

Fact Sheet: Who is a Fast Track Applicant?

People who have come by boat to Australia are barred under section 46A(1) of the Migration Act from making any application for a visa without the Minister's permission.

There is a group of around 25,000 people in Australia who are currently in the process of gradually receiving permission to lodge protection visa applications – the fast track group. Fast track processing started in around July 2015.

The purpose of this factsheet is to explain who is a “fast track applicant”, including a detailed summary of the three recent new categories of fast track applicants by way of legislative instrument.

Who is a fast track applicant?

A person seeking asylum who came by boat to Australia is a fast track applicant if they:

- arrived in Australia on or after 13 August 2012 and before 1 January 2014; and
- have not previously been to a regional processing country (either Nauru or PNG).

Fast track applicants will receive permission from the Minister for Immigration to lodge a protection visa in Australia. Details of the arrival date range currently being issued with permissions can be viewed on [the Department's website](#).

Three new categories of fast track

During 2016 there have been three new legislative instruments making clear three other categories of people who may be fast track applicants:

- babies born in Australia to a fast track applicant on or after 1 January 2014;
- those taken to Nauru or Manus between 13 August 2012 and 19 July 2013 (and their children) who are now in Australia; and
- babies born in Australia on or after 6 November 2013 and before 5 December 2014 to a parent who arrived on or after 19 July 2013 and was taken to Nauru (and their parents and siblings).

The date ranges of arrival to Australia, birth of children and transfer offshore are quite specific, so we recommend obtaining full details of a client's situation before assessing their situation against the new categories.

Babies born in Australia on or after 1 January 2014 to a fast track applicant

Under [this legislative instrument](#) (IMMI 16/049 commencing 7 May 2016), babies born in Australia on or after 1 January 2014 to a fast track applicant are fast track applicants.

Babies born in Australia on or after 1 January 2014 to one parent who is a fast track applicant, and to another parent who came by boat before 13 August 2012 and who lodged a valid protection visa application before 7 May 2016 are deemed to be included on this other parent's application under this same legislative instrument.

Babies born in Australia at any time to an Australian permanent resident parent are eligible for citizenship (even if the other parent arrived by boat). No application is needed to become an Australian citizen in this situation. The child acquires citizenship automatically at birth under s 12(1)(a) *Citizenship Act*. We recommend that an application be made for evidence of the child's Australian citizenship. This may be done by completing the Form 119 "Application for Evidence of Australian Citizenship".

People taken to Nauru or Manus between 13 August 2012 and 19 July 2013

Under [this legislative instrument](#) (IMMI 16/008 commencing 1 April 2016) a person is a fast track applicant if they (or their children):

- were taken to Nauru or Manus during the period 13 August 2012 until 19 July 2013; and
- are now in Australia; and
- where the Minister has lifted the legislative application bar to allow them to make a valid application for a protection visa.

Babies born in Australia on or after 6 November 2013 and before 5 December 2014 to a parent who arrived on or after 19 July 2013 and was taken to Nauru

Under [this legislative instrument](#) (IMMI16/010 commencing 24 March 2016) a person is a fast track applicant if they are:

- a baby born in Australia on or after 6 November 2013 and before 5 December 2014 to a parent who arrived on or after 19 July 2013 and was taken to Nauru where the Minister has lifted the legislative application bar to allow them to make a valid application for a protection visa.
- the parent of this baby who came to Australia on or after 19 July 2013, was previously taken to Nauru and where the Minister has lifted the legislative application bar to allow them to make a valid application for a protection visa.
- the siblings of this baby (younger or older) who came by boat to Australia and where the Minister has lifted the legislative application bar to allow them to make a valid application for a protection visa.

What if I meet one of the three new criteria but have not been assessed as fast track?

All three of the new criteria of fast track applicants require the Minister to lift the bar and for them to have lodged a valid protection visa application in Australia, in order for them to be fast track applicants.

This means that even if a person satisfies one of the below criteria, they may not be a fast track applicant until they receive a "bar lift" letter granting them permission to apply.

Where a person believes they meet one of the categories below and they have not yet received a "bar lift letter", we recommend they email opnsw.admin@border.gov.au with an urgent request that a case officer consider their case against the categories below.

If you would like to speak to a RACS lawyer about a specific client's situation, please contact us for telephone advice on a Tuesday from 10.00am to 11.30am.

Please note: This factsheet contains general information only. It does not constitute legal or immigration advice. RACS is independent of the Department of Immigration. This factsheet was prepared in July 2016.