

Temporary Protection Visas and Safe Haven Enterprise Visas

This information is for asylum seekers who arrived by boat or plane without a valid visa or who were not immigration cleared.

If you are found to be owed protection obligations by the Australian Government as part of the protection visa application process, you can be granted either a Temporary Protection Visa (TPV) or a Safe Haven Enterprise Visa (SHEV).

Types of Protection Visas

There are three types of protection visas that the Australian Government can grant to people who are recognised as refugees in Australia.

The three types of protection visas are:

- Permanent Protection Visa (PPV) – subclass 866
- Temporary Protection Visa (TPV) – subclass 785
- Safe Haven Enterprise Visa (SHEV) – subclass 790

These visas can only be granted to people after they have had their protection claims assessed by the Australian Government and they are assessed as meeting all the criteria for the visas (including health, character and security criteria).

What is the difference between a TPV and a SHEV?

There are some similarities and some differences between these two visas.

- Both visas have the same conditions regarding work, study, social security and healthcare;
- Both visas allow you to work, access Centrelink benefits, Medicare, job seeker assistance and short-term counselling for torture or trauma;

- Children under 18 can attend school;
- People aged 18 or over can access the Adult English Migrant Program (AMEP) but will not be eligible for Commonwealth-funded subsidies for other study;
- Both visas have the same conditions regarding citizenship, family reunion and overseas travel;
- Neither visa allows you to become a citizen;
- Neither visa allows you to sponsor family members for permanent migration to Australia;
- Neither visa allows you to travel outside of Australia and then return;

If you do want to travel outside of Australia and return on either visa you must get permission from the Minister for Immigration, Citizenship and Multicultural Affairs (the 'Minister'). Departmental policy states that visiting close relatives may be considered a compelling and compassionate reason for the Minister to grant permission.

For further information on requesting permission to travel, see:

<https://www.homeaffairs.gov.au/Trav/Refu/Onsh>

- On both TPVs and SHEVs, you must notify the Department of Immigration of a change of address within 28 days.

There are two differences between the TPV and the SHEV. These differences are the duration of the visa and the visa options after the expiry of the visa.

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	TPV	SHEV
Duration	3 years	5 years
Visa options after expiry	<ul style="list-style-type: none"> • Can apply for another TPV or SHEV; • Cannot apply for a permanent protection visa; • Cannot apply for any other visa. 	<ul style="list-style-type: none"> • Can apply for another TPV or SHEV; • Cannot apply for a permanent protection visa; • If you meet the regional work/study pathway requirements, you can apply for a work, student or family visa.

Pathway requirement for SHEVs

To meet the pathway requirement, for a total of 42 months (3.5 years) out of the period that you hold the SHEV, you must have:

- Worked in a designated regional area without receiving any social security benefits; or
- Been enrolled in full-time study at an education institutional in a designated regional area; or
- Been involved in a combination of the above work and study.

If you are part of a family unit, only one member of your family needs to satisfy these requirements. If you have a family, you will need to get legal advice about meeting the SHEV 42 month criteria.

If you meet the pathway requirements, you will be allowed to apply for other types of work, student or family visas. However, to be granted one of those

visas, you must meet the relevant criteria for those. The Department of Home Affairs has information about work visas, student visas and family visas on its website.

Should I apply for a TPV or a SHEV?

This is a personal decision for you to make.

We suggest you think about:

- Whether you would prefer your protection claims to be re-assessed in 3 years or 5 years;
- Whether you will be able to find work in a regional area;
- Whether you will be able to afford the fees to study in a regional area;
- Whether you are likely to meet the requirements for work, student or family visas in 5 years;
- Whether you require specialist support services and whether these services are available in a regional area (e.g. torture and trauma counselling).

How do I apply for a TPV or a SHEV?

For both visas, you must complete the relevant application form and pay a fee of \$35.

The application form for a TPV or SHEV is called Form 866. These forms are available on the Department of Home Affairs' website.

What regional areas can I work or study in to meet the SHEV pathway requirement?

You must work or study in a designated regional area.

