Part 7AA—Fast track review process in relation to certain protection visa decisions

Division 1—Introduction

473BA Simplified outline of this Part

This Part provides a limited form of review of certain decisions (fast track decisions) to refuse protection visas to some applicants, including unauthorised maritime arrivals who entered Australia on or after 13 August 2012, but before 1 January 2014, and who have not been taken to a regional processing country. These applicants are known as fast track review applicants and decisions to refuse to grant them protection visas are known as fast track reviewable decisions.

Fast track decisions made in relation to some applicants are excluded from the fast track review process. These applicants are known as excluded fast track review applicants.

Fast track review applicants and excluded fast track review applicants are collectively known as fast track applicants.

Fast track reviewable decisions must be referred by the Minister to the Immigration Assessment Authority as soon as reasonably practicable after a decision is made. A person cannot make an application for review directly to the Immigration Assessment Authority.

Decisions to refuse to grant protection visas to fast track applicants are generally not otherwise reviewable under this Act, although some decisions are reviewable by the Administrative Appeals Tribunal.
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The Immigration Assessment Authority consists of the President of the Administrative Appeals Tribunal, the head of the Migration and Refugee Division of the Tribunal, the Senior Reviewer and other Reviewers. The President and that Division head are responsible for the overall administration and operation of the Immigration Assessment Authority. The Senior Reviewer is appointed by the President or that Division head. The Senior Reviewers and other Reviewers are engaged under the Public Service Act 1999.

In reviewing fast track reviewable decisions, the Immigration Assessment Authority is required to pursue the objective of providing a mechanism of limited review that is efficient, quick, free of bias and consistent with Division 3 (conduct of review).

The Immigration Assessment Authority does not hold hearings and is required to review decisions on the papers that are provided to it when decisions are referred to it. However, in exceptional circumstances the Immigration Assessment Authority may consider new material and may invite referred applicants to provide, or comment on, new information at an interview or in writing.

The Immigration Assessment Authority may affirm a referred decision or may remit the decision for reconsideration in accordance with directions.

The Immigration Assessment Authority may give directions restricting the disclosure of information. There are also specific requirements for the giving and receiving of documents.

473BB Definitions

In this Part:

Division head means the head of the Migration and Refugee Division of the Tribunal.

fast track reviewable decision means:
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(a) a fast track decision in relation to a fast track review applicant; or
(b) a fast track decision determined under section 473BC;
but does not include a fast track decision in relation to which the Minister has issued a conclusive certificate under section 473BD.

Note:  *Fast track decisions* are decisions (subject to some exceptions) to refuse to grant protection visas to certain applicants, known as *fast track applicants*. Some specified fast track applicants are known as *excluded fast track review applicants*; all others are known as *fast track review applicants*. The highlighted terms are defined in subsection 5(1).

*New information* has the meaning given by subsection 473DC(1).

*President* means the President of the Tribunal.

*Referred applicant* means an applicant for a protection visa in respect of whom a fast track reviewable decision is referred under section 473CA.

*Reviewer* means a Reviewer engaged in accordance with Division 8, and includes the Senior Reviewer.

*Review material* has the meaning given by section 473CB.

*Senior Reviewer* means the Senior Reviewer appointed under section 473JC.

Note:  “Tribunal” means the Administrative Appeals Tribunal. See the definition in subsection 5(1).

### 473BC Minister may determine that certain decisions are to be reviewed under this Part

The Minister may, by legislative instrument, determine that a specified fast track decision, or a specified class of fast track decisions, in relation to an excluded fast track review applicant should be reviewed under this Part.

Note 1:  *Excluded fast track review applicant* and *fast track decision* are defined in subsection 5(1).
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Note 2: If the Minister makes a determination, the fast track decision is a fast track reviewable decision (see paragraph (b) of the definition of fast track reviewable decision in section 473BB).

473BD Minister may issue conclusive certificate in relation to certain decisions

The Minister may issue a conclusive certificate in relation to a fast track decision if the Minister believes that:
(a) it would be contrary to the national interest to change the decision; or
(b) it would be contrary to the national interest for the decision to be reviewed.

Note: If the Minister issues a conclusive certificate, the fast track decision is not a fast track reviewable decision (see definition of fast track reviewable decision in section 473BB).
Division 2—Referral of fast track reviewable decisions to Immigration Assessment Authority

473CA Referral of fast track reviewable decisions

The Minister must refer a fast track reviewable decision to the Immigration Assessment Authority as soon as reasonably practicable after the decision is made.

