

Migration and Refugee Division Commentary

Procedural

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PRESCRIBED PERIODS UNDER PARTS 5 AND 7 OF THE *MIGRATION ACT 1958* (Cth)

This table is intended as a general guide only.

All references to legislation are to the *Migration Act 1958* (Cth) and *Migration Regulations 1994* (Cth), unless stated otherwise.

'Detainee' refers to a non-citizen who is in 'immigration detention' as defined in s 5(1) of the *Migration Act 1958* (Cth).

Invitation to provide information / comment on adverse information - ss 359, 359A, 424, 424A

Comments / information in writing:	
<p>Bridging Visa (BV) detainee - refusal or cancellation of bridging visa</p> <p>(detainee in immigration detention because of refusal or cancellation)</p>	<p>Either:</p> <ul style="list-style-type: none"> • 2 <u>working</u> days after notice received OR • where applicant agrees in writing - not less than 1 <u>working</u> day after notice is received <p><i>Part 5: s 359B(2), reg 4.17(2)</i></p>
<p>Other detainee - all other review applications</p>	<p>Either:</p> <ul style="list-style-type: none"> • 7 <u>calendar</u> days after notice received OR • where applicant agrees in writing - not less than 1 <u>working</u> day after notice is received <p><i>Part 5: s 359B(2), reg 4.17(3); Part 7: s 424B(2), reg 4.35(2)</i></p>
<p>Non-detainee - all review applications</p>	<p>Either:</p> <ul style="list-style-type: none"> • 14 <u>calendar</u> days after notice received OR • where applicant agrees in writing - not less than 1 <u>working</u> day after notice is received <p><i>Part 5: s 359B(2), reg 4.17(4); Part 7: s 424B(2), reg 4.35(3)</i></p>
Comments / information at interview:	
<p>BV Detainee - refusal or cancellation of bridging visa</p> <p>(detainee in immigration detention because of refusal or cancellation)</p>	<p>Within 2 <u>working</u> days after notice received</p> <p><i>Part 5: s 359B(3), reg 4.18(2)</i></p>
<p>Other Detainee - all other review applications</p>	<p>Within 14 <u>calendar</u> days after notice received</p> <p><i>Part 5: s 359B(3), reg 4.18(3); Part 7: s 424B(3), reg 4.35A(2)</i></p>
<p>Non-detainee - all review applications</p>	<p>Within 28 <u>calendar</u> days after notice received</p> <p><i>Part 5: s 359B(3), reg 4.18(4); Part 7: s 424B(3), reg 4.35A(3)</i></p>

Extension of time – invitation to provide information / comment on adverse information

Comments / information in writing:	
<p>All cases</p>	<p><u>No prescribed period.</u> Length of extension is at the Tribunal's discretion.</p> <p>See <i>Bautista v MIBP</i> [2018] FCA 1114 which held that reg 4.18A(4) is invalid (the other prescribed periods for extensions of time are also likely to be invalid).</p> <p><i>Part 5: s 359B(4), reg 4.18A; Part 7: s 424B(4), reg 4.35B</i></p>
Comments / information at interview:	
<p>All cases</p>	<p><u>No prescribed period.</u> Length of extension is at the Tribunal's discretion.</p> <p>See <i>Bautista v MIBP</i> [2018] FCA 1114 which found that reg 4.18A(4) is invalid (the other prescribed periods for extensions of time are also likely to be invalid).</p> <p><i>Part 5: s 359B(5), reg 4.18B; Part 7: s 424B(5), reg 4.35C</i></p>

