

FCC Judicial Review Application Form Guide

Applying for Judicial Review in the Federal Circuit Court

This Infosheet is an annotated guide to applying for judicial review in the Federal Circuit Court (FCC). To apply for judicial review, **you must complete and lodge:**

- **An application** for review of a decision made by the Immigration Assessment Authority (IAA), Administrative Appeals Tribunal (AAT), the Minister for Home Affairs, the Independent Protection Assessment Reviewer (IPAR), or another decision-maker. This Info Sheet explains how to complete this application.
- **An affidavit** confirming your application to the FCC and including a copy of the written decision that you are reviewing (e.g. a visa refusal from the IAA). For help with the affidavit, see our [‘HRLP Infosheet – FCC Affidavit Guide’](#).

To access the application form, visit this link:

http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/forms-and-fees/court-forms/form-topics/migration/migration_application.


You may lodge the application by post, or by fax or email. For more information on filing the application, visit this link:

<http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/reports-and-publications/publications/migration/review-migration-decisions-fcc>.

Once you have filed your application with the FCC, you will also need to serve (give) a copy of your application and supporting documents to the Minister for Home Affairs, and the decision-maker (e.g. IAA, AAT).

The FCC’s processes have changed in response to the ongoing COVID-19 pandemic. For more information on how to file and serve documents during the pandemic, see our [‘HRLP Infosheet – Filing and Serving Documents at the FCC \(COVID-19\)’](#) for more information.

If you have a Directions Hearing at the FCC coming up, see our [‘HRLP Infosheet – Directions Hearings at the FCC \(COVID-19\)’](#) for more information.

In the following document, you will see this symbol:  If you see this symbol, **that section of the application form must be completed**. Failing to correctly fill out the affidavit may result in the FCC refusing to accept the application. **You do not need to complete any section not marked with this tick symbol.**

IN THE FEDERAL CIRCUIT COURT
OF AUSTRALIA
REGISTRY:

File number



.....
Applicant(s)

Pseudonym(s) for Applicant(s)
[Registry use only]

MINISTER FOR IMMIGRATION, CITIZENSHIP, MIGRANT SERVICES
AND MULTICULTURAL AFFAIRS
First Respondent



ADMINISTRATIVE APPEALS TRIBUNAL [or]
IMMIGRATION ASSESSMENT AUTHORITY [or]
INDEPENDENT PROTECTION ASSESSMENT REVIEWER [or]
OTHER NAMED PERSON [delete as applicable]
Second Respondent

You are the Applicant as you are applying for review. Write:

- Your **name** (e.g. **JAMES APPLE**);
OR
- A **pseudonym** assigned to you by the FCC (e.g. **EHA30**)

Cross out/delete the respondents that do not apply to your case for review.

e.g. If you are applying to review a decision from the Immigration Assessment Authority (IAA), cross out the other three names.

APPLICATION – Migration Act

The applicant applies for an order that the respondents show cause why a remedy should not be granted in exercise of the Court's jurisdiction under section 476 of the *Migration Act 1958* in respect of the migration decision specified on page 2.

First court date

This application is listed for hearing at (court location):

Court date and time (registry staff to insert): at am/pm.

All parties or their legal representatives should attend this hearing. Default orders may be made if any party fails to attend. The Court may hear and determine all interlocutory or final issues, or may give directions for the future conduct of the proceeding.

.....
(for) Registrar
Date:/...../.....

Filed on behalf of The Applicant
Prepared by The Applicant Lawyer's code N/A
Name of law firm N/A
Address for service in Australia
State Postcode
Email DX N/A
Tel Fax Attention

Fill in your personal details in the boxes indicated. It is **important your details are accurate** so the Court can contact you.



Applicant/s details

Is the applicant or any of the applicants to this proceeding currently in immigration detention?

- Yes No

Tick/cross one of the boxes to indicate whether you or another Applicant are currently in detention.



Migration decision details (select box and insert details of the migration decision)

- Decision made by a tribunal

Name of the tribunal:

Date of the decision:/...../.....

Have you applied for a protection visa?

- Yes No

- Immigration Assessment Authority

Date of the decision:/...../.....

- Decision made by the Minister or another person under the Migration Act.

