



This information form explains the authority of the Department of Immigration and Citizenship (the department) to collect your personal information. It outlines why a personal identifier can be collected, how it may be collected, how it may be used, how it is protected and how it may be disclosed. This information form should be read in conjunction with form 993i *Safeguarding your personal information*.

The department has authority under the *Migration Act 1958* (the Migration Act) to collect a range of personal identifiers from non-citizens in certain circumstances, including visa applicants and persons entering Australia, other non-citizens in Australia and persons in immigration detention. Detailed information specifically for persons in immigration detention can be obtained from form 1247i *Information to be provided to a detainee about Identification Tests*.

The department also has the authority under the *Australian Citizenship Act 2007* (the Australian Citizenship Act) to collect a range of personal identifiers from persons applying for Australian citizenship and evidence of Australian citizenship, seeking renunciation of their Australian citizenship, and for persons sitting the citizenship test.

What personal identifiers can the department require?

The Migration Act and the Australian Citizenship Act authorises the collection of one or more personal identifiers from non-citizens and citizenship applicants in a range of circumstances.

Personal identifiers are defined as:

- a photograph or other image of a person's face and shoulders;
- a person's signature;
- a measurement of a person's height and weight;
- fingerprints or handprints of a person;
- an audio or a video recording of a person (*Migration Act only*);
- an iris scan;
- any other personal identifier prescribed in the regulations (provided it is not an identifier that would involve the carrying out of an intimate forensic procedure and provided it meets the description of an image, measurement or recording of an external part of the body).

This definition does not include DNA samples.

Under the Australian Citizenship Act, a person seeking to sit the citizenship test must provide a photograph to the department or allow a photograph to be taken of them.

Otherwise under the Australian Citizenship Act, a person is not obliged to provide a personal identifier to the department following a request for one. However, the information from a personal identifier can be used by the Minister to make a decision about a person's identity. The Minister must not approve a person becoming an Australian citizen unless the Minister is satisfied of the person's identity. If an applicant fails to provide person identifiers requested, the Minister may not be able to be satisfied of the applicant's identity.

How will the department obtain your personal identifier?

As at the date of publication of this form, photos and signatures will continue to be the main personal identifiers collected from most visa applicants, who will generally be able to provide these personal identifiers to the department by attaching a photograph to the visa application form and signing it. For some visa applications no personal identifiers will be required, while from some non-citizens additional personal identifiers may be required.

As at the date of publication of this form, all citizenship applications will continue to request photographs and signatures as the main types of personal identifiers. Citizenship applicants will generally be able to provide these personal identifiers to the department by attaching an endorsed photograph to the application, and then signing the application.

Special provisions for minors and incapable persons (*visa applicants only*)

- A minor who is aged under 15 years or an incapable person* cannot be required under the Migration Act to provide a personal identifier other than a photograph or other image of their face and shoulders or a measurement of their height and weight.
- In addition, where an identification test is carried out on a minor who is aged under 18 or an incapable person, the parent or guardian or an independent person** must be present. If the Minister is the minor's guardian, the test must be carried out in the presence of an independent person. In some cases, the minor's parent or guardian (or, if a parent or guardian is not available, an independent person) must give their consent for the minor to provide a personal identifier.

Notes

* Under the Migration Act (s.5(1)), an 'incapable person' means a person who is 'incapable of understanding the general nature and effect of, and purposes of, a requirement to provide a personal identifier.'

** Under the Migration Act (s.5(1)), an 'independent person' means a 'person (other than an officer or an authorised officer) who:

- (a) is capable of representing the interests of a non-citizen who is providing, or is to provide, a personal identifier; and
- (b) as far as practicable, is acceptable to the non-citizen who is providing, or is to provide, the personal identifier; and
- (c) if the non-citizen is a minor – is capable of representing the minor's best interests.'

Why does the department collect personal identifiers?

