



Australian Government
Department of Home Affairs

Submission

For decision

PDMS Ref. Number MS19-000623

To Minister for Immigration, Citizenship and Multicultural Affairs
Subject Mid-Year Review of the 2018-19 Humanitarian Program
Timing At your convenience

Received in Office
Recommendations
26 FEB 2019

s. 33(a)(iii)



s. 47C(1)



s. 33(a)(iii)



6. note that any unused places from the CSP allocation of 1,000, will be redistributed to the SHP;

noted / please discuss


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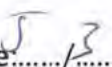
7. note that no change is sought in the 1,650 places allocated for the Onshore (Permanent Protection visa) Program; and
8. note that the Offshore Program is behind in delivery in pro-rata terms but with the above recommended adjustments we are expecting to deliver it in full.

noted / please discuss

noted / please discuss

Minister for Immigration, Citizenship and Multicultural Affairs

Signature 

Date  / / 2019

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Minister's Comments				
Rejected Yes/No	Timely Yes/No	Relevance <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	Length <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	Quality Poor 1.....2.....3.....4.....5 Excellent Comments:

Key Issues

1. This Submission aims to update you on the progress on the 2018-19 Humanitarian Program (Submission MS18-009577, *Further advice on the composition of the 2018-19 Humanitarian Program* refers and Submission MS18-010914, *Advice on humanitarian visa caseload from the Americas* refers) and to seek your approval to proposed adjustments in its composition.
2. The proposed adjustments have been necessitated by the late finalisation of this year's Humanitarian Program, which prevented timely negotiation of sufficient Refugee referrals for processing with UNHCR as the government priorities around cohorts and regions had been undecided, and the shortage of actual applications available from some priority groups.
3. The mid-year review of the Program is informed by extensive engagement with UNHCR around their capacity to deliver refugee referrals in different regions and on-the-ground assessment of existing pipelines of applications on-hand. In light of these conversations, it is expected that with the proposed minor adjustments, the Humanitarian Program will be delivered generally in line with the regional proportions and the Refugee-SHP split you previously agreed. **Attachment A** contains details of the proposed re-adjustments.

2018-19 Program Planning Levels

4. The 2018-19 Humanitarian Program was increased to 18,750 from 16,250 places in 2017-18. You agreed that 17,100 of these places be notionally allocated to the offshore component and the remaining 1,650 places retained for the onshore protection component. Of the 17,100 offshore places, 9,458 were Refugee category places and 6,642 were SHP with a separate allocation of 1,000 places for the CSP.

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5. You agreed that

- Fifteen per cent of the offshore Program will be set aside for vulnerable women, children and unaccompanied minors;
- up to 4,000 places will be managed as a global contingency reserve until 31 January 2019. If there is no need to use the contingency reserve, the Department of Home Affairs will allocate places according to the guidance you have provided.

2018-19 Humanitarian Program Delivery

6. At 31 January 2019, a total of 7,463 visas have been granted comprising:

- 6,776 offshore visas and 672 onshore visas (see **Attachment B** for further details);
- 870 visas have been granted to vulnerable women, children and dependents;
- 78 visas have been granted to applicants under the CSP and the now closed CPP.

7. Based on the analysis of the onshore (non-IMA) permanent protection visa applications in the pipeline, we are confident that the allocation of 1,650 for the onshore component of the Program will be delivered in full.

8. The offshore component of the Program is behind in pro rata terms. As at 31 January 2019, 32 percent or 3,199 visa grants are in arrears. However, strategies have been put in place to overcome the visa grant deficit and deliver the Program in full.

9. There are several factors which have impeded the progress on the offshore humanitarian visa grants.

10. The composition of the 2018-19 Program was finalised late in the year through the Submissions MS18-010914 and MS18-009577. This delayed the Department's engagement with UNHCR on the delivery of Refugee referrals in line with new priorities agreed upon through the Submissions. Since the Refugee component of the program is heavily contingent on the availability of the appropriate number and type of referrals for resettlement from UNHCR, the Department is actively working to build up Refugee applications from a shallow base. We have since come to an arrangement with UNHCR for delivering the required number of referrals during the remaining time.

- An underwhelming demand for humanitarian places from some priority groups, such as Venezuelans and Bhutanese, has resulted in fewer applications than required. We are proposing to shift a portion of places from these groups to other cohorts.

s. 33(a)(iii)

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Contingency reserve

11. You agreed to have 4,000 places earmarked as a global contingency reserve to be drawn on should there be a need to accommodate new caseloads during the Program year. You agreed to the Department releasing these places for the general program from 31 January 2019 to allow sufficient time for processing. Please note that the Department has begun withdrawing places from the contingency reserve for general processing but has kept the flexibility of making any residual places available should a need arise during the remaining part of the Program year.

12. Your office have advised that you wish to allocate 500 places from the contingency reserve to Myanmar (currently 250 refugee places and 1,350 SHP places), with a strong focus on Chins. This increase will bring the overall allocation for Myanmar to 2,100 (270 refugee places and 1,830 SHP places). s. 33(a)(iii)

Attachment C provides a snapshot of the on-hand Myanmar Chin caseload.

s. 37(2)(b)

Delivery of the program against key priorities

Vulnerable women and children – 2,560 places (15 per cent)

14. We anticipate that the 2,560 target for vulnerable women and children will be met with 870 (34 per cent) visas already granted in the first seven months of the year. The top five countries of grants for this cohort are Iraq, Democratic Republic of Congo, Afghanistan, Syria and Bhutan.

Community Support Program (CSP)

15. Whilst the CSP has generated a good number of applications (1,119 applicants on hand at 31 January), as advised in MS18-011088 the policy settings have proved difficult to apply causing delays in finalising the applications. Based on the number of visa grants and the status of the CSP pipeline, we estimate that at most 800 places out of the 1,000 will be used. As in 2017-18, any unused CSP places will be re-distributed to the SHP.

s. 47C(1)

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Priority groups

17. In this year's Program, new priority groups were identified with respect to their stronger settlement outcomes. These groups included people of Baha'i faith from Iran and citizens of Venezuela. While Baha'is are an established humanitarian group, the Department did not have many applications on hand to be able to deliver visa grants as per their allocation.

s. 33(a)(iii)

18. Venezuelans are a completely new cohort, with only one Special Humanitarian Program (SHP) application lodged by 31 January 2019. The Department is continuing its coordination with UNHCR to arrange referrals for 50 separate Refugee places allocated to Venezuelans.
19. The Department has been engaging extensively with both Baha'i and Venezuelan communities in Australia to apprise them of the options available in the SHP component of the humanitarian program for their relatives and friends who might be in need of resettlement. This community consultation is recent but ongoing and is yet to result in sufficient numbers of applications to allow for the delivery of the allocated places set aside for these two groups.
20. Feedback on the engagement with the Venezuelan Community has identified that in most cases family members are still located in country (in Venezuela) and therefore not eligible to be proposed under the SHP program. Also many of the Venezuelan community are residing in Australia as students or holders of temporary visas resulting in enquiries about the Onshore Protection program, or showing keenness in securing Visitor or temporary visas for relatives.

