

AUSTRALIAN LAWYERS FOR HUMAN RIGHTS REFUGEE LAW KIT 2003

FACT SHEET NUMBER 1

AUSTRALIA'S VISA SYSTEM

In September 2001, the Australian government introduced a new visa regime for asylum seekers.¹ There are 9 different visas which apply specifically to asylum seekers and they are divided into two major categories: onshore and offshore.

Onshore asylum seekers

There are 2 types of 'Protection Visa' available to onshore asylum seekers:

Protection (subclass 866)

Criteria: Applicant is a refugee, arrived in Australia with valid travel documents and within Australia's migration zone, and did not spend more than 7 days in a country where could have sought protection on the way to Australia.

Rights: Permanent visa, access to government settlement services and welfare system, family reunion, right to return if leave Australia.

Temporary Protection (subclass 785).

Criteria: Applicant is a refugee, arrived in Australia without valid travel documents, or spent more than 7 days in a country where could have sought protection on the way to Australia.

Rights: Temporary visa for 3 years, limited access to welfare system.

Offshore asylum seekers

There are two types of visas available to asylum seekers who make a claim for refugee status offshore, namely:

Refugee; and

Humanitarian Visas.

¹ *Migration Amendment Legislation (Excision from Migration Zone) (Consequential Provisions) Act 2001*, Schedule 2; *Migration Regulations*, Part 4.

For all of these except the Secondary Movement Offshore Entry (Temporary) Visa the applicant must be outside Australia.

Refugee (subclass 200)

Criteria: Applicant suffers persecution in home country and is not living there, or is sponsored by a family member who is an Australian citizen or permanent resident and has been given a Refugee Visa. Applicant has not spent more than 7 days in a country where could have sought protection.

Rights: Permanent visa, access to government settlement services and welfare system, family reunion, right to return if leave Australia.

In-country Special Humanitarian (subclass 201)

Criteria: Applicant suffers persecution in home country and is still living there, or is sponsored by a family member who is an Australian citizen or permanent resident and has been given an In-Country Special Humanitarian Visa.

Rights: Permanent visa, access to government settlement services and welfare system, family reunion, right to return if leave Australia.

Global Special Humanitarian (subclass 202)

Criteria: Applicant is subject to substantial discrimination, amounting to gross violation of human rights, in the applicant's home country and is not living there, or is sponsored by a family member who is an Australian citizen or permanent resident and has been given a Global Special Humanitarian Visa, a Protection Visa, or a Special Assistance Visa. Since leaving home country, the applicant has not resided in another country where could have sought protection for more than 7 days.

Rights: Permanent visa, access to government settlement services and welfare system, family reunion, right to return if leave Australia.

Emergency Rescue (subclass 203)

Criteria: Applicant suffers persecution in home country, and is living there or in another country, or is sponsored by a family member who is an Australian citizen or permanent resident and has been given an Emergency Rescue Visa.

Rights: Permanent visa, access to government settlement services and welfare system, family reunion, right to return if leave Australia.

Woman at Risk (subclass 204)

Criteria: Applicant is a woman living in country other than home country, and is subject to persecution or registered by UNHCR as being of concern, or is sponsored by a family member who is an Australian citizen or permanent resident and has been given a Woman at Risk Visa. Since leaving home country, the applicant has not resided for more than 7 days in another country where could have sought protection.

Rights: Permanent visa, access to government settlement services and welfare system, family reunion, right to return if leave Australia.

Secondary Movement Offshore Entry (Temporary) (subclass 447)

Criteria: This is available to asylum seekers whose first place of landing in Australia is “an excised offshore place” (Christmas Island, Ashmore or Cartier Islands, Cocos Islands, sea installation or resource installation). They must be subject to persecution in their home country, or substantial discrimination amounting to gross violation of human rights in their home country, or a woman subject to persecution or registered by UNHCR as being of concern. There must be no alternative country available for protection. The Applicant must be outside Australia at the time the Visa is granted.

Rights: Temporary visa for 3 years, and can apply for successive TPVs every three years after this. Not entitled to government settlement assistance or family reunification, only single entry, cannot return if leave Australia.

Secondary Movement Relocation (Temporary) (subclass 451)

Criteria: Applicants must be outside their home country and outside Australia. They must be subject to persecution in their home country, or substantial discrimination amounting to gross violation of human rights in their home country, or a woman subject to persecution or registered by UNHCR as being of concern. There must be no alternative country available for their protection.

Rights: Temporary visa for 5 years, and can apply for permanent protection visa after four and a half years. Not entitled to government settlement assistance or family reunification, only single entry, cannot return if leave Australia.