

## Factsheet

# TEMPORARY PROTECTION VISAS (TPVs) AND SAFE HAVEN ENTERPRISE VISAS (SHEVs)

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*Temporary Protection Visas and Safe Haven Enterprise Visas are temporary visas available to asylum seekers in Australia. People holding these visas do not have the same access to services, rights, and residency or citizenship pathways as refugees who hold a (permanent) Protection Visa. The key difference between asylum seekers' eligibility for each visa is their method of arrival in Australia, not the merit of their protection claim.*

### What are Temporary Protection Visas (TPVs)?

Temporary Protection Visas (TPVs) are one of two visas available to asylum seekers who arrived in Australia without a valid visa. To be eligible for a TPV a person, or a member of their family, must meet Australia's protection obligations and meet all other visa requirements, such as health, character, identity and security checks. The TPV was first introduced in Australia by the Howard Government in October 1999 and abolished by the Rudd Government in August 2008. Approximately 11,000 TPVs were issued between 1999 and 2007, and approximately 90 per cent of TPV holders eventually gained permanent visas.

On 5 December 2014, the Abbott Government reintroduced TPVs. TPVs can be granted for up to three years, and holders are entitled to work, study, and access government services such as Centrelink. However TPV holders have no right to family reunification. In order to remain in Australia beyond the three-year period, the person must apply for a subsequent TPV or SHEV (outlined below).

### What are Safe Haven Enterprise Visas (SHEVs)?

The Safe Haven Enterprise Visa (SHEV) is the other category of visa available to asylum seekers who arrived in Australia without a valid visa. The Abbott Government announced the creation of SHEVs in September 2014. As well as meeting Australia's protection obligations required for a TPV, an applicant must sign a declaration on the application form that they intend to work or study in regional Australia.

Under the scheme, TPV holders have the opportunity to [transition](#) to a five-year SHEV if they agree to move to a [regional area](#) (defined in the Regulations), and engage in study at an approved institution (defined in the Regulations), or undertake work that means they are not reliant on income support for more than 18 months in the five-year period. There are concerns that SHEVs may not be a [viable option](#) for refugees with physical or mental disabilities, or who are unable to work, such as young adults or those who arrived in Australia as unaccompanied minors. Regional [farming groups](#) have also noted that seasonal farm work may not necessarily guarantee [employment](#) for SHEV holders.

### **What further visas are available for TPV and SHEV holders?**

At the end of the three years for TPV holders and five years for SHEV holders, people are eligible to [reapply](#) for another SHEV or TPV. Applications will be assessed based on the applicant's ongoing need for protection. From 2 April 2019, people applying for subsequent TPVs or SHEVs must apply through the ['fast track'](#) refugee status determination process. This removes access to the Migration and Refugee Division of the Administrative Appeals Tribunal and refers reviews to the Immigration Assessment Authority, with diminished procedural rights.

In addition, SHEV holders who, for at least 42 months of the five years, have engaged in regional employment without depending on social security benefits or have engaged in full-time study in regional Australia or both, will be eligible to apply for standard onshore migration visas that may give rise to permanent residence. Only one person in a family unit [must satisfy the requirements](#), for example if a child is enrolled at a primary school, this counts as full-time study. SHEV holders may apply to the Department of Home Affairs as soon as they have satisfied the requirements, though there is no guarantee that their application will be successful.

### **What are the impacts of temporary protection on refugees?**

Temporary protection can cause considerable human suffering, as noted in the Senate Legal and Constitutional Affairs Committee's 2006 [Inquiry into the Administration and Operation of the Migration Act 1958 \(Cth\)](#). Refugees with temporary protection are placed in a state of ongoing legal [limbo](#), faced with the prospect that they might be sent back to a country where they fear persecution. [Studies](#) by mental health experts have [found](#) that refugees on TPVs experience higher levels of anxiety, depression and post-traumatic stress disorder when compared to permanent protection visa holders, despite similar backgrounds and experiences.

These impacts can be exacerbated by the inability of refugees on TPVs or SHEVs to be reunited with their families. These visas can also have the effect of separating children from their parents and family for long, and potentially indefinite, periods of time. The impact of TPVs on children was [documented in 2004 by the Australian Human Rights Commission](#), who found that the uncertainty created by TPVs detrimentally affected the mental health of children and their ability to fully participate in educational opportunities in Australia.

### **Is temporary protection consistent with international law?**

Under international law, temporary protection should be an [exceptional measure](#) that is generally applied only in situations of mass movements of asylum seekers, when individual refugee status determination is impracticable because of those large numbers. By contrast, the Australian temporary protection regime is used to grant protection to asylum seekers who have been individually assessed to be Convention refugees, simply on the basis that they arrived in Australia without a visa.

The Australian temporary protection regime risks breaching international human rights law, including a potential [breach](#) of the right to non-discrimination and infringement on the right to family and freedom from arbitrary interference with family life. The explicitly punitive rationale of temporary protection may constitute a penalty in [violation](#) of [article 31 of the Refugee Convention](#). The cumulative impact of these factors, including on refugees' mental health, may constitute cruel, inhuman or degrading treatment in violation of Australia's obligation under [article 7 of the International Covenant on Civil and Political Rights](#).

For more information, see our [Research Brief on Temporary Protection Visas and Safe Haven Enterprise Visas](#).