The department has authority under the Migration Act and the Migration Regulations 1994 to collect personal identifiers for the following reasons:

- identification and authentication of identity;
- improving the integrity of Australia's entry programs, including passenger processing at Australia's border;
- facilitating a visa-holder's access to their rights under the Migration Act or the regulations;
- improving the department's procedures for determining visa applications and protection claims;
- enhancing the department's ability to identify non-Australian citizens who have a criminal history or who are of national security or character concern;
- combating identity and document fraud in immigration matters;
- detecting forum shopping by applicants for visas;
- ascertaining whether protection visa applicants or offshore entry persons making claims for protection have had sufficient opportunity to avail themselves of protection before arriving in Australia;
- complementing anti-people smuggling measures;
- satisfying home governments of the identity of removees and deportees.

The department also has the authority under the Australian Citizenship Act and Citizenship Regulations to collect personal identifiers for the following purposes:

- identification and authentication of identity;
- combating identity and document fraud in citizenship matters.

This allows, for example, the department to identify you for the purposes of sitting a citizenship test.

Your privacy

The department respects your privacy. We are aware that the way information about you is used and managed can affect your life. It is important that the information we hold is accurate, up-to-date and relevant. It is also important that the information is used only for the reason it was collected.

Safeguards in respect of the collection, access, storage and disclosure of personal identifying information are in place and departmental practices are monitored to ensure that your personal information is kept secure and is disclosed in accordance with law.

The Privacy Act

The *Privacy Act 1988* (the Privacy Act) is a Commonwealth law designed to protect your rights and prevent misuse of personal information collected by government agencies.

The information privacy principles in the Privacy Act are strict privacy safeguards that federal government agencies, including the department, must obey when gathering, processing and disclosing information about you.

The Privacy Act prevents the department from passing your personal information to others except where:

- you are reasonably likely to have been aware of the department's disclosure practices;
- you consent to it;
- the department believes it is reasonable to disclose information to prevent or lessen a serious and imminent threat to your life or health or that of another person;
- disclosure is authorised or required by law; or
- disclosure is necessary to enforce the criminal law, law imposing a financial penalty, or to protect public revenue.

To whom can the department give your personal identifying information?

The department has authority under the Migration Act and the Australian Citizenship Act to disclose your personal identifiers and related information to other agencies (Australian and overseas) in certain circumstances for the following purposes:

- data-matching in order to achieve certain outcomes (for example, to combat identity fraud) (*Migration Act only*);
- data-matching to identify or authenticate the identity of a person. For instance, where you apply for a travel document from the Department of Foreign Affairs and Trade (DFAT), the department will forward to DFAT:
 - your facial image (if available);
 - personal and visa related information; and
 - details of your travel document (if available);
- administering or managing the storage of identifying information;
- making the information available to specified foreign governments, bodies of a foreign country, international organisations and bodies of the Commonwealth, a state or a territory for one or more of the purposes set out in section 336F of the Migration Act (*Migration Act only*);
- making the information available to the person to whom it relates;
- to an agency of the Commonwealth or of a state or territory in order to verify that person's citizenship or visa status;
- reasonably necessary for the enforcement of criminal law;
- exchanging identifying information under an arrangement with an agency of the Commonwealth, a state or territory or an agency of the state or territory under an arrangement for **the exchange of identifying information**;
- making the information available to a proceeding before a court or tribunal relating to the person to whom the identifying information relates;
- relating to an investigation by the Privacy Commissioner or Ombudsman relating to an action taken by the department;
- relating to an inquiry by a prescribed body (for example, the Human Rights and Equal Opportunity Commission or the Australian National Audit Office) (*Migration Act only*);
- to identify the person whose identifying information it is;
- to locate the person whose identity information it is (*Migration Act only*);
- for the purposes of citizenship or migration legislation;
- for a purpose where we have your written consent;
- required by Australian law.

