

s47F

**From:** Brett WHITE <Brett.White@homeaffairs.gov.au>  
**Sent:** Friday, 24 April 2020 4:39 PM  
**To:** WOLFE Jim  
**Cc:** DACEY Christine; Manson, Hilary; QUIGLEY Janet; s47F (DFAT); Kylie RENDINA; s47F (DFAT); s47F; David Wilden; Brad SMITH  
**Subject:** RE: URGENT - Implementation of s34 decision around private charter flights by 1400 today [DLM=For-Official-Use-Only] [DLM=Sensitive:Legal]  
**Attachments:** Directions to private charter flights\_Final.docx  
**Importance:** High  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Sensitive:Legal**

Hi Jim

Given the time and I understand our offices will be talking, happy for you to finalise content for the instrument on the basis Govt's objective in having ANA used as vehicle to meet their policy objective. Hopefully our discussions have helped clarify what the Govt is trying to achieve (and accordingly we will take your guidance on the appropriate wording in relation to the social distancing/health aspects).

We have provided a requirements document to inform the directive s42. Grateful if we could get a revised version of this document to attach to the cable when you're happy and confirmation that the Secretary has signed the instrument/directive.

Kind regards  
 Brett

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**Subject:** RE: URGENT - Implementation of s34 decision around private charter flights by 1400 today [DLM=For-Official-Use-Only] [DLM=Sensitive:Legal]

**Sensitive:Legal**

Hi Jim

Thanks for the chat. As discussed but also answered below for broader awareness.

Cheers  
Brett

**Brett White**

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**Subject:** RE: URGENT - Implementation of <sup>s34</sup> decision around private charter flights by 1400 today [DLM=For-Official-Use-Only] [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

**OFFICIAL:Sensitive, Legal-Privilege**

Hi Brett

The draft guidance raises a number of policy and legal issues that we would need clarification on asap if they are to be applied to a series of charters we have recently received.

1. the term "privately organised charter flights" – this term is not defined in any legislation or regulation.

Is the intention that it applies to just non-Government (i.e. not to Australian or foreign Government) charter operations. If this distinction is not made it could pick up a range of "private" charters being used by foreign Governments to pick up their citizens from Australia but which have been carrying small numbers of Australians home. Our powers can also currently only be employed for a series of charter flights but not individual ones.

The intent is "private" hence these are not government, ours or someone elses.

2. To confirm ABF is defining health screening as that which is conducted at the airport (correct – temp checks), whereas health certification mentioned in the manifest requirements is a self-certification made by passengers at the time of booking.

Correct and validated by the charter organiser

3. In relation to passenger records<sup>s42</sup>

[REDACTED] In relation to information (personal information) about passengers,<sup>s42</sup> [REDACTED]. How would this meet the Australian Privacy Principles? What would be the purpose of its collection? How would it be used and disclosed? Would such a condition result in the charter operator/charterer breaching some privacy obligation? Are we envisioning a condition that requires the Charter operator to obtain the consent of the passengers to the collection/use/disclosure (these would need specifying) of that information?

They already provide their personal details for APP – this is an issue of timing. Charter's still need to legally provide the manifest.

4. Is ABF seeking to determine where a flight can land as opposed to where it can't land. Does this envisage a legal requirement that in effect says 'the aircraft must only land at an airport specified by ABF' as opposed to a requirement which actually specifies where it is to land e.g. 'the aircraft must land at Adelaide'? If so there could be some legal issues that would need to be considered (sub-delegation of legislative power);

Request can be made but location/timing confirmed by ABF as per normal practice (if alternate location required this would be negotiated)

5. We note that the draft wording on social distancing requirements on flights is not consistent with the advice provided by the Chief Medical Officer to Infrastructure regarding international flights. We suggest that we simply attach the document provided by the CMO entitled: "Information for Flight Crew Repatriating Australians on International Flights" to outline the necessary requirements.

Grateful if you can provide alternate language you would be comfortable with to meet Govt intent<sup>s34(2)</sup>

Happy to discuss when you are free.