473CB Material to be provided to Immigration Assessment Authority

(1) The Secretary must give to the Immigration Assessment Authority the following material (review material) in respect of each fast track reviewable decision referred to the Authority under section 473CA:

(a) a statement that:

   (i) sets out the findings of fact made by the person who made the decision; and

   (ii) refers to the evidence on which those findings were based; and

   (iii) gives the reasons for the decision;

(b) material provided by the referred applicant to the person making the decision before the decision was made;

(c) any other material that is in the Secretary’s possession or control and is considered by the Secretary (at the time the decision is referred to the Authority) to be relevant to the review;

(d) the following details:

   (i) the last address for service provided to the Minister by the referred applicant for the purposes of receiving documents;

   (ii) the last residential or business address provided to the Minister by the referred applicant for the purposes of receiving documents;
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(iii) the last fax number, email address or other electronic address provided to the Minister by the referred applicant for the purposes of receiving documents;

(iv) if an address or fax number mentioned in subparagraph (i), (ii) or (iii) has not been provided to the Minister by the referred applicant, or if the Minister reasonably believes that the last such address or number provided to the Minister is no longer correct—such an address or number (if any) that the Minister reasonably believes to be correct at the time the decision is referred to the Authority;

(v) if the referred applicant is a minor—the last address or fax number of a kind mentioned in subparagraph (i), (ii), (iii) or (iv) (if any) for a carer of the minor.

(2) The Secretary must give the review material to the Immigration Assessment Authority at the same time as, or as soon as reasonably practicable after, the decision is referred to the Authority.

473CC  Review of decision

(1) The Immigration Assessment Authority must review a fast track reviewable decision referred to the Authority under section 473CA.

(2) The Immigration Assessment Authority may:
   (a) affirm the fast track reviewable decision; or
   (b) remit the decision for reconsideration in accordance with such directions or recommendations of the Authority as are permitted by regulation.
Division 3—Conduct of review

Subdivision A—Natural justice requirements

473DA Exhaustive statement of natural justice hearing rule

(1) This Division, together with sections 473GA and 473GB, is taken to be an exhaustive statement of the requirements of the natural justice hearing rule in relation to reviews conducted by the Immigration Assessment Authority.

(2) To avoid doubt, nothing in this Part requires the Immigration Assessment Authority to give to a referred applicant any material that was before the Minister when the Minister made the decision under section 65.

Subdivision B—Review on the papers

473DB Immigration Assessment Authority to review decisions on the papers

(1) Subject to this Part, the Immigration Assessment Authority must review a fast track reviewable decision referred to it under section 473CA by considering the review material provided to the Authority under section 473CB:

(a) without accepting or requesting new information; and

(b) without interviewing the referred applicant.

(2) Subject to this Part, the Immigration Assessment Authority may make a decision on a fast track reviewable decision at any time after the decision has been referred to the Authority.

Note: Some decisions to refuse to grant a protection visa to fast track applicants are not reviewable by the Immigration Assessment Authority (see paragraphs (e) and (b) of the definition of fast track decision in subsection 5(1)).
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Subdivision C—Additional information

473DC Getting new information

(1) Subject to this Part, the Immigration Assessment Authority may, in relation to a fast track decision, get any documents or information (new information) that:
   (a) were not before the Minister when the Minister made the decision under section 65; and
   (b) the Authority considers may be relevant.

(2) The Immigration Assessment Authority does not have a duty to get, request or accept, any new information whether the Authority is requested to do so by a referred applicant or by any other person, or in any other circumstances.

(3) Without limiting subsection (1), the Immigration Assessment Authority may invite a person, orally or in writing, to give new information:
   (a) in writing; or
   (b) at an interview, whether conducted in person, by telephone or in any other way.

473DD Considering new information in exceptional circumstances

For the purposes of making a decision in relation to a fast track reviewable decision, the Immigration Assessment Authority must not consider any new information unless:

(a) the Authority is satisfied that there are exceptional circumstances to justify considering the new information; and

(b) the referred applicant satisfies the Authority that, in relation to any new information given, or proposed to be given, to the Authority by the referred applicant, the new information:
   (i) was not, and could not have been, provided to the Minister before the Minister made the decision under section 65; or
(ii) is credible personal information which was not previously known and, had it been known, may have affected the consideration of the referred applicant's claims.

473DE Certain new information must be given to referred applicant

(1) The Immigration Assessment Authority must, in relation to a fast track reviewable decision:
   (a) give to the referred applicant particulars of any new information, but only if the new information:
       (i) has been, or is to be, considered by the Authority under section 473DD; and
       (ii) would be the reason, or a part of the reason, for affirming the fast track reviewable decision; and
   (b) explain to the referred applicant why the new information is relevant to the review; and
   (c) invite the referred applicant, orally or in writing, to give comments on the new information:
       (i) in writing; or
       (ii) at an interview, whether conducted in person, by telephone or in any other way.

(2) The Immigration Assessment Authority may give the particulars mentioned in paragraph (1)(a) in the way that the Authority thinks appropriate in the circumstances.

(3) Subsection (1) does not apply to new information that:
   (a) is not specifically about the referred applicant and is just about a class of persons of which the referred applicant is a member; or
   (b) is non-disclosable information; or
   (c) is prescribed by regulation for the purposes of this paragraph.

