

## Factsheet

## BRIDGING VISAS

Last updated: November 2020

*Eligible asylum seekers reside in the Australian community on bridging visas while awaiting the outcome of a protection visa application. Australia's bridging visa regime discriminates between asylum seekers based on how they arrive in Australia, and can operate to deny asylum seekers access to work rights and basic healthcare.*

### **Bridging visas and eligibility**

A bridging visa is a temporary visa that allows a person to remain in Australia for a specified period while his or her substantive protection visa application is processed and finally determined. Bridging visas are temporary visas for all substantive visa applicants, not only for asylum seekers.

The two main types of bridging visas which asylum seekers are generally granted (where they meet the eligibility criteria) are:

- [Bridging Visa A \(BVA\)](#); and
- [Bridging Visa E \(BVE\)](#).

### ***Bridging Visa A (BVA)***

Generally, an asylum seeker will be eligible for a BVA where he or she has:

- arrived in Australia by plane on a valid visa (such as a student visa, a tourist visa or a business visa);
- applied for a protection visa while their initial visa was still valid (or applied for review of a decision, including judicial review, in the prescribed time frame); and
- meets character requirements.

Depending on the specific visa conditions attaching to an asylum seeker's BVA, an asylum seeker may be granted work rights and eligibility for Medicare (Australia's health care system).

### ***Bridging Visa E (BVE)***

Generally, asylum seekers who arrive by plane or boat without a valid visa or have previously been in immigration detention in Australia will be granted a BVE, if they are deemed eligible by the Department of Home Affairs to reside in the community. This

includes asylum seekers in the Legacy Caseload (see the [Legacy Caseload factsheet](#) for more information).

Between November 2011 and 30 June 2020, a total of 37,026 [bridging visas were granted](#) to asylum seekers who arrived by boat. As at 30 June 2020, 12,450 asylum seekers who arrived by boat remained in the community (10,245 with a current BVE and 2,205 awaiting grant of a further BVE). The remaining 24,576 asylum seekers who were granted BVEs were granted a substantive visa, departed Australia, returned to immigration detention or passed away.

All BVE holders (including asylum seekers) are required to sign and comply with the Department of Home Affairs 'Code of Behaviour'. Compliance with the Code of Behaviour is also a condition of the bridging visa.

## What is the Code of Behaviour?

On 14 December 2013, the [Migration Amendment \(Bridging Visas—Code of Behaviour\) Regulation 2013](#) came into force, amending the *Migration Regulations 1994 (Cth)* to establish an enforceable 'Code of Behaviour' for BVE holders.

The Code of Behaviour creates a list of obligations and expectations of BVE holders, including that BVE holders must comply with all of Australia's laws, which everyone in Australia is required to do in any event. It also includes other obligations such as requiring that BVE holders:

- must not harass, intimidate or bully any other person or group of people or engage in any anti-social or disruptive activities that are inconsiderate, disrespectful or threaten the peaceful enjoyment of other members of the community;
- must not refuse to comply with any health undertaking provided by the Department of Immigration and Border Protection or direction issued by the Chief Medical Officer (Immigration) to undertake treatment for a health condition for public health purposes; and
- must cooperate with all reasonable requests from the Department or its agents in regard to the resolution of the BVE holder's status, including requests to attend interviews or to provide or obtain identity and/or travel documents.

Because compliance with the Code of Behaviour is a condition of the BVE, if the Department considers (in its discretion) that compliance with a Code of Behaviour obligation has not been met, the Department may cancel the bridging visa and place the asylum seeker in immigration detention. If the asylum seeker is eligible for the very limited government funded income support, the Department may in its discretion, also reduce or remove access to such support (described further below).

