

# PERMANENT VISA PATHWAYS FOR TPV/SHEV HOLDERS & APPLICANTS

## WHAT HAS THE GOVERNMENT ANNOUNCED?

The Labor Party went to the election promising to “abolish Temporary Protection Visas and Safe Haven Enterprise Visas and transition eligible refugees onto permanent visa arrangements.”

The Government has now [announced a plan](#) to make Temporary Protection visa (**TPV**) (subclass 785) and Safe Haven Enterprise visa (**SHEV**) (subclass 790) holders eligible to **apply** for a permanent Resolution of Status (**RoS**) (subclass 851) visa, and to **convert** applications for TPV/SHEVs to applications for RoS visas.

There is no clear and effective pathway for the thousands who have been failed by the Fast track system. We are urgently seeking clarity on this and will continue to advocate for a pathway to permanency for all.

## WHAT DOES THIS MEAN FOR ME?

The Government has announced it will provide pathways for TPV/SHEV holders and TPV/SHEV applicants to be assessed for RoS visas. RoS visas are permanent visas that allow holders to live, work and study in Australia, access government services such as Medicare and Centrelink, and sponsor eligible family members for permanent residence.

The Government’s announcement does **not** affect the following people:

- People seeking asylum or refugees who were transferred from Nauru or PNG to Australia for medical treatment (i.e. people referred to by the Department as ‘transitory persons’);
- People seeking asylum who arrived by plane to Australia, or
- People whose permanent protection visas or humanitarian visas have been refused or cancelled.

<b>Your status at 14 February 2023</b>	<b>Effect of the Government announcement</b>
<p>I applied for a TPV/SHEV and am waiting for a decision. I have never been granted a TPV/SHEV previously.</p> <p><i>or</i></p> <p>My application for a TPV/SHEV was remitted by the Immigration Assessment Authority (IAA) to the Department.</p>	<p>If you meet the criteria for a TPV/SHEV (i.e. you are found to be owed protection), your application will be automatically converted to a permanent RoS visa application.</p> <p>If you are then found to meet the RoS visa criteria, you will be granted a permanent visa.</p> <p><b>There are no steps you need to take at this stage.</b></p>

<p>I applied to renew my TPV/SHEV before my original TPV/SHEV expired and am awaiting the outcome of my subsequent TPV/SHEV application</p>	<p>Your application will be automatically converted to a permanent RoS visa application.</p> <p>If you are found to meet the RoS visa criteria, you will be granted a permanent visa.</p> <p><b>There are no steps you need to take at this stage.</b></p>
<p>I hold a TPV/SHEV <i>or</i> I held a TPV/SHEV that has expired</p>	<p>When the Minister lifts the bar (i.e. invites you to lodge a visa application), you will be able to apply for a permanent RoS visa.</p> <p>You will be notified when you can apply for an RoS visa, and given any details about timeframes to lodge. The Minister has indicated that for most people, the bar will be lifted in March 2023.</p> <p>If your TPV/SHEV has not expired yet, the Minister may soon invite you to lodge a visa application. You should do this before your visa expiry date. Please speak to a lawyer for more information.</p>
<p>I had a TPV/SHEV application refused by the Department and am waiting for a decision from the Immigration Assessment Authority or the court</p>	<p><b>You should continue with the IAA review or court process.</b></p> <p>If you are successful in seeking review of your TPV/SHEV refusal before the IAA or courts, and you are found to meet the TPV/SHEV protection criteria, your TPV/SHEV renewal application may be converted to a RoS visa.</p> <p>If you are not successful in seeking review of your TPV/SHEV refusal before the IAA or courts, you will not be eligible to make a valid application for a RoS visa.</p> <p>You may be able to request <a href="#">Ministerial Intervention</a>, including if you have new, credible protection claims relating to changes in your country of origin or personal circumstances. The Minister has broad powers, including to allow you to make a new protection visa application or to grant you a different visa.</p>
<p>I had a TPV/SHEV application refused and have no ongoing processes <i>or</i> My TPV/SHEV was cancelled</p>	<p><b>You will not be eligible to make a valid application for a RoS visa.</b></p> <p>You may be able to request <a href="#">Ministerial Intervention</a>, including if you have new, credible protection claims relating to changes in your country of origin or personal circumstances. The Minister has broad powers, including to allow you to make a new protection visa application or to grant you a different visa.</p>
<p>I have asked the Minister to intervene in my case</p>	<p>You do not need to submit a new request to the Minister. You should ensure that you have provided all relevant information to the Minister.</p>

## WHAT ARE THE CRITERIA FOR A RESOLUTION OF STATUS VISA?

The RoS visa application is less detailed than a protection visa application. The form asks for basic information about you and any other applicants (including name, address, date of birth and contact details), and some questions in relation to character requirements and travel history. The form also includes an Australian Values Statement and declaration that you will need to sign.

