



Migration Legislation Amendment (Electronic Transactions and Methods of Notification) Act 2001

No. 58, 2001



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**An Act to amend migration and citizenship
legislation, and for other purposes**

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No. 58, 2001

An Act to amend migration and citizenship legislation, and for other purposes

[Assented to 28 June 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Migration Legislation Amendment
(Electronic Transactions and Methods of Notification) Act 2001*.

2 Commencement

- (1) Subject to this section, this Act commences on a day to be fixed by Proclamation.
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- (2) Subject to subsections (3) to (6), if this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.
 - (3) If Schedule 14 to the *Administrative Review Tribunal (Consequential and Transitional Provisions) Act 2001* commences before the commencement of item 1 of Schedule 1 to this Act, Schedule 3 to this Act does not commence.
 - (4) Item 1 of Schedule 4 to this Act commences at the same time as item 3 of Schedule 2 to the *Migration Legislation Amendment Act (No. 1) 2000*.
 - (5) Item 2 of Schedule 4 to this Act commences immediately after the commencement of item 2 of Schedule 2 to the *Migration Legislation Amendment (Overseas Students) Act 2000*.
 - (6) Item 3 of Schedule 4 to this Act commences immediately after the commencement of item 12 of Schedule 3 to the *Migration Legislation Amendment Act (No. 1) 1998*.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments to facilitate electronic communications

Australian Citizenship Act 1948

1 Subsection 5(1)

Insert:

electronic communication means:

- (a) a communication of information in the form of data, text or images by means of guided and/or unguided electromagnetic energy; or
- (b) a communication of information in the form of speech by means of guided and/or unguided electromagnetic energy, where the speech is processed at its destination by an automated voice recognition system.

2 Subsection 10C(6)

Omit “or by post”, substitute “, by post or by an electronic communication”.

3 Subsection 11(5)

Omit “, either personally or by post,”.

4 At the end of subsection 11(5)

Add “The notice may be served personally, by post or by an electronic communication.”.

5 Subsection 13(12)

Omit “, either personally or by post,”.

6 At the end of subsection 13(12)

Add “The notice may be served personally, by post or by an electronic communication.”.

7 Paragraph 14(3)(a)

Omit “, either personally or by post,”.

8 At the end of subsection 14(3)

Add “A notice under paragraph (a) may be served personally, by post or by an electronic communication.”.

9 At the end of subsection 14A(3)

Add “The notice may be served personally, by post or by an electronic communication.”.

10 Subsection 21(3)

Omit “, either personally or by post,”.

11 At the end of subsection 21(3)

Add “The copy of that order may be served personally, by post or by an electronic communication.”.

12 Subsection 23(4)

Omit “, either personally or by post,”.

13 At the end of subsection 23(4)

Add “The copy of that order may be served personally, by post or by an electronic communication.”.

14 Subsection 23D(2)

Omit “, either personally or by post,”.

15 At the end of subsection 23D(2)

Add “The notice may be served personally, by post or by an electronic communication.”.

Migration Act 1958

16 Subsection 104(1)

Omit “on an approved form”, substitute “in writing”.

17 Subsection 104(2)

Repeal the subsection, substitute:

- (2) If the applicant is in Australia at the time the visa is granted, subsection (1) only applies to changes in circumstance before the visa is granted.

18 Subsection 104(3)

Omit “If the application for the visa was made outside Australia”, substitute “If the applicant is outside Australia at the time the visa is granted”.

19 Subsection 105(1)

Omit “, on an approved form,”, substitute “in writing”.

20 Transitional—pending acts

If:

- (a) an act is done before the commencement of this item; and
- (b) that act is done under a provision of the *Migration Act 1958* that is subsequently amended by this Schedule;

that act is taken on and after that commencement to be an act done under that provision as amended by this Schedule.

Schedule 2—Amendments to facilitate computer-based decision making

Australian Citizenship Act 1948

1 Before section 37

Insert:

36A Minister may arrange for use of computer programs to make decisions etc.