Note: Under subsection 473DA(2) the Immigration Assessment Authority is not required to give to a referred applicant any material that was before the Minister when the Minister made the decision under section 65.
Section 473DF

473DF Invitation to give new information or comments in writing or at interview

(1) This section applies if a referred applicant is:
   (a) invited under section 473DC to give new information in writing or at an interview; or
   (b) invited under section 473DE to give comments on new information in writing or at an interview.

(2) The information or comments are to be given within a period that is prescribed by regulation and specified in the invitation.

(3) The Immigration Assessment Authority may determine the manner in which, and the place and time at which, an interview is to be conducted.

(4) If the referred applicant does not give the new information or comments in accordance with the invitation, the Immigration Assessment Authority may make a decision on the review:
   (a) without taking any further action to get the information or the referred applicant's comments on the information; or
   (b) without taking any further action to allow or enable the referred applicant to take part in a further interview.
Division 4—Decisions of Immigration Assessment Authority

473EA Immigration Assessment Authority's decision and written statement

Written statement of decision

(1) If the Immigration Assessment Authority makes a decision on a review under this Part, the Authority must make a written statement that:
   (a) sets out the decision of the Authority on the review; and
   (b) sets out the reasons for the decision; and
   (c) records the day and time the statement is made.

How and when written decisions are taken to be made

(2) A decision on a review is taken to have been made:
   (a) by the making of the written statement; and
   (b) on the day, and at the time, the written statement is made.

(3) The Immigration Assessment Authority has no power to vary or revoke a decision to which subsection (2) applies after the day and time the written statement is made.

Return of documents etc.

(4) After the Immigration Assessment Authority makes the written statement, the Authority must:
   (a) return to the Secretary any document that the Secretary has provided in relation to the review; and
   (b) give the Secretary a copy of any other document that contains evidence or material on which the findings of fact were based.
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Validity etc. not affected by procedural irregularities

(5) The validity of a decision on a review, and the operation of subsection (3), are not affected by:
(a) a failure to record, under paragraph (1)(c), the day and time when the written statement was made; or
(b) a failure to comply with subsection (4).

473EB Notification of Immigration Assessment Authority’s decision

(1) The Immigration Assessment Authority must notify the referred applicant of a decision on a review by giving the referred applicant a copy of the written statement prepared under subsection 473EA(1). The copy must be given to the applicant:
(a) within 14 days after the day on which the decision is taken to have been made; and
(b) by one of the methods specified in section 473HB.

(2) A copy of that statement must also be given to the Secretary:
(a) within 14 days after the day on which the decision is taken to have been made; and
(b) by one of the methods specified in section 473HC.

(3) A failure to comply with this section in relation to a decision on a review does not affect the validity of the decision.

473EC Certain decisions of the Immigration Assessment Authority to be published

(1) Subject to subsection (2), and to any direction under section 473GD, the Immigration Assessment Authority may publish any statements prepared under subsection 473EA(1) that the President thinks are of particular interest.

(2) The Immigration Assessment Authority must not publish any statement which may identify a referred applicant or any relative or other dependent of a referred applicant.
Note: Section 5G may be relevant for determining relationships for the purposes of subsection (2).
Division 5—Exercise of powers and functions by Immigration Assessment Authority

473FA How Immigration Assessment Authority is to exercise its functions

(1) The Immigration Assessment Authority, in carrying out its functions under this Act, is to pursue the objective of providing a mechanism of limited review that is efficient, quick, free of bias and consistent with Division 3 (conduct of review).

Note: Under section 473DB the Immigration Assessment Authority is generally required to undertake a review on the papers.

(2) The Immigration Assessment Authority, in reviewing a decision, is not bound by technicalities, legal forms or rules of evidence.

473FB Practice directions

(1) The President may, in writing, issue directions, not inconsistent with this Act or the regulations as to:
   (a) the operations of the Immigration Assessment Authority; and
   (b) the conduct of reviews by the Authority.

(2) Without limiting subsection (1), the directions may:
   (a) relate to the application of efficient processing practices in the conduct of reviews by the Immigration Assessment Authority; or
   (b) set out procedures to be followed by persons giving new information to the Authority in writing or at interview.

(3) The Immigration Assessment Authority must, as far as practicable, comply with the directions. However, non-compliance with any direction does not mean that the Authority’s decision on a review is an invalid decision.
(4) If the Immigration Assessment Authority deals with a review of a decision in a way that complies with the directions, the Authority is not required to take any other action in dealing with the review.

(5) The Immigration Assessment Authority is not required to accept new information or documents from a person, or to hear or continue to hear a person at an interview, if the person fails to comply with a relevant direction that applies to the person.

473FC Guidance decisions

(1) The President may, in writing, direct that a decision (the guidance decision) of the Tribunal, the Immigration Assessment Authority or the former Refugee Review Tribunal specified in the direction is to be complied with by the Authority in reaching a decision on a review of a fast track reviewable decision of a kind specified in the direction.

