



Applying for protection in Australia if you arrived illegally

If you:

- arrived in Australia illegally without a visa in effect (whether by sea or by air)
- you were not immigration cleared on your last entry into Australia, or
- you hold, or have ever held, a Temporary Protection visa (TPV), a Temporary Safe Haven visa, or a Temporary (Humanitarian Concern) visa

you can only apply for and (if you are found to engage Australia's protection obligations and meet other relevant visa requirements) be granted a protection visa of a temporary kind.

You are only able to apply for a TPV or the new Safe Haven Enterprise Visa (SHEV). You will have to choose between the two temporary visas. You cannot apply for both types of visas at the same time. People who have already been granted a TPV prior to SHEVs being available will be able to apply for a SHEV.

To apply for a TPV or a SHEV, you need to complete an application form. For more information on what form to use and how to complete it, read [PAIG](#): The protection visa application forms.

Is a protection visa right for you?

If any of the criteria described at the beginning of this PAIG apply to you, you can only apply for a TPV or SHEV.

You could be granted a TPV or SHEV if you are currently in Australia, you are found to engage Australia's protection obligations and you meet other requirements, such as health, security and character checks. However, if you apply for a protection visa and you are refused, it is unlikely you will be able to apply for any other visa while still in Australia.

Under Australian law, a person is a refugee if:

- If they have a nationality: they are outside their country of nationality and, owing to a **well-founded fear of persecution**, are unable or unwilling to avail themselves of the protection of that country.
- If they do not have a nationality: they are outside the country of their former habitual residence and, owing to a **well-founded fear of persecution**, are unable or unwilling to return to that country.

Australia also has complementary protection criteria, which states that a person engages Australia's protection obligations if it is assessed there is a real risk that they will suffer significant harm if they are returned to their home country.

For more information about what it means to engage Australia's protection obligations, read [PAIG](#): The meaning of 'protection obligations'.



Members of your family unit, such as a partner, children or other relatives that are dependent on you, can also be included in your protection visa application. You should provide documents to prove your family relationship when you lodge your application form. If you are the primary applicant, you are found to engage Australia's protection obligation and all family members you included in your application meet all other requirements, your family unit can all be covered under your protection visa.

If you do not engage Australia's protection obligations and you do not hold another visa, you do not have a lawful right to stay in Australia. You will be expected to return home or to another safe country where you have right of entry.

If you do not depart voluntarily and become unlawful in Australia, we will take steps to remove you from Australia.

If you arrived illegally by boat before 13 August 2012

If you arrived illegally by boat before 13 August 2012, you should have been allocated an Immigration Advice and Application Assistance Scheme (IAAAS) agent to help you lodge your protection visa application. As your agent is your authorised recipient, they will receive information regarding your application. Your agent will be able to continue to help you during the processing of your application.

Changes made to both the *Migration Act 1958* and the Migration Regulations 1994 mean that any valid application for permanent Protection visas lodged by an illegal arrival before 15 December 2014 will be taken to be an application for a TPV. This means that, if we find that you engage Australia's protection obligations and you meet all other requirements, you will be granted a TPV, not a permanent Protection visa. For more information on TPVs, read [PAIG: Visa options for illegal arrivals seeking protection](#).

If your visa is refused, an IAAAS agent will not be funded to provide you with advice for any further process. For more information on what you can do if your visa application is refused, read [PAIG: Refusal of a Temporary Protection visa or Safe Haven Enterprise visa application](#).

If you arrived illegally by boat on or after 13 August 2012

If you arrived illegally by boat on or after 13 August 2012 you will likely have a statutory bar in place which prevents you from lodging a valid visa application. The Minister must personally decide whether to lift that bar to allow you to make a valid protection visa application.

Do not lodge an application before we have asked you to because this might make your application invalid.

If the Minister decides to lift the application bar to allow you to apply, you should use the [Protection Application Information Guides](#) (PAIG) to help in preparing your application. The PAIG will be translated into key languages to help you make a valid application without Government-funded help.

Most illegal arrivals will not have access to Government-funded legal help. For more information, read [PAIG: Support in applying for protection](#).

There is a small group of people who arrived illegally after 13 August 2012 who lodged an invalid application with the help of an IAAAS agent. If this includes you, the Department has decided you will need to lodge a new application when it is your turn to have your claims assessed. The IAAAS agent you had previously will not be funded to help you with this.



If you were not allocated an IAAAS agent before 31 March 2014, you are not eligible for an IAAAS agent.

Your protection visa application will be assessed under the Fast Track Assessment process if:

- you arrived illegally by boat on or after 13 August 2012 and before 1 January 2014
- you have not been taken to a regional processing country
- the Minister for Immigration and Border Protection has allowed you to make a valid protection visa application, and
- you lodge a valid protection visa application on or after 19 April 2015.

The Minister could also determine that other groups of people will be processed under the Fast Track Assessment process. We will tell if you are a fast track applicant.

The Fast Track Assessment process will allow protection claims to be assessed efficiently by introducing a new review pathway. It also has shorter timeframes for applicants to respond to requests for further information or to respond to adverse information.