Cohort	Refugee applications on-hand*	SHP applications on-hand	Refugee visas granted	SHP visas granted
Venezuelans	0		0	0
Baha'is	140	169	0	5

*The above figures are up to date at 31 January 2019

21. In comparison Bhutanese from camps in Nepal are a protracted refugee population. However, UNHCR has been able to settle a significant majority of them and have deemed the remaining population of about 6,000 as not in need of resettlement, with repatriation and local integration being preferred options. The lack of refugee referrals from UNHCR is compounded by the lack of sufficient interest by Bhutanese in the SHP category.

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22. Given the low volume of applications available from the Baha'i, Venezuelan and Bhutanese cohorts in this year's program, it is proposed that their respective allocations are adjusted as below:

Cohort	Original Allocation		Proposed Adjusted Allocation		Net adjustment
	Refugee	SHP	Refugee	SHP	
Venezuelans	50	200	s. 47C(1)		
Baha'is	300	100			
Bhutanese	50	350			

Any unused places are to be absorbed in the larger Program.

South and Central America

23. Your office has advised of your interest in increasing the resettlement numbers for citizens of Salvador, Honduras and Guatemala. These groups are currently included in the Offshore Program under the PTA arrangement with 100 places allocated this year. s. 33(a)(iii)

South African Farmers

24. Following the signing of MS18-002575 – Options for progressing the South African farmer caseload (**Attachment F**), the Department of Home Affairs will now be working to finalise the South African applications on hand.

Unaccompanied Saudi women seeking resettlement

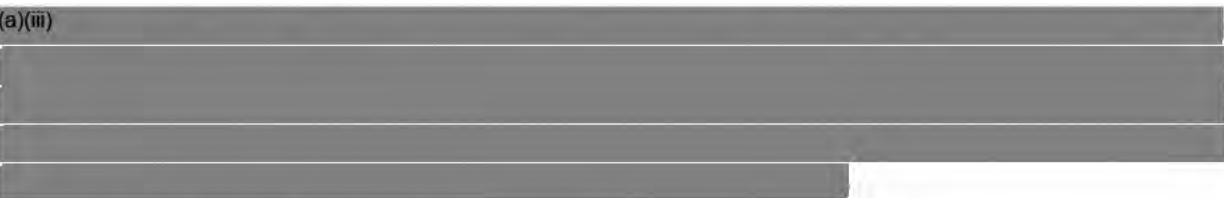
s. 33(a)(iii)

26. The Department has traditionally employed the options of Emergency rescue (Class XB-203) and Woman at Risk (Class XB-204) to respond to urgent and pressing cases, especially those involving vulnerable women.

- Emergency Rescue is one of the five subclasses of the Refugee and Humanitarian (XB) visa. Based on UNHCR referral, this visa class facilitates the emergency resettlement of people facing persecution and an immediate threat to their life or personal security.

- The number of applicants accepted for emergency resettlement are not set by government and vary according to need. Australia generally accepts up to 20 applicants for emergency resettlement each year. However, this allocation is notional and can be adjusted when required.
 - In the current program year (2018-19 to 31 January 2019) seven Emergency Rescue visas have been granted to date.
 - In the last five complete program years (2013-14 to 2017-18) 32 Emergency Rescue visas were granted.
- Woman at Risk visa class is used more widely to resettle women and their dependent family members who are considered at risk and have no male protection available. Grants made under Woman at Risk visa category contribute towards the Vulnerable Woman and Children commitment of the offshore humanitarian program, which stands at 15 per cent (2,650 places) this year.

s. 33(a)(iii)



Consultation – internal/external

28. Humanitarian Program Capability Branch; Humanitarian Program processing posts; UNHCR

Consultation – Secretary

29. The Secretary was not consulted on the approach in the submission.

Client service implications

30. Nil.

Sensitivities

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

Financial/systems/legislation/deregulation/media implications

32. The proposed adjustments may impact assisted passage costs but the impact is expected to be minimal as overall program numbers will remain unchanged.

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Attachments

- Attachment A** Revised 2018-19 Humanitarian Program allocations following the mid-year review
- Attachment B** 2018-19 Humanitarian Program pro rata delivery
- Attachment C** Chins - snapshot
- Attachment D** MS18-009577 – 2018-19 allocation submission
- Attachment E** MS18-010914 – Advice on humanitarian visa caseload from the Americas
- Attachment F** MS18-002575 – Options for progressing the South African farmer caseload

Authorising Officer

Cleared by:

22(1)(a)(ii)

A/g First Assistant Secretary
Refugee, Citizenship and Multicultural Programs Division
Date: 25 February 2019
Ph: s. 22(1)(a)(ii)

Contact Officer 22(1)(a)(ii), A/g Assistant Secretary, Humanitarian Program Capability Branch Ph: s. 22(1)(a)(ii)

Through 22(1)(a)(ii), A/g Deputy Secretary, Immigration and Citizenship Services, s. 22(1)(a)(ii)

CC Secretary
Deputy Secretaries
First Assistant Secretary, International Division
First Assistant Secretary, Visa and Citizenship Management Division
First Assistant Secretary, Intelligence Division
First Assistant Secretary, Immigration, Citizenship and Multiculturalism Policy
Assistant Secretary, Humanitarian, Family and Citizenship Policy Branch
Assistant Secretary, Humanitarian Program Operations Branch

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2018-19 Humanitarian Program Allocations (Initial, Mid- year Review and the Diferrence)

Region	Caseloads	Initial Allocations				% offshore	Revised Allocations				% offshore	Difference				
		Ref	SHP	CSP	Total	program ¹	Ref	SHP	CSP	Total	program	Ref	SHP	CSP	Total	
MIDDLE EAST		5,158	3,365	475	8,998	52.9%	5,053	3,346	400	8,799	51.6%	-105	-19	-75	-199	
	Iraqis, Syrians, Others	2,950	3,265	475	6,215	38.6%	2,945	3,246	400	6,191	38.0%	-5	-19		-24	
	Yazidis	1,908	0		1,908	11.9%	1,908	0		1,908	11.7%	0	0		0	
	Baha'I Iranians	300	100		400	2.5%	200	100		300	1.8%	-100	0		-100	
ASIA		1,100	2,550	356	4,006	22.7%	1,204	3,020	264	4,488	25.9%	104	482	-92	482	
	Myanmerese	250	1,350	356	1,600	9.9%	270	1,830	264	2,100	12.9%	20	480	500	500	
	Bhutanese	50	350		400	2.5%	30	250		280	1.7%	-20	-120	-120	-120	
	Afghans	750	600		1,350	8.4%	854	620		1,474	9.1%	104	124	124	124	
	Pakistani Christians Ahmadis	50	0		50	0.3%	50	0		50	0.3%	0	0	0	0	
	s. 33(a)(iii)	0	250		250	1.6%	0	320		320	2.0%	0	70	70	70	
AFRICA		3,100	527	169	3,796	22.5%	3,065	394	154	3,613	21.2%	-35	-133	-15	-183	
	Congolese	1,895	121	169	2,016	12.5%	1,910	130	154	2,040	12.5%	15	9	-15	24	
	Eritreans	519	238		757	4.7%	519	160		679	4.2%	0	-78	0	-78	
	Ethiopians	566	168		734	4.6%	566	100		666	4.1%	0	-68	0	-68	
	Others	120	0		120	0.7%	70	4		74	0.5%	-50	4	0	-46	
Americas		100	200	0	300	1.9%	150	50	0	200	1.2%	50	-150	0	-100	
	Salvadorans, Guatemalans & Hondurans	100	0	0	100	0.6%	100	0	0	100	0.6%	0	0	0	0	
	Venezuelans	0	200		200	1.2%	50	50	0	100	0.6%	50	-150	0	-100	
Total		9,458	6,642	1,000	17,100		9,472	6,810	818	17,100		14	168	-182	0	
Total Onshore Program					1,650							1,650				
Total					18,750							18,750				

1. % of offshore program excludes CSP



Australian Government
Department of Home Affairs

2018–19 Humanitarian Program Allocations and Delivery

Data included in this report is to 31 January 2019.

