

**FACT SHEET: THE MIGRATION AMENDMENT ACT 2024 (Cth) and MIGRATION AMENDMENT (REMOVAL AND OTHER MEASURES) ACT 2024 (Cth)**



On 29 November 2024 the Government passed new laws that expand the Minister’s powers to remove people from Australia, reverse protection findings for a larger group of people than previously allowed by law and designate whole countries as banned such that its citizens are unlikely to get visas to enter Australia, with limited exceptions.

This fact sheet does **not** address the *Migration Amendment (Prohibited Items in Immigration Detention) Act 2024* (Cth) which also passed on 29 November 2024. Please refer to our [other factsheet](#).

## OVERVIEW OF NEW LAWS

- Allows the Government to enter into “third country reception arrangements” with foreign countries.<sup>[1]</sup> Any person considered to be facing removal could be sent to a third country (a place other than their home country). We do not know which countries are being considered at the moment or when such arrangements will start.
- Allows the Minister to write to someone to facilitate their removal from Australia.<sup>[4]</sup> This includes directing them to complete an application for passport or other travel document, attending an interview or appointment with an officer or other person and providing documents or information to an officer/person specified in the direction.

A person who does not cooperate with their removal may face detention and criminal penalties - up to 5 years’ imprisonment with a minimum mandatory sentence of 12 months.<sup>[5]</sup>

- Introduces a new test to impose curfew and ankle monitoring conditions for BVR holders.<sup>[7]</sup>
- Allows the Minister to prevent people from certain countries (we don’t know which countries yet) from entering Australia<sup>[8]</sup>

While the new laws allow the Government to take these steps, it is yet to be seen if it will.

## WHAT DOES THIS MEAN FOR ME?

It is very important that you contact a lawyer as soon as you receive any calls or letters about removal or detention from the Government. See below contacts for free legal help.

### **If you are holding a permanent Australian visa**

You are unlikely to be impacted by these new laws unless your permanent visa is cancelled. However, if you have a family member from a banned country, they may not be able to be issued a tourist visa to visit you in Australia. See below for more information.

### **If you are in immigration detention**

- If you are in immigration detention facing removal from Australia you may be sent a written direction by the Minister to take steps to cooperate with your own removal from Australia. As stated earlier, this includes, completing an application form for a passport or travel document, providing documentation or information necessary for the Government to find out about your removal (for example, about your identity) and attending appointments necessary for your removal.
- As a result of the new laws, it may be lawful to keep you in detention while the Government investigates how and where to remove you to (e.g. if you cannot be removed to your home country because of a protection finding).
- If you still waiting for a court outcome, the removal process can still start, according to law, however past experience tells us that removal will not take place while there is a court matter yet to be determined.

### **If you are in the community on a Bridging Visa R**

- If you in the community on a **Bridging Visa R**, your visa will **end** if you can be sent to a third country.<sup>[9]</sup> You also may face being re-detained for this reason. We do not know which third countries are being considered or if people will be removed, at this stage.

Please note, you **cannot** be removed if you have made a valid application for a protection visa that has not been finally determined.

### **If you are in the community on a Bridging Visa E**

- If you are holding a Bridging Visa E on the basis that you lodged a Ministerial Intervention request or are making arrangements to depart, you can be subject to removal to your country of origin or a third country.
- If you have a protection finding and cannot be removed to your country of origin, the Minister can make a decision that you no longer are owed protection. You will have the right to seek review of this decision at the Administrative Review Tribunal. Please note, it still may be possible to send you to a third country, however, the third country arrangements are unknown at this point.

- If you have lodged a ministerial intervention request, and the Minister decides to consider your request, then the duty to remove you is **temporarily stopped for 6 months or another date as agreed.**<sup>[11][13]</sup>

During this period, you **cannot** be removed from Australia, however this doesn't prevent other action being taken to prepare you to be removed from Australia.<sup>[12]</sup> For example, the Government could apply for a travel document on your behalf.

- If you are holding a **Bridging Visa E** on the basis of a **judicial review matter**, you are unlikely to be affected by these new laws, however please contact a lawyer if you receive calls or letters from the Department of Home Affairs about removal or detention.

### **If you are a transitory person**

If you are a **transitory person**, i.e. you were transferred to Australia from PNG or Nauru for medical treatment, the Government may take steps to remove you to a third country.

As already noted above, at this time, we do not know which foreign countries the Government is thinking of entering into arrangements with and we do not know have any timeframe for when this could occur.

### **WHAT DOES THIS MEAN FOR MY FAMILY OVERSEAS?**

At this time, we do not know which countries the government will include in the entry ban or when any ban will start. If your family is from a banned country, it will mean they may not be able to visit you in Australia.

If a visa application is made by a citizen of a banned country, it will be deemed invalid.<sup>[18]</sup> The Minister has the power to lift the bar and enable invalid applicants the opportunity to reodge a visa application even though they are from a “banned” country.

The entry ban does not apply if the person applying for the visa:

- Is a dual national (holding citizenship of another country in addition to the banned country);
- Is the spouse, de facto partner or dependent child of an Australian citizen, permanent visa holder or person who is usually resident in Australia;
- Is the parent of a child in Australia under 18 years old; or
- Is applying for a Refugee and Humanitarian (Class XB) visa.

