

TPV HOLDERS

**APPLICATIONS FOR FURTHER
PROTECTION VISAS**

**FREQUENTLY ASKED QUESTIONS
(FAQs)**

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Frequently Asked Questions (FAQs)

1. General Issues

Q1 Why do Temporary Protection Visa (TPV) holders have to apply again when they have already been found to be refugees?

The Refugees Convention does not require countries to provide permanent residence to refugees.

The TPV validity period is three years, that is, a TPV entitles the holder to remain in Australia for 36 months from the date of visa grant. TPV holders need to apply for another protection visa if they want to stay in Australia when their three year temporary visas expire.

If they do not have a valid visa, they will be unlawfully in Australia, and may be detained and removed from Australia.

Since a TPV holder was granted the visa, the situation in their home country may have changed and they would not be persecuted if they return home. This will be assessed when the TPV holder makes an application for another protection visa. If the TPV holder is found to still be owed protection, they will be granted another protection visa. If not, they must leave Australia.

Q2 Why can't they have a Permanent Protection Visa (PPV) so that they can stay in Australia without worrying about their future?

The Refugees Convention does not require countries to provide permanent residence to refugees. The main objective of refugee protection is to provide a temporary place of safety while efforts are made to enable the refugee to return to their homeland in safety and dignity.

TPVs were introduced by the Australian Government in 1999 in response to a surge of unauthorised boat arrivals who had used people smugglers to travel to Australia illegally, often having abandoned or bypassed protection in other countries during their journey to Australia.

TPV holders who apply for another protection visa may be able to access a Permanent Protection Visa once they have held their TPV for 30 months and they are found to have a continuing need for protection.

Legislation changes in September 2001 mean that some TPV holders may not be able to access a permanent visa.

They will not be granted a permanent visa if

- they had lived for a continuous period of seven days or more in a country where they could have sought and obtained effective protection either from the government of that country; or through an office of the UNHCR in that country, before arriving in Australia; **AND**
- they lodged their application for another protection visa on or after 27 September 2001.

(In some limited circumstances, the Minister may waive this requirement if he considers that this it is in the public interest to do so. TPV holders who believe that the 'seven day rule' should not apply to them should write to the Minister.

OR

- the person who applies for another permanent visa, has been convicted in the four years before the visa decision of an offence against a law of the Commonwealth, a State or Territory for which the maximum penalty is imprisonment for at least 12 months.

2. Eligibility for Grant of a Further Protection Visa

Q1 When can a TPV holder be granted another Protection Visa?

A TPV holder can lodge a further protection visa application at any time and such application can be decided at any time.

Generally processing of the new visa application begins when the TPV term approaches 30 months (or 54 months for people who hold a subclass 451 temporary humanitarian visa).

A TPV holder cannot be granted a Permanent Protection Visa (PPV) until they have held their TPV for a period of 30 months (or 54 months for a temporary humanitarian visa holder). In limited circumstances, it is possible for the Minister to specify in writing that it may be granted in a shorter period of time). Where a person is owed protection but cannot access the permanent protection visa, a further temporary protection visa can be granted.

Q2 How will TPV holders know when their TPV has reached 30 months?

TPV holders have a visa label which sets out the date that the TPV was granted and the date it will expire. This information should be used to calculate when they will reach 30 months from the date of grant.

DIMIA will also be writing to TPV holders around the 30 month stage of their TPV. They will receive one of two standard letters:

Where a further PV Application has been lodged: This letter informs the applicant that their application for protection is being considered and invites the applicant to update any information they have previously given the Department in support of their application for protection.

Where no further PV Application has been lodged: This letter informs the applicant that they have reached the 30 month point of their TPV and advises the applicant of their options, ie, that they should consider whether they wish to make arrangements to leave Australia if they no longer want or need protection, or to make another protection visa application before their current TPV expires.

Q3 What happens if the TPV holder has moved and doesn't receive the letter?