(2) In reaching a decision on a review of a decision of that kind, the Immigration Assessment Authority must comply with the guidance decision unless the Authority is satisfied that the facts or circumstances of the decision under review are clearly distinguishable from the facts or circumstances of the guidance decision.

(3) However, non-compliance by the Immigration Assessment Authority with a guidance decision does not mean that the Authority’s decision on a review is an invalid decision.
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Division 6 Disclosure of information

Section 473GA

Division 6—Disclosure of information

473GA Restrictions on disclosure of certain information etc.

(1) Despite anything else in this Act, the Secretary must not give to the Immigration Assessment Authority a document, or information, if the Minister certifies, under subsection (2), that the disclosure of any matter contained in the document, or the disclosure of the information, would be contrary to the public interest:

(a) because it would prejudice the security, defence or international relations of Australia; or

(b) because it would involve the disclosure of deliberations or decisions of the Cabinet or of a committee of the Cabinet.

(2) The Minister may issue a written certificate for the purposes of subsection (1).

473GB Immigration Assessment Authority’s discretion in relation to disclosure of certain information etc.

(1) This section applies to a document or information if:

(a) the Minister has certified, under subsection (5), that the disclosure of any matter contained in the document, or the disclosure of the information, would be contrary to the public interest for any reason specified in the certificate (other than a reason set out in paragraph 473GA(1)(a) or (b)) that could form the basis for a claim by the Crown in right of the Commonwealth in a judicial proceeding that the matter contained in the document, or the information, should not be disclosed; or

(b) the document, the matter contained in the document, or the information was given to the Minister, or to an officer of the Department, in confidence.

(2) If, in compliance with a requirement of or under this Act, the Secretary gives to the Immigration Assessment Authority a
document or information to which this section applies, the
Secretary:
(a) must notify the Authority in writing that this section applies
in relation to the document or information; and
(b) may give the Authority any written advice that the Secretary
thinks relevant about the significance of the document or
information.

(3) If the Immigration Assessment Authority is given a document or
information and is notified that this section applies in relation to it,
the Authority:
(a) may, for the purpose of the exercise of its powers in relation
to a fast track reviewable decision in respect of a referred
applicant, have regard to any matter contained in the
document, or to the information; and
(b) may, if the Authority thinks it appropriate to do so having
regard to any advice given by the Secretary under
subsection (2), disclose any matter contained in the
document, or the information, to the referred applicant.

(4) If the Immigration Assessment Authority discloses any matter to
the referred applicant under subsection (3), the Authority must give
a direction under section 473GD in relation to the information.

(5) The Minister may issue a written certificate for the purposes of
subsection (1).

473GC Disclosure of confidential information

(1) This section applies to a person who is or has been:
(a) a Reviewer; or
(b) a person acting as a Reviewer; or
(c) a person mentioned in subsection 473JE(2) who is assisting
the Immigration Assessment Authority; or
(d) a person providing interpreting services in connection with a
review by the Authority.
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(2) This section applies to information or a document if the information or document concerns a person and is obtained by a person to whom this section applies in the course of performing functions or duties or exercising powers under this Act.

(3) A person to whom this section applies must not:
   (a) make a record of any information to which this section applies; or
   (b) divulge or communicate to any person any information to which this section applies;
   unless the record is made or the information is divulged or communicated:
   (c) for the purposes of this Act; or
   (d) for the purposes of, or in connection with, the performance of a function or duty or the exercise of a power under this Act.

Penalty: Imprisonment for 2 years.

(4) Subsection (3) applies to the divulging or communication of information whether directly or indirectly.

(5) A person to whom this section applies must not be required to produce any document, or to divulge or communicate any information, to which this section applies to or in:
   (a) a court; or
   (b) a tribunal; or
   (c) a House of the Parliament of the Commonwealth, of a State or of a Territory; or
   (d) a committee of a House, or the Houses, of the Parliament of the Commonwealth, of a State or of a Territory; or
   (e) any other authority or person having power to require the production of documents or the answering of questions;
   except where it is necessary to do so for the purposes of carrying into effect the provisions of this Act.

(6) Nothing in this section affects a right that a person has under the Freedom of Information Act 1982.

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(7) For the purposes of this section, a person who is providing interpreting services in connection with a review by the Immigration Assessment Authority is taken to be performing a function under this Act.

(8) In this section:

*produce* includes permit access to.

473GD Immigration Assessment Authority may restrict publication or disclosure of certain matters

(1) If the President is satisfied, in relation to a review, that it is in the public interest that:

(a) any information given to the Immigration Assessment Authority; or

(b) the contents of any document produced to the Authority; should not be published or otherwise disclosed, or should not be published or otherwise disclosed except in a particular manner and to particular persons, the President may give a written direction accordingly.

(2) A direction under subsection (1):

(a) must be in writing; and

(b) must be notified in a way that the President considers appropriate.

