



INFORMATION SHEET

December 2014

Changes to Refugee Laws in Australia: What it means for asylum seekers and refugees

You may be aware that new laws have been passed which affect people seeking asylum.

The laws make some key changes to:

- The way you seek asylum;
- The types of visas you are entitled to.

It may take some months for these changes to take effect.

We recommend you obtain migration advice from a registered migration agent about what these changes may mean for you.

In the meantime, here is a brief summary of some of the key changes that affect people who arrived by boat or were not immigration cleared.

1. Introduction of Temporary Protection

Who this affects

- Asylum seekers who arrived by boat
- Asylum seekers who arrived by plane without a visa or were not cleared by immigration at the airport
- Asylum seekers who have previously held certain types of temporary visas, such as a Temporary Safe Haven Visa or Temporary (Humanitarian Concern) Visa.

Who this does not affect

- Asylum seekers who arrived by plane with a valid visa, cleared immigration and then applied for asylum. You will continue to be eligible for a permanent protection visa.

What is a Temporary Protection Visa (TPV)?

- Valid for up to three years
- Able to work
- Able to access Medicare
- Cannot sponsor family to come to Australia
- Will have to reapply up to every 3 years and will not be eligible for permanent protection

What is a Safe Haven Enterprise Visa (SHEV)?

This is a new visa that requires you to live and work in a specified regional location for at least 3.5 years. The government has yet to decide which regional areas to include, so these visas will not be available for some time.

SHEVs will be valid for 5 years if you meet the following requirements:

- Live in a specified regional area
- Work in that regional area for at least 3.5 years
- Do not claim financial support for more than 18 months

You will not be eligible for permanent protection, but may be eligible for other types of visas, such as work, student or partner visas, if you are able to meet the relevant criteria for these visas.

2. Introduction of a new fast-track assessment process

Who this affects

This will affect asylum seekers who arrived by boat on or after 13 August 2012.

What this means

A new fast-track process has been developed for people who arrived by boat on or after 13 August 2012.

Under the fast-track process, you will still be interviewed by a department of immigration official; however there will be limited opportunity to appeal a negative decision of your refugee claim.

This means:

- Under fast track, unsuccessful claims will not be reviewed by the Refugee Review Tribunal
- Instead, your application may be referred to a new review body called the Immigration Assessment Authority (IAA)
- The review will not involve a hearing, instead the paperwork of your case will be reviewed
- You will only be allowed to provide new information to the IAA if you are able to explain why it could not have been presented in the first instance
- You can only appeal the decision at court to test whether the law has been applied properly, not to have the facts or merits of your case re-heard

If your claim is successful, you will be granted a temporary protection visa.

We will provide more information on this and other changes soon.

3. Bridging Visas with work rights may be granted while your refugee case is being assessed

You may be eligible for a Bridging Visa with work rights while your application for protection is being assessed. The Minister promised that people on bridging visas would have work rights reinstated. However, this won't happen automatically.

The Minister will notify people if they are eligible for work rights and then the Minister must personally sign off on every application. This could take many months.

4. Changes to the definition of a refugee

Who this affects

All asylum seekers, regardless of mode of arrival.

• Whether modifying behaviour is reasonable

The decision maker assessing your application will determine whether you are able to reasonably modify your behaviour in order to be safe in your home country. This might mean, for example, changing your profession if this is what is putting you in danger.

It does not require you to change fundamental things about your identity, such as your religion.

• Whether relocation is a safe option

You will need to show that you face a real risk of persecution in all areas of your country of origin and the decision maker will determine whether you can legally and safely live in another area.