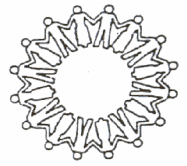


RAILS INFORMATION SHEET



This information is not a substitute for legal advice. If you have questions about a specific case you should seek assistance from RAILS or another registered migration agent.

Information Current at 20 October 2005

FAMILY REUNION FOR REFUGEE AND HUMANITARIAN VISA HOLDERS

If you are in Australia and you hold or have held either an onshore permanent protection visa (subclass 866) or an offshore refugee or special humanitarian visa (subclasses 200, 201, 202, 203 or 204) you may be able to propose immediate family and other family member(s) to come to Australia under the offshore refugee and special humanitarian program.

Holders of 785, 451 and 447 humanitarian visas cannot propose family members through the offshore refugee and special humanitarian program. If you hold one of these visas you will only be able to propose family if you are later granted a permanent protection visa (subclass 866) or some other permanent visa.

Proposals of immediate family members are given higher priority than proposals of other family or friends for offshore refugee/humanitarian visas. However proposing other family members and friends will still assist their application. Organisations in Australia can also propose your family and friends.

PROPOSING IMMEDIATE FAMILY

Who Are My Immediate Family?

“Immediate family” members are the spouse or dependent children of you, the proposer. If you are a child under 18 then your parents are also your immediate family.

A Dependent child is a natural, adopted or step-child who is:

- under 18; or
- if over 18:
 - is wholly or substantially reliant on you, the proposer, for financial, psychological or physical support; or
 - is wholly or substantially reliant on you, the proposer, for financial support because the person is unable to work due to physical or mental disability.

What Type of Visa will My Immediate Family Be Considered For?

If you hold or have held a permanent refugee or humanitarian visa granted offshore (subclasses 200, 201, 202, 203 and 204) you can propose immediate family members for the same subclass of visa that you hold. If you hold or have held an onshore permanent protection visa (subclass 866) you can propose immediate family members for a subclass 202 visa.

Your immediate family member(s) do not have to be outside their country. Department of Immigration policy assumes there is persecution because of the immediate family connection however it is still important for your immediate family to include information about any persecution or human rights abuses they have suffered and which they are still at risk of suffering, when filling out their application form, as this will assist their application.

How do I know if I can propose my immediate family?

To be eligible to propose, you, as the proposer, must have:

- declared the relationship with your immediate family member(s) to the Department of Immigration before the grant of your visa; and
- been granted your visa less than 5 years ago.

Further, the applicant must have been your immediate family member:

- at the time of your application for your visa (for an onshore 866 holder); or
- at the time of the grant of your visa (for an offshore refugee or humanitarian visa holder); and
- at the time of the application by your immediate family applicant and at the time of decision about your immediate family applicant's visa.

This means your children need to have been dependant on you at all these times.

Form 424 Freedom of Information Request

If you are not sure whether you told the Department of Immigration about your immediate family or if you need other information about your own refugee application, then you can ask for copies of your file with all the forms and information that you gave to the Australian Embassy or High Commission before you came to Australia. Form 424 Freedom of Information Request can be accessed from your local Department of Immigration office or from the website on www.immi.gov.au

Send the completed form, with certified copies of your identification documents, to the nearest Department of Immigration office. Your immediate family and anyone else that was on your application form should also sign a written consent to provide information about them and should provide certified copies of their ID documents, to be attached to the Form 424. The Department of Immigration should then send you copies of the documents you requested, and you can check if you told them about the members of your immediate family.

Make copies of any relevant documents and send them with your application form (see below) to prove you did tell them about your immediate family.

If you did not identify your immediate family on the form you filled in but did tell them in an interview, you can send copies of the interview notes with the application to remind the Department of Immigration that you did tell them about your immediate family.

PROPOSING OTHER FAMILY MEMBERS AND FRIENDS

What about family members who are not my immediate family and friends?

You or an Australian organisation can also propose

- friends;
- family members who are not immediate family (for example, parents, aunts, nephews, nieces and non-dependent children); and
- immediate family members who do not qualify for an immediate family application (for example if it is more than 5 years since the grant of your visa, or if you did not tell the Department of Immigration about them before the grant of your visa);

for a refugee and humanitarian visa.

In these cases, the applicant will have to be outside their home country and show that they will be subject to either persecution or substantial discrimination amounting to a gross violation of their

human rights, if they return to their home country. They will have to show that the persecution or discrimination is because of race, religion, nationality, membership of a particular social group or political opinion. Their application will not be given as high priority as an immediate family application, but a proposal from you still will assist them.