Data was extracted from departmental systems on 04 February 2019.

Region/Post	Caseloads	Allocations				Grants				Balance			
		Refugee	SHP	CSP	Total	Refugee	SHP	CSP	Total	Refugee	SHP	CSP	Total
MIDDLE EAST		5,158	3,365	475	8,998	1,597	1,304	46	2,947	3,561	2,061	429	6,051
Amman	Iraqis, Syrians, Others	1,005	1,230	235	2,470	638	695	24	1,357	367	535	211	1,113
	Yazidis	1,908	0	0	1,908	682	0	0	682	1,226	0	0	1,226
Ankara	Syrians, Iraqis, Others	220	500	110	830	133	227	14	374	87	273	96	456
	Baha'i Iranians	300	100	0	400			0	0	300	100	0	400
Beirut	Syrians, Iraqis	1,575	1,535	130	3,240	140	382	8	530	1,435	1,153	122	2,710
Asia Posts (M.E. COB)	Syrian, Iraqis, Palestinian Iraqis	150	0	0	150	4	0	0	4	146	0	0	146
AFRICA		3,100	527	169	3,796	1,829	230	25	2,084	1,271	297	144	1,712
Cairo	s. 33(a)(ii) Ethiopians, Eritreans	445	250	156	851	90	116	19	225	355	134	137	626
Nairobi	Congolese, Ethiopians, Eritreans, CAR	2,655	277	13	2,945	1,739	114	6	1,859	916	163	7	1,086
ASIA		1,100	2,550	356	4,006	484	1,251	7	1,742	616	1,299	349	2,264
Dubai	Afghans in Pakistan and LEE	558	600	340	1,498	261	165		426	297	435	340	1,072
	Afghans in Iran	142	0	0	142		0	0	0	142	0	0	142
New Delhi	Myanmerese	30	150	0	180	25	265	4	294	5	-115	-4	-114
	Bhutanese	50	350	0	400	20	79	0	99	30	271	0	301
Bangkok	s. 33(a)(iii)	0	250	0	250	0	56	0	56	0	194	0	194
	Myanmarese	140	450	0	590	89	292	0	381	51	158	0	209
	Pakistani Christians Ahmadis	50	0	0	50		0	0	0	50	0	0	50
Jakarta	Afghans	50	0	1	51	1	0		1	49	0	1	50
Kuala Lumpur	Myanmerese, Others	80	750	15	845	88	394	3	485	-8	356	12	360
AMERICAS		100	200	0	300	3	0	0	3	97	200	0	297
Washington	El Salvadorans, Guatemalans, Hondurans, Others	100	0	0	100	3	0	0	3	97	0	0	97
	Venezuelans	0	200	0	200	0		0	0	0	200	0	200
Offshore Total		9,458	6,642	1,000	17,100	3,913	2,785	78	6,776	5,545	3,857	922	10,324
Onshore Total					1,650				672				978
Total Humanitarian Program					18,750				7,448				11,302

* CPP grants are included in CSP totals.

	Allocation	Grants	Balance
Vulnerable Women and Children	2565	870	1695

	Grants	Per cent
Syrians and Iraqis	2599	88.6%
Persecuted Minorities	335	11.4%
Other		

Notes:

- The attached information has been verified and is provided for the specific purposes of this request. Your area must ensure that disclosure of this information accords with relevant provisions of the ABF Act and any other relevant legislation. Any further use of the information provided will require further consideration by the Public Information and Reporting Section and a separate request should be made to the Humanitarian Data mailbox.
- The country of birth of principal visa applicants is applied to secondary visa applicants.
- The religion of principal visa applicants is applied to secondary visa applicants. Religion is self-identified and as declared on application and may include generic responses.

CHINS – AN OFFSHORE HUMANITARIAN CASELOAD SNAPSHOT

Statistics

Offshore Humanitarian SHP applicant's onhand as at 18 February 2019 with self-identified ethnicity of Chin

Current Post	Registered	Assessed as Satisfied	Total
Bangkok	s. 47C(1)	s. 47C(1)	54
Kuala Lumpur			939
New Delhi			639
Sydney SHPC			2,088
Total			3,720
Myanmarese born on hand			5657
Myanmerese born with ethnicity recorded			5429

Notes:

1. This information is provided by the Department of Home Affairs and was extracted from departmental systems on 18 February 2019. As data has been drawn from a dynamic system environment, the information is correct at the time of publication and figures may differ slightly from previous or future reporting.
2. Ethnicity is self-identified and as declared on application and may include generic responses. The ethnicity of principal visa applicants is applied to secondary visa applicants.