It is the responsibility of TPV holders to make sure that the Department has their correct contact details, including their current mailing address. They are also responsible for lodging a further protection visa application if they wish to seek further protection and for ensuring that all relevant claims and information in support of their application is provided to DIMIA with that application.

If there is no response to DIMIA letters, or they are returned by the post office, then DIMIA may decide any further protection visa application on the information already available to the Department.

Q4 How does a TPV holder apply for another protection visa?

TPV holders must complete and lodge an 866 application form (*Application for a Protection [Class XA] visa*) before their TPV expires.

TPV holders who are not sure whether they have lodged another protection visa application should write to or visit a DIMIA office, providing details of their current visa number and name and date of birth. Alternatively, a TPV holder can telephone DIMIA on 131 881.

Q5 Do TPV holders have to pay a fee when they apply for a further protection visa?

Yes, a \$30 fee is payable at the time a TPV holder in the community lodges their further application for protection. However if the TPV holder is in detention there is no lodgement fee.

Q6 If a TPV holder has already made another protection visa application which has not been decided, does he or she need to apply again?

No. It is not necessary to apply again. However, if a TPV holder wishes to add new information &/or additional documents which are relevant to their new PV application, they should do so. They should either:

- submit a separate statement, and attach any relevant additional documents;
or
- submit the specific parts of the 'Application for a Protection (Class XA) Visa', and attach any relevant additional documents.

TPV holders should not assume that they will be given an interview opportunity to provide such information.

3. Assistance Available to TPV Holders who wish to lodge a further Protection Visa Application

Q1 Will TPV holders who have applied for another protection visa be eligible for the Asylum Seeker Assistance (ASA) Scheme?

TPV holders are not eligible for income support under the ASA Scheme as they are eligible for Special Benefits payments from Centrelink.

However, TPV holders may be eligible to have the cost of their health and character checks associated with their further protection visa application paid under the ASA Scheme. These costs include:

- basic health examinations, HIV tests and X-rays conducted by a Commonwealth Medical Officer or other authorised medical practitioner; and
- character checks undertaken in Australia.

To be eligible for this assistance, the TPV holder must have been requested by DIMIA to proceed with health and character checks and must be in financial hardship.

TPV holders who consider they may qualify for assistance with the costs of health and character checks should contact the Australian Red Cross in any capital city.

Q2 Can a former TPV holder, whose TPV has expired, and who has been granted a Bridging Visa (with or without work rights) have access to income support under the ASA Scheme?

They may be eligible for income support under the ASA Scheme if they have lodged a further protection visa application, are in financial hardship and meet certain other eligibility criteria.

If they meet the eligibility criteria and are provided with income support under the ASA Scheme, this assistance will stop once a primary decision has been made on their further protection visa application. Should they apply for review of this decision, they may be eligible to re-apply for income support under the ASA Scheme.

These asylum seekers should be advised to contact the Australian Red Cross in any capital city. The Red Cross will inform them of the eligibility criteria and will undertake a needs assessment.

Q3 Will any assistance be provided to TPV holders (other than wards of the Minister – see Q4 below) to make another protection visa application?

TPV holders pursuing further protection in Australia have the same access to the Immigration Advice and Application Assistance Scheme (IAAAS) as other PV applicants in the community. The scheme may assist TPV holders to obtain the services of a registered migration agent to help them with their application at primary and review stages.

To be eligible for this assistance, they must be regarded as a Disadvantaged Person for the purposes of IAAAS. This means they are disadvantaged because of:

- financial hardship and
- non-English speaking background; or
- cultural background; or
- illiteracy; or
- remote location; or
- physical or psychological disability, including as a result of past torture and trauma; or
- physical or psychological harm resulting from domestic violence.

IAAAS providers have a fixed budget for the delivery of services. TPV holders who meet the eligibility criteria above will be subject to the funding limitation of providers. The IAAAS providers will determine those persons in greatest need of IAAAS assistance.