- (1) The Minister may arrange for the use, under the Minister's control, of computer programs for any purposes for which the Minister may, or must, under this Act or the regulations:
 - (a) make a decision; or
 - (b) exercise any power, or comply with any obligation; or
 - (c) do anything else related to making a decision, exercising a power, or complying with an obligation.
- (2) The Minister is taken to have:
 - (a) made a decision; or
 - (b) exercised a power, or complied with an obligation; or
 - (c) done something else related to the making of a decision, the exercise of a power, or the compliance with an obligation;that was made, exercised, complied with, or done (as the case requires) by the operation of a computer program under an arrangement made under subsection (1).

36B Minister may substitute more favourable decisions for certain computer-based decisions

- (1) The Minister may substitute a decision (the *substituted decision*) for a decision (the *initial decision*) made by the operation of a computer program under an arrangement made under subsection 36A(1) if:
 - (a) a certificate under section 46B relates to the computer program and to the initial decision; and

- (b) the certificate states that the computer program was not functioning correctly; and
 - (c) the substituted decision could have been made under the same provision of this Act or the regulations as the initial decision; and
 - (d) the substituted decision is more favourable to the applicant.
- (2) The Minister does not have a duty to consider whether to exercise the power under subsection (1) in respect of any decision, whether he or she is requested to do so by the applicant or by any other person, or in any other circumstances.
- (3) Subsection (1) has effect despite:
 - (a) any law of the Commonwealth; or
 - (b) any rule of common law;to the contrary effect.

2 After section 46A

Insert:

46B Evidence of whether computer program is functioning correctly

- (1) In citizenship proceedings, a certificate signed by an officer stating whether or not a specified computer program was functioning correctly:
 - (a) at a specified time or during a specified period; and
 - (b) in relation to specified outcomes from the operation of that program under an arrangement made under subsection 36A(1);is prima facie evidence of the matters stated in the certificate.
- (2) For the purposes of this section, a computer program is *functioning correctly* if:
 - (a) outcomes from its operation comply with this Act and the regulations; and
 - (b) those outcomes would be valid if they were made by the Minister otherwise than by the operation of the computer program.
- (3) In this section:

citizenship proceedings means:

- (a) proceedings in a court (including criminal proceedings) that relate to this Act (including an offence against this Act); or
- (b) proceedings that relate to an application for review under section 52A.

officer means:

- (a) an officer of the Department; or
- (b) a person authorised in writing by the Minister to issue certificates under this section; or
- (c) any person who is included in a class of persons authorised in writing by the Minister to issue certificates under this section, including a person who becomes a member of the class after the authorisation is given.

Migration Act 1958

3 At the end of subsection 52(2)

Add “For this purpose, a ***way of communicating*** includes any associated process for authenticating identity.”.

4 Subsection 84(2)

Omit “no official shall take any action”, substitute “no act is to be done”.

5 Subsection 84(4)

Omit “a person taking action”, substitute “an act being done”.

6 Subsection 84(6)

Repeal the subsection, substitute:

- (6) In this section:

act means an act connected with performing functions or exercising powers under or for the purposes of this Act.

7 At the end of subsection 271(1)

Add:

- ; and (l) a certificate signed by an officer stating whether or not a specified computer program was functioning correctly:

- (i) at a specified time or during a specified period; and
- (ii) in relation to specified outcomes from the operation of that program under an arrangement made under subsection 495A(1);

is prima facie evidence of the matters stated in the certificate.

Note: *Functioning correctly* is defined in subsection (5).

8 At the end of section 271

Add:

- (5) For the purposes of paragraph 271(1)(l), a computer program is *functioning correctly* if:
 - (a) outcomes from its operation comply with this Act and the regulations; and
 - (b) those outcomes would be valid if they were made by the Minister otherwise than by the operation of the computer program.

9 After section 495

Insert:

495A Minister may arrange for use of computer programs to make decisions etc.

- (1) The Minister may arrange for the use, under the Minister's control, of computer programs for any purposes for which the Minister may, or must, under the designated migration law:
 - (a) make a decision; or
 - (b) exercise any power, or comply with any obligation; or
 - (c) do anything else related to making a decision, exercising a power, or complying with an obligation.
- (2) The Minister is taken to have:
 - (a) made a decision; or
 - (b) exercised a power, or complied with an obligation; or
 - (c) done something else related to the making of a decision, the exercise of a power, or the compliance with an obligation; that was made, exercised, complied with, or done (as the case requires) by the operation of a computer program under an arrangement made under subsection (1).

