

This is a Guide only and is intended to provide general information. Users of this Guide are strongly encouraged to consult with a migration agent or lawyer before taking any course of action related to information, ideas or opinions expressed in this Guide.

INFORMATION SHEET – FREEZE ON GRANTING PROTECTION VISAS UNTIL 30 JUNE 2014

ONLY For Asylum Seekers who have applied for a Protection (Class XA) Visa (866)

Please note this information sheet is subject to change and updates. Please frequently check the ASRC website at: www.asrc.org.au for updated versions of information sheets.

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This is an information sheet only and not legal advice. Anyone using this resource should obtain advice from a registered migration agent or a practicing lawyer. For information about registered migration agents please visit www.mara.gov.au.

The ASRC strongly recommends that any asylum seeker potentially affected by these provisions get independent advice.

WHO DOES THIS INFORMATION SHEET COVER?

This information is only relevant to you if you are an asylum seeker and have applied for a Protection (Class XA) Visa (866).

COMMON QUESTIONS AND ANSWERS

What is the freeze on the grant of any further protection visas?

Scott Morrison, the Minister for Immigration and Border Protection, has used his power under Section 85 of the Migration Act 1958 ('the Act') to limit the maximum number of Protection (Class XA) Visas that may be granted between 5 March and 30 June 2014 to 2773 visas.

The number of protection visas granted as at 5 March 2014 is also 2773.

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This means that no further Protection Visas will be granted between 5 March and 30 June 2014 to asylum seekers found to be refugees by the Department of Immigration (DIBP) or the Refugee Review Tribunal (RRT).

Do I still need to attend my interview at DIBP, my RRT hearing or hearing before the Federal Circuit Court or Federal Court?

YES. We expect your immigration interviews and hearings to still continue as normal, despite the freeze on Protection Visa grants till 30 June 2014. You must continue with everything as normal. That means if you have an interview coming up with the Department of Immigration or the Refugee Review Tribunal you must attend, likewise if you have a case before the courts you must attend.

I arrived by plane with a valid visa and passport and was accepted as a refugee by the RRT or expected to be accepted as a refugee by the Department of Immigration. What does this visa freeze mean for me?

It's important to understand that the freeze on granting any more Protection Visas till 30 June 2014 will not change the outcome of your Protection Visa application. That is, if you have been accepted as a refugee you will still be recognised as a refugee once the freeze has ended.

If you arrived to Australia by plane with a valid visa and passport under current Australian law and found to be a refugee by the Department of Immigration or the Refugee Review Tribunal you will be granted a Protection Visa once Protection Visa grants recommence, if current laws remain unchanged.

I arrived by boat or by plane without a valid visa &/or passport and was accepted as a refugee by the RRT or expected to be accepted as a refugee by the Department of Immigration. What does this visa freeze mean for me?

Under current Australian law, if you came by boat or without a valid visa/passport by plane, you are not eligible for a Protection Visa, *even if you are found to be a refugee*.

The freeze on the grant of any further Protection Visas till 30 June 2014 does not change your legal situation under current Australian law.

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This law may change depending on the outcome of upcoming High Court challenges & decisions of the Senate of the Australian Government.

When will this freeze on granting any further protection visas end?

This is unclear. At the moment the freeze on any further grants of a Protection Visa is just for this financial year, until 30 June 2014.

The Senate of the Australian Government will change on 1 July 2014. This will significantly influence when Protection Visa grants will begin again and whether asylum seekers coming by boat will be eligible for permanent or temporary visas.

The ASRC is committed to keeping you informed and we will update this Information Sheet when we have further information about the visa freeze.