Hearing invitation – ss 360A, 425A

<p>BV detainee - refusal or cancellation of bridging visa</p> <p>(detainee in immigration detention because of refusal or cancellation)</p>	<p>Either:</p> <ul style="list-style-type: none"> • 2 <u>working</u> days after notice received OR • where applicant agrees in writing - not less than 1 <u>working</u> day after notice is received <p><i>Part 5: s 360A(4), reg 4.21(2)</i></p>
<p>Other detainee - all other review applications</p>	<p>Either:</p> <ul style="list-style-type: none"> • 7 <u>calendar</u> days after notice received OR • where applicant agrees in writing - not less than 1 <u>working</u> day after notice is received <p><i>Part 5: s 360A(4), reg 4.21(3); Part 7: s 425A(3), reg 4.35D(2)</i></p>
<p>Non-detainee - all review applications</p>	<p>Either:</p> <ul style="list-style-type: none"> • 14 <u>calendar</u> days after notice received OR • where applicant agrees in writing - not less than 1 <u>working</u> day after notice is received <p><i>Part 5: s 360A(4), reg 4.21(4); Part 7: s 425A(3), reg 4.35D(3)</i></p>
<p>Note: For a <u>rescheduled</u> hearing, if the prescribed period of notice was given for the hearing initially scheduled, there are no statutory requirements; however, a reasonable period of notice must be given for the rescheduled hearing. Where the hearing has concluded and a further hearing is required, the prescribed notice period may be required. See Chapter 22 of the Procedural Law Guide for discussion about notification requirements for a rescheduled hearing (22.3) and further hearings (22.4).</p>	

Oral decisions with oral reasons – requesting written statement – ss 368D, 430D

<p>Written request by applicant for oral statement to be reduced to writing</p>	<p>Within 14 days after the Tribunal makes the oral statement</p> <p><i>Part 5: s 368D(4), reg 4.27B; Part 7: s 430D(4), reg 4.35F</i></p>
<p>Written request by Minister for oral statement to be reduced to writing</p>	<p>Minister may request at any time - no prescribed period applies</p> <p><i>Part 5: s 368D(5); Part 7: s 430D(5)</i></p>
<p>Period in which written reasons must be provided</p>	<p>Within 14 days after the day the request for written reasons is received by the Tribunal</p> <p><i>Part 5: ss 368D(4)–(5); Part 7: ss 430D(4)–(5)</i></p>

Notification – time of receipt (when persons other than the Secretary are taken to have received a document from the Tribunal) – ss 379C, 441C

<p>By:</p> <ul style="list-style-type: none"> • fax • email • other electronic means 	<p>End of the day on which document is transmitted</p> <p><i>Part 5: s 379C(5); Part 7: s 441C(5)</i></p>
<p>By:</p> <ul style="list-style-type: none"> • prepaid post • other prepaid means <p>Document must be sent within 3 working days of date of document for deemed receipt period to operate</p> <p><i>(Part 5: s 379A(4); Part 7: s 441A(4))</i></p>	<ul style="list-style-type: none"> • if sent WITHIN Australia - 7 <u>working</u> days (in the place of the receiving address) after date of document • if sent OUTSIDE Australia - 21 <u>calendar</u> days after date of document <p><i>Part 5: s 379C(4); Part 7: s 441C(4)</i></p>
<p>By hand to:</p> <ul style="list-style-type: none"> • recipient • a person at last residential/business address who appears to live/work there and appears to be at least 16 years 	<p>When document handed to person</p> <p><i>Part 5: ss 379C(2), 379C(3); Part 7: ss 441C(2)–(3)</i></p>
<p>Documents not given effectively - if the Tribunal makes an error in giving a document by one of these methods but the person gets the document (or a copy), they are taken to have received it at the prescribed time for that method unless they can show they received it at a later time, in which case they are taken to have received it at the later time: ss 379C(7), 441C(7).</p>	

Migration and Refugee Division Comparison of provisions applicable to Part 5 and Part 7 reviews

Notes:

- References are to *Migration Act 1958* (Cth) unless otherwise specified as the *Administrative Appeals Tribunal Act 1975* (Cth) ('AAT Act').
- Time limits in *Migration Regulations 1994* (Cth) may differ between Part 5 and Part 7 reviewable decisions.