- (3) For the purposes of this section, the following provisions are the *designated migration law*:
- (a) Subdivisions A, AA, AB and AC of Division 3 of Part 2 (other than section 48B);
 - (b) any provision of this Act or of the regulations that the Minister determines, in writing, to be part of the designated migration law.
- (4) A determination under paragraph (3)(b) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

495B Minister may substitute more favourable decisions for certain computer-based decisions

- (1) The Minister may substitute a decision (the *substituted decision*) for a decision (the *initial decision*) made by the operation of a computer program under an arrangement made under subsection 495A(1) if:
- (a) a certificate under paragraph 271(1)(l) relates to the computer program and to the initial decision; and
 - (b) the certificate states that the computer program was not functioning correctly; and
 - (c) the substituted decision could have been made under the same provision of the designated migration law as the initial decision; and
 - (d) the substituted decision is more favourable to the applicant.
- (2) The Minister does not have a duty to consider whether to exercise the power under subsection (1) in respect of any decision, whether he or she is requested to do so by the applicant or by any other person, or in any other circumstances.
- (3) Subsection (1) has effect despite:
- (a) any law of the Commonwealth; or
 - (b) any rule of common law;
- to the contrary effect.

Schedule 3—Amendments about giving and receiving documents

Note: This Schedule might never commence: see subsection 2(3).

Migration Act 1958

1 After subsection 52(3)

Insert:

- (3A) A visa applicant must tell the Minister the address at which the applicant intends to live while the application is being dealt with.
- (3B) If the applicant proposes to change the address at which he or she intends to live for a period of 14 days or more, the applicant must tell the Minister the address and the period of proposed residence.
- (3C) If, in accordance with the regulations, 2 or more non-citizens apply for visas together, notifications given to any of them about the application are taken to be given to each of them.

Note 1: If the Minister gives a person a document by a method specified in section 494B, the person is taken to have received the document at the time specified in section 494C in respect of that method.

Note 2: If a person gives the Minister notice under section 494D, documents that would have been given to the person will be given to the person's authorised recipient.

Note: The heading to section 52 is replaced by the heading “**Communication with Minister**”.

2 Section 53

Repeal the section.

3 Subsection 69(1)

After “Subdivision AA or AB”, insert “or section 494D”.

4 Subsections 359(3) and (4)

Repeal the subsections, substitute:

- (3) If an invitation is given to a person other than the Secretary, the invitation must be given:

- (a) except where paragraph (b) applies—by one of the methods specified in section 379A; or
 - (b) if the invitation is given to a person in immigration detention—by a method prescribed for the purposes of giving documents to such a person.
- (4) If an invitation is given to the Secretary, the invitation must be given by one of the methods specified in section 379B.

5 Subsections 359A(2) and (3)

Repeal the subsections, substitute:

- (2) The information and invitation must be given to the applicant:
- (a) except where paragraph (b) applies—by one of the methods specified in section 379A; or
 - (b) if the applicant is in immigration detention—by a method prescribed for the purposes of giving documents to such a person.

6 Subsections 360A(2) and (3)

Repeal the subsections, substitute:

- (2) The notice must be given to the applicant:
- (a) except where paragraph (b) applies—by one of the methods specified in section 379A; or
 - (b) if the applicant is in immigration detention—by a method prescribed for the purposes of giving documents to such a person.

7 At the end of section 368A

Add:

- (5) The notice to the Secretary must be given by one of the methods specified in section 379B.

8 Subsection 368B(7)

Omit all the words after “368(1)”.

9 At the end of subsection 368B(7)

Add:

The copy must be given to the Secretary:

- (a) within 14 days after the day on which the decision is handed down; and
- (b) by one of the methods specified in section 379B.

10 Section 379A

Repeal the section.

11 After Division 8 of Part 5

Insert:

Division 8A—Giving and receiving review documents

379AA Giving documents by Tribunal where no requirement to do so by section 379A or 379B method

If:

- (a) a provision of this Act or the regulations requires or permits the Tribunal 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 379A or 379B; or
 - (ii) by a method prescribed for the purposes of giving documents to a person in immigration detention;

the Tribunal 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 379G an applicant may give the Tribunal the name of an authorised recipient who is to receive documents on the applicant's behalf.