(3) If the President has given a direction under subsection (1) in relation to the publication of any information or of the contents of a document, the direction does not:

(a) excuse the Immigration Assessment Authority from its obligations under section 473EA; or

(b) prevent a person from communicating to another person a matter contained in the evidence, information or document, if the first-mentioned person has knowledge of the matter otherwise than because of the evidence or the information having been given or the document having been produced to the Authority.
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(4) A person must not contravene a direction given under subsection (1) that is applicable to the person

Penalty: Imprisonment for 2 years.
Division 7—Giving and receiving review documents etc.

473HA Giving documents by Immigration Assessment Authority where no requirement to do so by section 473HB or 473HC method

(1) If:
   (a) a provision of this Act or the regulations requires or permits the Immigration Assessment Authority to give a document to a person; and
   (b) the provision does not state that the document must be given:
      (i) by one of the methods specified in section 473HB or 473HC; or
      (ii) by a method prescribed for the purposes of giving documents to a person in immigration detention;
   the Authority may give the document to the person by any method that it considers appropriate (which may be one of the methods mentioned in subparagraph (b)(i) or (ii) of this section).

Note: Under section 473HG a referred applicant may give the Immigration Assessment Authority the name of an authorised recipient who is to receive documents on the referred applicant’s behalf.

(2) If a person is a minor, the Immigration Assessment Authority may give a document to an individual who is at least 18 years of age if the Authority reasonably believes that:
   (a) the individual has day-to-day care and responsibility for the minor; or
   (b) the individual works in or for an organisation that has day-to-day care and responsibility for the minor and the individual’s duties, whether alone or jointly with another person, involve care and responsibility for the minor.

(3) If the Immigration Assessment Authority gives a document to an individual, as mentioned in subsection (2), the Authority is taken to have given the document to the minor. However, this does not prevent the Authority giving the minor a copy of the document.
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Section 473HB

473HB Methods by which Immigration Assessment Authority gives documents to a person other than the Secretary

Coverage of section

(1) For the purposes of provisions of this Part or the regulations that:
   (a) require or permit the Immigration Assessment Authority to give a document to a person (the recipient); and
   (b) state that the Authority must do so by one of the methods specified in this section;
   the methods are as follows.

(2) If the recipient is a minor, the Immigration Assessment Authority may use the methods mentioned in subsections (5) and (6) to dispatch or transmit, as the case may be, a document to an individual (a carer of the minor):
   (a) who is at least 18 years of age; and
   (b) who the Authority reasonably believes:
      (i) has day-to-day care and responsibility for the minor; or
      (ii) works in or for an organisation that has day-to-day care and responsibility for the minor and whose duties, whether alone or jointly with another person, involve care and responsibility for the minor.

Note: If the Immigration Assessment Authority gives an individual a document by the method mentioned in subsection (5) or (6), the individual is taken to have received the document at the time specified in section 473HD in respect of that method.

Giving by hand

(3) One method consists of a Reviewer, a person authorised in writing by the Senior Reviewer, or a person mentioned in subsection 473JE(2), handing the document to the recipient.
Handing to a person at last residential or business address

(4) Another method consists of a Reviewer, a person authorised in writing by the Senior Reviewer, or a person mentioned in subsection 473JE(2), handing the document to another person who:

(a) is at the last residential or business address of the recipient provided to the Immigration Assessment Authority in connection with the review; and

(b) appears to live there (in the case of a residential address) or work there (in the case of a business address); and

(c) appears to be at least 16 years of age.

Dispatch by prepaid post or by other prepaid means

(5) Another method consists of a Reviewer or a person mentioned in subsection 473JE(2) dating the document, and then dispatching it:

(a) within 3 working days (in the place of dispatch) of the date of the document; and

(b) by prepaid post or by other prepaid means; and

(c) to:

(i) the last address for service of the recipient provided to the Immigration Assessment Authority in connection with the review; or

(ii) the last residential or business address of the recipient provided to the Authority in connection with the review; or

(iii) if the recipient is a minor—the last address for a carer of the minor provided to the Authority.

Transmission by fax, email or other electronic means

(6) Another method consists of a Reviewer or a person mentioned in subsection 473JE(2), transmitting the document by:

(a) fax; or

(b) email; or

(c) other electronic means;

to:
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(d) the last fax number, email address or other electronic address, as the case may be, of the recipient provided to the Immigration Assessment Authority; or
(e) if the recipient is a minor—the last fax number, email address or other electronic address, as the case may be, for a carer of the minor that is provided to the Authority.

Documents given to a carer

(7) If the Immigration Assessment Authority gives a document to a carer of a minor, the Authority is taken to have given the document to the minor. However, this does not prevent the Authority giving the minor a copy of the document.

473HC Methods by which Immigration Assessment Authority gives documents to the Secretary

Coverage of section

(1) For the purposes of provisions of this Part or the regulations that:
(a) require or permit the Immigration Assessment Authority to give a document to the Secretary; and
(b) state that the Authority must do so by one of the methods specified in this section;
the methods are as follows.

