

Information for holders of Temporary Protection Visas (TPVs) and Safe Haven Enterprise Visas (SHEVs)

This factsheet includes general information for holders of Temporary Protection Visas (TPVs) and Safe Haven Enterprise Visas (SHEVs). For legal advice specific to your individual circumstances, please call RACS on 02 8355 7227 between 10:00AM and 11:30AM on Tuesdays, or drop in to one of our Outreach services at Auburn (44A Macquarie Rd Auburn - 10am-12pm on Wednesdays) or Westmead (2 Darcy Place, Westmead – 10am-12pm Fridays).

TPVs and SHEVs and the conditions of these visas

What you Can do on a TPV or SHEV

On either a TPV or SHEV, you can:

- live, work and study anywhere in Australia;
- access Medicare and Centrelink benefits.
- have the same employment rights as everyone else including a right to minimum wage and to make complaints to the Fair Work Ombudsman if you have issues at work.

What you must do on a TPV or SHEV

Under current law you must:

- **Apply for another visa before the expiry of your SHEV or TPV** in order to remain lawfully in Australia. If you let it expire, you will be unable to apply for another one without ministerial intervention. We recommend lodging a Freedom of Information Request with the Department of Home Affairs to obtain the reasons why you were granted a visa. RACS can assist you with this at one of our Outreach services. This could be useful for you later when you apply for your next SHEV or TPV. It is also useful if you are stateless and want to apply for citizenship for your Australian born children – as it is evidence that you have been found to be stateless.
- **Notify the Department of any change to your residential address** within 28 days of the change. This is a requirement of your visa, and it will also ensure that you do not miss any important correspondence regarding your visa.

What you cannot do on a TPV or SHEV

On a TPV or SHEV, you cannot:

- leave Australia without written permission from the Department of Home Affairs, or you will not be able to return.
- travel to the country from which you have claimed protection, as this may lead the Department to believe you are no longer at risk there, which may lead to your visa being cancelled.
- engage in criminal activity or behave in a way that is a risk to someone in the community, then your visa may be cancelled.
- sponsor family members for family visas or propose family members for humanitarian visas.

SHEVs and the SHEV pathway requirement

If you have a SHEV, it will expire five years after it is granted. If you have a TPV, it will expire after three years after it is granted.

If you have a SHEV, you have the option of meeting the **SHEV pathway requirements**. The SHEV pathway requirements are not compulsory. You will not be penalised if you do not move to a regional area.

If you do not meet the SHEV pathway requirements, you can only apply for a TPV or SHEV before the end of your current visa. This means you will have to prove you are still a refugee when you apply for the next TPV or SHEV application. Under current law, you are barred from applying to any other types of visas unless you meet the SHEV pathway requirements.

If you do meet the SHEV pathway requirements, you will no longer be barred from applying to other types of visas. It does not mean you will automatically get permanent residency. It just means you can apply for other visas in Australia but you still need to be eligible for them to be granted these visas. For example: you will only be eligible for a partner visa if you have a partner who is an Australian citizen or permanent resident..

To meet Safe Haven Enterprise pathway requirements you must either do lawful and paid work (without receiving certain Centrelink benefits) or study (full-time and face-to-face) for a period of 3.5 years in a designated "regional area". There is no minimum hours for work, but for study, it needs to be full-time according to the institution you are enrolled in. Attending primary or secondary school would meet this requirement. It does not need to be continuous, and can be a combination of work and study. For example: 3 years of full-time study followed by a 6 month break then 6 months of work would meet the 3.5 years requirement.

The 3.5 years can also be completed over the period of two SHEVs (10 years) if you do not manage to do all 3.5 years while you hold your first SHEV. For example, if you did two years in a SHEV area in your first SHEV, and then got a second SHEV, you could then meet the SHEV pathway complete the remaining 1.5 years.

Only one person in your family unit needs to meet the SHEV pathway requirements to apply for another visa, as long as that person is part of the new application. This means if you have a child enrolled in primary or high school in a SHEV area, other family members could apply for a new visa if the child is a dependent applicant when applying for the next visa. If the child will be over 18 years old in 5 years' time, it is recommended that you also try to meet the pathway requirements yourself.

It is important to check the postcode of where you work or study to ensure it is in a designated regional area. A full list of designated areas can be found on the Department of Home Affairs' website. You can also ask RACS for further information. Not all SHEV areas are rural areas. Some cities are included: Adelaide, Darwin, Hobart and Canberra. At present, in NSW: Sydney, Wollongong, Central Coast and Newcastle are **not** included.

The requirement is only for where you work or study, not where you live. You can live outside a SHEV area and commute to the SHEV area for work or study.

It is recommended that you record all of your work and study activities. You can record this in Form 1465. You should also keep evidence such as payslips, employment contracts and enrolment confirmation.

How to get permission to travel overseas

To travel overseas, you should first obtain a Convention Travel Document. To do this, fill out an Application for Certificate of Identity or Convention Travel Document form and call the number on the front of the form (131 232) to book an appointment to lodge it in person at an Australian passport office (not Australia Post), with the relevant fee. Take the form, your Immicard and your visa grant letter with you. This process may take more than a few weeks, so it is best to organise it well in advance so that it will be there in time for when you want to travel.

Next, fill out the Department of Home Affairs **Form 1454** to request travel permission. You need to have permission in writing from the Department of Home Affairs before you leave Australia or you may not be able to return to Australia. It is recommended that you wait until you have written permission before booking flights or obtaining visas. It is recommended that you plan to arrive back in Australia at least a day before the end date of your travel permission period to allow for any issues with flight delays.

