

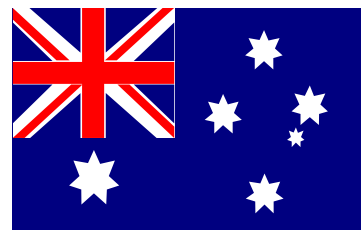
**COUNTRY
CHAPTER**

AUL

AUSTRALIA

BY THE GOVERNMENT OF AUSTRALIA

(AS OF SEPTEMBER 2009)



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 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. Australia also operates a Humanitarian Program which provides resettlement places and is designed to ensure that Australia can respond effectively to global humanitarian situations and that support services are available to meet the specific needs of these entrants.

The Humanitarian Program has two components:

- The **onshore** (asylum or protection) component offers protection to people in Australia who meet the refugee definition in the United Nations Refugees Convention.
- The **offshore** (resettlement) component offers resettlement for people outside Australia who cannot be repatriated or locally integrated and are in need of humanitarian assistance.

Over 700,000 refugees and others of humanitarian concern have been resettled in Australia since the end of World War II.

The offshore program goes beyond Australia's international obligations and reflects the desire of Australians to assist those in humanitarian need.

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

2. Criteria for Refugee Status Eligibility and Asylum

The offshore program has two categories. The Refugee category is 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 category includes the following visa sub classes: Refugee, In-country Special Humanitarian, Emergency Rescue and Woman at Risk.

The Special Humanitarian Program (SHP) is 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. Whilst SHP applicants are not referred by UNHCR, they may be registered with them and be otherwise a priority for resettlement in their own right.

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 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 persecution or discrimination the applicants themselves may have suffered (such as individual discrimination or other physical harm);
- the degree of an applicant's links to Australia;
- Australia's capacity to provide for resettlement 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 and 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 five below.

4. Resettlement Allocations / Processing Priorities

Decisions on the size, composition and regional focus of the Humanitarian Program are made by the Australian Government each year. This decision takes into account UNHCR's assessment of global resettlement needs, the views of individuals and organizations in Australia, and Australia's capacity to assist.

The Australian Program year is from June to July. In 2008-09 the Government increased the Humanitarian Program to 13,500 places which includes a one-off increase of 500 refugee category places for people affected by the conflict in Iraq. The 13,500 places comprises 6,500 places for the Refugee category and 7,000 places for the SHP and for visas granted under the onshore protection (asylum) component of the program. The offshore Humanitarian Program is focused on Africa, Asia and the Middle East, with 33 per cent of the program allocated to each of those regions and the remaining one per cent allocated for contingencies.

For 2009-10 the program has been increased to 13,750 places comprising 6,000 refugee places and 7,750 places for SHP and Onshore protection needs. Priority caseloads for the offshore component of the Humanitarian Program are emergency cases, woman at risk and cases referred by UNHCR. Since 1989, 10.5 percent of the Refugee category allocation has been set aside for women at risk in recognition of the priority given by UNHCR to vulnerable women and children. The Government has decided that from 2009-10 this allocation will increase to 12 percent of the Refugee category.

5. Eligibility for Resettlement

All applicants for humanitarian 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.

6. Submissions and Processing via Dossier Selection

All applicants are interviewed. Australia does not process applications for resettlement by dossier selection.

7. Submissions and Processing of Refugees via In-Country Selection

7.1 Case Documentation

Refugees

Refugee 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.

SHP

Applications made under the 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 organisation operating in Australia (Form 681, *Refugee and Special Humanitarian Proposal*).

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

Personal documents, such as birth, marriage and death certificates and educational documentation if available, should also be provided at any time before their application is decided.

7.2 Routing of Submissions

Applications are received and processed in a variety of ways either directly from applicants or by referral from UNHCR or NGOs. This will depend on the local arrangements in place. Under Australian immigration law, the application form is required in addition to the UNHCR documentation.

Refugee applications must be lodged outside Australia at an Australian diplomatic or trade mission. However, most SHP applications including those from people in Africa, the Middle East and South West Asian regions must be lodged in Australia, along with the proposal form. Information is available from the DIAC Internet site at <http://www.immi.gov.au/visas/humanitarian/offshore/202/how-to-apply.htm>

Processing 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 that are prima facie eligible are interviewed to explore applicants' claims and to verify family composition. 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 Refugee and Humanitarian visa applications. Refused applicants may, however, reapply at any time.

7.5 Processing Times

Processing times and visa grant times vary from region to region. During the 2007-08 program year 75 per cent of applications were finalised within 12 months. Emergency Rescue cases referred by UNHCR are given greatest processing priority (see below).