379A Methods by which Tribunal 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 Tribunal to give a document to a person (the *recipient*); and
 - (b) state that the Tribunal 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 member, the Registrar, a Deputy Registrar or another officer of the Tribunal, or a person authorised in writing by the Registrar, handing the document to the recipient.

Handing to a person at last residential or business address

- (3) Another method consists of a member, the Registrar, a Deputy Registrar or another officer of the Tribunal, or a person authorised in writing by the Registrar, handing the document to another person who:
- (a) is at the last residential or business address provided to the Tribunal by the recipient 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

- (4) Another method consists of a member, the Registrar, a Deputy Registrar or another officer of the Tribunal, 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 provided to the Tribunal by the recipient in connection with the review; or
 - (ii) the last residential or business address provided to the Tribunal by the recipient in connection with the review.

Transmission by fax, e-mail or other electronic means

- (5) Another method consists of a member, the Registrar, a Deputy Registrar or another officer of the Tribunal, transmitting the document by:
- (a) fax; or
 - (b) e-mail; or

(c) other electronic means;
to the last fax number, e-mail address or other electronic address,
as the case may be, provided to the Tribunal by the recipient in
connection with the review.

379B Methods by which Tribunal 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 Tribunal to give a document to the Secretary; and
 - (b) state that the Tribunal 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 member, the Registrar, a Deputy Registrar or another officer of the Tribunal, or a person authorised in writing by the Registrar, handing the document to the Secretary or to an authorised officer.

Dispatch by post or by other means

- (3) Another method consists of a member, the Registrar, a Deputy Registrar or another officer of the Tribunal, 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 post or by other means; and
 - (c) to an address, notified to the Tribunal 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 member, the Registrar, a Deputy Registrar or another officer of the Tribunal, transmitting the document by:
- (a) fax; or
 - (b) e-mail; or

(c) other electronic means;
to the last fax number, e-mail address or other electronic address
notified to the Tribunal in writing by the Secretary for the purpose.

**379C When a person other than the Secretary is taken to have
received a document from the Tribunal**

- (1) This section applies if the Tribunal gives a document to a person other than the Secretary by one of the methods specified in section 379A (including in a case covered by section 379AA).

Giving by hand

- (2) If the Tribunal gives a document to a person by the method in subsection 379A(2) (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 Tribunal gives a document to a person by the method in subsection 379A(3) (which involves 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 Tribunal gives a document to a person by the method in subsection 379A(4) (which involves dispatching the document by prepaid post or by other prepaid means), the person is taken to have received the document:
- (a) if the document was dispatched from a place in Australia to an address in Australia—7 working days (in the place of that address) after the date of the document; or
 - (b) in any other case—21 days after the date of the document.

Transmission by fax, e-mail or other electronic means

- (5) If the Tribunal gives a document to a person by the method in subsection 379A(5) (which involves transmitting the document by fax, e-mail 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.

- (6) Subsection (5) applies despite section 14 of the *Electronic Transactions Act 1999*.

379D When the Secretary is taken to have received a document from the Tribunal

- (1) This section applies if the Tribunal gives a document to the Secretary by one of the methods specified in section 379B (including in a case covered by section 379AA).

Giving by hand

- (2) If the Tribunal gives a document to the Secretary by the method in subsection 379B(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 Tribunal gives a document to the Secretary by the method in subsection 379B(3) (which involves dispatching the document by post or by other means), the Secretary is taken to have received the document:
- (a) if the document was dispatched from a place in Australia to an address in Australia—7 working days (in the place of that address) after the date of the document; or
 - (b) in any other case—21 days after the date of the document.

Transmission by fax, e-mail or other electronic means

- (4) If the Tribunal gives a document to the Secretary by the method in subsection 379B(4) (which involves transmitting the document by fax, e-mail 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.
- (5) Subsection (4) applies despite section 14 of the *Electronic Transactions Act 1999*.

379E Tribunal may give copies of documents

If a provision of this Act requires or permits the Tribunal to give a document to a person, the Tribunal may instead give a copy of the document to the person by the same means as the Tribunal could give the document itself.

379F Giving documents etc. to the Tribunal

- (1) If, in relation to the review of an MRT-reviewable decision, a person is required or permitted to give a document or thing to the Tribunal, the person must do so:
 - (a) by giving the document or thing to the Registrar, a Deputy Registrar or another officer of the Tribunal; or
 - (b) by a method set out in directions under section 353A; or
 - (c) if the regulations set out a method for doing so—by that method.
- (2) Directions under section 353A may make provision for a person to give a copy of a document, rather than the document itself, to the Tribunal.

