

Applying for permission to work in Australia

Who is this Infosheet for?

This Infosheet contains information for asylum seekers who hold Bridging visas (including Bridging visa A, Bridging visa C and Bridging visa E) who have the Condition 8101 ('no work') imposed on their Bridging visa and who want to apply for that condition to be removed. This is also called applying for 'work rights' or applying for 'permission to work'.

IMPORTANT

- **The information contained in this form is general information and should not be relied upon as legal advice or migration advice. You should seek legal advice if you do not know what information you should include in your work rights application.**
 - **Anything you submit in your work rights application will be held by the Department and may be used in the assessment of your substantive Protection visa application.**
 - **It is strongly recommended that you keep a copy of your work rights application and all supporting documents.**
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What are work rights and why do I need permission to work in Australia?

If you are living in Australia on a temporary visa, including a Bridging visa, you need to be granted permission to work. If you work without the proper legal permission or 'work rights', you are working illegally. Unlawful or illegal work may attract penalties or lead to your visa being cancelled.

How do I get work rights?

The Department of Home Affairs is the government agency which grants work rights to people who hold temporary visas, including Bridging visas.

Some types of temporary visas will automatically give you the right to work - e.g. a Temporary Protection Visas (TPV) or Safe Haven Enterprise visas (SHEV). If you hold one of these visas, you do not need to apply for work rights.

If you hold a Bridging visa which has a condition called Condition 8101 imposed, you are not allowed to work. In order to obtain the right to work, you need to have the Condition 8101 removed from your Bridging visa. This is also called 'applying for work rights'.

If you are eligible for work rights, you will be issued with a new Bridging visa with permission to work.

How do I apply for work rights?

Step One: Check your current visa conditions

There are two ways to check the conditions on your Bridging visa check:

1. Check your Bridging visa grant notice; or
2. Check your visa status using the Department of Home Affairs' 'Visa Entitlement Verification Online' (VEVO) system using your ImmiAccount, available here: <https://immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/check-conditions-online>

If your visa **does not** list condition "8101 No Work" then you **already have** permission to work.

If your visa **does** list condition "8101 No Work" then you **need to apply** for permission to work and be granted it before you can legally work.

Step Two: Figure out your eligibility to apply for work rights

Legal stage	Eligibility for work rights
Your application is being considered by the Department, the Administrative Appeals Tribunal (Tribunal) or the Immigration Assessment Authority (IAA).	You can apply for work rights if you are able to meet certain criteria. <ul style="list-style-type: none">• BVA holders – Permission to work is usually given to BVA holders but is affected by the previous visa you held. (E.g. If you were on a Student visa before lodging your Protection visa you may have the same work conditions attached to your BVA). If you hold a BVA and the Condition 8101 has been imposed, you need to demonstrate to the Department why you have a "compelling need to work" by proving you are suffering from financial hardship.• BVC holders – You need to demonstrate a "compelling need to work" by proving you are suffering from financial hardship.• BVE holders – You need to demonstrate a "compelling need to work" by proving you are suffering from financial hardship. For plane arrivals who hold a BVE– If you delayed before applying for your protection visa, you will also need to explain your reasons for delay and explain why you did not apply for a protection visa earlier. If you do not provide a reasonable explanation for the delay you will not be granted permission to work.

<p>You have a current application before the Federal Circuit Court, the Federal Court of Australia or the High Court of Australia, seeking review of your IAA/AAT/Department decision.</p>	<ul style="list-style-type: none"> • Previously held a BVA and applied to court within time and applied for a BV while holding that BVA – Permission to work is usually given to BVA holders but is affected by the previous visa you held. (E.g. If you were on a Student visa before lodging your Protection visa you may have the same work conditions attached to your BVA). • Previously held a BVA and applied to court, but applied for a new BV after the previous BVA expired – You are eligible for a BVE and work rights should be granted if you had permission to work on your previous BVA. • Previously held a BVC with work rights, applied to court within time and applied for a new BV while holding that BVC – You should be eligible for a BVC with work rights. If your BVC is granted to you without work rights, you can apply to have the Condition 8101 removed but you must demonstrate a ‘compelling need to work’. • Previously held a BVC and applied to court out of time and/or after previous BVC expired – You are eligible for a BVE and work rights may be granted if you had permission to work on your last BVE. If your BVE is granted to you without work rights, you can apply to have the Condition 8101 removed but you must demonstrate a ‘compelling need to work’ and, if you arrived by plane, have a ‘reasonable reason for delay’ if delaying your Protection application was the reason you are now holding a BVE. • Previously held a BVE and applied to court (within time or out of time) while holding a BVE OR you applied to court after your last BV (of any kind) expired – You are eligible for a BVE. You are only eligible for work rights if you held them on your last visa.
<p>You have requested Ministerial Intervention</p>	<p>You can apply for work rights, but it is up to the Department of Home Affairs whether to grant you permission to work and, as above, you must demonstrate you have a compelling need to work.</p>

Step Three: Prepare your work rights application

1. Fill out the application form

Fill out the application which is **Form 1005** available here: <https://immi.homeaffairs.gov.au/form-listing/forms/1005.pdf>

Part A – [All applicants must complete] This is the part of the form where you indicate why you are applying for a bridging visa.

- **To replace a bridging visa** – Use this option if you are replacing a BV which ceased when you left Australia OR if you have successfully had a cancellation of your substantive visa overturned.
- **To change the visa conditions of your bridging visa** – Use this option if you already hold a BV (of any kind) are seeking to add work rights.
- **Awaiting the outcome of judicial review (top box)** – Use this option if you currently hold a BVA or BVC and you applied to court within time and your previous BV has not yet expired.
- **Awaiting the outcome of judicial review (bottom box)** – Use this option if you currently hold a BVE (or if you previously held any BV which has since expired) and you have applied to court (within time or out of time)
- **Other reason** – Use this option if you are apply for a BV for any other reason (e.g. You have made a request for Ministerial intervention).