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

It is important that you get advice from ethical and reputable people and places. You may contact the organisations below for free legal assistance, noting that you may need to wait until the new year to speak with a lawyer as organisations will have limited capacity at the end of December and start of January.

Organisation	Who can they assist?	Contact details
Asylum Seeker Resource Centre	If you: <ul style="list-style-type: none"> <li>● are in immigration detention in Australia; OR</li> <li>● live in the community in Victoria; OR ● were recently released from detention into the community in Queensland or Western Australia; AND</li> <li>● fear harm on return to your country of birth.</li> </ul>	Email: <a href="mailto:legal@asrc.org.au">legal@asrc.org.au</a> . Please note we will only respond to email requests from people who are in detention.  Phone or drop-in:  <ul style="list-style-type: none"> <li>● <b>Hours:</b> Monday, Tuesday, Thursday and Friday from 10am – 12.30pm (closed on Wednesdays)</li> <li>● <b>Phone:</b> (03) 9274 9889</li> <li>● <b>Address:</b> 214-218 Nicholson Street, Footscray VIC 3011</li> </ul>
Legal Aid NSW	If you: <ul style="list-style-type: none"> <li>● are in New South Wales (detention or in the community); OR</li> <li>● are in detention and were living in New South Wales before being detained.</li> </ul>	Phone: (02) 9219 5790
Refugee Advice Casework Service (RACS)	If you: <ul style="list-style-type: none"> <li>● live in the community in New South Wales or the Northern Territory; OR</li> <li>● are detained at Yongah Hill Immigration Detention Centre.</li> </ul>	Email: <a href="mailto:admin@racs.org.au">admin@racs.org.au</a>
Refugee Legal	If you: <ul style="list-style-type: none"> <li>● are in immigration detention; OR</li> </ul>	Email: <a href="mailto:admin@refugeelegal.org.au">admin@refugeelegal.org.au</a>

	<ul style="list-style-type: none"> <li>live in the community in Victoria, South Australia and the Northern Territory.</li> </ul>	
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## WHERE CAN I GET OTHER SUPPORT?

Government-funded service providers are providing limited support to people who have been recently released, including organising temporary housing and assisting them to apply for Medicare (to access healthcare) and Centrelink. You will also be eligible for short-term SRSS (Status Resolution Support Services).

You can contact the service providers below to find out what assistance they can provide.

If you already have a caseworker, it is recommended that you contact them directly on the contact details already provided.

Organisation	Contact details
Life Without Barriers	Email: <a href="mailto:info@lwb.org.au">info@lwb.org.au</a> Phone: <ul style="list-style-type: none"> <li>Sunshine (VIC) office: (03) 9245 2701</li> <li>Dandenong (VIC) office: (03) 8752 8500</li> <li>After hours for emergencies (5pm to 9am): 1800 861 862</li> </ul>
Settlement Services International (SSI)	Email: <a href="mailto:srss.intake@ssi.org.au">srss.intake@ssi.org.au</a> Phone: <ul style="list-style-type: none"> <li>Monday to Friday: (02) 9685 0100</li> <li>After hours for emergencies (weekdays 5pm to 9am &amp; weekends): (02) 1800 774 142</li> </ul>
Lifeline	Phone: 13 11 14 (available 24/7); Chat/text online: <a href="https://www.lifeline.org.au/">https://www.lifeline.org.au/</a>

Beyond Blue	Phone: 1300 22 4636 (available 24/7)  Chat online: <a href="https://www.beyondblue.org.au/get-support/talk-to-a-counsellor/chat">https://www.beyondblue.org.au/get-support/talk-to-a-counsellor/chat</a>
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<sup>[1]</sup> *Migration Act 1958* (Cth), s 198AHB.

<sup>[2]</sup> *Migration Act 1958* (Cth), s 197D.

<sup>[3]</sup> “*Removal pathway non-citizen*” is a new term defined in s 5(1) of the *Migration Act 1958* (Cth).

<sup>[4]</sup> *Migration Act 1958* (Cth), s 199C.

<sup>[5]</sup> *Migration Act 1958* (Cth), s 199E.

<sup>[6]</sup> *Migration Act 1958* (Cth), s 199E(4).

<sup>[7]</sup> *Migration Act 1958* (Cth), s 76E(4)(b).

<sup>[8]</sup> *Migration Act 1958* (Cth), s 199F; 199G.

<sup>[9]</sup> *Migration Act 1958* (Cth), section 76AAA.

<sup>[10]</sup> *Migration Act 1958* (Cth) s 197E (1),(2). See also 198.

<sup>[11]</sup> *Migration Act 1958* (Cth) s 197E (5).

<sup>[12]</sup> *Migration Act 1958* (Cth) s 197E (10).

<sup>[13]</sup> *Migration Act 1958* (Cth) s 197E (6)(a).

<sup>[14]</sup> *Migration Act 1958* (Cth) s 197E.

<sup>[15]</sup> *Migration Act 1958* (Cth) s 197E.

<sup>[16]</sup> *Migration Act 1958* (Cth) s 197E

<sup>[17]</sup> *Migration Act 1958* (Cth) s 197E (6)(a).

<sup>[18]</sup> *Migration Act 1958* (Cth), s 199G(1).

**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 2024. 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: December 2024**