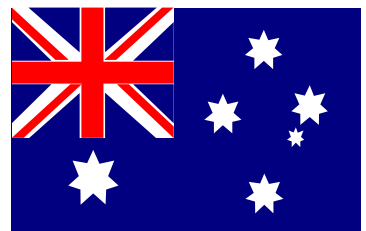


**COUNTRY
CHAPTER**

AUL

AUSTRALIA

BY THE GOVERNMENT OF AUSTRALIA



1. Resettlement Policy

Australia is committed to sharing responsibility with other countries for protecting and finding orderly resolutions for refugees and others in humanitarian need. Australia supports the United Nations High Commissioner for Refugees (UNHCR) as the international body responsible for this process and the UNHCR's three durable solutions of voluntary repatriation, local integration and resettlement. To assist in promoting the first two durable solutions, Australia provides overseas aid to improve conditions in refugee producing countries and to increase the capacity of countries of first asylum to host refugees. In recognition of the fact that many people of humanitarian concern cannot be repatriated or locally integrated, Australia operates an offshore resettlement programme. Over 675 000 refugees and others of humanitarian concern have been resettled in Australia since the end of World War II.

Offshore resettlement is the largest component of Australia's Humanitarian Programme. This goes beyond international obligations and reflects the desire of Australians to assist those in humanitarian need. The second component of the Programme provides protection for refugees already in Australia who engage Australia's obligations under the United Nations 1951 Convention and its 1967 Protocol.

The Humanitarian Programme is administered by the Department of Immigration and Citizenship (DIAC).

2. Criteria for Refugee Status Eligibility and Asylum

The offshore component of the Humanitarian Programme has two categories of permanent visa and two categories of temporary visa.

Permanent offshore humanitarian visa categories:

Refugee for people who are subject to persecution in their home country and who are in need of resettlement. The majority of applicants who are considered under this category are identified by UNHCR and referred by UNHCR to Australia. The Refugee visa category includes Refugee (visa subclass 200), In country Special Humanitarian (visa subclass 201), Emergency Rescue (visa subclass 203) and Woman at Risk (visa subclass 204).

Special Humanitarian Program (SHP) (visa subclass 202) for people outside their home country who are subject to substantial discrimination amounting to gross violation of human rights in their home country. A proposer who is an Australian citizen, permanent resident or eligible New Zealand citizen, or an organization that is based in Australia, must support applications for entry under the SHP.

Temporary offshore humanitarian visa categories:

The offshore temporary humanitarian visas are for people who have bypassed or abandoned effective protection in another country and for whom humanitarian entry to Australia is appropriate. It comprises two subcategories:

Secondary Movement Relocation (visa subclass 451) for people who have moved from a safe first country of asylum to another country before applying to enter Australia. This visa is valid for five years.

Secondary Movement Offshore Entry (visa subclass 447) for people who arrived unlawfully in Australia at an offshore excised place and have moved from a safe first country of asylum. This visa is valid for three years.

3. Criteria for Resettlement

As well as meeting the threshold criteria of persecution or substantial discrimination described above, applicants for resettlement to Australia must satisfy the DIAC decision-maker that there are compelling reasons for giving special consideration to granting them a visa. This includes balancing various factors such as:

- the degree of harm the applicants themselves may have suffered (such as individual discrimination or other physical harm);
- the degree of an applicant's links to Australia (such as family and cultural links);
- Australia's capacity to provide for settlement of the applicant; and
- whether resettlement is the most appropriate option for the applicant (resettlement is generally intended to assist people who are under threat within a country of first asylum or who have no prospects of return to their country of origin).

All applicants are also required to meet the public interest criteria outlined in section 5 below.

4. Resettlement Allocations / Processing Priorities

Decisions on the size, composition and regional focus of the Humanitarian Programme are made by the Australian Government. This decision takes into account the UNHCR assessment of global resettlement needs, the views of individuals and organizations in Australia, and Australia's capacity to assist. The Humanitarian Programme was increased to 13,000 places in 2004-05 and has been maintained at that level since.

The regional priorities for the 2006-07 programme year have been set at 50 percent for Africa, 30 percent for Middle East and South West Asia, and 20 percent for Asia. 6000 places are allocated to the Refugee category each year, and 7000 are allocated to the SHP category (also shared with protection visas granted to asylum seekers *within* Australia).