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Currently, these specified areas are:

- All of Tasmania, South Australia and the ACT;
- All of Western Australia except Perth;
- All of Queensland except Brisbane & the Gold Coast;
- All of NSW other than Sydney, greater Newcastle or Wollongong; and
- Southern and western parts of Victoria.

A full list of postcodes is available on the Department of Home Affairs' website:

<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/safe-haven-enterprise-790/safe-haven-enterprise-visa-regional-area>

If I study, how much will it cost?

Children under 18 are able to study at school. Adults aged 18 or over will be able to study under the Adult English Migrant Program (AMEP) but will not be entitled to other Commonwealth-funded subsidies for study.

I am working or studying in a regional area now but I don't yet have a SHEV. Can I count this time towards satisfying the SHEV pathway requirement?

No. You can only count time spent working or studying in a regional area while you hold a SHEV.

If I meet the SHEV pathway requirements, when can I apply for another visa?

You can apply for another visa as soon as you have completed the required period of regional work or

study (42 months). You do not have to wait until the end of the SHEV before applying.

What if I don't meet the pathway requirements to apply for another kind of visa at the end of my SHEV?

If you don't satisfy the regional work or study requirements at the end of your SHEV, then you will not be able to apply for another visa without permission of the Minister.

The Minister can decide which type of visa you can apply for.

The Department of Home Affairs says that you will only be able to apply for another TPV or SHEV if you have made a genuine effort to satisfy the pathway requirements. If you have made a genuine effort then you may be granted permission to apply for another SHEV.

However, if you have not attempted to work or study in a regional area, you may only be allowed to apply for a TPV.

What happens if I am granted a SHEV and don't move to a regional area?

Living in a regional area is not a condition of your SHEV and your SHEV cannot be cancelled on this basis.

Failure to do this when you expressed an intention of doing this in your SHEV application could affect whether the Minister gives you permission to apply for another SHEV in the future.

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I am in a relationship with an Australian citizen or permanent resident. Can we get married?

You can get married in Australia.

However, in order to remain in Australia permanently, you would need to apply for and be granted a permanent Partner Visa.

If you hold a SHEV, and you meet the regional work or study requirements, then you can apply for a Partner Visa.

If you do not meet the requirements, or you do not hold a SHEV, and you arrived in Australia by boat, then it is likely that you would be barred from applying for a Partner Visa.

I have a child who attends school. Can we go to a regional area on a SHEV?

If you are in a family, only one member of the family unit needs to meet the pathway requirements. A family unit generally includes a partner (married or de facto) and dependent children.

For example, if you have a child under 18, you move to a specified regional area, and your child attends the local school for a minimum of 3.5 years, the whole family unit could meet the SHEV pathway requirements, even if the family receives Centrelink benefits.

Reapplying for another TPV/ SHEV or other visa

You must apply for another visa before your current TPV or SHEV expires. If you do not lodge the application before your current visa expires you will not be able to lodge an application unless the Minister intervenes in your case.

If your visa expires you will then be unlawful. You should start making arrangements to apply for your new visa about 6 months before your current visa expires.

If you are re-applying for a TPV or SHEV you can use the [Form 1505](#).

Further Information

Read the fact sheet by the Department of Home Affairs available in your language:

<https://www.homeaffairs.gov.au/Trav/Refu/Onsh>

Useful Contacts

Legal Aid ACT

9.00am-4.00pm Monday-Friday

www.legalaidact.org.au

Phone: **1300 654 314**

Migration Agents Registration Authority (MARA)

www.mara.gov.au

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Migration Clinic – Legal Aid ACT

www.legalaidact.org.au

Phone: **1300 654 314**

Email: migration@legalaidact.org.au


This factsheet was originally developed by the Refugee Advice & Casework Service Sydney (RACS) (www.racs.org.au).

This factsheet is a guide only and is not legal advice. While due care has been taken to ensure the accuracy of the material contained in this factsheet, Legal Aid ACT and the Refugee Advice & Casework Service Sydney cannot take responsibility for any errors or omissions.

Complaints & suggestions: If you have any complaints or suggestions about our services, please write to the Chief Executive Officer at our postal address.

Interpreter: If you need an interpreter, please contact Translating and Interpreting Service (TIS) on 131 450.

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