Part 5	Part 7	Subject	Comparison
Review of decisions			
s 337	s 410	Interpretation	Different - differences largely reflect different jurisdiction
s 338	s 411	Reviewable decisions	Different
s 339	s 411(3)	Conclusive certificates	Same
s 347	s 412	Application for review	Different
s 348	s 414	Tribunal must review decisions	Same
s 349	s 415	Powers of Tribunal	Same
s 350	-	Review of s 93 assessment	No Part 7 equivalent
-	s 416	New information in later review applications	No Part 5 equivalent
s 351	s 417	Minister may substitute more favourable decision	Same except Minister's statement laid before each House of Parliament with respect to a Part 7 applicant must not include: any information that may identify the applicant [s 417(5)(b)] or; where s 417(5)(c) applies any information that may identify the other person
s 352	s 418	Secretary to be notified of review application	Same except additional Part 5 specific requirement [s 352(3)] of faster compliance for certain BV detention [s 338(4)] cases

Part 5	Part 7	Subject	Comparison
s 353	s 420	Tribunal's way of operating	Same
s 353B	s 420B	Guidance decisions	Same
s 18B, AAT Act		President may give directions	Same
s 18C, AAT Act		Sittings of Tribunal	Same
s 19A - 19B, AAT Act		Constitution of Tribunal	Same
s 19A(1)(b), AAT Act		Presiding member in multi member panels	Same
s 19D, AAT Act		Reconstitution of Tribunal	Same
s 357A	s 422B	Exhaustive statement of NJ hearing rule	Same
s 358	s 423	Documents to be given to the Tribunal	Same except minor differences: <ul style="list-style-type: none"> - Part 5 reviewable decision: documents given to 'Tribunal', whereas Part 7 reviewable decision: documents given to 'Registrar' - Part 5 applicant may give a written statement in relation to any matter of fact, whereas Part 7 applicant may give a statutory declaration in relation to any matter of fact
-	s 423A	Dealing with new claims or evidence	No Part 5 equivalent. Section 423A relates to protection visas and Part 7 reviewable decisions
s 359	s 424	Tribunal may seek information	Same except Part 7 only refers to invitation to a 'person' whereas Part 5 draws distinction between 'person' and 'Secretary' and has additional sub-s (4) to accommodate this. Difference is not significant as it only relates to method of delivery which would be the same for the Part 7 reviewable decision under parallel notification provisions
s 359AA	s 424AA	Information and invitation given orally	Same
s 359A	s 424A	Information and invitation given in writing	Same but note different subsection numbering
s 359B	s 424B	Requirements for written invitation	Same

Part 5	Part 7	Subject	Comparison
s 359C	s 424C	Failure to give information / comments	Same
s 360	s 425	Tribunal must invite applicant to appear	Same
s 360A	s 425A	Notice of invitation to appear	Same but note different subsection numbering
s 361	s 426	Applicant may request witnesses /evidence	Different. Part 5 has additional sub-s (2A) which applies to written evidence or material, and sub-s (4) which excludes certain BV detainee [s 338(4)] cases. No Part 7 equivalents
s 362	-	Applicant may request witnesses	No Part 7 equivalent. Only applies to certain BV detainee cases [s 338(4)]
s 362A	-	Applicant entitled access to written material before Tribunal	No Part 7 equivalent
s 362B	s 426A	Failure of applicant to appear	Same
s 362C	s 426B	Failure to appear- Tribunal's decisions, written statements and notifying the applicant	Same
s 363	s 427	Powers of Tribunal	Same except: <ul style="list-style-type: none"> - Combining two or more reviewable decisions in relation to the same person - Under Part 5 it is discretionary, Part 7 it is mandatory - Part 7 review has additional sub-ss (6) - (7) – person appearing before Tribunal <i>to give evidence</i> not entitled to be represented or cross-examine; and Tribunal may direct communication be through interpreter
s 363A	-	Tribunal does not have power to permit person to do something s/he not entitled to do	No Part 7 equivalent
s 364	s 428	Another person may be authorised to take evidence	Same
s 365	s 429	Public or private hearings	Different: <ul style="list-style-type: none"> - Part 5 hearings in public except where in public interest to be in private or where not practicable to be public. Associated direction power - Part 7 hearings in private only
s 366	s 429A	Oral evidence by telephone	Same except Part 5 has additional sub-s (2) to ensure public nature of review
s 366A	-	Applicant may be assisted by another person whilst appearing before Tribunal	No Part 7 equivalent