Additional funding is also being made available to IAAAS providers to deliver targeted workshops and information sessions to TPV holders wishing to make further applications for protection.

Q4 Will any assistance be provided to wards of the Minister for Immigration and Multicultural and Indigenous Affairs to make a further protection visa application?

Special arrangements have been made to provide assistance to wards of the Minister for their further application for protection at primary and review stages.

Children who are wards when they reach the 30 month stage of their TPV will be offered assistance by a registered migration agent under the Immigration Advice and Application Assistance Scheme (IAAAS). Funding of this assistance is guaranteed by DIMIA and is in addition to the funding provided to IAAAS providers for other IAAAS services.

A referral process has been implemented which involves liaison between the Department, an IAAAS provider and the relevant State Department of Community Services who are the delegated guardian of the ward.

4. Assessing the Application for Further Protection

Q1 How will the new applications for protection from TPV holders be assessed?

TPV holders who apply for a further protection visa are required to meet the normal criteria for grant of a protection visa, including that they are still owed protection obligations at the time their application is decided.

The decision maker must consider all relevant information, including the TPV holder's previous claims, current information about the situation in the applicant's home country, whether the applicant's circumstances have changed and whether there has been any change to relevant legislation since they were last found to be owed protection.

TPV holders who have lodged an application for further protection may not necessarily be interviewed and the decision may be made on the basis of their further application and current country information.

It is essential that applicants provide all relevant information to the Department as part of their application for further protection.

Decisions on the application will be made by trained DIMIA case officers on the merits of the individual case. The Migration Act requires that the decision maker be satisfied that the criteria for grant of a visa have been met before a visa can be granted.

Q2 Will a TPV holder's previous application be taken into account?

Yes, the claims made by a TPV holder in their previous application will be considered with claims made in the further application for protection.

It is important that a TPV holder provides any new claims for refugee protection and any new information they wish to have considered in their further application for protection.

Q3 How can a TPV holder get access to his or her previous application?

At the request of the TPV holder, DIMIA can supply at no charge a copy of their application form and supporting documentation supplied by TPV holders in their previous application and copies of a letter or decision record that has previously been sent to the applicant.

Other information may be sought under the FOI Act. However, fees may be payable for information. Other information, for example, information relating to other people would generally be exempt from disclosure.

Q4 Is there anything a TPV holder should do if they have lodged a further application for protection?

The TPV holder must ensure that they keep DIMIA informed of their current address at all times. If letters sent to the last address we are given are returned, the application may be processed and decided on the basis of information available to DIMIA. The TPV holder must also make every effort to provide all relevant information to the Department.

For example, after they have made an application for further protection the TPV holder must advise the Department if there is any change to the information provided as part of their further application or if there are new claims or information they wish to have considered.

This information includes changes to family composition – for example, any births, deaths or marriages in the family.

Applicants should not assume that they will be provided with an interview opportunity to provide such material for consideration.

Q5 How can a TPV holder who was originally found to be a refugee subsequently be determined not to be a refugee?

Protection visas are granted on the basis that a person is owed protection obligations by Australia. Not all refugees are owed protection by Australia and there are a number of circumstances where a person previously found to be owed protection is no longer owed that protection. For example a person may have effective protection available to them in some other country, including their country of nationality. Refusing a further protection visa application made by a TPV holder in that case does not mean that decision has been made that a person's status as a refugee has ceased.

5. Assessing Visa Criteria

Q1 Will further Protection Visa applicants need to satisfy health and character requirements?

Yes, TPV holders who apply for further protection visa will need to satisfy health and character criteria for grant of a PV, but may not be required to undergo full checks again.

Further Protection Visa Applicants will be told about the checks they need to undergo as their new application is processed.