Regards

Jim

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Subject: URGENT - Implementation of <sup>s34</sup> [REDACTED] decision around private charter flights by 1400 today [DLM=For-Official-Use-Only]

Importance: High

**CAUTION:** This email originated from outside of the organisation. Do not follow guidance, click links, or open attachments unless you recognise the sender and know the content is safe.

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*Modified version of email and attachment from David Wilden below*

Dear all

Further to Government's decision on 20 April 2020 regarding private charter flights entering Australia (COVID-19: Bringing Australians Home), I'm seeking your agreement/comment on the guidance to be given to private charter companies about flying into Australia.

*Because of system issues/classification I can't include the AGS advice here.*

We are conscious that it is preferable for consistency that the conditions imposed on private charters are not out of step with government organised charters. To assist, we have drafted the attached document to outline what conditions we think should be imposed on privately organised charter flights before they are granted permission to enter Australia. The approach outlined in this document reflects the attached advice from the CMO around social distancing and pre-flight medical checks. Importantly, these rules should be applied to all privately organised charter flights, including large flights <sup>s33(a)(iii)</sup> [REDACTED].

The document also outlines a role for the National Coordination Mechanism (NCM). We are open to exploring how this is operationalised, but essentially all approvals should be flagged with the NCM and a risk assessment will be completed where there are concerns whether a State or Territory has the capacity to take a flight, or whether conditions around where a flight lands should be imposed.

<sup>s42</sup> [REDACTED] we need to implement <sup>s34</sup> [REDACTED] decision as a high priority. Please **let me know by 2.00pm today if you have any issue or concerns.**

**Brett White**

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of information in the e-mail or attachments.

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# Requirements for privately organised charter flights to be approved

The directions below are provided to ensure the management of the return of Australian citizens and permanent residents via privately organised charter flights is done in a manner which will reduce the health risks to passengers and crew as well as transmission of COVID-19 to the broader Australian community and ensure that State and Territory capabilities are not overwhelmed, in accordance with the Government's decisions on 20 April 2020.

## Pre-flight

### Health screening

- Consistent with commercial flight requirements, privately organised charter flights are required to ensure, at their cost, passengers undertake pre-flight health screening, with passengers certified fit to fly without danger to other passengers or flight crew. Assessments should involve a screening process such as a questionnaire and temperature screening.

### Approval and manifest requirements

- A request to approve a privately organised charter flight entering Australia must be received no less than seven days ahead of intended departure to allow time for approvals.
  - This should be submitted to a portal on the Home Affairs website, which will go live the week of 27 April 2020.
  - Any approval will be contingent on the requirements outlined in this document.
  - This should include options for alternative dates and destinations if the proposed date and destination cannot be honoured.
- Manifests and passenger records (including health certifications) must be submitted at least three days prior to approval being given..
  - This should be submitted to a portal on the Home Affairs website, which will go live the week of 27 April 2020.
  - Any changes to the manifest will result in additional processing time.
- ABF will then work through the National Coordination Mechanism with States and Territories to identify any issues with flights, and whether conditions around where and when a flight lands should be imposed.
  - The primary consideration will be which State or Territory has the capacity to accept the specific flight.
  - Consideration will also be given to whether flights are complying with social distancing rules (outlined below). For example, a flight cannot be at 100% capacity and comply with social distancing rules.
- There is an ongoing obligation to provide passenger information through APP as per existing mechanisms.

## During flight

### Social distancing requirements on flights

- Consistent with the guidance from the Chief Medical Officer, the following social distancing requirements must be followed by privately organised charter flights.
  - Family or companion groups should be seated together.

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- Non-related groups should be seated apart.
- Spacing should be facilitated and consistent with risk rating of the departure location (leaving an empty row in front and behind and staggered laterally, where possible).
- Assigned seats should not be changed.
- All staff and passengers should use PPE.
  - At a minimum, all staff and passengers should wear a mask.
  - Staff should wear gloves when handling passenger items or touching potentially contaminated surfaces.
- Further information is in the Information for flight crews repatriating Australians on international flights.

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Transport, Regional Development, Communications and the Arts