

## Temporary Protection Visas

### Introduction

In October 1999, the Howard Government introduced Temporary Protection Visas (TPVs) for asylum seekers who arrive unauthorised and are subsequently assessed by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) to be refugees. Since then, 8912 TPVs have been issued and most of these are now due to expire.<sup>1</sup> TPV holders hoping to remain in Australia must apply for further protection or return to their country of origin. However, returning asylum seekers who do not choose to return voluntarily to countries like Afghanistan, Iraq or Iran could prove to be both difficult and contentious.

This Research Note outlines TPV policy and legislation from 1999, looks at the restrictions on TPV visas and the implications of those restrictions, and outlines approaches to resolving issues associated with TPVs.

### Background

Under the TPV regime introduced in October 1999, unauthorised arrivals found to be refugees and accepted into Australia are granted a three year TPV with the option of applying for further protection at the end of the three years. In September 2001, further changes to the legislation were introduced affecting TPV holders' eligibility to obtain permanent resident status in the future. Under this legislation, anyone applying for further protection is unable to obtain a permanent Protection Visa (PV) if, since leaving their home country,

the applicant resided for seven days or more in a country where they could have sought and obtained protection.

As a result, those applicants who fall into this category and are assessed to be in need of further protection are able to receive a further TPV, but not a PV. Those who do not fall into this category, or TPV holders who applied for further protection before 27 September 2001, will continue to have access to permanent PVs.<sup>2</sup>

### Numbers

As noted, 8912 TPVs have been granted since October 1999. Over 5000 of these TPV recipients are now at the 30 month point and a total of 8453 have applied for further protection.<sup>3</sup>

### TPV grants by nationality since 1999<sup>4</sup>

Nationality	Numbers
Afghanistan	3661
Iraq	4269
Iran	475
Other countries	507
Total	8912

### Access to services and benefits

TPV holders are only eligible for some of the special settlement services funded by the Commonwealth to assist new arrivals in Australia. Unlike PV holders, TPV recipients have no family reunion rights and no right to re-enter the country if they decide to depart Australia.<sup>5</sup>

TPV holders do have the right to work and have access to job matching by Centrelink. They are

also eligible for Special Benefit, Rent Assistance, Family Tax Benefit, Child Care Benefit, Medicare, Early Health Assessment and Intervention Program, torture and trauma counselling, and English as a Second Language classes (for TPV minors only).<sup>6</sup>

Additional services and programs available only to PV holders include:

- initial information and orientation assistance providing case management services that link individuals with essential services such as income support, education and health
- accommodation support and household formation support, including basic household items
- English language tuition
- community support programs.<sup>7</sup>

State governments and non-government organisations often provide TPV holders with assistance in those areas of need not covered by current entitlements, but these services vary widely depending on demand and geographic location.

### Issues relating to the TPV policy

TPVs, mandatory detention and offshore processing are part of a 'border protection' strategy aimed at impressing on people that if they come to Australia in an unauthorised manner they will not get the same benefits available to those who arrive in an authorised manner. This strategy would appear to be working—there have been very few boat arrivals since September 2001.<sup>8</sup>

There are many issues that arise from Australia's current TPV policy, including issues associated with the assumption that TPV holders will eventually return to their country of origin once that country is assessed to be safe. The majority of TPV recipients since 1999 are from Afghanistan, Iraq or Iran and may not choose to return voluntarily. As a result, an uncertain future lies ahead for TPV holders due to the temporary status of the visas they have been granted.

Some commentators argue that Australia's temporary protection system is creating problems of social exclusion for TPV recipients and placing pressure on community and non-government agencies to fill the gap in support services.