Health

- TPV holders who underwent full health checks to obtain their visa and who met the health criteria at that time are generally not required to repeat the health examination;
- Those TPV holders who only met the health requirement in part; who underwent an abbreviated health examination; or have entered into a health undertaking, may be required to undergo further health checks in order to meet the health requirement.
- Children TPV holders (11 years of age and up) who were exempted from undergoing x-ray screening because they were under 16 years of age be required to undergo x-ray screening.

Character

- Applicants who obtained the required police clearances relating to their time spent in other countries before entering Australia, when they first applied for protection, are not required to obtain these clearances again;
- Applicants who had their requirement for an off-shore police clearance waived may be required to seek the police clearance from that country again;
- All applicants will be required to obtain police clearances for their time spent in Australia;
- Applicants will also be required to meet other standard character requirements in relation to their application.

Q2 If a TPV holder's application for further protection is approved, will they get a temporary or permanent protection visa?

Legislation which came into effect in September 2001 means that some TPV holders may not be able to access a permanent visa if:

- they had lived for a continuous period of seven days or more in a country where they could have sought and obtained effective protection either from the government of that country; or through an office of the UNHCR in that country, before arriving in Australia; **AND**
- they lodged their further application for protection on or after 27 September 2001.

The Minister may waive this requirement if he considers that this is in the public interest to do so. In the case of a TPV holder believing that the '7 day rule' legislation should not apply to them, they may, if they wish, put their case to the Minister.

OR

- the person who applies for another permanent visa, has been convicted in the four years before the visa decision of an offence against a law of the Commonwealth, a State or Territory for which the maximum penalty is imprisonment for at least 12 months.

Q3 Can a TPV holder who has made an application for further protection add family members who arrive at a later date?

TPV holders are able to add family members who arrive at a later date to their application for further protection. However, a family member may not be added to the TPV holder's application for further protection after that application has been decided by DIMIA.

When family members arrive separately, they may combine protection visa applications up until the point where a decision is made on the TPV holder's visa application. Family members do not have to apply on the same application for them to be considered as a family group. This includes the scenario where a TPV holder is joined in Australia by family members who hold subclass 451 visas, which are valid for 60 months from date of grant.

For those TPV holders in this situation they should be aware that:

- all family members will be required to meet relevant visa criteria, such as the requirement that they have held their visa for 30 or 54 months (depending on which visa they hold) in order to access the permanent protection visa;
- some visa criteria will impact on when a TPV holder and their family members may be granted another visa **AND** also whether that visa will be a permanent or temporary visa. For example, some family members may only be eligible for a TPV even though the rest of the family are eligible for a PPV;

some family members who, having arrived separately in Australia at different times (and have been added to an existing application or made a separate application) may be prevented from accessing previous Protection Visas until different dates.

- Where family members have applied together and are refused, the refusal decision may result in some family member's visas ceasing prior to the expiry date on their visa label. This is because once a TPV holder or holder of a subclass 451 or 447 visa make a protection visa application, the validity period of their original visa is determined by the date when their protection visa application is 'finally determined'.

Existing procedures for adding family members to PV applications apply.

Where family members have applied on separate PV forms, they may still be considered as a family and benefit from the MFU provisions in the Regulations.

6. Status of a TPV Holder until their Application for Further Protection is finally determined

Q1 Will a TPV holder be detained while their application for further protection is assessed?

No, if a TPV holder has lodged an application for further protection before the expiry date of their TPV they will not be detained while their further application is being assessed unless they represent a risk to the community.

- On 19 September 2001 regulation amendments were made to provide that where a TPV holder who has lodged an application for further protection before the expiry date of their TPV, then their existing TPV will continue until their further protection application is finally determined. The regulation change applies only to TPVs granted after 19 September 2001; **AND**
- Legislation introduced on 1 November 2002 allows those TPV holders granted their visa prior to 19 September 2001 to be automatically granted an interim TPV (Protection [Class XC] Visa) valid until their application for further protection is finally determined.

