



Australian Government
Department of Home Affairs

Submission to the Inquiry into the Migration Amendment (Streamlining Visa Processing) Bill 2018

Senate Legal and Constitutional Affairs Legislation
Committee

Table of Contents

Portfolio submission	3
1. Introduction	3
1.2. Reason for referral	3
2. Home Affairs' submission	3
2.1. Purpose of the Bill	3
2.2. Background of the Bill	4
2.3. The current biometric collection program	4
2.4. The target cohort and exemptions	5
2.5. The impact on privacy	5
3. Conclusion	6

Portfolio submission

1. Introduction

- 1.1.1. The Department of Home Affairs (the Department) welcomes the opportunity to provide a submission to the Senate Legal and Constitutional Affairs Legislation Committee inquiry into the Migration Amendment (Streamlining Visa Processing) Bill 2018 (the Bill) following its introduction into the House of Representatives on 29 November 2018.
- 1.1.2. This submission explains the purpose and the key measures contained in the Bill.

1.2. Reason for referral

- 1.2.1. The Bill was referred to the Legal and Constitutional Affairs Legislation Committee by a motion of the Senate on 6 December 2018.

2. Home Affairs' submission

2.1. Purpose of the Bill

- 2.1.1. The Bill seeks to create a more efficient visa application processing system by streamlining the process by which personal identifiers are required.
- 2.1.2. The Bill enables the Minister to specify groups of visa applicants who must provide one or more specified personal identifiers in order to make a valid visa application. If a person refuses to comply with the requirement to provide the specified personal identifiers, in the specified way, they will not be able to make a valid visa application and cannot be considered for grant of the visa.
- 2.1.3. The proposed amendments do not seek to expand or impact the nature or type of personal identifiers that can be required, or amend the ways those personal identifiers can be collected. Rather it streamlines aspects of the visa application process.
- 2.1.4. The Bill achieves this by amending the existing provisions in s46 of the *Migration Act 1954* (the Migration Act) which relates to the provision of personal identifiers in order for a valid visa application to be made. This provision will require visa applicants to provide the specified personal identifiers, in the manner specified at the time of lodging their visa application, without the need for a request to be made by the Department, in order for that application to be valid.

- 2.1.5. These amendments will not affect the Department's discretion to require personal identifiers from visa applicants at any time after a visa application has been made.

2.2. Background of the Bill

- 2.2.1. The Bill has been developed in response to the Department's aim of automating and streamlining aspects of the visa application process. As the number of visa applications lodged each year continues to grow, more efficient visa processing mechanisms are necessary to ensure that there is no detriment to current visa processing times and ideally achieve improvements.
- 2.2.2. Currently, applicants must first wait to be formally notified by the Department to provide personal identifiers. The Bill removes this step in the process, enabling certain visa applicants to provide their required personal identifiers upfront. This will result in a more efficient, more automated, visa application processing system.
- 2.2.3. The amendments will allow the Department to conduct identity, security, law enforcement and immigration checks immediately following lodgement of a visa application, which will improve the integrity of our visa application process, while reducing the time taken to process visa applications.

2.3. The current biometric collection program

- 2.3.1. The Department's biometric collection program commenced in 2006. The Department collects a facial image and fingerprints from visa applicants. In 2010, the Department initiated its Offshore Biometric Collection Program (OBCP), which collects biometrics from visa applicants in selected countries to keep threats offshore.
- 2.3.2. In 2010, the Department's OBCP was extended to provide the Department with the ability to require any visa applicant to provide personal identifiers *after* a request has been made by the Department (section 257A of the Migration Act refers).
- 2.3.1. This process currently operates in 46 countries. Countries in the OBCP are selected based on a number of factors, including Australia's national security priorities, intelligence, risk assessments and identified fraud risks in visa caseloads.
- 2.3.2. The Bill represents the next phase of the Department's biometric program, and will streamline the process for visa applicants seeking to enter Australia.

2.4. The target cohort and exemptions

- 2.4.1. The visa applicants who will be required to provide specified personal identifiers in order to lodge a valid visa application will be set out in a non-disallowable legislative instrument.
- 2.4.2. At this stage, there are no specific cohorts who are intended to be specified in the legislative instrument. Those cohorts will be determined in line with operational priorities, identifiable risks and other factors.
- 2.4.3. As per the Department's current biometric collection program, people who are incapable of providing a particular biometric will be exempt from the requirement. Applicants with missing fingers will still be required to provide images of available fingers.
- 2.4.4. A person who is in detention (other than for questioning) is not required to provide personal identifiers in order to make a valid visa application if, while being detained, they have already provided personal identifiers under section 261AA.

2.5. The impact on privacy

- 2.5.1. The Bill fully retains existing protections associated with the collection of personal identifiers in the Migration Act such as those relating to privacy, humanity and dignity.
- 2.5.2. The Department's collection of personal identifiers is lawful and complies with the Australian Privacy Principles as set out in the *Privacy Act 1988*. The collection of personal identifiers is also subject to the requirements in Part 4A of the Migration Act, 'Obligations relating to identifying information', which provides for a range of rules covering the management of personal identifiers, and offences relating to unauthorised access and disclosure of identifying information.
- 2.5.3. The Department has engaged service delivery partners to collect biometrics offshore on its behalf since 2010. The long standing arrangements with service delivery partners are contract based and service delivery partners are required to meet high integrity standards for the management of the personal information of clients set by the Department under contract.
- 2.5.4. Facial images and fingerprints will continue to be stored on secure Department databases that comply with the Australian Government Protective Security Framework.

3. Conclusion

- 3.1.1. It is important that identity checks are made against personal identifier data to detect individuals of concern as part of visa processing. The collection of personal identifiers as an application validity requirement, without requiring a written request from the Department, will lead to more efficient and effective visa processing, providing benefits to both the security of Australia and integrity of the visa system and provide a more streamlined process for visa applicants.