



Afghans in Australia on Evacuation Visa 449

APPLYING FOR PERMANENT VISAS

How long does an Evacuation Visa 449 last?

Most Afghan nationals evacuated to Australia after the Taliban takeover were given a 3-month temporary evacuation visa 449. This was extended for 12 months by the Minister for Immigration. This ensures access to the full range of government services while applying for a permanent visa.

How can I apply for a permanent visa?

Most Afghans on an Evacuation visa 449 cannot apply for a permanent visa until the Minister 'lifts the bar to apply' - this means you can then apply for a permanent visa.

The Department of Home Affairs is starting to contact groups of 449 visa holders with a notice saying that in about a month after getting the letter you will receive a formal notice from the Minister 'lifting the bar'.

This formal notice from the Minister 'lifting the bar' to allow you to apply, will then give visa holders 7 working days to lodge an application for a permanent visa.

You should get legal help as soon as you get this first notice.

Where can I get legal help to apply?

You should get legal help URGENTLY as soon as you get the first notice from the Department.

You can get free legal help from RAILS, the Refugee and Immigration Legal Service, if you are in Queensland. Contact details are outlined later.

Please only contact RAILS after you get the first notice. In some cases RAILS will contact you before you get the notice.

When can I apply for a permanent visa?

The Department will send these notices to different groups over the next few months, so people will get the notice at different times.

What will be the application process?

When the Minister 'lifts the bar' you will have 7 working days to lodge a permanent visa application. If this is a humanitarian visa application, it is done on a Form 842

The Department say they will then try to interview applicants around one month after the application is lodged. They say the interviews should not take a huge amount of time unless there are identity or other issues. The Department interviews will be by phone or online video conference.

What if I already applied for a permanent visa before entering Australia?

Some people on 449 visas may have already lodged a valid humanitarian or other permanent visa application before coming to Australia. If this is the case you might not have to wait for a Department letter to 'lift the bar'.

If this is your particular situation then you should get urgent legal advice about what is the correct process towards a permanent visa.

What can I do now? Bio-data

Before the notification from the Department about 'lifting the bar' you can start to get ready to make your applications for a permanent visa.

An important part is to prepare 'bio-data' for all applicants - that is details of identity, family, education, work and where you've lived. You can find these questions on [Form 842 which you can access online](#).

RAILS has documents online to show what bio-data is required - for the main applicant ([click here](#)) and for the other family members on the application ([click here](#)) Or see the Bio-data and FOI tab at FOI www.rails.org.au/education/afghan-community-info

What can I do now? FOI request

It is useful to know what information the Department of Home Affairs has about your case. A copy of your file can be obtained by lodging a "Freedom of Information' (FOI) request.

RAILS will help lodge this request at your first appointment. However, if you want to do this yourself before you see RAILS, then you can get someone to help you apply online on a Form 424A. Keep a copy of the form and of the email lodging it.

RAILS has a [document online to help you with the FOI request - Click here](#). Or see the Bio-data and FOI tab at www.rails.org.au/education/afghan-community-info

What about proving identity?

The Department of Home Affairs will need to be satisfied of the identity of you and your family. Try to collect any identity documents now, so that you can provide these with your application.

If you don't have all your identity documents, then the reasons for this should be explained by your lawyer in the application. If you don't have identity documents you should try to gather other information that shows your identity such as employment records, online profiles, resume/work history.

All information must be true

Do **not** provide non-genuine documents.

Do not listen if there are rumours in the community saying you should get false documents or say certain things in your interview. Listen to the advice from your lawyer. If any false or inaccurate documents are lodged there is a risk your visa will be cancelled or refused.

The Character Test

An important part of any permanent visa application is the 'Character test'. The Department of Home Affairs can refuse or cancel a visa application if they think a person does not pass the 'character test'. They look at whether someone has done any criminal or general conduct that might cause harm or risk to people in Australia. Some examples are crimes of violence, theft or drugs.

Family violence and the 'Character test'

The government also takes a strong stand against family violence when considering the 'Character test'.

In Australian law family violence is not only physical violence. It is also any actions, or threats, made against you, your family, your property and even your pets, that make you fear for your or your family's safety and wellbeing.

Family violence happens in all different cultures and groups. It is mainly by men trying to dominate women. Australian law has grown stronger against family violence and requires partners to negotiate their relationship based on equal respect and non-violence.

Will a visa be refused or cancelled because of 'Character'?

In deciding whether to refuse a visa because of character, the government looks at various factors.

In cases of family violence for example, this includes how serious any violence is, and whether the abuser has come to accept responsibility, and understands the effect of the violence and is taking steps to change. There are supports to help people keep safe from family violence and to help abusers try to stop their violence.

What if my family are overseas?

People on Evacuation 449 visas cannot sponsor other family members to Australia until they get a permanent resident visa.

Some family members who are overseas and are on 449 visas may be able to be added to a permanent resident application in Australia.

Where can I get legal help to apply?

RAILS will try to contact and make appointments with all Queensland 449 visa holders when they are about to get the first Department letter advising of the 'lifting of the bar'.

Please wait for RAILS to contact you. However urgently contact RAILS yourself if you are in one of these groups:

- You get a notification from DHA about the Minister 'lifting the bar' to allow you to apply for a permanent visa.

- You are an under 18 year old on a 449 Visa in Australia without your parents (an unaccompanied minors)

- You are a 449 Visa holder and have experienced family violence in Australia.

RAILS Contact

RAILS contact for Afghan evacuees:

Email: afgsupport@rails.org.au

Phone: 07 3846 9300

Information: www.rails.org.au/education/afghan-community-info

Very important: Advise if you change contact details

It is very important that visa holders advise the Department of Home Affairs of any change of contact details or address. This is done online at the Department's 'Afghanistan Update' website page:

www.homeaffairs.gov.au/help-and-support/afghanistan-update/sc449-afghan-evacuees-contact-details-form

If you don't advise them then you may miss the notice to apply for a permanent visa.

It is also very important to advise your Settlement Service case manager if you change contact details.

More questions?

If you have questions please note them down and bring them to your RAILS appointment.

Finding help if distressed

These processes can be very stressful and support is available for those who feel very distressed.

You can contact:

Your Multicultural Australia case manager

QPASTT - 3391 6677

Multicultural Connect - 1300 079 020

Lifeline - 13 11 14 (crisis support anytime) “

**This is legal information only, not legal advice.
See a lawyer or migration agent for advice about a specific case**

Info at: education@rails.org.au www.rails.org.au

30/1 /2022