Priority caseloads for the offshore component of the Humanitarian Programme are emergency cases, woman-at-risk and cases referred by UNHCR.

5. Admissibility for Resettlement

All applicants for permanent visas must meet prescribed legislative criteria which include public interest criteria intended to safeguard the Australian community's health, access to health services, safety and national security. In some circumstances health requirements may be waived (see section 11). Character requirements, however, cannot be waived.

Applications may be refused on character grounds where there is evidence of criminal conduct on the applicant's part or the applicant represents a threat or danger to the Australian community.

Under the *one fails, all fail* rule, visas cannot be granted to an applicant or any member of the applicant's family unit included in the application if the applicant or any member of the family unit, whether included in the application or not, fails a prescribed public interest criterion.

6. Submissions and Processing via Dossier Selection

Australia does not process applications for resettlement by dossier selection.

7. Submissions and Processing via In-Country Selection

7.1 Case Documentation

Applications must be made on the prescribed form (form 842, *Application for an Offshore Humanitarian Visa*), available from Australian overseas missions and from the DIAC Internet site at www.immi.gov.au.

Applications made under the Special Humanitarian Program (SHP) must be supported by a "proposal". This is a statement proposing the applicant's entry from an Australian citizen or permanent resident, an eligible New Zealand citizen or an organization operating in Australia (form 681, *Refugee and special humanitarian proposal*).

The proposal, which is mandatory for the SHP, helps the decision-maker to gauge the proposer's ability to assist the applicant in settling successfully in Australia.

There is no application or processing fee for humanitarian applications. Four passport-sized photographs of the applicant and immediate family members must be included in the application and submitted with the application.

Applicants may submit supporting documents and information at any time before their application is decided.

7.2 Routing of Submissions

Applications are received either direct from applicants or via referral by UNHCR or NGOs.

Most applications must be lodged outside Australia at an Australian diplomatic or trade mission. However, SHP applications from Africa and the Middle East must be lodged in Australia, along with the proposal form.

Processing of the majority of applications for resettlement takes place at designated Australian missions around the world.

For the SHP applications lodged in Australia, initial processing is done in Australia at an Offshore Humanitarian Processing Centre. The application is either refused for not meeting the criteria or forwarded to the relevant overseas post for further consideration, interview and decision.

7.3 Decision-Making Process

Applications are considered on a case-by-case basis against the criteria set down in the *Migration Regulations 1994*. Those applications who are prima facie eligible are interviewed to test their claims. Unsuccessful applicants receive a letter that indicates the criteria that were not met.

7.4 Recourse Processing

There is no provision for merits review of decisions to refuse offshore applications for resettlement (Class XB). Refused applicants may, however, reapply at any time.

7.5 Processing Times

Processing times and visa grant times vary from region to region. Over the 2005-06 programme year, 75 per cent of cases were finalised within seven and a half months. Emergency cases referred by UNHCR are given greatest processing priority (see below)

8. Emergency Cases

The Emergency Rescue visa (subclass 203) is part of the Refugee category. It is used for applicants who are subject to persecution in their home country (whether living there or elsewhere) and have urgent and compelling reasons to travel to Australia. A small number of emergency cases are referred to Australia each year through UNHCR's Regional Office in Canberra.

Emergency cases are given highest processing priority of all applications for resettlement. The department aims to decide whether to accept an application within two days of receiving it from UNHCR. Once an application is accepted, the department aims to evacuate the successful applicant within three days of the decision to accept, pending health and character checks.

9. Special Categories

9.1 Refugees with Medical Needs

There are no special provisions for the resettlement of refugees with medical needs. The Humanitarian Programme does not exclude anyone automatically on the basis of illness (apart from tuberculosis). However, every applicant must also meet legislative health requirements relating to public safety and undue cost, unless a decision is made to waive them (see section 11).

9.2 Survivors of Violence and Torture

Australia gives priority consideration to survivors of violence and torture referred by UNHCR for resettlement. Specialized counselling and medical services and English classes for survivors of torture and trauma are among the settlement services available to Humanitarian Programme entrants (see section 14).

9.3 Woman-at-Risk

The Woman-at-Risk programme (subclass 204, a sub-category of the Refugee category) is for female applicants who are subject to persecution or registered as being of concern to UNHCR. They must also be living outside their home country; do not have the protection of a male relative; and are in danger of victimisation, harassment or serious abuse because of their gender. The Australian Government commits at least 10.5% of the Refugee allocation to the Woman-at-Risk programme every year.