Research funded by the Victorian government, for example, found that the introduction of the TPV policy has:

created two classes of refugees, those who were assessed off-shore and granted full settlement services and protection visas, and those who were assessed on-shore and granted temporary protection and limited access to settlement services. The TPV policy has created uncertainty, insecurity, isolation, confusion, powerlessness and health problems among the holders of these visas as well as an increased burden on community organisations, state governments and volunteers.<sup>9</sup>

Others argue that TPV holders experience uncertainties and psychological suffering on a similar scale to those held in immigration detention.<sup>10</sup>

It is also argued that further stress is placed on TPV recipients by the restrictions on family reunion: 'Refugees on TPVs are forced to choose between reuniting with their families and trying to remain in Australia for their own protection'.<sup>11</sup> It is not inconceivable that others might choose to risk the lives of entire families at the hands of people smugglers knowing that it will not be possible to bring the family out later through family reunion.

## Approaches to dealing with TPV issues

The Government has not yet indicated how it will proceed with TPVs. It is possible that, in the end, the Government will consider allowing some of the TPV holders to stay permanently (Iraqi TPV holders, for example). Currently, transitional extensions (Protection (Class XC) visas) are being provided to some TPV holders with expired visas who have applied for further protection. So far, of the 8453 applicants, only a few have been successful in their applications for further protection in Australia.<sup>12</sup>

In a policy paper released in December 2002, the ALP announced that it would address the TPV situation by:

- keeping a short term TPV for asylum seekers who have used people smugglers
- granting permanent protection visas if the circumstances have not changed significantly in the country of origin as the TPV holder is still a genuine refugee
- fully reassessing claims if circumstances have changed
- giving priority to family reunion applications from those who have settled in the regions of Australia designated as in need of population and with labour shortages.<sup>13</sup>

This position was amended in a resolution at the ALP national conference in January 2004. It was agreed that a Labor government would also:

- conduct a review of the circumstances of each existing TPV holder of two years or more duration, giving priority to those who have been on a TPV for the longest period
- enable TPV holders to access English language training and employment assistance
- ensure asylum seekers and refugees in the Australian community have appropriate health, income and settlement

support, as well as alleviate the financial and organisational burden currently borne by the States, Territories, welfare and volunteer organisations.<sup>14</sup>

1. Senate Legal and Constitutional Legislation Committee, Additional Budget Estimates, 17 February 2004, p. 29.
2. DIMIA [Temporary Protection Visas](#), Fact sheet no. 64. Further changes were announced in August 2003.
3. *ibid.*
4. Senate Legal and Constitutional Legislation Committee, *op. cit.*
5. For a discussion of the different entitlements see the Refugee Council of Australia's 2001 [Information Paper on TPVs](#).
6. Entitlements for TPVs are described in DIMIA Fact sheet no. 64.
7. Services for permanent PVs are described in, DIMIA Fact sheet no. 66.
8. For more detail see J. Phillips and A. 'Millbank Protecting Australia's borders', *Research Note*, no. 22, Parliamentary Library, 2003–2004.
9. F. Mansouri, *Politics of Social Exclusion: Refugees on Temporary Protection Visa in Victoria*, 2002, p. 6. See also S. Pickering et al., ['We're working with people here': the impact of the TPV regime on refugee settlement service provision in NSW](#), 2003.
10. G. Marston, [Temporary Protection Permanent Uncertainty](#), 2003, p. 3.
11. *ibid.*, p. 25.
12. Senate Legal and Constitutional Legislation Committee, *op. cit.*
13. ALP Policy Paper, December 2002.
14. Labor's refugee and asylum seeker policy resolution, ALP National Conference, January 2004.

### Janet Phillips Social Policy Section Information and Research Services

*Views expressed in this Research Note are those of the author and do not necessarily reflect those of the Information and Research Services and are not to be attributed to the Parliamentary Library. Research Notes provide concise analytical briefings on issues of interest to Senators and Members. As such they may not canvass all of the key issues. Advice on legislation or legal policy issues contained in this paper is provided for use in parliamentary debate and for related parliamentary purposes. This paper is not professional legal opinion.*

© Commonwealth of Australia  
ISSN 1328-8016