

Common Deadlines For Protection Visa Applicants in Australia

Who is this Infosheet for?

If you are in the process seeking protection in Australia, or you are working with people seeking protection, there are a number of deadlines you need to know. Failure to meet these deadlines could have a serious consequences for you or your client’s legal options.

Event	Deadline	Additional Information
<p>Protection (Class XA) visa (if you arrived by plane) refusal</p> <p>Temporary Protection Visa/Safe Haven Visa refusal for some people who arrived by boat (prior to August 2014)</p>	<p>People in the <u>community</u>:</p> <ul style="list-style-type: none"> • 28 days¹ to lodge at the Administrative Appeals Tribunal (AAT) (Migration and Refugee Division), including the date of notification.² <p>People in <u>immigration detention</u>:</p> <ul style="list-style-type: none"> • 7 working days³ to lodge at the AAT, including the date of notification. 	<p>If the decision record is sent to the applicant by post, the applicant is deemed to be notified of the decision 7 working days after the date of the notification letter.⁴</p> <p>If the decision record is sent by email or facsimile, the applicant is taken to have received the document on that day.⁵</p> <p>The AAT has no discretion to extend these deadlines.</p>
<p>Submissions to the Immigration Assessment Authority (IAA) for people who arrived by boat after August 2014 who were refused a TPV or SHEV</p>	<p>If your Department refusal is referred to the IAA, you have 21 days from the date of referral to provide submissions or new information to the IAA.</p> <p>Please note that the ‘date of referral’ will be stated in your letter from the IAA. This date may be different to the date you receive the IAA letter.</p>	<p>Referral to the IAA is automatic. You will be notified by the IAA when they receive the referral from the Department, usually within 2 working days from when they receive it.</p>

¹ Section 412, *Migration Act 1958*.

² *DZAFH v Minister for Immigration and Border Protection* [2017] FCCA 387: In this matter the FCC decided that the time period for lodging applications to the AAT includes the day the applicant was notified of the decision.

³ Section 412 of the *Migration Act 1958* and Reg. 4.31(1) of the *Migration Regulations 1994* (note that if the decision is provided on a non-working day then notification starts on the first working day after that day).

⁴ Section 494C(4)(a), *Migration Act 1958*.

⁵ Section 494C(5), *Migration Act 1958*.

Visa cancellation under Section 501 of the <i>Migration Act</i> 1958	9 days to lodge at the AAT (General Division), ⁶ including the date of notification. This applies regardless of whether you are in detention or in the community.	
Visa cancellation under Section 109 made by delegate	7 days to lodge at the AAT, including the date of notification. This applies regardless of whether you are in detention. ⁷	This includes protection visas and other visas
Applications to the Federal Circuit Court (FCC)	To the <u>Federal Circuit Court</u> : <ul style="list-style-type: none"> • 35 days from the date of the decision.⁸ If you miss the deadline, there is an opportunity to make an ‘out of time’ application to the Court seeking an order allowing leave to apply out of time. 	
Appeals to the Federal Court of Australia (FCA) from the FCC	Appeal to the <u>Federal Court</u> from the Federal Circuit Court: <ul style="list-style-type: none"> • 28 days from the date of judgment or the date on which leave to appeal was granted.⁹ 	
Other applications to the Federal Court of Australia (FCA)	Section 501, 5013A and 109 cancellations can be made by the Minister personally. These are not reviewable in the Tribunal and judicial review can only be lodged in the Federal Court in its original jurisdiction (see s 476A Migration Act). Also, review of s501 decisions made by the Tribunal must be lodged in the Federal Court. ¹⁰ The time frame to apply to the Federal Court in these matters is 35 days from the date of decision. ¹¹	

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 May 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>. **Date: August 2020.**

⁶ Section 338(3), *Migration Act 1958* and Reg. 4.10(1)(b) of the *Migration Regulations 1994*

⁷ Reg. 4.10(1)(b), *Migration Regulations 1994*.

⁸ Section 477, *Migration Act 1958*.

⁹ Rule 36.03, *Federal Court Rules 2011*.

¹⁰ Sections 476A and s500, *Migration Act 1958*.

¹¹ Rule 31.22, *Federal Court Rules 2011*.