Offshore humanitarian grants to Myanmarese* from 2007-08 to 2017-18

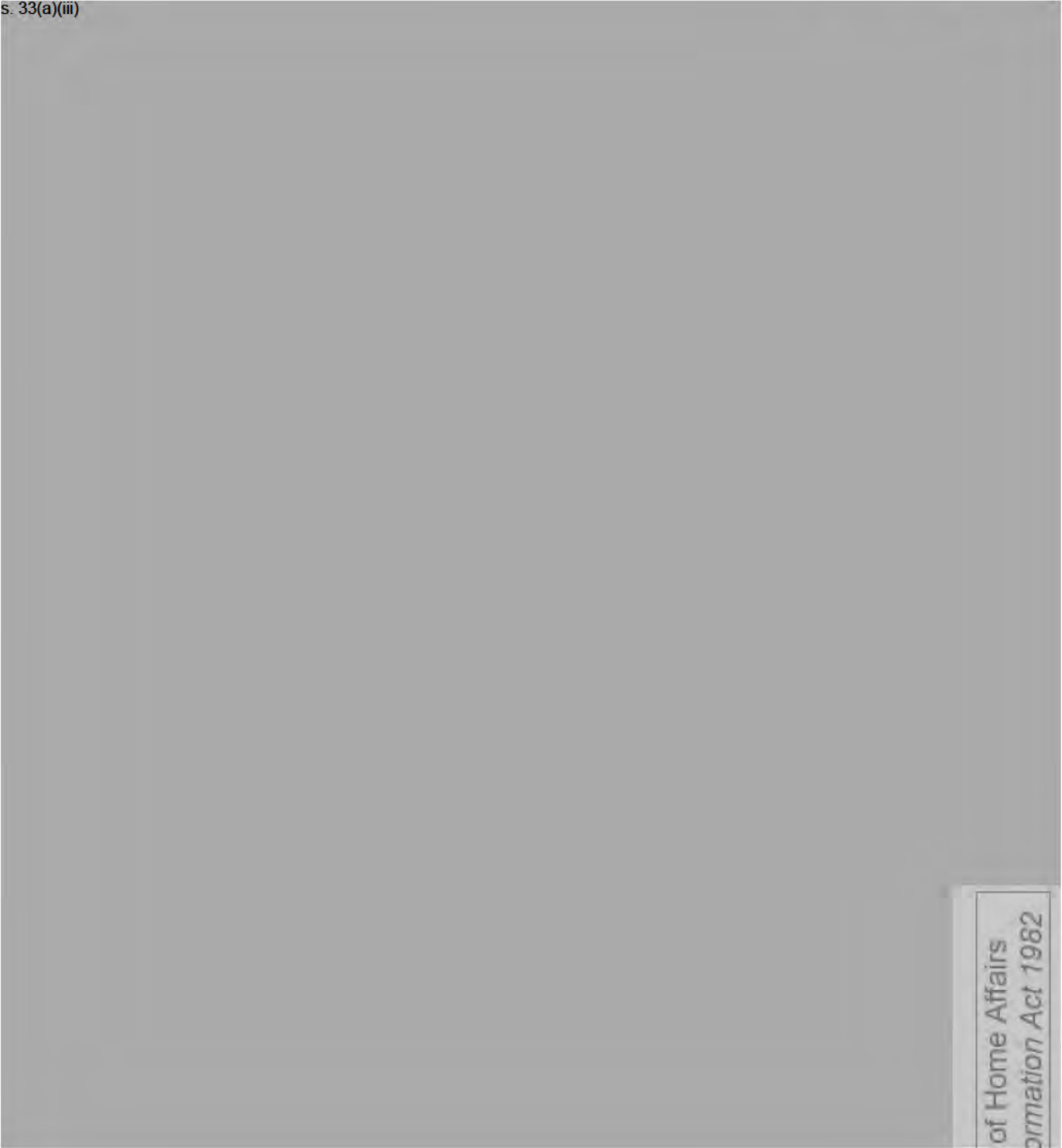
Programme Year	Refugee	SHP	Grand Total
2007-08	2,642	287	2,929
2008-09	2,208	194	2,402
2009-10	1,887	63	1,950
2010-11	1,393	50	1,443
2011-12	1,854	6	1,860
2012-13	2,341	10	2,351
2013-14	1,145	674	1,819
2014-15	1,182	847	2,029
2015-16	1,031	920	1,951
2016-17	1,067	680	1,747
2017-18	654	1,389	2,043
Grand Total	17,404	5,120	22,524

*Ethnic Chins are the majority of Myanmarese in the offshore humanitarian caseload

Allocations and pipelines

- The total allocated places under the 2018-19 Offshore Humanitarian Program for Myanmarese (predominantly Chins) is:
 - Refugee: 250 places (*proposed to increase to 270*)
 - Special Humanitarian Program (SHP): 1350 places (*proposed to increase to 1830*)
- The applicants who self-identify as Chin ethnicity tend to reside in India and Malaysia with small numbers in Thailand.
- As at 18 February 2019, there were 5657 SHP applicants born in Myanmar onhand. Of the 5429 applicants with ethnicity recorded, 3720 applicants (69 per cent) self-identify as Chin.

s. 33(a)(iii)



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Australian Government
Department of Home Affairs

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20 DEC 2017

In the Office of
Deputy Secretary Policy
Correspondence No:

Submission

For decision

PDMS Ref. Number MS18-010914

To Minister for Immigration, Citizenship and Multicultural Affairs
Subject Advice on humanitarian visa caseload from the Americas
Timing At your convenience.

Recommendations

That you:

1. note the United Nations High Commissioner for Refugees' (UNHCR) advice on the possible referral of cases from the Americas region, summarised in Attachment A; (noted) / please discuss
2. agree, in addition to the (already agreed) 100 places through the Protection Transfer Arrangement (Salvadorans, Guatemalans and Hondurans), to increase the allocation for the 2018-19 program from the Americas, by 250 places, comprising:
 - i) 200 places for Special Humanitarian Program applicants from Venezuela; and (agreed) / not agreed
 - ii) UNHCR referral of 50 places, mostly Venezuelans, from the Caribbean, without the need for additional funding to UNHCR; (agreed) / not agreed
3. s. 47C(1) (noted) / please discuss
 - i) the Department will adjust the 2018-19 program allocations to offset the increase in the Americas caseload through the mid-year review in order to still deliver the overall program of 18,750; and (noted) / please discuss
4. note that, subject to confirmation from UNHCR in 2019, it may be possible to expand the Americas caseload in the 2019-20 program year by a further 640 places. (noted) / please discuss
 - i) note this would see a total Americas caseload in 2019-20 of 990 places (200 Special Humanitarian Program; 790 UNHCR referrals). (noted) / please discuss

s. 47C(1)

Minister for Immigration, Citizenship and Multicultural Affairs

Signature.....



Date: 20/12/2018

Minister's Comments

Rejected Yes/No	Timely Yes/No	Relevance <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	Length <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	Quality Poor 1.....2.....3.....4.....5 Excellent
				Comments:

Key Issues

1. In response to submission MS18-009577 *Further advice on the composition of the 2018-19 Humanitarian Program* (at Attachment B) you requested further advice on options to deliver a substantial caseload from the Americas, particularly displaced Venezuelans.
2. The Department, through our posts in Geneva and Washington, has worked with UNHCR to identify caseloads able to be referred for resettlement from Central and South America.

s. 33(b)



Proposed 2018-19 Americas caseload


s. 33(b)



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Additional option to further increase the Americas caseload

s. 47E(d)



Consultation – internal/external

11. This submission has been prepared in consultation with Refugee Citizenship and Multicultural Programs Division, International Policy Division and the Chief Financial Officer.

Consultation – Secretary

12. The Secretary has not been consulted on the approach in the submission.

Client service implications

13. N/A.

Sensitivities

14. N/A.

Financial/systems/legislation/deregulation/media implications

s. 47E(d)



s. 47E(d)



Attachments

Attachment A UNHCR Advice on referrals from the Americas

Attachment B MS18-009577 Further advice on the composition of the 2018-19 Humanitarian Program

Authorising Officer

Cleared by:

22(1)(a)(ii)

22(1)(a)(ii)

Deputy Secretary Policy

Date: 20 December 2018

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

Contact Officer 22(1)(a)(ii), Assistant Secretary Migration Policy Branch, s. 22(1)(a)(ii)

Through First Assistant Secretary Immigration, Citizenship and Multiculturalism Policy Division
A/g Chief Financial Officer, Finance Division

CC Secretary
Commissioner
Deputy Secretaries
First Assistant Secretary, Refugee, Citizenship and Multicultural Programs Division
First Assistant Secretary, International Division
First Assistant Secretary, Intelligence Division
Assistant Secretary, Humanitarian Program Capability Branch
Assistant Secretary, Americas, Europe and Middle East Branch
Assistant Secretary, Pacific and Transnational Issues Branch

Possible Americas caseloads for inclusion in the Humanitarian Program

Caseload	2018-19 program year	2019-20 program year	Additional factors and cost
s. 47C(1)			



Australian Government
Department of Home Affairs

Submission

For decision
PDMS Ref. Number MS18-002575

To Minister for Immigration, Citizenship and Multicultural Affairs
Subject Options for progressing the South African farmer caseload.
Timing At your convenience.