Part 5	Part 7	Subject	Comparison
s 366B	-	Other person not to be assisted / represented while appearing before Tribunal	No direct Part 7 equivalent - but see s 427(6)
s 366C	s 427(7)	Interpreters	s 366C similar in effect to s 427(7)
s 366D	s 427(6)	Examination / cross-examination	s 366D similar in effect to s 427(6)(b)
s 367	-	Certain decisions made within prescribed period	No Part 7 equivalent – relates to certain BV detention cases [s 338(4)]
s 66B, AAT Act		Decision publication	Same but note for Part 7 reviewable decisions information which identifies an applicant or any relative or other dependant of an applicant must not be published: [s 431]
s 368	s 430	Decision and written statement	Same except Part 5 obligation is subject to conclusive certificate provisions [s 375A(2)(b) and 376(3)(b)]
s 368A	s 430A	Notifying parties of Tribunal decision (decision not given orally)	Same
s 368D	s 430D	Tribunal's decision given orally	Same
-	s 431	Identifying information not to be published	No Part 5 equivalent.
Offences			
s 63, AAT Act		Contempt of Tribunal	Same
s 370	s 432	Failure to comply with summons	Same
s 371	s 433	Refusal to be sworn / answer questions	Same
Miscellaneous			
s 60, AAT Act		Protection and immunity of members and other persons	Same
s 66(1), AAT Act		Disclosure of confidential information to a court	Same. Note that repealed ss 377 or 439 continues to apply to persons in relation to information received prior to 1 July 2015 (Item 15BB(1) of Part 4 of Schedule 9 to the <i>Tribunals Amalgamation Act 2015</i> (Cth)). Section 66A of the AAT Act appears to allow these provisions to continue to apply to information

Part 5	Part 7	Subject	Comparison
			received by the MRT or RRT before 1 July 2015.
-	s 66(2) AAT Act	Disclosure of confidential information to a parliament	Applies to Part 7 reviewable decisions only. No Part 5 equivalent
s 67, AAT Act		Fees for compliance with summons	Same
s 375	s 437	Restrictions on the disclosure of certain information to Tribunal	Same
s 375A	-	Certain information only to be disclosed to Tribunal	No Part 7 equivalent
s 376	s 438	Tribunal's discretion in relation to disclosure of certain information	Similar but note some differences: <ul style="list-style-type: none"> - sub-s (1) – Part 5 has additional (1)(a)(ii) and slightly different (1)(b) to account for s 375A - sub-s (2) – very minor difference in wording - sub-s (3) – Part 5: disclosure may be to applicant or any other person who has given written / oral evidence whereas Part 7 disclosure is to applicant only - sub-s (4) – Part 7 has additional (4) which requires s 440 direction where material is disclosed to applicant
s 378	s 440	Tribunal may restrict publication/disclosure	Same except Part 5 power only relates to restricting publication whereas Part 7 power wider and encompasses both publication and disclosure
Giving and receiving documents			
s 379AA	s 441AA	Giving docs by Tribunal where no requirement to do so by other method	Same
s 379A	s 441A	Methods by which Tribunal gives docs to person other than secretary	Same
s 379B	s 441B	Methods by which Tribunal gives documents to Secretary	Same
s 379C	s 441C	When person other than Secretary taken to have received docs	Same
s 379D	s 441D	When Secretary is taken to have received docs	Same
s 379EA	s 441EA	Giving documents by Tribunal - combined applications	Same