Giving by hand

(2) One method consists of a Reviewer, a person authorised in writing by the Senior Reviewer or a person mentioned in subsection 473JE(2), handing the document to the Secretary or to an authorised officer.

Dispatch by post or by other means

(3) Another method consists of a Reviewer or a person mentioned in subsection 473JE(2), dating the document, and then dispatching it:
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(a) within 3 working days (in the place of dispatch) of the date of the document; and
(b) by post or by other means; and
(c) to an address, notified to the Immigration Assessment Authority in writing by the Secretary, to which such documents can be dispatched.

Transmission by fax, e-mail or other electronic means

(4) Another method consists of a Reviewer or a person mentioned in subsection 473JE(2), transmitting the document by:
(a) fax; or
(b) email; or
(c) other electronic means;
to the last fax number, email address or other electronic address notified to the Authority in writing by the Secretary for the purpose.

473HD When a person other than the Secretary is taken to have received a document from the Immigration Assessment Authority

(1) This section applies if the Immigration Assessment Authority gives a document to a person other than the Secretary by one of the methods specified in section 473HB (including in a case covered by section 473HA).

Giving by hand

(2) If the Immigration Assessment Authority gives a document to a person by the method in subsection 473HB(3) (which involves handing the document to the person), the person is taken to have received the document when it is handed to the person.

Handing to a person at last residential or business address

(3) If the Immigration Assessment Authority gives a document to a person by the method in subsection 473HB(4) (which involves
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handing the document to another person at a residential or business address), the person is taken to have received the document when it is handed to the other person.

Dispatch by prepaid post or by other prepaid means

(4) If the Immigration Assessment Authority gives a document to a person by the method in subsection 473HB(5) (which involves dispatching the document by prepaid post or by other prepaid means), the person is taken to have received the document 7 working days (in the place of that address) after the date of the document.

Transmission by fax, email or other electronic means

(5) If the Immigration Assessment Authority gives a document to a person by the method in subsection 473HB(6) (which involves transmitting the document by fax, email or other electronic means), the person is taken to have received the document at the end of the day on which the document is transmitted.


Document not given effectively

(7) If:

(a) the Immigration Assessment Authority purports to give a document to a person in accordance with a method specified in section 473HB (including in a case covered by section 473HA) but makes an error in doing so; and

(b) the person nonetheless receives the document or a copy of it; then the person is taken to have received the document at the times mentioned in this section as if the Authority had given the document to the person without making an error in doing so, unless the person can show that he or she received it at a later time, in which case, the person is taken to have received it at that time.
473HE When the Secretary is taken to have received a document from the Immigration Assessment Authority

(1) This section applies if the Immigration Assessment Authority gives a document to the Secretary by one of the methods specified in section 473HC (including in a case covered by section 473HA).

Giving by hand

(2) If the Immigration Assessment Authority gives a document to the Secretary by the method in subsection 473HC(2) (which involves handing the document to the Secretary or to an authorised officer), the Secretary is taken to have received the document when it is handed to the Secretary or to the authorised officer.

Dispatch by post or by other means

(3) If the Immigration Assessment Authority gives a document to the Secretary by the method in subsection 473HC(3) (which involves dispatching the document by post or by other means), the Secretary is taken to have received the document 7 working days (in the place of that address) after the date of the document.

Transmission by fax, email or other electronic means

(4) If the Immigration Assessment Authority gives a document to the Secretary by the method in subsection 473HC(4) (which involves transmitting the document by fax, email or other electronic means), the Secretary is taken to have received the document at the end of the day on which the document is transmitted.

Part 7AA  Fast track review process in relation to certain protection visa decisions
Division 7  Giving and receiving review documents etc.

Section 473HF

473HF Giving documents etc. to the Immigration Assessment Authority

(1) If, in relation to the review of fast track reviewable decision, a person is required or permitted to give a document or thing to the Immigration Assessment Authority, the person must do so:
   (a) by a method set out in directions under section 473FB; or
   (b) if the regulations set out a method for doing so—by that method.

(2) Directions under section 473FB may make provision for a person to give a copy of a document, rather than the document itself, to the Immigration Assessment Authority.

473HG Authorised recipient

(1) If:
   (a) a fast track reviewable decision in respect of a referred applicant is referred for review; and
   (b) the referred applicant gives the Immigration Assessment Authority written notice of the name and address of another person (the authorised recipient) authorised by the referred applicant to receive documents in connection with the review;

the Authority must give the authorised recipient, instead of the referred applicant, any document that it would otherwise have given to the referred applicant.

Note:  If the Immigration Assessment Authority gives a person a document by a method specified in section 473HB, the person is taken to have received the document at the time specified in section 473HD in respect of that method.

(2) If the Immigration Assessment Authority gives a document to the authorised recipient, the Authority is taken to have given the document to the referred applicant. However, this does not prevent the Authority giving the referred applicant a copy of the document.