379G Authorised recipient

- (1) If:
 - (a) a person (the *applicant*) applies for review of an MRT-reviewable decision; and
 - (b) the applicant gives the Tribunal written notice of the name and address of another person (the *authorised recipient*) authorised by the applicant to do things on behalf of the applicant that consist of, or include, receiving documents in connection with the review;the Tribunal must give the authorised recipient, instead of the applicant, any document that it would otherwise have given to the applicant.

Note: If the Tribunal gives a person a document by a method specified in section 379A, the person is taken to have received the document at the time specified in section 379C in respect of that method.

- (2) If the Tribunal gives a document to the authorised recipient, the Tribunal is taken to have given the document to the applicant.

However, this does not prevent the Tribunal giving the applicant a copy of the document.

- (3) The 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 applicant's authorised recipient.
- (4) The Tribunal may communicate with the applicant by means other than giving a document to the applicant, provided the Tribunal gives the authorised recipient notice of the communication.
- (5) This section does not apply to the Tribunal giving documents to, or communicating with, the applicant when the applicant is appearing before the Tribunal.

12 Subsection 424(3)

Repeal the subsection, substitute:

- (3) The invitation must be given to the person:
 - (a) except where paragraph (b) applies—by one of the methods specified in section 441A; or
 - (b) if the person is in immigration detention—by a method prescribed for the purposes of giving documents to such a person.

13 Subsection 424A(2)

Repeal the subsection, substitute:

- (2) The information and invitation must be given to the applicant:
 - (a) except where paragraph (b) applies—by one of the methods specified in section 441A; or
 - (b) if the applicant is in immigration detention—by a method prescribed for the purposes of giving documents to such a person.

14 Subsection 425A(2)

Repeal the subsection, substitute:

- (2) The notice must be given to the applicant:
 - (a) except where paragraph (b) applies—by one of the methods specified in section 441A; or
-

- (b) if the applicant is in immigration detention—by a method prescribed for the purposes of giving documents to such a person.

15 At the end of section 430A

Add:

- (5) The notice to the Secretary must be given by one of the methods specified in section 441B.

16 Subsection 430B(7)

Omit all the words after “430(1)”.

17 At the end of subsection 430B(7)

Add:

The copy must be given to the Secretary:

- (a) within 14 days after the day on which the decision is handed down; and
- (b) by one of the methods specified in section 441B.

18 Section 441A

Repeal the section.

19 After Division 7 of Part 7

Insert:

Division 7A—Giving and receiving review documents

441AA Giving documents by Tribunal where no requirement to do so by section 441A or 441B method

If:

- (a) a provision of this Act or the regulations requires or permits the Tribunal 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 441A or 441B; or
 - (ii) by a method prescribed for the purposes of giving documents to a person in immigration detention;

the Tribunal 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 441G an applicant may give the Tribunal the name of an authorised recipient who is to receive documents on the applicant's behalf.

441A Methods by which Tribunal 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 Tribunal to give a document to a person (the *recipient*); and
 - (b) state that the Tribunal 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 member, the Registrar or an officer of the Tribunal, or a person authorised in writing by the Registrar, handing the document to the recipient.

Handing to a person at last residential or business address

- (3) Another method consists of a member, the Registrar or an officer of the Tribunal, or a person authorised in writing by the Registrar, handing the document to another person who:
 - (a) is at the last residential or business address provided to the Tribunal by the recipient 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

- (4) Another method consists of a member, the Registrar or an officer of the Tribunal, 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 provided to the Tribunal by the recipient in connection with the review; or
 - (ii) the last residential or business address provided to the Tribunal by the recipient in connection with the review.

Transmission by fax, e-mail or other electronic means

- (5) Another method consists of a member, the Registrar or an officer of the Tribunal, transmitting the document by:
 - (a) fax; or
 - (b) e-mail; or
 - (c) other electronic means;to the last fax number, e-mail address or other electronic address, as the case may be, provided to the Tribunal by the recipient in connection with the review.