'Finally determined' means that "any right to merits review is exhausted". In practice, some examples are:

- if a TPV holder's further application for protection is refused at primary (by the Department) and the applicant:

- i) does not seek a review of the decision their TPV will expire 28 days after they are notified of the refusal decision and they will become unlawful non-citizens;
 - ii) does seek a review of the decision, their TPV will continue until the review tribunal makes a decision on their application for review.
- if following an independent merits review the decision is affirmed, the applicant's TPV will expire on the day the affirm decision is made and their bridging visa will allow them 28 days in which to depart Australia.

Q2 Will a TPV holder be able to retain all benefits associated with his or her TPV until the application for further protection is finally determined?

Yes. Provided a TPV holder makes their further application for protection while their TPV is still valid, they will be able to maintain their status and associated TPV benefits while the application for further protection is being processed and until finally determined.

7. Protection (Class XC) Visa

Q1 Why have changes to the regulations been made?

The regulations allow asylum seekers granted a Temporary Protection Visa (TPV) before 19 September 2001 to maintain their TPV status where their application for a further protection visa is not finally determined before the expiry date of their TPV. (Refer to Section 6, Q1 for the definition of 'finally determined'.)

The intention behind the proposed changes is to allow these people to retain full work rights, access to Special Benefit payments and Medicare while their applications for a further protection visa are being processed.

This will bring them into line with other TPV holders granted visas on or after 19 September 2001 regulation changes, whose TPVs continue beyond the normal 36 month mark where they have a further protection visa application outstanding.

Q2 What are the changes?

The regulation change introduces a new Protection (Class XC) visa.

New regulation 2.08F provides the circumstances in which certain subclass 785 TPV holders are taken to have applied for a Class XC subclass 785 visa. This amendment enables subclass 785 visa holders whose visas would otherwise cease

after 36 months, to be granted an interim subclass 785 visa valid until their further protection visa application is finally determined.

Q3 To whom will the changes apply?

These changes apply to TPV holders granted a TPV before 19 September 2001 who:

- Made a valid application for a further protection visa prior to 1 November 2002 which is not finally determined before 1 November 2002;
- Make a valid application for a further protection visa on or after 1 November 2002.

Q4 If a TPV holder receives the new XC 785 visa, does this mean that he or she can stay in Australia permanently as a refugee?

No. The new visa is only an interim visa, which ensures that TPV holders maintain their status and associated TPV benefits while their application for further protection is being processed. It does not involve a new assessment of whether the TPV holder continues to be owed protection obligations by Australia in the future.

The Class XC Protection Visa is only valid until a TPV holder's application for a further protection visa is 'finally determined.'

Q5 How can the new XC 785 visa be obtained?

There is no need for a TPV holder to do anything. If a TPV was granted before 19 September 2001 and the holder has already lodged an application for a further protection visa and meets all the other deeming criteria, a decision-maker can grant the holder the interim visa (XC 785) at any time before the TPV reaches the 36 month validity point. DIMIA has arrangements in place to identify these cases, grant the interim visas and notify applicants concerned.

TPV holders will be advised by DIMIA if they have been granted the new XC 785 visa.

TPV holders who have not lodged a further application for a protection visa can not receive the XC 785 interim visa.

Q6 Do further Protection Visa applicants need to get the new XC Visa evidenced?

It is not necessary for a new XC 785 visa to be evidenced. A holder of an XC 785 visa will continue to be eligible to receive Special Benefits without having to advise Centrelink of their ongoing TPV status.

Q7 With an XC 785 visa can further protection Visa applicants still receive Medicare benefits?

TPV holders will also continue to be eligible to receive Medicare, but they will need to obtain a new Medicare card when their existing card is about to expire.

They will need to take the letter from DIMIA advising the XC 785 visa has been granted and any further travel documentation (ie, PLO 56) into a Medicare Office to obtain a new Medicare card.