Recommendations

That you:

s. 47C(1)

Rec

3. note the country of origin information (Attachment A) outlining the current situation for farmers in South Africa;

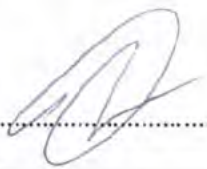
noted / please discuss

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

4. note the risks and sensitivities associated with a grant of a humanitarian visa to an applicant from this cohort.

noted / please discuss

Minister for Immigration, Citizenship and Multicultural Affairs

Signature.....

Date: 19 / 2 / 2018


Minister's Comments				
Rejected Yes/No	Timely Yes/No	Relevance <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	Length <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	Quality Poor 1.....2.....3.....4.....5 Excellent Comments:

Key Issues


s. 47C(1)

s. 47C(1)

s. 47C(1)




s. 33(a)(iii)



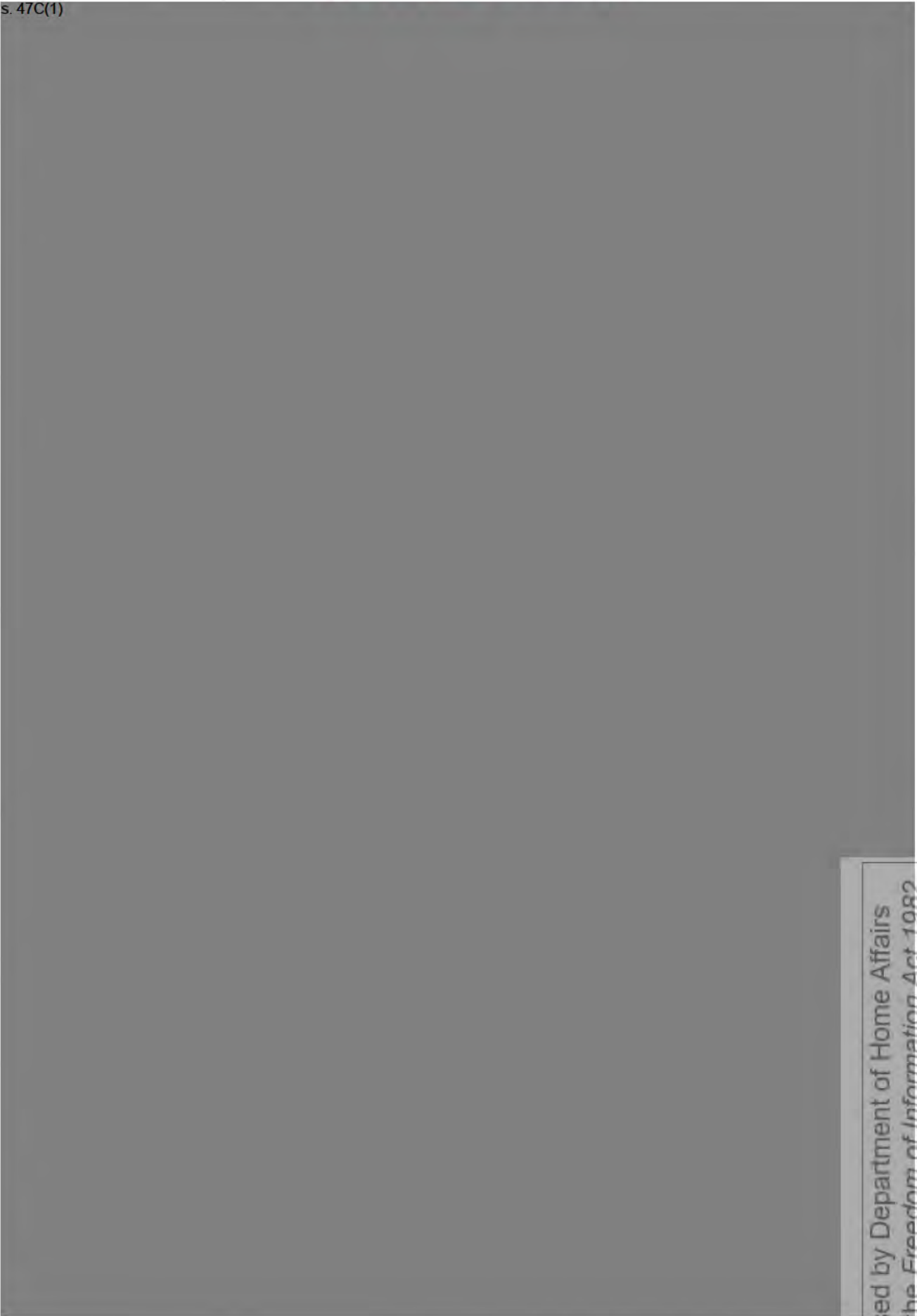
Background

s. 47C(1)



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s. 47C(1)



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s. 47C(1)

History of the South African humanitarian caseload

23. In the last 10 years, 36 onshore humanitarian visas have been granted to South African nationals. Of these, three Protection (subclass 866) visas have been granted since July 2016. None of these were related to the current public discourse on land redistribution in South Africa.
24. There have also been two humanitarian visas granted offshore to South African born applicants in the 2017/18 program year. These visas were granted to children born in South Africa to non-South African nationals.
25. As at 12 November 2018, 83 Class XA onshore humanitarian visa applications (covering 156 people) and 131 Class XB offshore humanitarian visa applications (covering 420 people) were on-hand with the Department from South African nationals.
26. There has been a notable increase in humanitarian applications from South African nationals this calendar year, particularly in the offshore program (Table 1 and 2 below refer). While only a small proportion of cases appear to contain clear claims relating to farming in South Africa, the timing of this increase appears to correlate with the rise in public discourse in South Africa and Australia regarding land redistribution in South Africa and the possibility of resettlement under the Australian Humanitarian Program.

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Table 1: Number of offshore Refugee and Humanitarian applications (individuals) lodged by South African nationals by calendar year as at 12 November 2018



Table 2: Number of onshore protection visa applications (individuals) lodged by South African nationals by calendar year as at 12 November 2018



Consultation – internal/external

27. Humanitarian Program Capabilities Branch, Humanitarian Program Operations Branch, Americas, Europe, Middle East and Africa Branch, Integration and Citizenship Policy Branch, Compliance and Community Protection Policy Branch, Legislation Branch, Migration and Citizenship Law Branch, Department of Foreign Affairs and Trade.