Part B – [All applicants must complete] Fill in your personal details, contact details and details of any dependent applicants on your BV.

Part C – Fill out this part if you selected “**To replace a bridging visa**” in Part A.

Part D – Fill out this part if you selected “**To change the visa conditions of your bridging visa**” in Part A, which you will always need to do if you are seeking to remove the Condition 8101.

Part E – Fill out this part if you selected “**Awaiting the outcome of judicial review**” in Part A. You must fill out this part if are applying for a bridging visa (of any kind) on the basis that your case is assessed by a court.

Part F – Fill out this part if you selected “**Other reasons**” in Part A.

Part G – State whether you received assistance with this form. Do not include the ASRC’s details unless we prepared the application for you.

2. Obtain a copy of your current legal stage document

You must provide evidence of the processing stage of your protection visa application by providing a copy of your **current legal stage document**. See the table below to figure out your legal stage.

Legal stage	Possible evidence
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Your case is being considered by the Department, the AAT or the IAA	<ul style="list-style-type: none"> Your Acknowledgment of Visa Application letter from the Department (if at the Department). A letter from the IAA (if at the IAA) Your most recent letter from the AAT (if at the AAT).
Your case is being reviewed by a court	<ul style="list-style-type: none"> The stamped (sealed) copy of your court application (this is the document you lodged at court to commence your judicial review application). Other sealed documents from the court which show the date of your next hearing
Waiting for a decision on your application for Ministerial Intervention	The letter from the Minister's office which acknowledged your request for Ministerial intervention

3. Collect your supporting evidence

If you are applying for work rights, you **must** provide supporting documents which support your claim that you are suffering financial hardship and have compelling and compassionate reasons for requiring work rights.

Types of supporting evidence you can provide:

- Three months of bank statements/transaction histories** for each bank account that you have.
- Evidence of any income or savings you have.**
- Rental or lease agreement** from your agent/landlord. If you are renting from a friend or private landlord you should ask them for a letter which sets out your monthly rent. If you cannot get either of these documents, include details of your housing situation in your statement.
- Evidence of other ongoing expenses you have. This may include electricity, gas, water, internet and phone bills, medication expenses.**
- Evidence of any debts you owe.**
- Details of any **dependents who you are financially supporting**. This includes children or other family members or close relatives who are financially dependent on you.
- Confirm that you are not receiving **money from relatives or friends who are overseas**. (Note that the DHA has access to information about money you have sent and received from overseas).

- **Medical reports or support letters** identifying your current medical conditions for which you require ongoing treatment, and details of any medication you are required to take regularly.
- **Support letters from any organisations which are providing you with support for your basic needs** – e.g. housing support, food, medical services etc.

4. Write a personal statement

Write a statement explaining why you need permission to work in Australia. The statement only needs to be about one page and should explain:

- Any further information about why you are in financial hardship.
- Any further information about your compelling and compassionate reasons for needing permission to work.
- Explain what will happen to you (and your dependents) if you do not have permission to work.
- **For plane arrivals** - If you didn't apply for your protection visa very soon after arriving in Australia, and you hold a BVE, you will also need to explain your reasons for delay and explain why you did not apply for a protection visa earlier. **If you do not provide a reasonable explanation for the delay you will not be granted permission to work.**

The following explanations might be accepted by the DHA as reasonable:

- You arrived in Australia on a Student visa and you did not need to apply for a Protection visa until your personal circumstances changed and/or the situation in your home country changed
- You arrived in Australia on a Partner Visa and your relationship broke down and you applied for a Protection visa because you are afraid to return home.

The DHA considers that the following explanations are not reasonable:

- That you were unaware you could apply for a Protection visa.

Note: If you are unable to write a statement make sure that all the information about your current circumstances are included in the application form.

Step Four: Lodge your application

Complete the Application Checklist to make sure you have all the necessary documents:

Application Checklist	
Completed Form 1005	
Copy of your current legal stage document	
Supporting evidence	
Personal statement (if required)	

There is no application fee.

For BVA or BVC holders

You can post your application to the Department of Home Affairs. The postal address is:

Department of Home Affairs
PO Box 241
Melbourne VIC 3001

For BVE holders and/or people applying for a BVE and work rights at the same time

Email your application to: bveapplication.vic@homeaffairs.gov.au

You can also post your application to the Department of Home Affairs. The postal address is:

Department of Home Affairs
PO Box 241
Melbourne VIC 3001

What happens after I lodge my application?

The Department of Immigration will make a decision about whether or not you should be granted work rights. They will notify you of the decision by email or post (depending on which method of communication you have included in your application form).

If your application for work rights is refused and you do not understand the reason, you can seek legal help from the ASRC Human Rights Law Program by contacting Legal Triage by phone on **0478 700 605 on Mondays and Thursdays between 10:30am-12:00pm. Please note, we do not have capacity to help with most work rights applications at this time and will likely be able to provide you with advice only.**

Disclaimer: This fact sheet provides general information to people seeking asylum in Australia through the onshore protection visa application process according to the law in August 2020. This fact sheet is not legal advice. You should not rely on this fact sheet to make decisions about your immigration matter. We strongly recommend that you get independent legal advice from a registered migration agent. For information about registered migration agents please visit: <https://www.mara.gov.au>. **Last Updated: 6 August 2020**