8. Emergency Cases

The Emergency Rescue visa is a visa subclass of the Refugee and Humanitarian visa class. It is used for applicants who are subject to persecution in their home country (whether living there or elsewhere), have urgent and compelling reasons to travel to Australia and face an immediate threat to their life or personal security. A small number of Emergency Rescue cases are referred to Australia each year through UNHCR's Regional Office in Canberra.

Emergency Rescue 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 checks. The speed with which health checks can be undertaken will vary depending on where the applicant is located.

All applicants for permanent entry must meet the health and character requirements before visa grant. Due to the urgency of subclass 203 applications, a flexible approach may be required in arranging health checks and the procedures will vary according to the circumstances of each case. This will be determined by the Department in consultation with the UNHCR office responsible for the cases.

9. Special Categories

9.1 Refugees with Medical Needs

There are no special provisions for the resettlement of refugees with medical needs. The Humanitarian Program does not exclude anyone automatically on the basis of a medical condition (apart from active tuberculosis). However, every applicant must also meet legislated 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 Program entrants (see section 14).

9.3 Woman at Risk

The Woman-at-Risk program, 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; not have the protection of a male relative; and be in danger of victimisation, harassment or serious abuse because of their gender. In recent years women at risk grants have exceeded the allocation of 10.5% of the Refugee allocation. From 1 July 2009, the Australian Government will commit 12% to the Woman-at-Risk program every year.

9.4 Children

Children applying under the Humanitarian Program 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 Citizenship 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. They are assessed on the basis of their claims and if they meet the criteria they may be granted a visa for resettlement.

10. Family Reunification of Refugees (Split Family Provisions)

10.1 Policy concerning Family Reunification of Refugees

Immediate family members of permanent humanitarian visa holders, who have not been resettled together, can be considered for family reunion under the 'split family' provisions of the Humanitarian Program. The 'split family' provisions allow the grant of a visa to immediate family members of a permanent humanitarian visa holder if the relationship was declared to the department before the proposer's visa was granted and if they meet public interest criteria. 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 years of age, parents. Other family members such as parents and siblings can be proposed under the SHP (see paragraph 2).

The Family Stream of the Migration Program 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 Program visas may, within five years of the grant of their visa, propose immediate family members for resettlement (as outlined above). The visa granted is either of the same subclass as the family member in Australia, or an SHP visa.

10.3 Verification of Relationships

To qualify for family reunification under 'split family' provisions, immediate family members must have been declared by their proposer to DIAC before the grant of the proposer's visa and the relationship verified by documentation if available.

10.4 Allocations for Family Reunification

There is no separate allocation in the Humanitarian Program for family reunification under the 'split family' provisions. Applications are given priority in processing.

10.5 Routing of Applications

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

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. Australian visa applicants undergo health testing by Australian approved doctors in various locations. The health criteria require applicants to be free from active 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.

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

Applicants may 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 access to health care or community services by Australian nationals.

In such cases, the application is referred to the Health Operations Centre in Australia which makes an assessment taking into account a number of factors such as the estimated cost to the Australian community of providing treatment (see background information on Australia's Health Requirement below).

Taking into consideration the above assessment and advice and the compelling reasons for giving special consideration to the grant of a visa, the processing officer at the Australian post decides whether a 'health waiver' could be exercised. 'Health waiver' provisions only apply after an applicant has undertaken the health check and fails the health requirement.

12. Orientation Assistance

The Australian Cultural Orientation (AUSCO) program is provided to refugee and SHP visa holders who are preparing to travel to Australia. It was introduced in 2003 and is provided in Africa, South Asia, South East Asia, the Middle East regions and other areas as required. AUSCO is designed to provide an initial introduction to important aspects of Australian life. It represents the beginning of the settlement process and aims to prepare participants to travel and to provide participants with the necessary knowledge and skills to enhance their settlement prospects and create realistic expectations for life in Australia.

The program is voluntary. It is available to all refugee and special humanitarian entrants over five years of age. The course is tailored for delivery to four separate groups - adults, children, pre-literate people and youth. A special Family Day session, which includes all family members, is held as required.

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. DIAC regularly reviews the curricula to ensure meets the needs of clients in each location.

International Organisation for Migration (IOM) delivers the courses on behalf of DIAC.

On arrival in Australia, humanitarian entrants have access to *On Arrival Reception and Assistance* under the Integrated Humanitarian Settlement Strategy (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 organises and pays for the passage to Australia of holders of Refugee visas. SHP visa holders, or their proposers, 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 IOM to enhance its existing no-interest travel loan scheme. IOM has modified its lending conditions to ensure the scheme is as effective as possible so that a significantly greater number of visa holders can be assisted.

14. Status on Arrival

Successful applicants are granted a visa for entry to and permanent residence in Australia.