We recommend getting advice from a lawyer before submitting your Resolution of Status visa application, particularly if you have been convicted or charged with any criminal offences.

You may also be required to undergo a health examination. If this is required, the Department of Home Affairs will let you know.

You do not need to provide any information about your protection claims as part of the RoS visa application. We do not expect you will need to attend an interview.

If you are required to submit a RoS visa application, you must be in Australia at the time that you submit your application (even if your application is submitted online via Immiaccount). You must also be in Australia at the time of your Resolution of Status visa grant.

**There is no fee to apply for a RoS visa.**

## **WHAT ELSE DO I NEED TO KNOW?**

The Government expects the majority of TPV/SHEV holders who meet the requirements for the grant of a RoS visa will be granted a RoS Visa within the following timeframe:

- within 12 months of when your TPV/SHEV visa application is converted to an RoS application; or
- within 12 months of when you submitted your RoS visa application.

If your RoS visa application is refused, you will have the right to seek review before the Administrative Appeals Tribunal. It is important that you get legal advice about this review process.

While you are awaiting a process or outcome, ensure you continue to comply with your visa conditions.

## **WHAT ABOUT FAMILY REUNION?**

Once you are granted a permanent RoS visa, you may be eligible to sponsor family members who are overseas for permanent Australian visas. You cannot sponsor family members until you have been granted a permanent visa.

We recommend you seek legal advice before applying to sponsor family.

## **WHERE CAN I GET HELP?**

It is important that you get advice from ethical and reputable sources. We recommend obtaining advice from a legal practitioner with specialist knowledge of refugee law. To assist TPV and SHEV holders with the visa application process, the Albanese Government has committed \$9.4 million over two years for visa application assistance through specialist legal service providers across Australia.

The ASRC is independent and does not accept federal government funding. We have fact sheets to assist the community at [asrc.org.au/get-help/legal-help/](http://asrc.org.au/get-help/legal-help/), including how to [access help](#) from our legal team.

If you are in Victoria, **Refugee Legal** is funded to assist with conversion. Their hotline, **(03) 9413 0133**, is open 9am-5pm Monday to Friday.

Organisations across Australia funded to assist with RoS visa applications are as follows:

Australian Capital Territory (ACT)	Legal Aid ACT	<a href="http://www.legalaidact.org.au">www.legalaidact.org.au</a>
New South Wales (NSW)	Refugee Advice and Casework Service (RACS) Immigration Advice and Rights Centre (IARC) on referral from RACS NSW	<a href="http://www.racs.org.au">www.racs.org.au</a> <a href="http://www.iarc.gov.au">www.iarc.gov.au</a>

Northern Territory (NT)	Northern Territory Legal Aid Commission	<a href="http://www.legalaid.nt.gov.au">www.legalaid.nt.gov.au</a>
Queensland (QLD)	Refugee and Immigration Legal Service (RAILS)	<a href="http://www.rails.org.au">www.rails.org.au</a>
South Australia (SA)	Legal Services Commission of SA	<a href="http://www.lsc.sa.gov.au">www.lsc.sa.gov.au</a>
Tasmania (TAS)	Tasmanian Refugee Legal Service	<a href="http://www.trls.org.au">www.trls.org.au</a>
Victoria (VIC)	Refugee Legal	<a href="http://www.refugeelegal.org.au">www.refugeelegal.org.au</a> TPV/SHEV Conversion Hotline: 03 9413 0133
Western Australia (WA)	Circle Green Community Legal	<a href="http://www.circlegreen.org.au">www.circlegreen.org.au</a>

## **WHERE CAN I GET MORE INFORMATION?**

ASRC will provide information as soon as it becomes available, including by updating this Fact Sheet and offering information sessions for the community.