PROCESS FOR PROPOSING IMMEDIATE FAMILY, OTHER FAMILY & FRIENDS

What do I need to do to propose my family?

For all proposals of immediate family, other family and friends for an offshore humanitarian visa, the same two forms are required:

- [Refugee and Special Humanitarian Proposal \(Form 681\)](#)

This form must be completed and signed by you, the proposer. You must include a certified copy of a document evidencing your Australian permanent residence or citizenship.

- [Application for an offshore humanitarian visa \(Form 842\).](#)

This form must be completed your family/friends overseas. It must be completed and signed by the main applicant, their spouse (if applicable) and any other people included in the application who are aged 18 or over. All applicants for offshore humanitarian visas must fill out this form, no matter which particular visa subclass(es) they are eligible for. DIMIA will assess the application and decide which particular subclass of offshore humanitarian visa is to be granted. Applicants should read the instructions on the form carefully and make sure they attach all the necessary supporting documents, including identity documents and four passport photos of each applicant (see the form 842 document checklist). A precise address for the applicant is also essential.

You will need to download two forms from the Department of Immigration website at www.immi.gov.au, or obtain them by going to the nearest Department of Immigration office. Some of the information below should assist you and your family to complete the Forms.

How do I lodge the application forms?

The application (Form 842) and proposal (Form 681) should be lodged together. In most cases, for applications where there is a proposal form and the applicant is in Africa or the Middle East, the application MUST be lodged in Australia, not the overseas Australian mission.

Generally:

For applicants in Africa lodge at:

Offshore Humanitarian Processing Centre
DIMIA, GPO BOX 998
Sydney, NSW 2001

For applicants in the Middle East lodge at:

Offshore Humanitarian Processing Centre
DIMIA, GPO BOX 241
Melbourne, VIC 3001

However, you should also check appropriate the place of lodgment for the applicant's specific country on the DIMIA website at www.immi.gov.au/refugee/migrating_refugee.htm or by phoning DIMIA on 131 881

How important is a proposal and support from people in Australia?

For an immediate family application it is essential for your family member(s) to have you as a proposer and to lodge a Form 681 completed by you as the proposer, with their Form 842.

For consideration for a special humanitarian visa (subclass 202), it is also essential for your family member(s) to have a proposer and to lodge a Form 681 with their Form 842, even if they are not applying as immediate family (for example if they are your cousin and so don't qualify as immediate family). If they are not applying as immediate family, the family member has to show they are subject to persecution or substantial discrimination.

A proposal from you and any assistance you can offer in your proposal form (such as ability to pay for air fares, assistance with accommodation) will help establish your family member(s)' connection with Australia and the capacity of the Australian community to provide settlement. These are relevant considerations and will strengthen a family member's eligibility for a humanitarian visa.

What do my family have to do to show they are subject to persecution or discrimination?

Applicants who are not your immediate family must show either that they are subject to persecution or substantial discrimination amounting to a gross violation of their human rights, in their home country.

Examples of the types of things that would be relevant to proving persecution are threats to life, continued or arbitrary arrest or detention, torture and forced indoctrination. Examples of things that would be relevant to proving substantial discrimination are serious intrusion upon home and family, being prevented from working, being excluded from education, being denied a passport or being constantly watched or pressured to become an informer. Your family will need to show that race, religion, nationality, political opinion or membership of a particular social group is an essential or significant reason for the persecution or discrimination.

For immediate family members it is not essential to prove persecution but it will assist your family members' case for them to include any information about persecution or human rights abuses they have suffered and are at risk of suffering in their home country.

Information about the harm your family member(s) have suffered and fear they will suffer if they return to their country should be included in their Form 842. There are questions that will ask your family member(s) about the reasons they left their country and why they fear to return, and information about persecution and discrimination should be included in answer to those questions. This information should be included for immediate family members, even if they are still in their country and experiencing persecution there. DIMIA will check your file as well so it is important that the information in the new application by your family member is accurate.

Is it important for my family to register with UNHCR?

Registration with UNHCR and acceptance as a refugee will assist the application.

If your family cannot register with the UNHCR, for example if they are still in their home country, then they should register with an appropriate refugee or human rights group, such as the Red Cross.

Are there other requirements?

Both immediate family and other family members will also need to meet other criteria for the grant of their visa.