Name of decision-maker:

Office held:

Date of the decision:/...../.....

- A future decision or other action by the Minister or an officer under the Migration Act.

Tick/cross one of the boxes to indicate the source of the decision you are applying to be reviewed by the FCC. Insert the date the decision was made.



Application for extension of time (an extension is required if the application is not made within 35 days of the date of the migration decision)

Does the applicant apply for an order that the time for making the application be extended under section 477 of the Migration Act 1958?

- Yes No

Tick/cross one of the boxes to indicate whether you made your application within 35 days of the decision you are applying to be reviewed.



Grounds of application for extension of time (specify why the applicant considers that it is necessary in the interests of the administration of justice to extend time)

- 1.
- 2.
- 3.

e.g. 'There are reasonable reasons for the delay which are set out in the accompanying affidavit'

e.g. 'The impact on the applicant weighs in favour of granting an extension'

e.g. 'It is in the interests of justice to grant the extension'

If you are applying for an extension of time, you will need to provide reasons/grounds for why the extension should be granted. If you are not applying for an extension of time, do not fill out this section.



Final orders sought by applicant/s (select boxes and add additional or alternative order/s)

- An order that the decision of the tribunal, Immigration Assessment Authority or Minister be quashed.
- A writ of mandamus directed to the tribunal, Immigration Assessment Authority or Minister, requiring them to determine the applicant’s application according to law.
- A declaration that the recommendation of the Independent Protection Assessment Reviewer was not made in accordance with law, by reason of the ground/s of this application.
- An injunction restraining the Minister, by himself or by his Department, officers, delegates or agents, from making the future decision or taking the other action the subject of the proceedings.
- (state precisely each other order sought by way of final relief)

1.

e.g. ‘Such further order or other Relief as the Court deems appropriate’
- 2.
- 3.

To fill out this section, you can either:

- **Tick/cross** the boxes to indicate the orders you are seeking from the FCC; AND/OR
- **Write out the specific orders** you are seeking from the FCC.



Grounds of application (see Instructions for completion)

1.

e.g. ‘The Second Respondent denied the Applicant procedural fairness’
 - 2.
 3.

e.g. ‘The decision of the IAA was illogical, irrational and unreasonable’
- I have made an application for assistance through Victoria Legal Aid and am waiting for a decision.

This section requires you to **identify and explain the reason/s why you are applying to have the decision reviewed.** Did they improperly apply the law? Did they not listen to or acknowledge your full story? **You must identify how the decision or process was incorrect, irregular or unfair.** The FCC will then have to determine if your claims are valid or not.

If you have applied for legal aid or assistance with Victoria Legal Aid (VLA), you should state this here. It is important the Court knows whether or not you have applied to the VLA, or whether or not you are receiving assistance from a lawyer or Migration Agent.

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 July 2021. 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 advice from a qualified legal practitioner or a registered migration agent. For information please visit: <https://www.mara.gov.au>.

Date: 12 July 2021

Other Court Proceedings (This section must be completed if the applicant has made a previous application or applications to a court to review the decision – see section 486D of the Migration Act 1958.)

Person or persons who made each previous application:

Court or courts to which each application was made:

Commencement date of each previous application or applications:

File number of each application:

Outcome of each application:

Language spoken

Does the applicant require an interpreter?



Yes

No



Tick/cross to indicate whether you require an interpreter for your interactions with the FCC. **If yes, state what language you require an interpreter for.**

If Yes, what language:

Service of Application

The application must be served on each respondent within 7 days by delivering it to the Department for Immigration, Citizenship, Migrant Services and Multicultural Affairs at the address below.

[The address will be inserted by the Registry]

Signature of applicant/s or lawyer

Signed by (print name/s)



the applicant/s or lawyer for the applicant/s

Date:/...../.....



Tick/cross to indicate whether you filled out this form yourself. If yes, write your signature on the **top** line, and write your name on the **bottom** line. Write the date that you signed it.

Lawyer's Certification (see section 486I of the Migration Act 1958)

I, [name], the lawyer filing this document commencing migration litigation, certify that there are reasonable grounds for believing that this migration litigation has a reasonable prospect of success.

Signature of the lawyer filing application

Date:/...../.....