If a TPV holder does not have a local Medicare office close to where they live, they are able to apply for renewal by mail. They must send certified copies of their XC 785 grant letter, their PLO 56 and any other travel documentation they may have to Medicare as proof of identity.

8. Status of a TPV Holder whose TPV Expires

Q1 What if a TPV expires before a decision on a further application for protection is made?

If a TPV holder has lodged an application for further protection their TPV should not expire and they should be able to stay lawfully in Australia until a decision on the application is made and all review proceedings by the RRT or AAT are completed.

- TPV's granted on or after 19 September 2001 will not expire once a further protection visa application is lodged; and
- TPVs granted prior to 19 September 2001 are to be granted an interim TPV, ie, a Class XC visa.

Q2 Can a TPV holder lodge a further protection visa application after their TPV expires?

YES. A TPV holder will become unlawful at the time their TPV expires if they have not already lodged an application for a protection visa.

There is nothing to prevent a person who has become unlawful from making a protection visa application.

Once they lodge a protection visa application, they may be granted a Bridging Visa that will allow them to remain in the community lawfully while their protection visa is

being processed. However, they may not have work rights or Medicare and will not be eligible for Special Benefit.

Should the former TPV holder be granted a Bridging Visa (with or without work rights) and be in financial hardship, he or she may be eligible for income support under the Asylum Seeker Assistance (ASA) Scheme. They should be advised to contact the Australian Red Cross in any capital city. The Red Cross will advise them of the eligibility criteria and will undertake a needs assessment.

Only a former TPV holder who lodges a further protection visa application before or within 45 days after his or her TPV ceases may be granted a bridging visa with work rights.

Q3 If a TPV holder becomes unlawful – will they be detained and will they then be liable for their detention and removal costs?

A TPV holder who does not lodge an application for a protection visa before the expiry date and is not eligible for the grant of a bridging visa will be detained and removed from Australia.

A person who is detained and removed from Australia is liable for the payment of their detention and removal costs.

9. Options Available to a TPV Holder if their Application for Further Protection is Unsuccessful

Q1 What happens if a TPV holder's application for further protection is refused?

Where a TPV holder's application for further protection is refused, they have access to merits review by independent tribunals, either the Refugee Review Tribunal (RRT), or in relation to character issues, by the Administrative Appeals Tribunal (AAT). In exceptional circumstances applicants who are unsuccessful at the Tribunal level may have grounds to appeal to the Courts (ie, judicial review).

In such circumstances, applicants may be granted a bridging visa (BV) which will give them the same access to benefits as community PV applicants on bridging visas. However, the granting of a BV is not automatic and they will need to make a separate application for a BV. Also, depending on the kind of BV granted, they may not have work rights or Medicare.

Applicants have 28 days from notification of a merits review decision to seek any judicial review should they wish.

If a person applies for judicial review within this 28 day period, they will be eligible for the grant of the same class of BV they held during the primary and merits review stages. The person must apply for a second bridging visa to maintain their lawful status.

An unlawful non-citizen who has made a judicial review application but did so out of time is eligible for a BVE only.

If following completion of any judicial processes, it is still found that the person is not owed protection, they will be expected to leave Australia.

10. Supplementary Information

Q1 Where can TPV holders or Community/Advocacy Groups find more information?

Information relating to TPV holders applying for a further protection visa can be found on the DIMIA website and is available from DIMIA Offices. In particular, TPV holders should refer to Fact Sheet 68, *Temporary Protection Visa Holders Applying for Further Protection* which has been translated into key community languages.

Other important information, for example, about changes to the law, can be found in DIMIA Fact Sheet 71, *New Measures to Strengthen Border Control* and details of the Afghan reintegration package can be found in DIMIA Fact Sheet 80, *Reintegration Package for Afghans*. Also relevant is Fact Sheet 62, *Assistance for Asylum Seekers in Australia* and Fact Sheet 63, *Immigration Advice and Application Assistance Scheme*. The Fact Sheets can be found on the DIMIA Website (www.immi.gov.au) under Information Resources.