The department is authorised under the Migration Act, in certain circumstances, to collect a range of personal identifiers including a facial image, fingerprints and a signature, from non-citizens, including from visa applicants. The department requires personal identifiers to assist in assessing your identity. The department is authorised to disclose your personal identifiers and information relating to your name and other relevant biographical data to a number of agencies including law enforcement and health agencies and, other agencies who may need to check your identity with this department. Where the department obtains personal identifiers they will become part of your official record with the department.

The department is involved in international information exchanges with a number of countries, including the United Kingdom, the United States of America, Canada and New Zealand. These international information exchanges may involve the sharing of personal identifiers, including facial images and fingerprint data, collected by immigration agencies such as this department. If, as a result of this sharing between countries, there is a match with your personal identifiers, the department will disclose your **biographical data, copies of travel and other identity documents or information from such documents, your immigration status and immigration history (which may include any immigration abuse and offences) and any criminal history information** relevant to immigration purposes. The purpose of such disclosure would be to help confirm your identity and determine if you have presented to the department and the other agency under the same identity and with similar claims.

If you are making an offshore humanitarian or protection visa application, the department will only disclose this information if none of these countries is a country of claimed persecution and only if the department is reasonably satisfied that this information will not be disclosed to your country of claimed persecution, unless:

- you have requested or agreed to return to the foreign country in respect of which your application or claim is made; or
- your application for a protection visa has been refused and the application is finally determined (within the meaning of subsection 5(9) of the Act); or
- you are an offshore entry person who makes a claim for protection under the Refugees Convention as amended by the Refugees Protocol, and is found not to be a person to whom Australia owes obligations under the Refugees Convention as amended by the Refugees Protocol.

Accessing your personal information

You have a right to access your personal information under the *Privacy Act 1988* (the Privacy Act) and to access copies of documents (except exempt documents) held by the department and other Australian Government departments under the *Freedom of Information Act 1982* (the FOI Act).

Under the Privacy Act you may obtain original documents you have given to us or copies of personal documents on your file which you have provided to us or that we have sent to you. You or someone authorised to access your information on your behalf can apply to do this at any office of the department.

The FOI Act also enables you to access documents containing your personal information. You or someone authorised to access your information on your behalf can apply to do this at any office of the department in Australia – fees and charges may apply. If you are overseas, you must provide an Australian address to which copies of personal records can be sent.

More information on how to make a request under the Privacy Act or the FOI Act is given on form 424A *Request for access to documents or information*, which is available from an office of the department or the department's website www.immi.gov.au/allforms/

Amendment or annotation of your personal information

If you are seeking an amendment or annotation of your personal information held by the department, please obtain form 424C *Request for amendment or annotation to personal records under the Freedom of Information Act 1982* from an office of the department or from the department's website www.immi.gov.au/allforms/

Your rights

If you believe the department has wrongly collected or handled your information, you can complain to the privacy officer at any office of the department. Your complaint will be investigated and you will be advised of the outcome.

If you are not satisfied with the department's response, you can write to the Privacy Commissioner or to the Commonwealth Ombudsman's Office. The Privacy Commissioner or the Ombudsman Officer can investigate complaints about the protection of personal information, order compensation to be paid where warranted and direct departments to change the way they handle personal information. You can write to the Privacy Commissioner at:

GPO Box 5218
SYDNEY NSW 1042

Or call the free privacy hotline – 1300 363 992.

Or you can write to the Commonwealth Ombudsman's Office at:

GPO Box 442
CANBERRA ACT 2601

Telephone: (02) 6276 0111

Interpreter assistance

Interpreter assistance is available via the department's Translating and Interpreting Service, which provides a national 24 hour a day, seven days a week telephone interpreting service on a national telephone number – 131 450.

Home pages

www.immi.gov.au

www.citizenship.gov.au

General enquiry and citizenship information lines

Telephone **131 881** or the Citizenship information line on **131 880** during business hours in Australia to speak to an operator (recorded information available outside these hours). If you are outside Australia, please contact your nearest Australian mission.