Consultation – Secretary

28. The Secretary was not consulted on the approach in the submission.

Client service implications


29. It is likely that any grant of a humanitarian visa to a South African national in this cohort will receive media coverage in Australia and South Africa. This will likely result in a rapid increase in humanitarian visa applications by South African nationals in Australia and offshore which will divert resources and impact onshore and offshore visa processing times.

s. 47C(1)




Sensitivities

s. 33(a)(iii)




Financial implications

s. 47C(1)



Legislation implications

s. 47C(1)



Media implications

35. The Department will prepare media talking points to address possible media enquiries regarding the chosen approach.

Attachments

<u>Attachment A</u>	Country of Origin Information – Situational Update – South African Farmers
<u>Attachment B</u>	Class XA (onshore) humanitarian visa legislative requirements
<u>Attachment C</u>	Class XB (offshore) humanitarian visa legislative requirements
<u>Attachment D</u>	IMMI 12/127 – Class of Persons

Authorising Officer

Cleared by:

22(1)(a)(ii)

First Assistant Secretary
Refugee, Citizenship and Multicultural Programs Division

Date: 12/12/2018

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

Contact Officer: 22(1)(a)(ii), A/g Assistant Secretary Humanitarian Program Capabilities Branch, s. 22(1)(a)(ii)

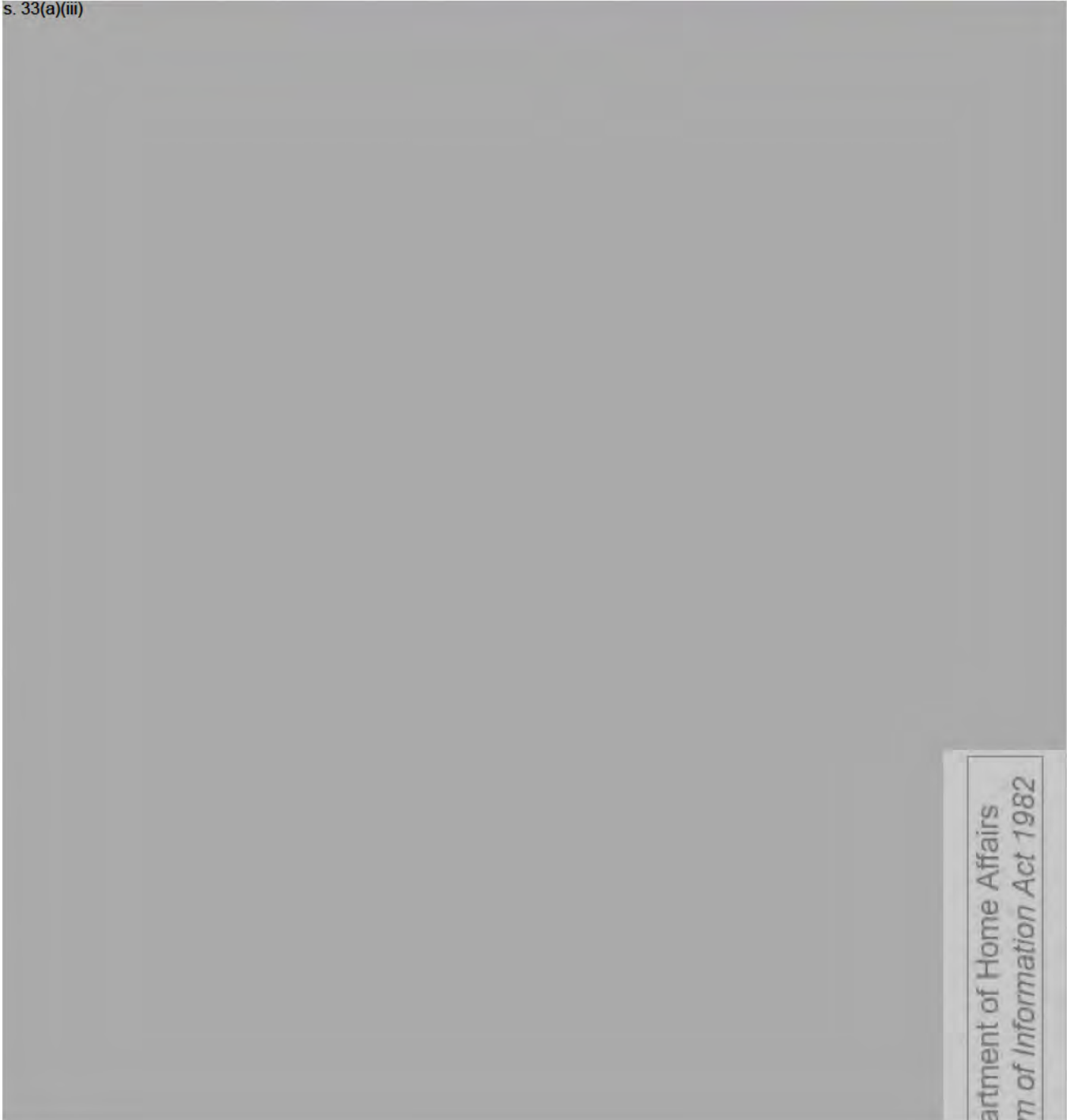
CC Secretary
Deputy Secretary, Immigration and Citizenship Services Group
First Assistant Secretary, Immigration, Citizenship and Multiculturalism Policy Division
First Assistant Secretary, International Policy Division
Assistant Secretary, Migration Policy Branch
Assistant Secretary, Compliance & Community Protection Policy Branch
Assistant Secretary, Humanitarian Program Operations Branch
Assistant Secretary, Americas, Europe, Middle East and Africa Branch



Australian Government
Department of Home Affairs

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s. 33(a)(iii)