(3) Subject to subsection (4), the referred applicant may vary or withdraw the notice under paragraph (1)(b) at any time, but must
not (unless the regulations provide otherwise) vary the notice so that any more than one person becomes the referred applicant's authorised recipient.

(4) In addition to the referred applicant being able to vary the notice under paragraph (1)(b) by varying the address of the authorised recipient, that recipient may also vary that notice by varying that address.

(5) This section does not apply to the Immigration Assessment Authority giving documents to, or communicating with, the referred applicant when the referred applicant is appearing at an interview with the Authority.
Part 7AA Fast track review process in relation to certain protection visa decisions

Division 8 The Immigration Assessment Authority

Section 473JA

Division 8—The Immigration Assessment Authority

473JA The Immigration Assessment Authority

(1) The Immigration Assessment Authority is established within the Migration and Refugee Division of the Tribunal.

(2) The Immigration Assessment Authority consists of the following persons:
   (a) the President;
   (aa) the Division head;
   (b) the Senior Reviewer and other Reviewers.

(3) The President, the Division head, the Senior Reviewer and the other Reviewers are to exercise the powers, and perform the functions, of the Immigration Assessment Authority under this Part.

473JB Administrative arrangements

(1) The President and the Division head are responsible for the overall operation and administration of the Immigration Assessment Authority and, for that purpose, either of them may issue directions or determine policies.

(1A) If a power or function is conferred on the President under this Part, the power may be exercised, or the function performed, by either the President or the Division head.

Example: The Division head may exercise the President’s power to make a direction under section 473FC (Guidance decisions).

(2) The Senior Reviewer is to manage the Immigration Assessment Authority subject to the directions of, and in accordance with policies determined by, the President or the Division head.
473JC Appointment of Senior Reviewer

(1) The President must, by written instrument, appoint an SES employee to be the Senior Reviewer.

(2) Before appointing a person as the Senior Reviewer, the President must consult the Minister.

473JD Acting Senior Reviewer

The President may appoint a person to act as the Senior Reviewer:

(a) during a vacancy in the office of Senior Reviewer, whether or not an appointment has previously been made to that office;
or

(b) during any period, or during all periods, when the Senior Reviewer is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office of Senior Reviewer.

473JE Staff

(1) The Senior Reviewer and the other Reviewers are to be persons engaged under the Public Service Act 1999.

(2) The Registrar must make available officers of the Tribunal (within the meaning of the Administrative Appeals Tribunal Act 1975) to assist the Immigration Assessment Authority in the performance of its administrative functions.

473JF Delegation

(1) The President may delegate, in writing, all or any of the President’s powers or functions under this Part to the Senior Reviewer.

(2) In exercising a power under a delegation, the Senior Reviewer must comply with any written directions of the President.
(c) for the Territory of Cocos (Keeling) Islands—12 noon on 17 September 2001 by legal time in the Australian Capital Territory; or

(d) for any other external Territory that is prescribed by the regulations for the purposes of the definition of *excised offshore place*—the time when the regulations commence; or

(e) for any island that forms part of a State or Territory and is prescribed by the regulations for the purposes of the definition of *excised offshore place*—the time when the regulations commence; or

(f) for an Australian sea installation—the commencement of the *Migration Amendment (Excision from Migration Zone) Act 2001*; or

(g) for an Australian resources installation—the commencement of the *Migration Amendment (Excision from Migration Zone) Act 2001*.

*ex-citizen visa* has the meaning given by section 35.

*excluded fast track review applicant* means a fast track applicant:

(a) who, in the opinion of the Minister:

(i) is covered by section 91C or 91N; or

(ii) has previously entered Australia and who, while in Australia, made a claim for protection relying on a criterion mentioned in subsection 36(2) in an application that was refused or withdrawn; or

(iii) has made a claim for protection in a country other than Australia that was refused by that country; or

(iv) has made a claim for protection in a country other than Australia that was refused by the Office of the United Nations High Commissioner for Refugees in that country; or

(vi) without reasonable explanation provides, gives or presents a bogus document to an officer of the Department or to the Minister (or causes such a document to be so provided, given or presented) in support of his or her application; or
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(aa) who makes a claim for protection relying on a criterion mentioned in subsection 36(2) in, or in connection with, his or her application, if, in the opinion of the Minister, the claim is manifestly unfounded because, without limiting what is a manifestly unfounded claim, the claim:

(i) has no plausible or credible basis; or
(ii) if the claim is based on conditions, events or circumstances in a particular country—is not able to be substantiated by any objective evidence; or
(iii) is made for the sole purpose of delaying or frustrating the fast track applicant's removal from Australia; or

(b) who is, or who is included in a class of persons who are, specified by legislative instrument made under paragraph (1AA)(a).