9.4 Children

Children applying under the Humanitarian Programme for entry to Australia as unaccompanied minors are required to meet the same criteria as other applicants, including the criterion that permanent settlement in Australia is the most appropriate durable solution. Decision-makers must be satisfied that the grant of the visa to the child would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the child.

Unaccompanied minors without relatives over the age of 21 to care for them in Australia become wards of the Minister for Immigration and Multicultural Affairs under the provisions of the *Immigration (Guardianship of Children) Act 1946*. State government welfare agencies are responsible for their care and case management. Assistance is available until the child reaches 18 years of age, becomes an Australian citizen or otherwise ceases to be an unaccompanied minor.

9.5 Elderly

There are no special provisions for the resettlement of elderly refugees.

10. Family Reunification of Refugees

10.1 Policy concerning Family Reunification of Refugees

Immediate family members of permanent humanitarian visa holders can be considered for family reunion under the 'split family' provisions of the Humanitarian Programme. The 'split family' provisions allow the grant of a visa to immediate family members of a permanent humanitarian visa holder if they can demonstrate the family relationship and meet public interest criteria.

The Family Stream of the Migration Programme also allows all holders of permanent visas to sponsor members of their immediate family for entry to Australia.

10.2 Criteria for Family Reunification

Holders and former holders of permanent Humanitarian Programme visas may, within five years of the grant of their visa, propose immediate family members for resettlement (as outlined above). Persons eligible for consideration under the 'split family' provisions include the visa holder's spouse, dependent children or, if the visa holder is under 18, parents. The visa granted is either of the same subclass as the family member in Australia, or an SHP visa.

10.3 Allocations for Family Reunification

There is no separate allocation in the Humanitarian Programme for family reunification. Applications are given priority in processing.

10.4 Routing of Applications

Routing of applications for family reunification is as for other applications for resettlement.

10.5 Verification of Relationships

To qualify for family reunification, immediate family members must have been declared by their proposer to DIAC before the grant of the proposer's visa.

10.6 Processing and Decision-Making

Processing and decision-making in family reunification cases are as for other applications for resettlement. However, 'split family' applicants do not need to meet the criteria of being subject to persecution or substantial discrimination in their home country.

11. Medical Requirements

Applicants for resettlement, like all applicants for permanent visas, must meet health criteria. These criteria require applicants to be free from tuberculosis and any disease or condition that is a risk to public health and safety. Some applicants (those with active tuberculosis, for example) must undergo specialist treatment before their visa is granted.

Applicants will not meet health criteria if they have a medical condition that is likely to result in a significant cost to health care and community services or prejudice Australians' access to health care or community services.

In the case of applicants for emergency resettlement, health assessment may, if necessary, be deferred until their arrival in Australia, unless they are thought to have a health condition likely to result in their failing health criteria.

To meet health criteria, applicants for emergency resettlement who do not undergo health assessment before their travel to Australia, and applicants who have been requested by a medical officer of the Commonwealth to undergo further health assessment in Australia, must make a written undertaking to make contact with health authorities within a specified time and undergo treatment or medical investigation as directed.

Provision exists to waive health criteria in respect of certain visas, among them Humanitarian Programme visas. If the grant of a visa to the applicant is not likely to result in undue cost to the Australian community or unduly prejudice Australians' access to health care or community services, the decision-maker may waive the health criteria.

The decision to waive or not to waive is taken only after careful consideration of all relevant factors. The health criteria cannot be waived if the applicant has a disease or other medical condition that represents a threat to public health in Australia.

The Australian government meets the cost of health assessment of applicants for Refugee and SHP category visas.

Pre-Departure Medical Screening has been introduced just prior to scheduled travel to ensure that the applicants are fit to fly and to identify any further medical issues that will require treatment once in Australia.

12. Orientation

The Australian Cultural Orientation (AUSCO) programme for refugee and SHP entrants was introduced in Kenya in 2003, and expanded globally to four regions, Africa, South Asia, South East Asia and the Middle East. It represents the beginning of the settlement process and aims to provide participants with the necessary knowledge and skills to enhance their settlement prospects and create realistic expectations for life in Australia.

The programme is voluntary and available to all refugee and special humanitarian entrants over 5 years of age. There are four courses offered, adult, children, pre-literate and a youth programme is currently being trialled in Africa.