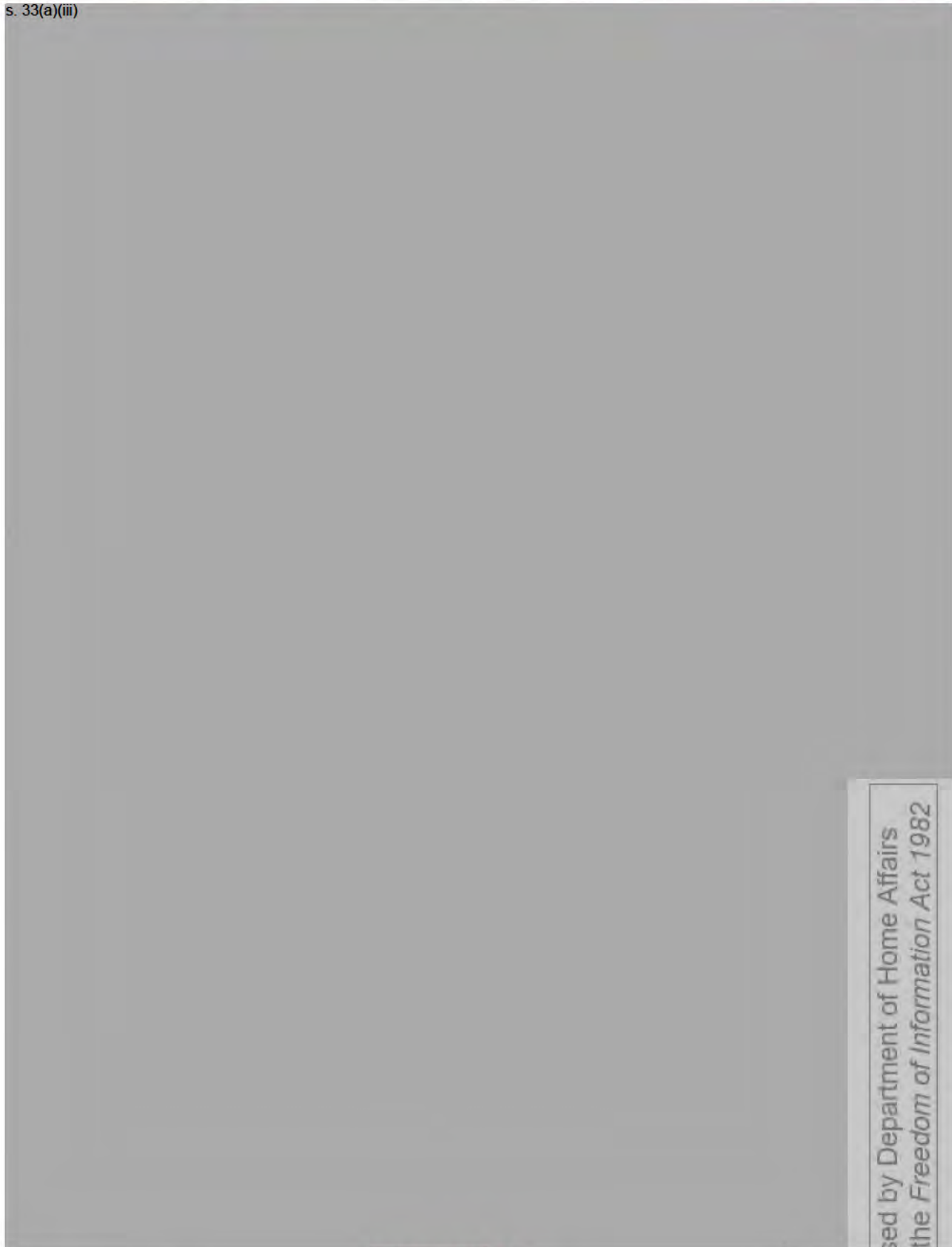
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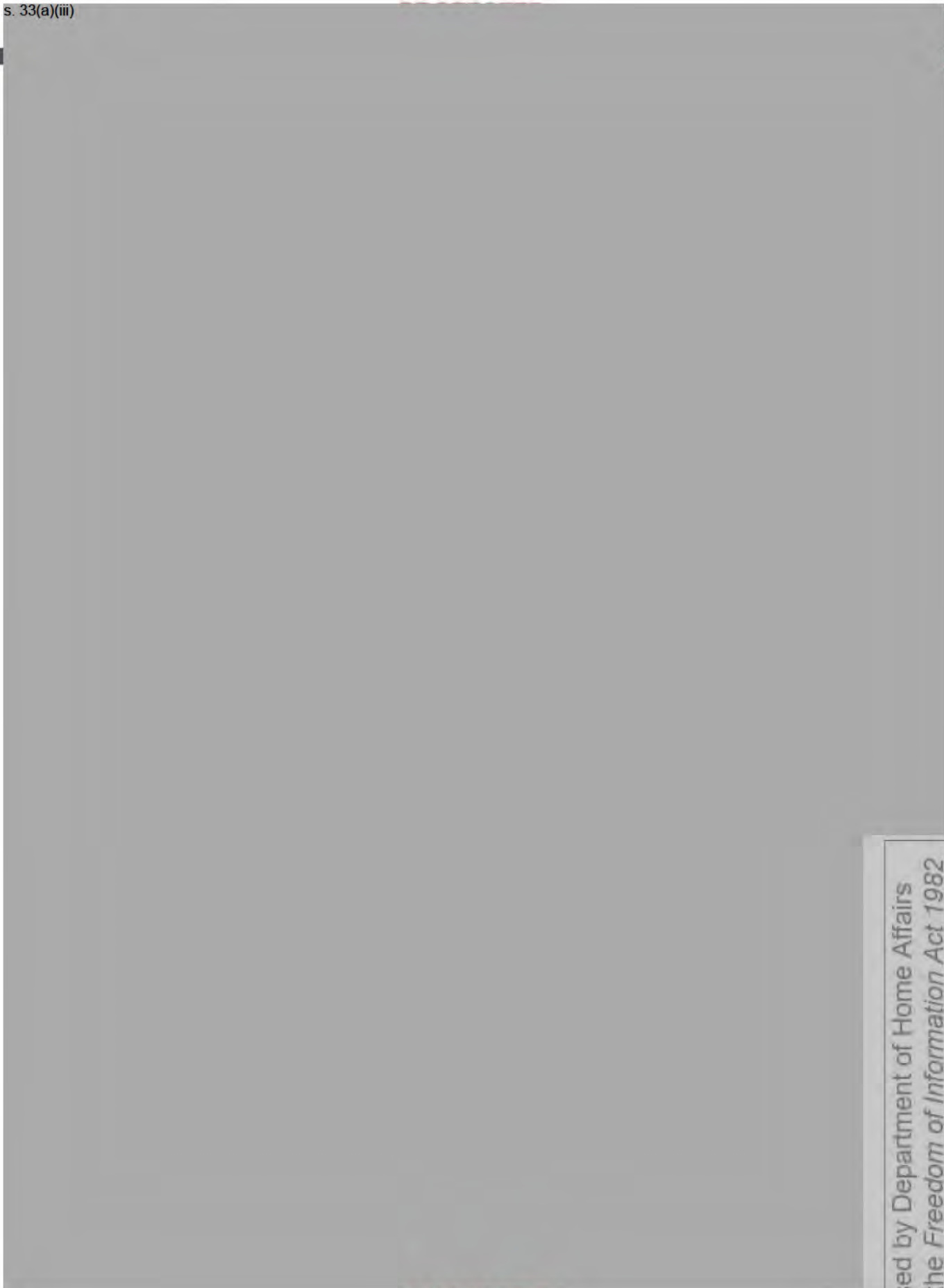
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Legislative requirements for Class XA humanitarian visas

Onshore Humanitarian Programme (Class XA)

1. The onshore applicants included in this submission have lodged valid Class XA Permanent Protection (subclass 866) visa (PPV) applications. All applicants with protection claims have been interviewed by protection officers in Australia.
2. In order for these applicants to be eligible for the grant of a PPV, the following criteria must be met:
 - they are in Australia; and
 - they are found to engage Australia's protection obligations; or
 - they are members of the same family unit of a non-citizen who engages protection obligations and holds a PV of the same class applied for by the applicant; and
 - they satisfy all other criteria in the relevant provisions in the *Migration Act 1958* (the Act) and the *Migration Regulations 1994* (the Regulations) (for example, health, character and security requirements).
3. The key criterion to be satisfied at time of decision relates to protection obligations. PPV applicants must satisfy either:
 - clause 866.221(2) of the Regulations - which requires the decision maker to be satisfied that the applicant meets the criterion in s36(2)(a) of the Act (relating to Australia's protection obligations under the statutory definition of a **refugee**) or s36(2)(aa) of the Act (relating to Australia's **complementary protection** obligations), or
 - clause 866.221(3) of the Regulations - which requires the decision maker to be satisfied that the applicant is a **member of the same family unit** of another applicant who satisfies 866.221(2) and has been granted a subclass 866 (Protection) visa.

Australia's protection obligations under the statutory definition of a refugee (s36(2)(a) of the Act)

4. To be a refugee in Australia, a protection visa applicant must be assessed as meeting certain legal criteria. The meaning of a 'refugee' in the Act is a person in Australia who is:
 - outside their country of nationality or former habitual residence (their home country) and
 - owing to a 'well-founded fear of persecution', is unable or unwilling to seek the protection of that country.
5. The Act states that a person has a well-founded fear of persecution if:
 - they fear persecution for at least one of five reasons (race, religion, nationality, membership of a particular social group, political opinion) in the Act; and

- there is a real chance that, if the person returns to their home country, they would be persecuted for one or more of those reasons; and
- the real chance of persecution relates to all areas of their home country (if they can safely relocate to another area there is not a real chance of persecution); and
- at least one of the five reasons must be the essential and significant reason for the persecution (the intent behind the act of persecution must be for one of the five reasons); and
- the persecution must involve both 'serious harm' to the person and 'systematic and discriminatory conduct'.

