



Information for persons required to provide a personal identifier by identification test under s.188 of the *Migration Act 1958*

Introduction

You have been required to provide a sample of your signature or to allow a photo of your face to be taken to help us determine who you are. Signatures and photos are 'personal identifiers' that can be required under section 188 of the *Migration Act 1958* (the Act). Your cooperation will help us to minimise any inconvenience to you. If you refuse to allow a personal identifier to be collected, this might contribute to an officer forming a reasonable suspicion that you are an unlawful non-citizen who must be detained.

This form is provided to you under section 258B of the Act to assist you to understand the lawful authority for this requirement, the process involved, and to give you other information which the departmentⁱ is required to provide to you.

What is a personal identifier?

The only personal identifiers that an officer can require you to provide, including by digital means, for these purposes are:

- a photograph or other image of your face and shoulders;
- your signature;
- any other personal identifier contained in your passport or other travel documents.

Why are you required to provide a personal identifier?

You are being required to provide a personal identifier to help us to determine who you are and whether or not you are a lawful non-citizen. At present, an officer knows or reasonably suspects that you are a non-citizen and has already required you to show the officer evidence of being a lawful non-citizenⁱⁱ or evidence of your identity.

The law permits us to require you to provide a personal identifier because at least one of the following applies to you:

- (a) the officer considers that you have refused or failed to comply with the requirement to provide evidence of being a lawful non-citizen or evidence of your identity in the time allowedⁱⁱⁱ;
- (b) you have advised the officer that you refuse, or are unable, to comply with the requirement in the time allowed; or
- (c) you have provided evidence in the time allowed BUT the officer is not satisfied that the evidence is authentic or reliable.

You may ask for authorisation^{iv}

You can ask that a 'senior authorising officer' decide whether or not a personal identifier can be collected from you. This means that the officer who asked you to provide a personal identifier must get authorisation from that person in writing, over the phone, or in person.

How will the department collect your personal identifier?

You will be asked one of the following:

- to allow a photo of your face and shoulders to be taken;
- to sign a piece of paper or an electronic template;
- to provide your passport or other travel document so that any relevant information can be copied.

The collection of a personal identifier WILL:

- be carried out by an authorised officer and another authorised officer or officer he or she may ask for help from;
- be carried out in circumstances affording you reasonable privacy.

The collection of a personal identifier WILL NOT:

- be carried out if you refuse to provide a personal identifier although your refusal might contribute to an officer forming a reasonable suspicion that you are an unlawful non-citizen who must be detained;
- be carried out in the presence or view of a person whose presence is not necessary or is not authorised by another provision of the Act;
- involve the removal of more clothing than is necessary to carry out the test;
- involve more visual inspection than is necessary to carry out the test;
- be carried out in a cruel, inhumane or degrading manner, or in a manner that fails to treat you with humanity and with respect for your human dignity.

Retesting

You may be required to provide the same type of personal identifier again if the first one you provided is unusable or if we are not satisfied about the:

- integrity of the personal identifier that you provided; or
- procedure followed to obtain your personal identifier.

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ⁱ The department is the Australian Government Department of Immigration and Citizenship.

ⁱⁱ You will be a lawful non-citizen if you are a non-citizen in the migration zone who holds a visa that is in effect OR an allowed inhabitant of the Protected Zone who is in a protected area in connection with the performance of traditional activities: section 13, Migration Act.

ⁱⁱⁱ 5 minutes if the requirement was oral; 48 hours if the requirement was in writing; or any further period the officer has allowed: regulation 3.19A, Migration Regulations 1994.

^{iv} Section 192A, Migration Act.

How will your personal identifiers be used?

Your personal identifiers will be used to assist us to determine who you are and whether or not you are a lawful non-citizen. They may be compared against documents you have provided to us or records already held by the department.

Disclosure of your personal identifiers

Your personal identifiers will not be disclosed to other persons except where this is necessary to assist us to determine who you are and whether you are a lawful non-citizen.

Your personal identifiers may be produced in evidence in a court or tribunal in relation to you or for the purposes of an inquiry by the Ombudsman or Privacy Commissioner.

The Privacy Act

The *Privacy Act 1988* protects your privacy and prevents misuse of personal information collected by government agencies. The Privacy Act applies to your personal identifiers.

It will be a breach of the Privacy Act if your personal identifiers are collected unlawfully or by unfair means, or are used or disclosed otherwise than in accordance with the paragraphs above, under the headings 'How will your personal identifiers be used?' and 'Disclosure of your personal identifiers'.

If you believe the department has wrongly collected or handled your personal identifiers, 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.

In addition, you have the right to complain to the Privacy Commissioner about the handling of your personal information, including your personal identifiers. The Privacy Commissioner can investigate your complaint. You can write to the Privacy Commissioner at:

GPO Box 5218
SYDNEY NSW 2001

Or call the free privacy hotline – 1300 363 992.

Freedom of Information Act

Under the *Freedom of Information Act 1982* you may apply for access to certain information and documents in the possession of the Australian Government and of its agencies and may seek amendment of records containing your personal information which is incomplete, incorrect, out of date or misleading. If you would like to apply for access to documents under the Freedom of Information Act, please request form 424A *Request for access to documents under the Freedom of Information Act 1982*, from the local office of the department.

Home page

www.immi.gov.au

General enquiry line

Telephone **131 881** 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.