The courses are delivered over five days to ensure that topics are covered in sufficient detail. Topics include an overview of Australia including its government, geography and climate; cultural adjustment; travel to Australia, settling in, health care; education; finding a job; housing, transport, Australian law and money management.

IOM delivers the courses on behalf of DIAC.

On arrival in Australia, humanitarian entrants have access to On Arrival Reception and Assistance under the IHSS. This assistance helps link entrants to the local services they need in the initial stages of settlement (see 15.2).

13. Travel

The Australian government organizes and pays for the passage to Australia of holders of Refugee visas. SHP visa holders or their proposers, are expected to fund their travel to Australia. To facilitate the travel of SHP visa holders, the Government provided a \$2.5M grant in May 2005 to the International Organization for Migration (IOM) to enhance its existing no-interest travel loan scheme.

The Government considered a number of options to utilise this money to assist the travel of SHP visa holders but determined that building on the existing IOM scheme offered the best means to maximise the effectiveness of the grant. Under the grant contract, IOM has modified its lending conditions so that a significantly greater number of visa holders can be assisted than were travelling under IOM's existing scheme.

14. Status on Arrival

Successful applicants are granted a visa for entry to and permanent residence in Australia (except for holders of temporary visas 451 and 447 – see section 2).

15. Domestic Settlement and Community Services

Government assistance is designed to help new arrivals who are most in need to settle into their local community and establish new lives in Australia.

Humanitarian entrants are the highest priority for government-funded settlement services because of their special needs and circumstances.

Most skilled migrants and sponsors of family migrants will undertake their own research about settling in Australia. These entrants will generally be able to settle into the community without needing a high level of specialised support. They will generally use mainstream services provided by governments, community organisations and the private sector to address their settlement needs. Some may need additional assistance due to low English proficiency.

15.1 Actors

DIAC is the federal government agency with responsibility for settlement services. Federal, state and local government agencies, non-government organizations and community groups are all involved in the delivery and provision of services.

Integrated Humanitarian Settlement Strategy (IHSS) services are delivered by service providers contracted to DIAC. Volunteer groups also work with service providers to support entrants and assist them to settle into the local community.

15.2 Assistance offered by IHSS

The IHSS offers initial intensive settlement support to newly-arrived humanitarian entrants, generally for around six months, but this may be extended for clients facing additional challenges. The IHSS aims to help humanitarian entrants achieve self sufficiency as soon as possible by offering them specialised help on a needs basis. Through a case management approach, the needs of humanitarian entrants are identified and a case plan is developed for the delivery of support.

The IHSS focuses on equipping entrants to gain access to mainstream services. Humanitarian entrants can access the following services under the IHSS.

- Case coordination, information and referrals
This includes a case coordination plan based on an initial needs assessment, information about, and referral to, other service providers and mainstream agencies, and help for proposers to fulfil their role of assisting SHP entrants.
- On-arrival reception and assistance
This includes meeting eligible entrants on arrival, taking them to accommodation, providing initial orientation and meeting any emergency needs for medical attention or clothing and footwear.
- Accommodation services
These services help entrants to find appropriate and affordable long term accommodation and provide basic household goods to establish their own home in Australia.
- Short term torture and trauma counselling services

These services provide entrants with an assessment of their needs, a case plan, referral for torture and trauma counselling and raise awareness among other health care providers of health issues arising from torture and trauma counselling.

15.3 Assistance to Special Humanitarian Program (SHP) entrants and proposers

Applications for SHP visas must be supported by a Proposer. Proposers are assisted to understand their obligations and to respond to the needs of their entrants. This support includes information and guidance on how to assist the entrant to settle in Australia, gain access to available services and obtain further assistance if required after the entrant's arrival.

As SHP entrants have the support of a proposer to assist them with their settlement needs, they will not normally be assessed as requiring the full range of IHSS services.

In some cases, a proposer's ability to support their SHP entrant may be limited and the service provider may decide to provide a partial or the full IHSS package to the entrant.

15.4 Location

Most new arrivals to Australia will choose their settlement location independently. Skilled migrants generally settle where they can take advantage of employment opportunities, and family stream entrants usually settle near their family members.

The settlement location of humanitarian entrants is determined by a number of factors, particularly whether or not the entrant has family or friends (known as 'links') already living in Australia. All SHP entrants are proposed by a link in Australia. These entrants generally settle near their proposers as they provide valuable settlement and social support.