Australia's complementary protection obligations (s36(2)(aa) of the Act)

6. Complementary protection is protection for those who are not refugees according to the Act, but who cannot return to their home country because they will suffer certain types of harm which engage Australia's other protection obligations. These obligations come from the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Covenant on Civil and Political Rights (ICCPR).
7. A person can be granted a protection visa on the basis of complementary protection if there are substantial grounds for believing that there is a real risk the person will suffer 'significant harm' if they were removed from Australia to their home country.
8. Significant harm is different to serious harm. It is defined as:
 - arbitrary deprivation of life
 - the death penalty
 - torture
 - cruel or inhuman treatment or punishment, or
 - degrading treatment or punishment.
9. It is not considered to be a real risk that a person will suffer significant harm if:
 - it would be reasonable for them to relocate to an area of the country where there would not be a real risk that they will suffer significant harm
 - they could obtain protection from the authority of the country so that there would not be a real risk that they will suffer significant harm, or
 - the real risk is one faced by the population of the country generally and is not faced by them personally.

Legislative requirements for Class XB humanitarian visas

Offshore Humanitarian Programme (Class XB – subclasses 200; 201; 202; 203; 204)

1. The offshore applicants included in this submission have lodged valid Class XB visa applications, are currently in South Africa (their claimed home country) and have been interviewed by departmental officers at the Department's offshore posts.
2. A number of the offshore humanitarian applicants included in this submission have lodged applications with the Sydney Special Humanitarian Processing Centre with a proposal from an Australian citizen/permanent resident. These applicants however, will not be eligible for the Global Special Humanitarian visa (Subclass 202) as they are not outside their home country (202.211(1)(a)). Given their location in their home country, the In-Country Special Humanitarian (subclass 201) visa would be the only relevant offshore humanitarian visa subclass available.
3. In order for these applicants to be eligible for a subclass 201- In-country Special Humanitarian visa the following criteria must be met:
 - they are outside Australia; and
 - they are persecuted in their home country; and
 - they satisfy all of the other criteria in the relevant provisions in the Act and Regulations (for example, health, character and security requirements).
4. Clause 201.222, of the *Migration Regulations* requires the decision maker to be satisfied that there are "compelling reasons" at the time of decision. The following four factors (202.222(1)a-d) must be balanced to assess whether the applicant meets this criterion:
 - **Degree:** The degree of persecution (repeated or persistent oppression, injury, maltreatment or harassment)
 - **Extent:** The extent of the applicant's connection to Australia
 - **Availability:** Whether there is another suitable country that can provide for the applicant
 - **Capacity:** Australia's capacity to provide for the applicant.
5. Deciding whether an applicant 'is subject to' persecution requires an assessment of the available evidence as to whether the applicant is open to, or exposed to, or under the domination of, persecutory acts in their home country.
6. When assessing claims of persecution, the following needs to be taken into account:
 - specific threats to the applicant's life, liberty or security
 - continued or periodic harassment, detention or arrest
 - exile from the home country or to a remote area within that country

- arbitrary arrest, detention or exile (except during emergencies if such measures may be considered necessary to safeguard the safety and rights of others and to maintain order)
 - torture or cruel, inhuman or degrading treatment
 - slavery or servitude without compensation
 - confiscation of property or assets without compensation
 - indoctrination or re-education.
7. Generalised violence that is not targeted at an individual or defined group is not considered to be persecution.



Commonwealth of Australia

Migration Regulations 1994

CLASS OF PERSONS

(Paragraphs 200.211(1A)(a) and 201.211(1A)(a))

I, *CHRIS BOWEN*, Minister for Immigration and Citizenship, acting under paragraphs 200.211(1A)(a) and 201.211(1A)(a) of Schedule 2 to the *Migration Regulations 1994* ('the Regulations'), having consulted as required under subclauses 200.211(1B) and 201.211(1B):

1. REVOKE Instrument Number IMMI 09/027 signed on 8 May 2009, specifying classes of persons for paragraphs 200.211(1A)(a) and 201.211(1A)(a) of Schedule 2 to the Regulations; AND
 2. SPECIFY all non-citizens who have been assessed to be at significant risk of harm as a result of their employment with:
 - (a) the Department of Foreign Affairs and Trade (DFAT) in the Australian Embassy in Baghdad in Iraq since 1 May 2003; or
 - (b) between 17 March 2003 and 15 May 2009:
 - (i) were employed in a private civilian capacity by the Australian Defence Force (ADF) in Iraq; or
 - (ii) were employed or worked collaboratively in a private civilian capacity with the Australian Defence Force in Iraq with the:
 - (i) Overwatch Battle Group (West); or
 - (ii) Australian Army Training Teamand who have:
 - (iii) ceased employment with, or who have ceased working collaboratively with, the Australian Defence Force; and
 - (iv) sought certification from the Minister of Defence on or before 15 May 2009; and
 - (v) who have applied for a class XB (Refugee and Humanitarian) visa on or before 31 December 2009; or who
 - (c) any time after 15 May 2009 have been employed in a private civilian capacity in the Australian Defence Force in Iraq
- as a class of persons for the purposes of subclauses 200.211(1A) and 201.211(1A).

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3. SPECIFY that for the purpose of subclauses 200.211(1A) and 201.211(1A) a class of persons are all non-citizens employed with the Department of Foreign Affairs and Trade (DFAT), the Australian Defence Force (ADF), the Australian Agency for International Development (AusAID) or the Australian Federal Police (AFP):
- (a) who have been assessed as being at significant individual risk of harm as a result of their support to Australia's whole of Government mission in Afghanistan due to their role, location, employment period and currency of employment; including:
 - (i) interpreters in Uruzgan Province in positions funded by DFAT; or
 - (ii) interpreters or instructors employed with the ADF or AFP; or
 - (iii) project, facilities management and advisory staff in the Provincial Reconstruction Team in Uruzgan on behalf of AusAID and/or DFAT; or
 - (iv) a person who is able to satisfy the relevant agency Minister that exceptional circumstances exist for that Minister to certify that the non-citizen is in that class of persons; and
 - (b) are not, or were not, an Afghan government or military official or employed in a private security capacity; and
 - (c) are not nationals or citizens of another country other than Afghanistan; and
4. A class of persons under paragraph 3 must have sought to be certified by the relevant agency Minister under paragraph 200.211(1A)(b) or 201.211(1A)(b):
- (i) within six months of ceasing employment; or
 - (ii) in the case of a locally engaged employee who has ceased employment on or after 1 January 2012, before 30 June 2013; or
 - (iii) where the relevant agency Minister is satisfied that exceptional circumstances exist – at any time.

This instrument, IMMI 12/127, commences on 1 January 2013.

Dated 14 December 2012

CHRIS BOWEN
Minister for Immigration and Citizenship