441B Methods by which Tribunal 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 Tribunal to give a document to the Secretary; and
 - (b) state that the Tribunal 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 member, the Registrar or an officer of the Tribunal, or a person authorised in writing by the Registrar, handing the document to the Secretary or to an authorised officer.

Dispatch by post or by other means

- (3) Another method consists of a member, the Registrar or an officer of the Tribunal, 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 post or by other means; and
- (c) to an address, notified to the Tribunal 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 member, the Registrar or an officer of the Tribunal, transmitting the document by:
 - (a) fax; or
 - (b) e-mail; or
 - (c) other electronic means;to the last fax number, e-mail address or other electronic address notified to the Tribunal in writing by the Secretary for the purpose.

441C When a person other than the Secretary is taken to have received a document from the Tribunal

- (1) This section applies if the Tribunal gives a document to a person other than the Secretary by one of the methods specified in section 441A (including in a case covered by section 441AA).

Giving by hand

- (2) If the Tribunal gives a document to a person by the method in subsection 441A(2) (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 Tribunal gives a document to a person by the method in subsection 441A(3) (which involves 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 Tribunal gives a document to a person by the method in subsection 441A(4) (which involves dispatching the document by prepaid post or by other prepaid means), the person is taken to have received the document:

- (a) if the document was dispatched from a place in Australia to an address in Australia—7 working days (in the place of that address) after the date of the document; or
- (b) in any other case—21 days after the date of the document.

Transmission by fax, e-mail or other electronic means

- (5) If the Tribunal gives a document to a person by the method in subsection 441A(5) (which involves transmitting the document by fax, e-mail 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.
- (6) Subsection (5) applies despite section 14 of the *Electronic Transactions Act 1999*.

441D When the Secretary is taken to have received a document from the Tribunal

- (1) This section applies if the Tribunal gives a document to the Secretary by one of the methods specified in section 441B (including in a case covered by section 441AA).

Giving by hand

- (2) If the Tribunal gives a document to the Secretary by the method in subsection 441B(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 Tribunal gives a document to the Secretary by the method in subsection 441B(3) (which involves dispatching the document by post or by other means), the Secretary is taken to have received the document:
 - (a) if the document was dispatched from a place in Australia to an address in Australia—7 working days (in the place of that address) after the date of the document; or
 - (b) in any other case—21 days after the date of the document.

Transmission by fax, e-mail or other electronic means

- (4) If the Tribunal gives a document to the Secretary by the method in subsection 441B(4) (which involves transmitting the document by fax, e-mail 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.
- (5) Subsection (4) applies despite section 14 of the *Electronic Transactions Act 1999*.

441E Tribunal may give copies of documents

If a provision of this Act requires or permits the Tribunal to give a document to a person, the Tribunal may instead give a copy of the document to the person by the same means as the Tribunal could give the document itself.

441F Giving documents etc. to the Tribunal

- (1) If, in relation to the review of an RRT-reviewable decision, a person is required or permitted to give a document or thing to the Tribunal, the person must do so:
 - (a) by giving the document or thing to the Registrar or an officer of the Tribunal; or
 - (b) by a method set out in directions under section 420A; or
 - (c) if the regulations set out a method for doing so—by that method.
- (2) Directions under section 420A may make provision for a person to give a copy of a document, rather than the document itself, to the Tribunal.

441G Authorised recipient

- (1) If:
 - (a) a person (the *applicant*) applies for review of an RRT-reviewable decision; and
 - (b) the applicant gives the Tribunal written notice of the name and address of another person (the *authorised recipient*) authorised by the applicant to do things on behalf of the

applicant that consist of, or include, receiving documents in connection with the review;

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

Note: If the Tribunal gives a person a document by a method specified in section 441A, the person is taken to have received the document at the time specified in section 441C in respect of that method.

- (2) If the Tribunal gives a document to the authorised recipient, the Tribunal is taken to have given the document to the applicant. However, this does not prevent the Tribunal giving the applicant a copy of the document.
- (3) The 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 applicant's authorised recipient.
- (4) The Tribunal may communicate with the applicant by means other than giving a document to the applicant, provided the Tribunal gives the authorised recipient notice of the communication.
- (5) This section does not apply to the Tribunal giving documents to, or communicating with, the applicant when the applicant is appearing before the Tribunal.