Part 5	Part 7	Subject	Comparison
s 379F	s 441F	Giving documents to Tribunal	Same
s 379G	s 441G	Authorised recipient	Same except minor difference in wording: s 379G(1A)(a) refers to a 'where the application not properly made' whereas s 441G(1A)(a) refers to 'where the application is not valid'.
Establishment and management of tribunal			
s 5, AAT Act		Establishment	Same
s 5A, AAT Act		Membership	Same
s 6, AAT Act		Appointment of Members	Same
s 7, AAT Act		Qualifications for appointment	Same
s 8, AAT Act		Term of Members appointment	Same
s 9, AAT Act		Remuneration and allowances of members	Same
s 10, AAT Act		Acting appointments	Same
s 10A, AAT Act		Delegation	Same
s 10B, AAT Act		Oath or affirmation of office	Same
s 11, AAT Act		Outside employment	Same
s 12, AAT Act		Leave of absence	Same
s 13, AAT Act		Termination of appointment (not Judges)	Same
s 14, AAT Act		Disclosure of interests	Same, however repealed ss 403 and 468 continue to apply to Members appointed prior to 1 July 2015 as if those sections had not been repealed

Part 5	Part 7	Subject	Comparison
s 15, AAT Act		Resignation	Same
s 17A, AAT Act		Divisions of the Tribunal	Same
s 17B, AAT Act		Allocation of business to divisions	Same
s 17C, AAT Act		Assignment of members to divisions	Same
s 17D, AAT Act		Assignment to migration and refugee division	Same
s 18A, AAT Act		Arrangement of business	Same
s 64, AAT Act		Registry	Same
s 24N, AAT Act		Staff and statutory agency	Same
s 24P, AAT Act		Functions of registrar and staff	Same
s 24PA, AAT Act		Officers of the Tribunal	Same

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No Jurisdiction Resource Guide – MRD Legal Services

You can find MRD Legal's precedents on the [Precedents Index](#) under the 'Jurisdiction' sub-heading where further information about all precedents is available. Please consult [Jurisdictionary](#) for assistance in determining whether the Tribunal has jurisdiction in a certain case.

Issue	Available precedents by CaseMate description	Further information
<p>No Payment (Fee)</p> <p>Where the review application is not accompanied by the prescribed fee.</p>	<p><i>'No jurisdiction – Fee – Migration (Part 5)'</i></p> <p>User input options for where a fee reduction has not been requested, where a fee reduction has been granted, and where a fee reduction has been refused.</p>	<ul style="list-style-type: none"> • For Part 5-reviewable decisions, the applicant must have: <ul style="list-style-type: none"> ◦ Paid the prescribed fee within the prescribed period; or ◦ Paid at least 50% of the prescribed fee and lodged a fee reduction request within the prescribed period, and if the fee reduction request has been refused, paid the remainder of the fee within a reasonable period of the request being determined. • If neither of these things occurs, the Tribunal will not have jurisdiction. See Procedural Law Guide Chapter 5 – Fees for review for further information.
<p>Non Reviewable Decision (No reviewable decision)</p> <p>Where the applicant applies for review of a decision that the Tribunal does not have jurisdiction to review.</p>	<p><i>No Jurisdiction – No reviewable decision – Migration (Part 5) and Protection (Part 7)'</i></p> <p>User input options include:</p> <ul style="list-style-type: none"> • primary decision not listed in s 338 / reg 4.02 / s 411 • s 338 decision but specified circumstances not met • automatic visa cancellation • no primary decision – primary decision pending • protection visa application not in migration zone at time of primary decision <p>See also <i>Optional Standard Paragraphs – No jurisdiction</i>, which contains standard paragraphs for where s 338(2)(d) is in issue for Subclass 407, 457 and 482 visas that can be inserted into the 'No Jurisdiction - Migration - No Part 5-reviewable decision' precedent where 's 338 decision but specified circumstances not met' is selected.</p>	<ul style="list-style-type: none"> • For an application for review to be properly made, it must be for review of a 'Part 5-reviewable decision' as defined in s 338 of the Act, which also sets out circumstances that must be met for the Tribunal to have jurisdiction, or a 'Part 7-reviewable decision' defined in s 411 of the Act. • Common examples: <ul style="list-style-type: none"> ◦ 'Primary decision not listed in s 338, reg 4.02 or s 411' such as visitor visas lodged offshore where the visa applicant is not sponsored and has not specified in their visa application that they intend to visit a person specified in s 338(7)(b); Subclass 200 (Refugee) visas; etc. ◦ 's 338 decision but specified circumstances not met' include Subclasses 407, 457 or 482 visas where the additional nomination/sponsorship requirements in s 338(2)(d) are not met. See MRD Legal's Business Visa Overview and commentary on Subclass 457 and Subclass 482. See also example decisions in cases 1832534 and 1833914 which are relevant to primary decisions made before 13 December 2018. ◦ 'Automatic visa cancellation' refers to cancellation decisions that occur by operation of law such as those under ss 140(1), 140(3), 137J, and 137T. See MRD Legal's Cancellation Overview and commentary on s 140 cancellations for more information. ◦ 'Protection visa application not in migration zone at time of primary decision' is used where the visa applicant had departed Australia prior to the delegate's decision and had not returned to the migration zone by the time of decision. • For more information about when decisions relating to particular types of visas are reviewable under ss 338/411, see the 'Merits Review' section in the appropriate MRD Legal commentary for the relevant visa subclass. For example, Subclass 600 Visitor, Student Visa Overview, Business Visa Overview, Partner Visa Overview (see 'Tribunal's Jurisdiction'), and also Guide to Refugee Law Chapter 12 – Merits Review of Protection Visa Decisions. See also Procedural Law Guide Chapter 4 – Review applications for more information.

