**Visa options for illegal arrivals seeking protection**

This information is available to download in [other languages](https://www.border.gov.au/Trav/Refu/protection-application-information-and-guides-paig/visa-options-for-illegal-arrivals-seeking-protection#download).

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](http://www.ima.border.gov.au/en/Applying-for-a-protection-visa/Temporary-Protection-visas) (TPV), a Temporary Safe Haven visa, or a Temporary (Humanitarian Concern) visa

you can only apply for a protection visa of a temporary kind. You will need to be found to engage Australia's protection obligations and meet other visa requirements to be granted a visa.

For more information on what it means to engage Australia's protection obligations, read [Protection application information and guides (PAIG): The meaning of 'protection obligations'](https://www.border.gov.au/Refugeeandhumanitarian/Pages/the-meaning-of-protection-obligations.aspx).

You are only able to apply for a TPV or a [Safe Haven Enterprise visa](http://www.ima.border.gov.au/en/Applying-for-a-protection-visa/Safe-Haven-Enterprise-visas) (SHEV). You will have to choose between the two visas; you cannot apply for both visas at the same time.

People who have already been granted a TPV can apply for a SHEV.

**Temporary Protection visas**

A TPV allows you to stay in Australia for up to three years. You can be granted a TPV if you have been found to engage Australia's protection obligations and meet all other visa requirements, such as health, security and character checks.

A TPV will allow you to work and have access to Medicare, social security benefits (please contact Centrelink for more information), job matching and short-term counselling for torture or trauma where required. Minors will have access to education.

**Conditions on a TPV**

If you are granted a TPV, you will not be eligible to apply for another visa, other than a TPV or a SHEV, while you remain in Australia. You will also have to tell us if you change your residential address within 28 days of moving.

If you are granted a TPV, you can apply for approval to [travel outside of Australia](http://www.ima.border.gov.au/After-your-application-is-decided/Travel-condition-8570). Travel will only be approved if there are compassionate or compelling circumstances that justify the travel and we approve it in writing. You cannot travel to the country from which you, or the primary applicant on your TPV application, were found to engage Australia's protection obligations.

As the holder of a TPV, you will **not** be able to sponsor family members for a visa through the Australian Humanitarian or Family Migration Programmes.

**Who can be granted a TPV?**

TPVs can be granted to people who arrived in Australia illegally, have been assessed as engaging Australia's protection obligations and meet other visa requirements.

**How can I apply for a TPV?**

If you are currently barred from making a valid application, we will ask the Minister for Immigration and Border Protection to lift the bar to allow you to make a valid application for a TPV or SHEV when it is your turn. It may take some time before this happens. If the Minister agrees, we will then send you a letter to tell you that the bar has been lifted and let you know when you should apply. The letter will include details of how to apply for a protection visa.

It is important that you keep your contact details up-to-date with us, so we can send you this information.

**What happens when my TPV expires?**

When your TPV expires, you will need to apply for another TPV or a SHEV and have your protection claims assessed again.

If you are assessed as still engaging Australia's protection obligations and you meet all other relevant requirements, you will be granted either a TPV or SHEV, depending on what you applied for. If you no longer engage Australia's protection obligations, your TPV or SHEV application will be refused and you will be expected to return home.

**Safe Haven Enterprise visas**

A SHEV is a new visa that allows you to stay in Australia for five years because you have been found to engage Australia's protection obligations.

SHEV holders will need to indicate an intention (this means a willingness or commitment) to work and/or study in regional Australia.

If you apply for and are granted a SHEV and then, for at least 42 months of the five years of the SHEV, you have been:

* employed in 'regional Australia' and not receiving any social security benefits
* enrolled in full time study in regional Australia, or
* a combination of the above

you might be able to apply for other substantive visas. These requirements are called the 'SHEV pathway requirements'.

If you meet the SHEV pathway requirements, you can apply for other prescribed temporary or permanent visas (but not a permanent Protection visa), provided that you meet the application requirements for those visas.

You could also be eligible to apply for a substantive visa if a member of your family unit that was included on your SHEV application meets the above requirements and that family member is included, or has included you, in any subsequent visa application.

Regional Australia will be limited to specific locations which will be detailed on our website.

A SHEV will allow you to have access to Medicare, social security benefits (please contact Centrelink for more information), job matching and short-term counselling for torture or trauma where required. Minors will have access to education.

**What type of work and study can I do to meet the SHEV pathway requirements?**

To meet the SHEV pathway requirements, work must be:

* legal
* paid
* in a regional area that is included in the SHEV arrangements
* full time, part time, temporary, casual or seasonal.

The work does not have to be continuous. If you have breaks between periods of work (such as doing seasonal work), each calendar month that you work will count towards the SHEV pathway requirements. It is your responsibility as a SHEV holder to find employment in a 'regional area'.

To meet the SHEV pathway requirement, study must be:

* physically attending a course of study accredited by the Australian Qualifications Framework, including a maximum of one course leading to a Certificate I and any courses leading to a Certificate II or above
* full time, either:
  + at the campus of an education provider located in regional Australia (as defined for the purpose of SHEVs), or
  + attending primary, high school or college in regional Australia (as defined for the purpose of SHEVs).

**Conditions on a SHEV**

You will not be eligible for another visa, other than a TPV or a SHEV, while you remain in Australia, unless you meet the SHEV pathway requirements.

You will also have to tell us if you change your residential address within 28 days of moving.