Many refugee entrants also have links already residing in Australia. The department endeavours to identify the location of these links before refugees travel to Australia so that they can settle nearby.

There are usually about 4,000 entrants each year without any links (known as 'unlinked' refugees). For these entrants, the department considers a range of factors when deciding on a suitable settlement location. These include the specific needs of the entrant, such as health requirements, the capacity of the receiving location to address those needs and the community's ability to provide a welcoming and supportive environment.

15.5 Other Settlement Services

The Settlement Grants Programme (SGP) commenced on 1 July 2006. This programme was developed following a review of settlement services, detailed in the May 2003 *Report of the Review of Settlement Services for Migrants and Humanitarian Entrants*.

Under the SGP, organisations are funded to provide settlement services to recently-arrived humanitarian entrants, family stream migrants who have low English proficiency and the dependants of skilled migrants in rural and regional areas who have low English proficiency.

The aim of the SGP is to deliver services which assist eligible clients to become self-reliant and participate equitably in Australian society as soon as possible after arrival.

The SGP service types have been reviewed and expanded to include a wider range of services, facilitating a more practical approach to service delivery.

The SGP will fund the following Service Types:

- Orientation to Australia – Practical Assistance to Promote Self-reliance
- Developing Communities
- Integration – Inclusion and Participation

Funding allocations is made on a project basis, with funding priorities for particular regions and communities determined by an annual assessment of settlement needs. The annual assessment of settlement needs is conducted by the department, taking into account feedback received from state, territory and local governments, the community and the settlement services sector. The planning process identifies the priority needs of new arrivals, ensuring that the SGP delivers services that are responsive to changing settlement patterns and needs.

15.6 English Language Tuition

English language tuition is provided under the Adult Migrant English Program (AMEP) for migrants and humanitarian entrants who do not have functional English. Refugee and humanitarian entrants under the age of 25 years with low levels of schooling are eligible for up to 910 hours of English language tuition. Entrants over the age of 25 years are eligible for up to 610 hours of tuition. Other migrants are eligible for up to 510 hours of tuition.

The Australian Government also provides other targeted English language programmes through the Department of Education, Science and Training (DEST) and State/Territory Governments. DEST has two employment related English language programs for adults and provides intensive English language tuition to eligible newly-arrived students through the English as a Second Language – New Arrivals (ESL-NA) programme.

15.7 Translating and Interpreting Service

Translating and Interpreting Services (TIS) National provides an important safety net for people facing language barriers to participation in the community. TIS provides a national, 24 hours a day, seven days a week, telephone and on-site interpreting service as well as priority lines for emergency services and medical practitioners. TIS interpreting services are available on a free or user-pays basis, depending on circumstances, for both the public and private sectors.

DIAC provides eligible clients with free extract translations into English of certain personal documents necessary for their settlement in Australia. During their first two years of permanent residence in Australia, eligible migrants can lodge a request for translation through any AMEP provider in Australia.

15.8 Education

Humanitarian Programme entrants have access to the same educational services as Australian permanent residents in general.






Schooling is compulsory in Australia to the age of fifteen years and free primary and secondary education is available.

15.9 Vocational Training / Employment

Permanent humanitarian entrants have the same eligibility as other Australian permanent residents and citizens in accessing employment assistance through the Job Network scheme.

Other practical assistance for migrants in settling in Australia is also available through non-government organisations, such as Migrant Resource Centres. These centres and related organisations are funded through the Settlement Grants Programme and complement the initial assistance provided by the IHSS.

16. REFERENCE MATERIALS

-  Australian Migration Regulations 1994
-  Procedure Advice Manual 3 – Guidelines for officers administering Migration Legislation
-  *Refugee and Humanitarian Issues: Australia's Response*. Department of Immigration and Multicultural and Indigenous Affairs, Canberra, 2005.
-  *Australia's Support for Humanitarian Entrants*. Department of Immigration and Multicultural and Indigenous Affairs, Canberra, 2004-05
-  *New Beginnings: Life in Australia. Supporting New Arrivals on Their Settlement Journey 2005-06*. Department of Immigration and Multicultural Affairs, Canberra, 2006.

Further information on Australia's migration and humanitarian programmes and comprehensive advice on settling in Australia can be found on the Internet site of the Australian Department of Immigration and Citizenship at www.immi.gov.au.