They will need to satisfy the Department of Immigration:

- that they have not stayed for more than 7 days in a country where they could have sought and obtained protection (unless this requirement is waived);
- that there are compelling reasons for the grant of the visa (see below);
- that resettlement in Australia is the appropriate course (see below);
- they come within the country program priorities (see below);
- that public interest (health and character) and special return criteria are met (see below).

Compelling Reasons for Grant of the Visa:

Your family members will have to show there are compelling reasons for the grant of their visa. In considering this, the Department of Immigration will consider the following four factors:

- the level or degree of persecution or discrimination;
- connection with Australia;
- whether there is any other country which can provide resettlement, for example if your family members is a citizen of or has a valid visa for another country;
- the capacity of the Australian community to provide permanent settlement.

Department of Immigration Policy says that presence of family members, a proposal from either family or an organisation and offers of settlement and financial support by family or an organisation will assist.

Department policy also says that immediate family applicants will be considered to satisfy the requirement for compelling circumstances just because they are immediate family of a humanitarian visa holder. However your immediate family should still include any relevant information about persecution or human rights abuses they have suffered, particularly where it is likely they would continue to suffer these in their home country, as this is likely to assist their application.

That Resettlement in Australia is the Appropriate Course and Not Contrary to the Interests of Australia

It also has to be accepted by the Department of Immigration that resettlement in Australia is the “appropriate course” for your family member. This is related to the UNHCR’s durable solutions for refugees which prioritises return to home country (where possible) and integration into country of first asylum (where possible) prior to resettlement in a third country.

Officers will consider whether your family member:

- can return to their country safely;
- has been accepted for settlement in another country;
- has close family in, or ties with, another country;
- is under pressure to leave the country they are presently in.

Country Program Priorities

The Australian government limits the number of places available through in the Humanitarian program each year. The places are allocated to overseas posts for their regional programs.

Public Interest Criteria

Your family and their family unit will be required to meet public interest criteria.

They will have to meet health criteria (a waiver is available in cases where there is no undue cost or prejudice to the Australian community). They will be required to satisfy character checks and have no debts to the Commonwealth. They will also have to meet the special return criteria (this relates to people who have been deported from Australia or required to leave in the past).

These criteria apply to the family unit of your immediate family even if those members of the family unit are not included in the visa application.

Processing Priorities

In addition to the above criteria for each visa there are processing priorities set out in Departmental policy.

Top Priority is given to cases in urgent need of resettlement in Australia (usually UNHCR referrals). After this, priority is given based on your family member's connection with Australia and the availability of support. Priority is given to those with close family connection, then to those with extended family connection or friends or other links such as former residence or business ties, then to those without links but with support from an organisation in Australia (including a proposal) or possession of skills or attributes.

What Costs are there?

There are no application fees for offshore refugee and special humanitarian visas. Health and character checks and travel costs are also paid for by the Australian government for those granted subclass 200, 201, 203 and 204 visas. The government will only pay travel costs if the visa holder does not have access to more than A\$10, 000 for one person or A\$20, 000 for a family.

Those granted subclass 202 visas are required to pay their own travel costs but the government will pay their medical examination costs.

Proposers are also expected to offer the following settlement assistance:

- Meeting the entrant at the airport
- Providing for the entrants immediate accommodation needs
- Assisting the entrant to find permanent accommodation
- Familiarising the entrant with services and service providers such as Centrelink, banks, public transport, translating and interpreting services, health care, education, employment services and child care.

Can I Borrow the Money?

Interest free loans are available from the International Organisation for Migration (IOM), to assist family members travelling to Australia under subclass 202 visas. Loans can only be provided to proposers with a Centrelink issued Health Care Card and can only be given where your family's travel is arranged by IOM. Loans are limited to a maximum of \$4000 per family and a down payment equivalent to 35% of the estimated travel cost is required. To inquire about making a loan application, email the IOM at travel.loan.canberra@iom.int or telephone the IOM on 02 6267 6634.

There is also a community loans scheme operating in Brisbane. Proposers wishing to inquire with this organisation about an interest free loan for their family's travel costs should contact:

Refugee Airfare Loans Committee
PO BOX 5519
West End QLD 4101
Ph: 07 38441043 Fx: 07 3844 1043
Email: mail@rals.org

Refugee and Immigration Legal Service Inc
1st floor, 170 Boundary Street, West End, Queensland 4101, Australia
PO Box 5143, West End 4101 • Telephone (61) (07) 3846 3189 • Fax (61) (07) 3844 3073
A FREE COMMUNITY LEGAL SERVICE