schedule. The majority of PTCs issued s. 47E(d)

	7-12 APR 26	TOTAL SINCE 26 MAR 26
IRANIAN VISAS PAUSED	0	6,634
PORTAL REQUESTS RECEIVED	76	340
EXEMPTIONS		21
ACD FOUND NOT TO APPLY – FAMILY	s. 47F(1)	10
ACD FOUND NOT TO APPLY – CHILD IN AUSTRALIA	s. 47F(1)	s. 47F(1)
ONSHORE	s. 47F(1)	8
PERMITTED TRAVEL CERTIFICATES		215
s. 47E(d)	47	158
	0	11
	5	46

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

*Number of people viewing the content in the specified time period.

Please note, data is drawn from the ACD Portal at a point in time and can vary when compared to historical reporting.

s. 47E(d)

Thanks

Alice Maclean (she/her)

Assistant Secretary | Visa Support Centre

Department of Home Affairs

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E: s. 22(1)(a)(ii)@homeaffairs.gov.au

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