State Offices have conducted and will continue to conduct information sessions for TPV holders and interested community groups on TPV reprocessing. The purpose of the community briefings is to explain the procedures and processes that will be followed in determining the applications for further protection and to answer any questions or concerns that TPV holders &/or community groups may have.

Technical information on processing and decision making arrangements are to be published in DIMIAs 'Legend' service for subscribers.

Q3 Once a TPV Holder has been Granted a Permanent Protection Visa what Settlement Services including IHSS, will they be eligible for?

Permanent Protection Visa holders have access to many general services that are provided to some other migrants and Australian residents. These include social security payments through Centrelink, health benefits through Medicare and a range of other government assistance programs which provide financial support to eligible people. They can also access general settlement help through more than thirty three Migrant Resource Centres and through Community Settlement Services Scheme providers, who offer individual assistance and referral services through a range of community-based organisations.

When a TPV holder is granted a Permanent Protection Visa they will not be eligible for any services provided under the Integrated Humanitarian Settlement Strategy (IHSS). They already have had access to the Early Health Assessment and Intervention Service, which includes access to Torture and Trauma Counselling where required, under IHSS whilst the holder of a TPV.

They will, however, have access to the Adult Migrant English Program.

Q4 Once a TPV Holder has been Granted a Permanent Protection Visa how can they Sponsor their Family Members? And what is the quickest way to Sponsor Family Members?

All Australian permanent visa holders, including Permanent Protection Visa holders have the right to apply to sponsor close family members for migration.

Permanent Protection Visa holders can 'sponsor' their family members in two ways:

- i) through the non-humanitarian Migration Program Family stream. Migrants in the Family stream are selected on the basis of their family relationship with their sponsor or nominator in Australia; there is no test for skills or language ability. The highest priority is given to immediate family members. OR
- ii) through the Humanitarian Program, under which immediate family members may be proposed for entry under split-family provisions. These provisions allow the grant of a visa to separated immediate family members of a permanent humanitarian visa holder in Australia, if they demonstrate a *bona fide* family relationship and meet the regulatory public interest criteria.

As a general rule, family reunion is quicker through the Migration Program than through the Humanitarian Program. The Department encourages those family members who meet family stream migration criteria to apply for family reunion, so that the Humanitarian program places can be available for people overseas who are facing human rights abuses.

Q5 Can a Protection Visa holder travel?

Any Protection Visa holder can obtain appropriate travel documents if they wish to travel. These can be obtained from the Department of Foreign Affairs and Trade.

- TPV holders are free to depart Australia at any time. However, if they do so they have no automatic right to lawfully re-enter Australia should they subsequently wish to return.
- PPV holders are entitled to travel from and re-enter Australia as are other permanent residents of Australia.

11. Identity Fraud & Cancellations

Q1 What will happen to me if my TPV is cancelled?

If your TPV is cancelled and you hold no other visa, you will become unlawful and in accordance with Australian law will be detained. If you are unlawful and placed in detention you can apply for release from detention on a bridging visa.

Q2 If my TPV is cancelled and I still have a new protection visa application being processed what will happen to that application?

Your new protection visa application will be considered on its merits as are all other protection applications.

Your new application will be given priority processing where possible.

12. Detention & Removal Action

Q1 What compliance activity is the Department going to undertake to ensure that TPV holders leave Australia once their applications for further protection have been finally determined as unsuccessful?

The Department expects failed PV applicants would depart Australia voluntarily without the need for compliance action.

Those failed PV applicants who have no other visa and who do not depart Australia will be located and removed from Australia by DIMIA.

Q2 If a failed TPV holder departs Australia voluntarily, can they ever return to Australia?

A failed TPV holder who departs Australia voluntarily is entitled to apply for a visa to return to Australia. The applicant will be granted a visa as long as they can satisfy the criteria for the grant of the visa for which they apply.