## How long are bridging visas valid for?

Following amendments made in 2016 to the *Migration Regulations 1994 (Cth)*:

### **For bridging visas granted before 19 November 2016**

The bridging visa will cease 28 days after the date that one of the following happens:

- DHA notifies the asylum seeker that his or her protection visa application is not valid;
- DHA notifies the asylum seeker that his or her protection visa application has been refused;
- If the asylum seeker withdraws their protection visa application;

- a merits review tribunal notifies the asylum seeker that it has upheld the Department's decision to refuse a protection visa application;
- a merit review tribunal notifies the asylum seeker that it has no jurisdiction to consider your application for review;
- the asylum seeker withdraws his or her application for merits or judicial review from a merits review tribunal or a judicial review body; or
- a judicial review body upholds the decision to refuse the asylum seeker's protection visa application.

### ***For bridging visas granted on or after 19 November 2016***

The bridging visa will cease 35 calendar days after:

- DHA's refusal decision or a decision by the Administrative Appeals Tribunal (AAT) in relation to the asylum seeker's protection visa application;
- a determination that the asylum seeker's protection visa application or an application for review by the AAT is invalid; or
- the asylum seeker withdraws his or her protection visa application or application for review by the AAT; and

The bridging visa will cease 28 calendar days after:

- a judicial review body upholds the decision to refuse a protection visa application; or
- an asylum seeker withdraws a related judicial review application.

### **Are asylum seekers living in the community eligible to receive social security benefits?**

Bridging visa holders are not eligible to receive Centrelink social security benefits, but may be eligible to receive assistance under the Status Resolution Support Services (SRSS) program. Asylum seekers eligible for SRSS receive a living allowance, rent assistance and (where applicable) dependent child allowance, paid at 89% of equivalent Centrelink rates.

In July 2019, the [Australian Human Rights Commission](#) found that the level of income support provided to asylum seekers on BVEs was insufficient to ensure an adequate standard of living.

Asylum seekers living in the community face a real risk of living in poverty, even when receiving income support under the SRSS program.

People who have received a negative decision at the primary and review stages of their asylum application are generally ineligible for SRSS. This means that people who may wish to appeal an asylum decision might be left without any income support whilst seeking judicial review, which can be a very lengthy process.

### **Do asylum seekers on bridging visas have work rights and health care?**

Whether an asylum seeker has work rights depends on the kind of bridging visa that they hold, the conditions of their visa, and the progress of their case. In 2014, the Australian government reversed its earlier policy of excluding BVE holders in the Legacy Caseload from accessing work rights. If an asylum seeker holds a bridging visa with a 'no work' condition, they may be able to apply for a new bridging visa with work rights, if their application is being decided by the Department or is under merits review, and they meet certain other criteria. If the case is being reviewed by a court, they cannot apply for work rights.

Since mid-2018, BVE-holders with work rights are not able to receive the SRSS allowance, except in limited circumstances. However, asylum seekers may still face significant barriers to accessing employment, such as language barriers, and lack of appropriate training and support. This means that many asylum seekers with work rights may face significant financial hardship.

Many asylum seekers on bridging visas are eligible for Medicare, unless their application has been rejected by both the Department and merits review body. However, many may still face difficulties in accessing adequate healthcare because of very low incomes. Delays in the renewal of bridging visas can hamper asylum seekers' access to work and healthcare, because BVE holders' work rights and Medicare cards generally expire at the same time as their visa.

### **Are any human rights concerns raised by bridging visas?**

The [Australian Human Rights Commission](#) notes that Australia's policies on bridging visas, and par raise concerns in relation to:

- the right to an adequate standard of living, including adequate food, clothing and housing (article 11(1), International Covenant on Economic, Social and Cultural Rights (ICESCR));
- the obligation to ensure that children have a standard of living adequate of their physical, mental, spiritual, moral and social development (article 27(1), Convention on the Rights of the Child);
- the right to social security (article 9, ICESCR and article 26, Convention on the Rights of the Child);
- the obligation to treat refugees in the same manner as citizens with regard to public relief and social security (articles 23 and 24, Refugee Convention).

See our factsheet on [Refugee Status Determination in Australia](#).