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<p>Repeat review application</p> <p>Where Tribunal has already carried out its statutory duty to review the decision.</p>	<p>Where a repeat review application has been made, see <i>'No jurisdiction – Repeat applications – Migration (Part 5) and Protection (Part 7)'</i>. For Part 7 applications, see also <i>Optional Standard Paragraphs – No jurisdiction</i>, which contains standard paragraphs for when applicants have been informed that further applications for review of the same decision will not be treated as a new application for review.</p>	<ul style="list-style-type: none"> • Where an applicant lodges a 'repeat application' the Tribunal has no jurisdiction where it has previously carried out its statutory duty in relation to the first application. The Tribunal carries out its statutory duty to review the decision if it conducts and completes a review of the decision (this does not include where the earlier review application was finalised as no jurisdiction or withdrawal). See Procedural Law Guide Chapter 4 – Review applications at 4.8 for more information. • If no decision on the first application has been made yet, consider whether the Tribunal does not have jurisdiction in relation to the second review application for another reason (e.g. out of time) or wait until a decision has been made on the first application.
<p>Timeframes not met (Out of time)</p> <p>Applicant applies for review after the prescribed period has ended.</p>	<p>i) For Part 5, <i>'No jurisdiction – Out of time – Migration (Part 5)'</i></p> <p>ii) For Part 7, <i>'No jurisdiction – Out of time – Protection (Part 7)'</i></p> <p>The contents vary depending on the method of notification, type of reviewable decision, whether the applicant is in detention or not, and whether there is more than one applicant.</p> <p>See also <i>Optional Standard Paragraphs – No jurisdiction</i>, which contains standard paragraphs about attempts to cure errors in notification.</p>	<ul style="list-style-type: none"> • The prescribed period commences to run when the applicant has been validly notified of the primary decision. Note that if the applicant hasn't been validly notified of the primary decision, the prescribed period won't have started to run and the review application may not be out of time. • To determine when an applicant is notified of a primary decision and whether a notification of a primary decision is valid, see Procedural Law Guide Chapter 2 – Notification of primary decisions. • Sections 347(1)(b)/412(1)(b) require that an application for review be given to the Tribunal within the relevant prescribed period. The relevant periods are prescribed in regs 4.10 and 4.31 of the Regulations and differ depending on the type of Part 5 or Part 7-reviewable decision and whether or not the person is in immigration detention. • See Procedural Law Guide Chapter 4 – Review applications for more information.
<p>No Standing</p> <p>Where the Tribunal does not have jurisdiction because the wrong person has applied for review.</p>	<p>i) For Part 5, <i>'No Jurisdiction – Standing – Migration (Part 5)'</i></p> <p>User input option 'wrong person applied for review' and there are options available for each subsection under s 338.</p> <p>ii) For Part 7, <i>'No jurisdiction – Standing – Protection (Part 7)'</i></p> <p>User input option 'wrong person applied for review'</p>	<ul style="list-style-type: none"> • For Part 5-reviewable decisions: <ul style="list-style-type: none"> ○ Refusing or canceling a visa, or not revoking an automatic cancellation, in the migration zone, including those where the applicant is in detention as the result of the refusal of a bridging visa (i.e. decisions under ss 338(2), (3), (3A), (4) or (7A)), the application for review may only be made by the non-citizen who was the subject of the decision. ○ Refusing a visa application made offshore or an assessed points test score for an offshore application (i.e. decisions under ss 338(5) or (8)), the application for review may only be made by the visa applicant's sponsor or nominator. ○ Refusing offshore visitor visa applications or resident return visa applications (i.e. decisions under ss 338(6) or (7)), only a specified Australian relative may lodge an application for review. ○ Refusals where the decision is one prescribed for the purposes of s 338(9), reg 4.02 sets out who must lodge the application for review in relation to each category of prescribed reviewable decision. • For Part 7-reviewable decisions, only the non-citizen who was the subject of the primary decision can seek review. • See Procedural Law Guide Chapter 4 – Review applications for more information.