20 After section 494

Insert:

494A Giving documents by Minister where no requirement to do so by section 494B method

If:

- (a) a provision of this Act or the regulations requires or permits the Minister 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 494B; or
 - (ii) by a method prescribed for the purposes of giving documents to a person in immigration detention;

the Minister may give the document to the person by any method that he or she considers appropriate (which may be one of the methods mentioned in subparagraph (b)(i) or (ii) of this section).

Note: Under section 494D a person may give the Minister the name of an authorised recipient who is to receive documents on the person's behalf.

494B Methods by which Minister gives documents to a person

Coverage of section

- (1) For the purposes of provisions of this Act or the regulations that:
 - (a) require or permit the Minister to give a document to a person (the *recipient*); and
 - (b) state that the Minister 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 the Minister (including by way of an authorised officer) handing the document to the recipient.

Handing to a person at last residential or business address

- (3) Another method consists of the Minister (including by way of an authorised officer) handing the document to another person who:
 - (a) is at the last residential or business address provided to the Minister by the recipient for the purposes of receiving documents; 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

- (4) Another method consists of the Minister 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 provided to the Minister by the recipient for the purposes of receiving documents; or
- (ii) the last residential or business address provided to the Minister by the recipient for the purposes of receiving documents.

Transmission by fax, e-mail or other electronic means

- (5) Another method consists of the Minister transmitting the document by:
 - (a) fax; or
 - (b) e-mail; or
 - (c) other electronic means;to the last fax number, e-mail address or other electronic address, as the case may be, provided to the Minister by the recipient for the purposes of receiving documents.

When the Minister hands a document by way of an authorised officer

- (6) For the purposes of sections 494C and 494D, a reference in those sections to an act of the Minister includes, if the act is of a kind referred to in subsection (2) or (3) of this section, a reference to an act of the Minister by way of an authorised officer.

494C When a person is taken to have received a document from the Minister

- (1) This section applies if the Minister gives a document to a person by one of the methods specified in section 494B (including in a case covered by section 494A).

Giving by hand

- (2) If the Minister gives a document to a person by the method in subsection 494B(2) (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 Minister gives a document to a person by the method in subsection 494B(3) (which involves 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 Minister gives a document to a person by the method in subsection 494B(4) (which involves dispatching the document by prepaid post or by other prepaid means), the person is taken to have received the document:
- (a) if the document was dispatched from a place in Australia to an address in Australia—7 working days (in the place of that address) after the date of the document; or
 - (b) in any other case—21 days after the date of the document.

Transmission by fax, e-mail or other electronic means

- (5) If the Minister gives a document to a person by the method in subsection 494B(5) (which involves transmitting the document by fax, e-mail 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.
- (6) Subsection (5) applies despite section 14 of the *Electronic Transactions Act 1999*.

494D Authorised recipient

- (1) If a person (the **first person**) gives the Minister written notice of the name and address of another person (the **authorised recipient**) authorised by the first person to do things on behalf of the first person that consist of, or include, receiving documents in connection with matters arising under this Act or the regulations, the Minister must give the authorised recipient, instead of the first person, any documents that the Minister would otherwise have given to the first person.

Note: If the Minister gives a person a document by a method specified in section 494B, the person is taken to have received the document at the time specified in section 494C in respect of that method.

- (2) If the Minister gives a document to the authorised recipient, the Minister is taken to have given the document to the first person. However, this does not prevent the Minister giving the first person a copy of the document.
- (3) The first person may vary or withdraw the notice under subsection (1) at any time, but must not (unless the regulations provide otherwise) vary the notice so that any more than one person becomes the first person's authorised recipient.
- (4) The Minister may communicate with the first person by means other than giving a document to the first person, provided the Minister gives the authorised recipient notice of the communication.

Schedule 4—Technical amendments

Migration Act 1958

1 Section 97 (definition of *application form*)

Omit “subsection 45(2) allows”, substitute “regulations made for the purposes of section 46 allow”.

2 Paragraph 268BP(2)(b)

Omit “269BQ”, substitute “268BQ”.

Migration Legislation Amendment Act (No. 1) 1998

3 Item 12 of Schedule 3

Omit “Part 6”, substitute “Part 7”.

*[Minister’s second reading speech made in—
House of Representatives on 5 April 2001
Senate on 18 June 2001]*

(53/01)