

Permanent Visas for TPV/SHEV Holders

On 14 February 2023, the law changed allowing all holders of a Temporary Protection Visa (TPV) or a Safe Haven Enterprise Visa (SHEV) to now be eligible for a Permanent Visa to remain in Australia – a Resolution of Status Visa (Subclass 851).

This fact sheet explains the conditions and eligibility for a permanent visa if you hold or have applied for a Temporary Protection Visa (TPV) or a Safe Haven Enterprise Visa (SHEV) before 14 February 2022.

ELIGIBILITY FOR A PERMANENT VISA

1. If you hold a TPV or SHEV

If you hold a TPV or SHEV, the law has changed allowing you to apply for a Permanent Visa. The Permanent Visa that you can apply for is a Resolution of Status Visa (RoS) (Subclass 851).

This will happen in two stages:

Stage 1: From February to late March, some TPV/SHEV holders will get an invitation in writing from the Department of Home Affairs (the Department) to apply for a RoS visa. The Department will invite people whose visas are due to expire soon and other priority cases. Not everyone will be invited to apply at this stage. There is no application fee for this visa.

Stage 2: From late-March, all other TPV/SHEV holders can apply online for a RoS visa. You will be able to apply without an invitation from Department.

You will not be required to have your protection claims reassessed to be granted a RoS Visa, however, the grant of the visa will be subject to relevant character, health, and security checks.

2. If you have already reapplied for a TPV or SHEV (Subsequent Application)

If you were granted a TPV or SHEV and you have already reapplied for another TPV or SHEV, you do not need to make an application for a permanent visa. Your subsequent application for a TPV or SHEV will be considered as an application for a RoS permanent visa.

3. If you're still waiting on a decision on your initial TPV or SHEV Application

If you're still waiting for a decision on your initial TPV or SHEV application, you will still need to continue with your TPV or SHEV application as per the current legal process. If you are found to meet the relevant criteria for a TPV or SHEV, you will be granted a RoS visa.

4. If you held a TPV or SHEV and it has expired

If you held a TPV or a SHEV and you did not apply for a subsequent visa before your visa expired, you may be eligible for a RoS permanent Visa. It is important you seek urgent legal advice about your particular circumstances and contact TRLS on info@trls.org.au and 0361699473.



5. If you've had your TPV or SHEV Application is refused

If you've been refused a TPV/SHEV this change in the law will not immediately affect you, and your current legal situation. If your matter is at the Immigration Assessment Authority (IAA), the Administrative Appeals Tribunal (AAT) or you have sought judicial review of your visa refusal at the Courts, you will still need to be successful in these appeals before being considered for a permanent RoS. If your matter is remitted to the Department of Home Affairs and you are found to meet the relevant criteria for a TPV or SHEV, you will be granted a permanent RoS visa.

If you have been unsuccessful on appeal and have requested the Minister to intervene allowing you to apply for protection again, you will need to continue with that process. If through this process, it is determined that you are owed protection and would otherwise meet the criteria for a TPV or SHEV you should be eligible for a permanent RoS.

If you have been refused a TPV/SHEV and you currently do not have a merits review appeal (IAA or AAT), a judicial review matter or a ministerial request in process it is important you seek urgent legal advice about your particular circumstances.

RESOLUTION OF STATUS VISA (ROS) (SUBCLASS 851)

You will be able to travel overseas once you are granted a Permanent Visa, however at the minimum, you will need:

- A Convention Travel Document;
- A visa, or permission to enter the country you seek to visit.

These documents are explained further below.

Convention Travel Document

If you travel overseas, you should use a Convention Travel Document. A Convention Travel Document is like a passport that people recognised as refugees can use to travel overseas.

Do not use the passport of the country from which you fled persecution.

To apply for a Convention Travel Document, you should contact the Australian Passport Office of the Department of Foreign Affairs and Trade to request a form PC5. You can request a form PC5 by calling 131 232 and selecting option (0) and asking for the form to be posted to you. You may also be able to pick one up from your nearest Australian Passport Office, but we suggest you call 131 232 first to check the location and opening hours.

Once you have form PC5, you need to complete the form. Include your personal information to verify your identity and evidence of your current visa status (e.g. visa grant letter or VEVO check). When the form is complete, you need to call 131 232 to make an appointment. You



will need to pay an application fee at the appointment. The current fee as of February 2023 is \$204. It is important that the information in the form is correct.

You can find more information on Convention Travel Documents at

<https://www.passports.gov.au/getting-passport-how-it-works/special-travel-documents/non-citizen-travel-documents>

Once you have a Convention Travel Document, you should inform the Department of Home Affairs to give them the details of your new Convention Travel Document.

Visas and Entry Permits

You will also need to show you have permission to travel to the country where you intend to travel. For example, if you have a Convention Travel Document and intend to travel to Malaysia, you will need to show you have a visa (or other permit) to travel to Malaysia before Australia will give you permission to leave Australia to visit Malaysia.

Can I travel to a declared area?

No. Even if you have a Convention Travel Document and a visa or entry permit, you cannot visit declared areas. A declared area is an area in a foreign country that the Minister of Foreign Affairs has listed as having terrorist activity. You could be committing a criminal offence if you intentionally enter or stay in a declared area. Currently the Mosul district in Iraq and Al-Raqqa province in Syria are declared areas.

For further information see Australian National Security website at

<https://www.nationalsecurity.gov.au/what-australia-is-doing/places-you-cant-go>

Can I return to my home country?

Whilst returning to your home country is not precluded as a visa condition on an RoS Visa, travelling to your home country may be an indication you no longer need protection which is the reason in which you were granted a TPV or SHEV in Australia. You should not travel to your home country without obtaining independent legal advice addressing your personal circumstances.

FAMILY REUNIFICATION

As a permanent visa holder, you may now be eligible to sponsor family members through Australia's Family Stream Visa program.

People holding a permanent RoS Visa will not be able to apply under Australia's split family provisions.



We recommend you seek legal advice before making any applications as such processes can also impact your visa status in Australia. If you would like advice about your options, please contact TRLS as per the below.

MEDICARE, CENTRELINK & COUNSELLING FOR TORTURE AND TRAUMA

If you're granted a Permanent RoS Visa, you'll be entitled to government services including Medicare, Centrelink, and the National Disability Insurance Scheme.

You will also be eligible to access short-term counselling for torture and trauma. For more details please contact the [Forum of Australian Services for Survivors of Torture and Trauma](#).

STUDY & WORK

If you're granted a Permanent Visa, you will have the right to study and work in Australia on a permanent basis. You may also be eligible to attend English Language classes for free. To check your eligibility please contact an [Adult Migrant English Program \(AMEP\) provider](#).

CITIZENSHIP APPLICATION

If you're granted a Permanent Visa you may be eligible to apply for Australian citizenship after one year. You will need to satisfy the relevant residency, character, language, and Australian knowledge requirements in order to apply for and be granted Australian citizenship.

CONTACT THE TASMANIAN REFUGEE LEGAL SERVICE

If you would like some advice and assistance, please contact us.

We offer face to face or telephone appointments and can provide interpreters for all our services.



319 Liverpool Street, Hobart TAS



<https://www.trls.org.au/>



info@trls.org.au



Office: (03) 6169 9473