Information about eligibility for Australian Citizenship can be found at www.citizenship.gov.au.

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 family migrants will undertake their own research about settling in Australia and 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 organisations and community groups are all involved in the delivery and provision of services. Services are delivered under the Integrated Humanitarian Settlement Strategy (IHSS) 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

IHSS provides services which are designed and administered in ways which provide humanitarian entrants with the assistance they need to start building a life in Australia. The IHSS provides initial, intensive settlement assistance for humanitarian entrants for up to 12 months after arrival. Humanitarian entrant needs are assessed and addressed through an integrated case management approach.

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 and referral for torture and trauma counselling and raise awareness among other health care providers.

15.3 Assistance to 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.

It is intended that SHP entrants have the support of a proposer to assist them with their settlement needs. However, in some cases, a proposer's ability to support their SHP entrant may be limited and the service provider may decide to provide some IHSS services or in some cases the full suite of IHSS services 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 settlement assistance and valuable social support.

About 40 per cent of refugee entrants 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 be settled near the link.

For the entrants without any links (known as 'unlinked' refugees), 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

- **Complex Case Support**

Complex Case Support (CCS) services deliver specialised and intensive case management to recently arrived humanitarian entrants where pre-migration experiences, such as severe torture and trauma, significant medical conditions and/or crisis events after arrival in Australia present significant barriers to successful settlement. The CCS program, now available nationally, will provide support to the small number of humanitarian entrants who have extensive needs that are beyond the scope of existing settlement services.

- **The Settlement Grants Program**

The Settlement Grants Program (SGP) provides funding to organisations such as Migrant Resource Centres to assist humanitarian entrants and other migrants

settle in Australia and participate equitably in Australian society as soon as possible after arrival. The SGP is targeted to meet the settlement needs of recently arrived skilled migrants in rural or regional areas, with low levels of English proficiency. The SGP funds organisations to implement projects that assist new arrivals to orient themselves to their new community, help new communities to develop, promote social participation and integration. Projects under the SGP include:

- **Orientation to Australia - practical assistance to promote self-reliance:** Orientation services promote self-reliance in individuals and families through the development of life skills and familiarity with the Australian community. Orientation projects equip clients with the skills and information they need to operate independently and access mainstream services (such as Centrelink and Medicare) and opportunities.

- **Developing communities:** Community development projects focus on building the capacity of newly arrived communities to work together towards common goals to promote their culture to Australian society in a positive way, and welcome and assist new humanitarian arrivals.

- **Integration - inclusion and participation:** Integration projects aim to promote inclusion and participation in Australian society by encouraging partnership initiatives with mainstream community and government organisations. Integration projects should assist new arrivals in interacting with and understanding the broader community while also encouraging the broader community to be responsive to new arrivals.

15.6 English Language Tuition

Learning English is one of the first and most important steps new migrants can take towards settling successfully in Australia and achieving their goals. The Adult Migrant English Program (AMEP) provides eligible adult migrants with basic English language tuition that can help them deal with everyday social situations and some work situations.

Through the AMEP, eligible migrants can learn English for up to 510 hours, or until they reach functional English, whichever comes first. Humanitarian entrants, who have had difficult pre-migration experiences like torture or trauma or limited formal schooling, may be able to access more English lessons. More information about the AMEP can be found at www.immi.gov.au/amep

The Australian Government also provides other targeted English language programs through the Department of Education, Employment and Workplace Relations (DEEWR) and State/Territory Governments. DEEWR 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) program.

The Australian Government has introduced two new initiatives to help migrants gain the language skills they need to join the Australian workforce:

- the Employment Pathways Program; and
- the Traineeship in English and Work Readiness Program.

Pilots of these programs commenced around Australia in October 2008. An evaluation process is ongoing in 2009.

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 for non-English speakers and English speakers who need to communicate with them 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. Free interpreting services have recently been expanded to pharmacies for the purpose of dispensing medications.

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 residence in Australia, eligible migrants and returning citizens can lodge a request for translation.

15.8 Education

Humanitarian Program entrants have access to the same educational services as Australian permanent residents in general. Schooling is compulsory in Australia to the age of 15 years and free primary and secondary education is available.

15.9 Vocational Training / Employment

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

16. Reference Materials

- *Refugee and Humanitarian Entry to Australia*, Department of Immigration and Citizenship, Canberra, 2009.
<http://www.immi.gov.au/visas/humanitarian/offshore/>
- *Beginning a Life in Australia*. Department of Immigration and Citizenship, Canberra, 2009.
<http://www.immi.gov.au/living-in-australia/settle-in-australia/beginning-life>

Further information on Australia's migration and humanitarian program 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.