

## Temporary Protection Visas

### What are Temporary Protection Visas?

Temporary Protection Visas (TPV) are given to asylum seekers who are found to be in need of protection, in place of a Permanent Protection Visa. They were first introduced in Australia in 1999 and were eventually removed in 2008. On 18 October 2013, the Government reintroduced TPVs.

The new TPV regime sought to affect asylum seekers who arrived by boat before 19 July 2013 and had not had their protection application finalised, and for plane arrivals who arrive on false or fake documents. Asylum seekers who arrived by boat after 19 July 2013 are subject to Regional Processing Arrangements and are not permitted to be resettled in Australia.<sup>1</sup>

On Monday 3 December 2013 the Senate disallowed the re-introduction of TPVs. The Government is unable to grant a TPV to any asylum seeker.<sup>2</sup> In response the Government has implemented a freeze on any type of protection visas being granted, leaving 33,000 people in limbo.<sup>3</sup> In addition, the Government has begun to use old visas to achieve their policy: the Temporary Humanitarian Concern Visa and Humanitarian Stay (Temporary) Visas.<sup>4</sup>

### What is wrong with TPVs?

TPVs will create a second class of refugees. During 1999 – 2008, in contrast to permanent visa holders, TPV holders faced ongoing uncertainty about their ability to remain in Australia, as well as exclusion from basic welfare and integration services available to permanent visa holders, such as:

- Lack of a right to apply for family reunion with spouses and children who remained overseas in high risk situations;
- A bar from most forms of Centrelink support;
- Lack of a right to funded English classes, interpreting or translation services;
- Lack of access to emergency accommodation and limited access to state housing.<sup>5</sup>

Australia was the only country to introduce TPVs for refugees as a form of penalty,<sup>6</sup> and the policy damaged Australia's international reputation.

### While TPVs may have been harsh, didn't they work?

Contrary to popular belief, 'tough' immigration policies in the past have not succeeded as an effective deterrent:

- In 2000, the first full year after TPVs were introduced, there were 2,939 arrivals. In 2001, by the time the policy was in full force, arrivals rose to more than 5,000.<sup>7</sup>
- Under this policy, denying the right to refugees on TPVs to apply for family reunion pushed the wives and children of asylum seekers onto boats in an attempt to be reunited.
- In 2001, 353 people drowned in the tragic SIEV-X disaster while travelling by boat to Australia. Most of the 288 women and children aboard the SIEV-X were family members of TPV holders already in Australia.<sup>8</sup>

<sup>1</sup> <http://www.comlaw.gov.au/Details/F2013L01811>

<sup>2</sup> <http://www.comlaw.gov.au/Details/C2013G01820>

<sup>3</sup> <http://www.minister.immi.gov.au/media/sm/2013/sm210040.htm>

<sup>4</sup> <http://www.asrc.org.au/2014/02/14/information-regarding-temporary-humanitarian-concern-visas-thcv/>

<sup>5</sup> [http://www.adelaide.edu.au/apsa/docs\\_papers/Aust%20Pol/McMaster.pdf](http://www.adelaide.edu.au/apsa/docs_papers/Aust%20Pol/McMaster.pdf)

<sup>6</sup> <http://www.hrw.org/backgroundunder/refugees/australia051303.htm>

<sup>7</sup> <http://refugeecouncil.org.au/r/stat-as.php>

TPVs are a form of punitive punishment that did not previously deter boat arrivals, nor stop deaths at sea. They ignored push factors, such as the increasing number of asylum seekers moving across borders worldwide.<sup>9</sup> The fact that 90% of TPV holders were eventually granted permanent residency<sup>10</sup> during the previous era of TPVs is an indication that the re-introduction is politically motivated, rather than a proper long term policy aimed at solving the issue.

### **What were the new regulations?**

The Government's reintroduction would have had the result that anyone who held or was on a TPV couldn't gain a permanent visa. Under the new regulations, those who had not had their determinations finalised would only get a TPV, not permanent residency.<sup>11</sup> This means that someone who has arrived in Australia and has been deemed a refugee but is yet to have their claim finalised with security and health checks, would only be granted a TPV. There are around 30,000 asylum seekers who are waiting for their application to be finalised.<sup>12</sup>

A TPV lasts for three years, and once the visa expires after three years, the holder has to re-apply for another three-year TPV. Holders will have access to some medical and welfare services, but no access to family reunion or travel rights. Positively, TPV holders will have the right to work, and children may in the future have access to public education.<sup>13</sup> To be granted permanent protection, a TPV holder requires ministerial approval if the minister believes it is in the national interest.<sup>14</sup> There is no definition of the 'national interest'.

### **What are the visas being used after the disallowance of TPVs?**

An asylum seeker may be offered a Humanitarian Stay Temporary Visa (HSTV) that leads to a Temporary Humanitarian Concern Visa (THCV). The THCV lasts up to three years and is not a permanent visa (much like TPVs). Whilst work rights, Medicare and Centrelink are available under the THCV, someone on a THCV can never sponsor their family. THCV holders may also not leave Australia, as they will not be able to return. If the Department of Immigration and Border Protection decides that THCV holder no longer requires protection, the visa may be cancelled prior to its expiry. Once it does expire, asylum seekers are forced to show that they require protection again. This is the subject of a High Court challenge which will be heard in May this year.

For more information on THCVs, including positives, negatives and processing details, see the [ASRC's factsheet here](#).

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<sup>8</sup> <http://sievx.com/articles/disaster/200111xxEITelegraph.html>

<sup>9</sup> <http://unhcr.org/globaltrends/june2013/>

<sup>10</sup> <https://www.refugeecouncil.org.au/f/myth-long.php>

<sup>11</sup> <http://www.eurekastreet.com.au/article.aspx?aeid=38395#.UmhYnnCnrPX>

<sup>12</sup> <http://www.abc.net.au/news/2013-08-16/coalition-promises-return-of-temporary-protection/4893524>

<sup>13</sup> <http://www.comlaw.gov.au/Details/F2013L01811/Explanatory%20Statement/Text>

<sup>14</sup> <http://www.scottmorrison.com.au/info/pressrelease.aspx?id=1047>