Fair Work Inspector has the same meaning as in the Fair Work Act 2009.

fast track applicant means:

(a) a person:

(i) who is an unauthorised maritime arrival and who entered Australia on or after 13 August 2012, but before 1 January 2014, and who has not been taken to a regional processing country; and
(ii) to whom the Minister has given a written notice under subsection 46A(2) determining that subsection 46A(1) does not apply to an application by the person for a protection visa; and
(iii) who has made a valid application for a protection visa in accordance with the determination; or

(b) a person who is, or who is included in a class of persons who are, specified by legislative instrument made under paragraph (1AA)(b).

Note: Some unauthorised maritime arrivals born in Australia on or after 13 August 2012 may not be fast track applicants even if paragraph (a) applies: see subsection (1AC)
fast track decision means a decision to refuse to grant a protection visa to a fast track applicant, other than a decision to refuse to grant such a visa:

(a) because the Minister or a delegate of the Minister is not satisfied that the applicant passes the character test under section 501; or

(b) relying on:

(i) subsection 5H(2); or

(ii) subsection 36(1B) or (1C); or

(iii) paragraph 36(2C)(a) or (b).

Note: Some decisions made in the circumstances mentioned in paragraph (a), or subparagraph (b)(i) or (iii), of the definition of fast track decision are reviewable by the Administrative Appeals Tribunal in accordance with section 500.

fast track reviewable decision has the meaning given by section 473BB.

fast track review applicant means a fast track applicant who is not an excluded fast track review applicant.

Federal Circuit Court means the Federal Circuit Court of Australia.

Federal Court means the Federal Court of Australia.

finally determined: for when an application under this Act is finally determined, see subsections (9) and (9A).

fisheries detention offence means:

(a) an offence against section 99, 100, 100A, 100B, 101, 101A, 101AA, 101B, 105E, 105EA, 105H or 105I of the Fisheries Management Act 1991; or

(b) an offence against section 45, 46A, 46B, 46C, 46D, 48, 49, 49A, 51 or 51A of the Torres Strait Fisheries Act 1984; or

(c) an offence against section 6 of the Crimes Act 1914 relating to an offence described in paragraph (a) or (b).
Division 4.4—Review of protection visa decisions by the Immigration Assessment Authority

4.41 New information not required to be given to referred applicant

For paragraph 473DF(3)(c) of the Act, new information given to the Immigration Assessment Authority by a referred applicant for the purposes of the Authority’s review of a fast track reviewable decision in relation to the referred applicant is prescribed.

4.42 Periods for giving information or comments

For subsection 473DF(2) of the Act, the period for giving information or comments in response to an invitation given by the Immigration Assessment Authority to a referred applicant is as follows:
(a) for a referred applicant in immigration detention—3 working days after the referred applicant is notified of the invitation; and
(b) in any other case:
   (i) for an oral invitation to give information or comments in writing—7 days after the invitation is given; and
   (ii) for an oral invitation to give information or comments at an interview—14 days after invitation is given; and
   (iii) for a written invitation to give information or comments in writing or at an interview—14 days after the referred applicant is notified of the invitation.

4.43 Permissible directions on remittal

(1) For paragraph 473CC(2)(b) of the Act, this regulation prescribes directions that the Immigration Assessment Authority is permitted to make in relation to the review of a fast track reviewable decision in respect of a protection visa application by a referred applicant.

(2) It is a permissible direction that:
   (a) the referred applicant must be taken to have satisfied the criteria for the visa that are specified in the direction; or
   (b) the referred applicant is a refugee within the meaning of subsection 5H(1) of the Act; or
   (c) subsection 36(3) of the Act does not apply to the referred applicant; or
   (d) the referred applicant satisfies each matter, specified in the direction, that relates to establishing whether the referred applicant is a person to whom Australia has protection obligations because the criterion mentioned in paragraph 36(2)(aa) of the Act is satisfied in relation to the applicant.

(3) However, it is not a permissible direction that:
   (a) subsection 5H(1) of the Act applies to the referred applicant; or
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(b) subsection 5H(1) does not apply to the referred applicant because of subsection 5H(2); or

(c) the referred applicant satisfies, or does not satisfy, the criterion in subsection 36(1C) of the Act; or

(d) the referred applicant satisfies a matter that relates to establishing whether there are serious reasons for considering that:
   (i) the referred applicant has committed a crime against peace, a war crime or a crime against humanity, as defined by an international instrument mentioned in regulation 2.03B; or
   (ii) the referred applicant committed a serious non-political crime before entering Australia; or
   (iii) the referred applicant has been guilty of acts contrary to the purposes and principles of the United Nations; or

(e) the referred applicant satisfies a matter that relates to establishing whether there are reasonable grounds that:
   (i) the referred applicant is a danger to Australia’s security; or
   (ii) the referred applicant, having been convicted by a final judgment of a particularly serious crime, including a crime that consists of the commission of a serious Australian offence or serious foreign offence, is a danger to the Australian community.

(4) It is a permissible direction that the grant of the visa is not prevented by section 91W, 91WA or 91WB of the Act.