Under the Fast Track Assessment Process, it is extremely important to **give us your protection claims early and in full**. If you do not give us all of your protection claims and we refuse your application, you might not have another chance to provide these claims.

If we have questions or concerns about the claims you have made or the information you have given, we will give you an opportunity to respond to our questions or concerns. This will be either during your interview or in writing. However, you will be given limited time to give us any new information before we make a decision on your application. It is important that you respond and provide any new information within the timeframes we give you.

It could be some time before you are invited to apply for a protection visa, given the large number of people who need to be assessed under the Fast Track Assessment process. When it is your turn and the Minister has allowed you to make a valid protection visa application, we will invite you to apply.

Stay in contact with us and make sure we have your current contact information so we can send you this invitation. It is also very important that you attend any appointments we arrange with you and respond to any questions we ask you.

What will the Fast Track Assessment process involve?

When you are invited to apply for a protection visa, you can choose to apply for a [Temporary Protection visa](#) or a [Safe Haven Enterprise visa](#). You will need to fill out the relevant application form in English, or get a translator to help you if you cannot write in English. In this form, you should include all of your protection claims as fully and truthfully as possible. You should also provide evidence to support your claims where this is possible.

You must provide genuine documents as evidence of your identity, nationality and citizenship. You will be asked to provide translated, certified copies of these documents with your application form. If you cannot give us these documents, you must have a reasonable explanation for not providing them.

You will be asked to attend an interview with an immigration officer. That officer will ask you for more information about yourself and your claims. When answering these questions, you must speak truthfully and provide all the information you have about your protection claims.



If you are found to engage Australia's protection obligations and meet all other criteria, such as health, security, character and identity requirements, you will be granted a temporary visa to stay in Australia.

Review rights for fast track applicants.

Under the Fast Track Assessment process, you will not have access to the RRT. If you are found not to engage Australia's protection obligations, you could get a limited form of review by the Immigration Assessment Authority (IAA). You will not be eligible for this review if you are assessed to be an excluded fast track review applicant.

The IAA will only consider information that was available to us when we made the decision to refuse your visa. This includes the information you gave to us in your protection visa application. In most cases, you will not be able to give new information to the IAA. This will only be allowed in exceptional circumstances.

You do not need to apply for IAA review. If you are eligible, we will automatically refer your case to the IAA. We will tell you if we do this.

Excluded fast track review applicants

If we find that you do not engage Australia's protection obligations, we will then assess whether you can get this decision reviewed. You will not be able to get a review if you:

- have access to a safe third country that you can seek protection from, or are a national of two or more countries
- have previously entered Australia and, while in Australia, made an application for a protection visa which was either refused or withdrawn
- have been refused protection in another country, including with the United Nations High Commissioner for Refugees (UNHCR)
- have made manifestly unfounded claims for protection (that is, your claims have no substance)
- have given us a bogus document as part of your protection visa application and do not have a reasonable explanation for doing so.

If you fit one of these criteria, you will be an excluded fast track review applicant. We will tell you if we assess that you fit one of these criteria. You will be able to comment and give us more information before we reach a decision.

If we decide that you are an excluded fast track review applicant, you cannot seek merits review of our decision to refuse your visa. You will be expected to make arrangements to leave Australia.

Can I choose to have my claims assessed under a different process?

No. All IMAs in Australia who arrived on or after 13 August 2012 and before 1 January 2014, who lodge a valid protection visa application on or after 19 April 2015, will have their claims assessed under the Fast Track Assessment process.

Who can apply for a TPV or SHEV?

You can apply for a Temporary Protection visa or Safe Haven Enterprise visa if you have the characteristics described at the beginning of this information sheet and:

- are seeking the **protection of Australia**
- have your own claims for protection or are a member of the same family unit as a person who has their own claims for protection, and
- meet all eligibility requirements for applying.

However, you will not be able to make a valid protection visa application unless the Minister lifts the bar if you:

- entered Australia without a valid visa and/or you were not immigration cleared (as an offshore entry person or an unauthorised maritime arrival or unauthorised air arrival)
- have previously been refused a protection visa since your last arrival to Australia
- have had a protection visa cancelled since your last arrival to Australia
- are a national of two or more countries
- have protection in a prescribed safe third country, or
- have ever held a Temporary Safe Haven visa.

When can I apply for a protection visa?

If you are the subject of an application bar that prevents you from making a valid application, you will need to wait until the Minister agrees to lift the bar to allow you to make a valid application for a visa. Be patient as this may take some time. It is important that you keep your contact details up-to-date with us.

If the Minister agrees to lift the relevant bar to allow you to make a valid application for a visa, we will write to invite you to apply.

In the meantime, you can prepare by making sure you have original and genuine documents as evidence of your identity, nationality and citizenship ready for when we ask for them. These documents need to be from your country of origin or other countries you travelled through or lived in before you arrived in Australia. You can also gather documents to support your claims for protection.

For more information on identity requirements when you apply, read [PAIG](#): Identity requirements for protection visa applicants.