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	<p>iii) Where the review applicant is a company that has become deregistered see <i>'No jurisdiction - Standing - Review applicant company deregistered (Part 5)</i></p>	<ul style="list-style-type: none"> Where a company that was the relevant sponsor or nominator has been deregistered, they may no longer have standing to apply for or continue with an application for review. See for example the decision in case 1808983.
<p>Incorrect applicant location</p> <p>Where the Tribunal does not have jurisdiction because the applicant is not in the correct location at the time the review application is lodged and/or at time of primary decision (where relevant).</p>	<p>i) For Part 5, <i>'No Jurisdiction – Standing – Migration (Part 5)'</i> which has a user input option for when the applicant was not in migration zone at time of primary decision / review application.</p> <p>ii) For Part 7, <i>'No jurisdiction – Standing – Protection (Part 7)'</i> where there is an option for Part 7 reviews where the applicant is not in the migration zone.</p>	<ul style="list-style-type: none"> For Part 5-reviewable decisions that are covered by ss 338(2), (3), (3A) or (4) - that is, decisions to refuse or cancel a visa, or not to revoke a cancellation under s 137L in the migration zone, the review applicant must be physically present in the migration zone at the time that the review application is made. For Part 5-reviewable decisions that are covered by s 338(7A) - that is, decisions to refuse a visa in the migration zone to a non-citizen who applied for the visa outside the migration zone (e.g. Subclass 100 visa refusals), the review applicant must have been in the migration zone when the visa was refused <i>and</i> at the time that the review application was lodged. For the review application to be valid under Part 7, the review applicant must be physically present in the migration zone when the application for review is made. See Procedural Law Guide Chapter 4 – Review applications for more information.
<p>Conclusive Certificate</p> <p>Where the Minister issues a conclusive certificate under ss 339/411(3).</p>	<p><i>'No Jurisdiction – No reviewable decision – Migration (Part 5) and Protection (Part 7)'</i> and use the option 'conclusive certificate issued'.</p>	<ul style="list-style-type: none"> The Tribunal has no jurisdiction in respect of these decisions: ss 338(1)(a)/411(2)(b). See Procedural Law Guide Chapter 4 – Review applications for more information.
<p>Withdrawal Received</p> <p>Where a review application has been validly withdrawn.</p>	<p>No precedent required. The member determines whether a withdrawal is valid. Member to sign jurisdiction recommendation form instead (which acknowledges withdrawal).</p>	<ul style="list-style-type: none"> Once an application has been validly withdrawn it no longer exists and cannot be reinstated. The Tribunal will have no jurisdiction to review the delegate's decision and no power to make a decision on the merits of the claim. For more information see Procedural Law Guide Chapter 24 – Withdrawal of review applications and consequences of death of an applicant.