Travel permission is granted in “compelling or compassionate circumstances”. This is decided on a case by case basis. Some examples of situations that may meet this requirement:

- Visiting close relatives you have not seen in over a year;
- To care for close relatives who are seriously ill;
- To attend the funeral of a close relative.

Some examples of situations that may not meet this requirement (however you can still do all of these things while also visiting close relatives):

- Visiting friends;
- Attending a wedding;
- Going on holiday.

Do not request travel permission to travel to the country from which you have claimed protection, as this may lead the Department to believe you are no longer at risk there, which may lead to your visa being cancelled while overseas or after you return.

Once you have your travel document and have filled out Form 1454, you should scan them both and send to travel.request@homeaffairs.gov.au.

If you are not sure about any of these steps, you can come to one of our Outreach services to get assistance from one of our lawyers. Please bring your travel document with you if you already have it.

Once you have received a response, you can then book your flights. It is important to make sure that your SHEV or TPV is valid for the entire time you are outside Australia, otherwise you may not be able to return.

How to apply for your next TPV or SHEV

It is **very important** that you do not allow your TPV or SHEV to expire before applying for your next visa, or you may not be able to apply for any visa unless the Minister intervenes. It is recommended that you make arrangements to re-apply **at least 3 months** before the expiry of your current TPV or SHEV. You should receive a letter from the Department of Home Affairs notifying you about your visa expiration date.

RACS can assist with reapplications for TPVs and SHEVs. If you need our assistance, please come to one of our Outreach services and bring your Immicard and visa grant letter with you. We will then put your name on our waiting list, check your visa status online to confirm the expiry date, and ask you to sign a Freedom of Information request, so that we can request your full protection visa file and travel permission history from the Department of Home Affairs. This information will be useful for us when assisting you to reapply.

The documents from Freedom of Information will be released directly to you by post, in the form of a CD. It usually takes 1-2 months for this to arrive. Once you have your CD, please come back to one of our Outreach services and bring the CD with you. We will then copy the CD to your file and arrange an appointment for you with one of our lawyers.

Once you have re-applied, you will not be on a bridging visa like before. Your current TPV/SHEV will simply continue until the new application has been finalised. Instead of having a fixed expiry date, the expiry date on your TPV or SHEV will change to “indefinite”, which means it will remain in effect until a decision has been made on your new TPV or SHEV. RACS can help you to check your visa status online if you need to provide evidence of this to your employer.

How to apply for citizenship for children born in Australia to two stateless parents

Children born in Australia to two **stateless** parents can apply for Australian citizenship using **Form 1290**. The minister must be satisfied that the child:

- is not a national or citizen of any country; and
- has never been a national or citizen of any country; and
- is not entitled to acquire the nationality or citizenship of a foreign country.

The first step is to make a Freedom of Information request to the Department of Home Affairs to get the decision record from the Department of Home Affairs indicating that both parents have been found to be stateless. We can assist you with this at one of our Outreach services at RACS.

Once you have received the documents from Freedom of Information, RACS can review the documents and assist you to lodge the application for citizenship if we deem your child is eligible.

The next step is to fill out Form 1290 and include the following documents:

- Certified copy of the child’s birth certificate confirming the details of both parents;
- Endorsed passport photo; and
- Decision record from the Department of Home Affairs for both parents indicating that both are stateless.

Services that may be able to help you to find work

The Refugee Council has compiled factsheets about various towns in NSW that are specific to SHEV holders. It includes information such as how to get there, how to get employment and accommodation, how to find work and what sorts of jobs are available, what facilities are there and whether there are refugee support organisations there. If you want to visit an area to see if you would like to live there, it is recommended that you contact the local refugee support organisation there to get advice. The factsheets can be found here:

<https://www.refugeecouncil.org.au/tpv-shevs-info/6/>

The Refugee Employment Support Program (RESP) helps participants to develop career plans, and links them to employers, education and training. Please refer to their website for further information:

<https://www.ssi.org.au/services/refugee-employment-support-program>

The Blue Mountains Refugee Support Group assists asylum seekers, refugees and new migrants to find work: <https://www.bmrsg.org.au/employ-a-refugee/>

The CareerSeekers New Australian Internship Program provides paid internships to full-time university students who are asylum seekers or refugees:

<https://www.careerseekers.org.au/interns/students/>

The House of Welcome “Empowered to Work” program provides pre-employment support and assistance to refugees and people seeking asylum: <https://www.stfrancis.org.au/house-of-welcome/employment/empowered-to-work>

You can also get assistance to find work by registering with Centrelink. Usually Centrelink will connect you with an Employment Services Provider. You can also find a provider yourself at <https://jobsearch.gov.au/>.

Study opportunities

Children under 18 can attend school for free, and adults can access the Adult English Migrant Program (AMEP) within 6 months of the visa grant, which includes 510 hours of free English classes.

You can apply for various university scholarships which may cover all or some of the cost of tuition. The Refugee Council has compiled a list of universities that offer scholarships for refugees (Australia wide). The list is here:

<https://www.refugeecouncil.org.au/ourwork/scholarships-people-seeking-asylum-refugees/>

TAFE NSW also offers free courses for refugees under their “Smart and Skilled” program. This is for people who are:

- aged 15-30;
- living or working in NSW;
- not enrolled in school; and
- a welfare recipient or NSW apprentice/trainee undertaking a qualification on the NSW skills list

For more detailed information go to <https://www.tafensw.edu.au/enrol/payment-funding/smart-skilled>

Please note: This fact sheet contains general information only. It does not constitute legal or migration advice. RACS is independent of the Department of Home Affairs. All assistance is free. This factsheet was prepared in April 2019.