If you are granted a SHEV, you can apply for approval to [travel outside of Australia](http://www.ima.border.gov.au/After-your-application-is-decided/Travel-condition-8570). Travel will only be approved if there are compassionate or compelling circumstances that justify the travel and we approve it in writing. You cannot travel to the country from which you, or the primary applicant on your SHEV application, were found to engage Australia's protection obligations.

As the holder of a SHEV, you will **not** be able to sponsor family members for a visa through the Australian Humanitarian or Family Migration Programmes.

**Who can be granted a SHEV?**

Similar to TPVs, SHEVs can be granted to people who arrived in Australia illegally, have been assessed as engaging Australia's protection obligations and meet other visa requirements, such as health, security and character checks. In addition, the applicant must indicate, in writing, an intention to work and/or study while accessing minimum social security benefits in regional Australia.

**What happens when my SHEV expires?**

If you have met the SHEV pathway requirements, you may be eligible to apply for a different temporary or permanent onshore visa, provided that you meet the application requirements for those visas. The visas you can apply for are:

* Subclass 132 (Business Talent)
* Subclass 143 (Contributory Parent)
* Subclass 186 (Employer Nomination Scheme)
* Subclass 187 (Regional Sponsored Migration Scheme)
* Subclass 188 (Business Innovation and Investment (Provisional))
* Subclass 189 (Skilled—Independent)
* Subclass 190 (Skilled—Nominated)
* Subclass 402 (Training and Research)
* Subclass 405 (Investor Retirement)
* Subclass 445 (Dependent Child)
* Subclass 457 (Temporary Work (Skilled))
* Subclass 476 (Skilled—Recognised Graduate)
* Subclass 489 (Skilled—Regional (Provisional))
* Subclass 570 (Independent ELICOS Sector)
* Subclass 571 (Schools Sector)
* Subclass 572 (Vocational Education and Training Sector)
* Subclass 573 (Higher Education Sector)
* Subclass 574 (Postgraduate Research Sector)
* Subclass 575 (Non-Award Sector)
* Subclass 580 (Student Guardian)
* Subclass 801 (Partner)
* Subclass 802 (Child)
* Subclass 804 (Aged Parent)
* Subclass 820 (Partner)
* Subclass 835 (Remaining Relative)
* Subclass 836 (Carer)
* Subclass 837 (Orphan Relative)
* Subclass 838 (Aged Dependent Relative)
* Subclass 858 (Distinguished Talent)
* Subclass 864 (Contributory Aged Parent)
* Subclass 884 (Contributory Aged Parent (Temporary)).

If you apply for one of these visas after you meet the SHEV pathway requirements, you will not need to be found to engage Australia's protection obligation as part of that visa application.

If you do not meet the SHEV pathway requirements, you will only be able to apply for either another SHEV or a TPV. You will not be eligible to apply for other onshore visas. If you no longer engage Australia's protection obligations, your application will be refused and you will be expected to return home.

**TPV and SHEV comparison table**

|  |  |  |
| --- | --- | --- |
| **Feature** | **TPV** | **SHEV** |
| Duration | Up to three years | Five years |
| Intention to work and/or study in Regional Australia |  | ✓ |
| Permanent visa pathway after meeting certain work and study requirements in regional Australia |  | ✓ |
| Permission to work | ✓ | ✓ |
| Access to Medicare | ✓ | ✓ |
| Access to social security benefits | ✓ | ✓ |
| Travel outside of Australia where it is approved in compassionate or compelling circumstances (except to the country from which you sought protection). | ✓ | ✓ |

**When will I be able to apply for a protection visa?**

If you are subject of an application bar that prohibits 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 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. For more information on identity requirements when you apply, read [PAIG: Identity requirements for protection visa applicants](https://www.border.gov.au/Refugeeandhumanitarian/Pages/identity-requirements-for-protection-visa-applicants.aspx).

You can also gather documents to support your claims for protection.

**Can I still apply for a permanent Protection visa?**

No. The Government is committed to not granting permanent Protection visas to people who engage Australia's protection obligations  but who have the characteristics described at the beginning of this information sheet, in particular those who arrived in Australia illegally without a visa in effect. If you arrived in Australia illegally, you are only eligible to apply for and be granted a TPV, or a SHEV.

**I have already applied for a protection visa. Will I get a permanent visa?**

No. Under new legislation, any valid application you made for a permanent Protection visa before 16 December 2014, that was not finalised by that date, will be taken to be an application for a TPV instead. This means that, if we find that you do engage Australia's protection obligations and you meet all other requirements, you will be granted a TPV.

If a decision was already made on your application before 16 December 2014 but it is sent back to us by a relevant tribunal or the court, your permanent Protection visa application can also be taken to be an application for a TPV at that point.

If you want a SHEV instead, you will need to lodge a SHEV application form. You can do this either before or after you are granted a TPV.

Once you lodge the SHEV application form, we will ask the Minister to lift any application bars preventing you from lodging a valid SHEV application.

If you have a TPV application being processed and the Minister agrees to let you apply for a SHEV, we will ask you to withdraw your TPV application for a TPV. Once you do, your SHEV application will then be assessed.

If you have already been granted a TPV and the Minister agrees to let you apply for a SHEV, we will then assess your SHEV application. Depending on how long it has been since you were granted a TPV, you might need to attend another protection visa interview.

If you want to withdraw your TPV application before you apply for a SHEV, be mindful that the Minister is not obliged to lift the application bar. Your bridging visa will cease 28 days after you are taken to have received notification of the withdrawal of your TPV application. If you have not applied for another visa in that time, you will be expected to leave Australia.

If you are refused a TPV, you will be expected to return home or to another country where you have right of entry. You will be barred from lodging a valid SHEV application.