



The Coalition's Policy to Clear Labor's 30,000 Border Failure Backlog

August 2013

Key Points

Australians deserve a government that will take control of our borders and restore faith in our immigration system, including our generous humanitarian intake.

The Coalition has a clear and consistent policy commitment to border protection.

Almost 30,000 of the more than 50,000 people who have arrived illegally by boat under Labor are still waiting in Australia for a decision on whether they will also get to stay permanently, as they have not had their claims assessed. If Labor are re-elected they will get a permanent visa, with family reunion rights, if found to be refugees. This will not happen under a Coalition government.

Amongst other measures, we will restore Temporary Protection Visas (TPVs) and ensure that:

- no permanent visa will be issued to any of the almost 30,000 illegal boat arrivals still waiting in Australia for a decision on their claim, even if they are found to be genuine refugees;
- no TPV will exceed three years in duration; and
- access to benefits for TPV holders, in particular income support, will be subject to satisfying mandatory mutual obligation requirements to undertake work in return for accessing these benefits – i.e. the participation in a ‘work for benefits’ regime such as ‘Work for the Dole.’

We will also remove the benefit of the doubt to those who have thrown their documents away and end Labor’s ‘tick and flick’ approach to refugee assessments and Labor’s endless appeals in the courts.

To ensure a fairer system for genuine refugees waiting offshore, we will reserve the Refugee and Special Humanitarian Visa quota for genuine applicants who apply through the proper process.

We will also establish a new ‘Fast Track Assessment and Removal’ process that will be modelled on the Detained Fast Track system in the United Kingdom and which will allow protection claim assessments and immigration status determinations to be resolved as quickly as possible.

The Coalition will restore sovereignty to our borders and ensure a fairer humanitarian intake system.



Introduction

Since Kevin Rudd abolished the Howard Government's strong and highly effective border control regime, more than 50,000 people have illegally entered Australia by boat.

As the number of illegal boat arrivals has grown from two to more than 4,000 per month, the costs to the Australian taxpayer have blown out by \$11.6 billion since 2009-10. Annual costs have increased from \$85 million under the Howard Government to \$3.1 billion under Labor – more than a 35-fold increase in just six years.

The total cost to date has included more than \$1 billion building detention centres.

Labor's failures have created a major problem.

Around 15,000 of those who have already arrived have been granted permanent visas by Labor, overwhelming Australia's regular offshore Humanitarian Programme. The number of permanent (Special Humanitarian Programme) visas given to genuine offshore applicants has fallen from over 5,000 a year under the Howard Government, to just over 700 visas under Labor in 2011-12

Under Labor, less than five per cent of the more than 50,000 people who have arrived have been denied visas and returned to their country of origin. By contrast, thirty per cent of those who were subjected to the Coalition's 'Pacific Solution' went home.

Around 90 per cent of those arriving by boat and assessed under Labor's system are being given approval, despite the fact that as many as 90 per cent of them also have no documents on arrival.

The appeals system set up by Labor, granting endless access to the courts, has also overturned decisions to deny people's claims at the rate of up to more than 80 per cent. This means that four out of five denials by initial assessors that go to appeal are reversed, and changed to a 'yes,' under Labor's appeals system.

Australians can be forgiven, based on these statistics, for thinking Labor is running a 'tick and flick' system, where those arriving illegally by boat can be almost guaranteed permanent visas.

This system needs to change to be fairer and to ensure the integrity of Australia's borders and humanitarian intake system.



The Plan

1. Restore Temporary Protection Visas (TPVs)

The Coalition will restore Temporary Protection Visas (TPVs).

TPVs are one of the key elements necessary to deny people smugglers a product to sell. They are an effective deterrent against illegal arrival and act as a distinct disincentive for potential clients of people smugglers.

TPVs deny permanent residence and therefore deny the right to make an application for citizenship. They also deny access to family reunion under any programme (which remains possible under Labor's ongoing policy) and deny the ability to leave and re-enter the country – those on TPVs who leave Australia are subsequently barred from returning.

TPVs are entirely consistent with the United Nations Refugee Convention.

The United Nations Refugee Convention does not define a person's status as a refugee as being permanent. Therefore, there is no universal right to permanent settlement.

Under the Coalition:

- no permanent visa will be issued to any of the almost 30,000 illegal boat arrivals still waiting in Australia for a decision on their claim, even if they are found to be genuine refugees;
- the duration of TPVs will be determined on a case-by-case basis, depending on circumstances in home countries;
- no TPV will exceed three years in duration. It will be possible for a subsequent TPV to be applied for at the end of the expiry period, which would be assessed on the merits of the case at that time, including latest circumstances in the country of origin;
- a permanent protection visa may not be provided to a TPV holder within five years of the applicant first receiving a TPV. This restriction may only be set aside through the non-compellable intervention power of the Minister;
- as was the case under the Howard Government, persons on TPVs will be given work rights and access to Medicare and other benefits. Work rights may also be restricted to specific geographic regions (metro and non-metro), to direct TPV holders to particular areas where work is available or has been established under a government scheme;



- should a TPV holder be unable to find work, they will be able to access income support through special benefit payments. These payments are set at the discretion of government and may not exceed the rate to which Youth Allowance, Austudy payments or Newstart Allowance might otherwise be available to these persons;
- access to benefits, in particular income support, will be subject to satisfying mandatory mutual obligation requirements to undertake work in return for accessing these benefits – i.e. the participation in a ‘work for benefits’ regime such as ‘Work for the Dole;’ and
- the Minister will be given discretion, by exception, to grant access to settlement services or support as required. There will be no entitlement to such support.

TPVs will not be granted to people who have illegally entered Australia by boat and are released into the community on a bridging visa and are awaiting assessment of their claims.

TPVs will only be potentially available to persons whose assessment process has been completed.

Persons released into the community on bridging visas will continue to be denied work rights, but will be required to engage in a mutual obligation programme in return for receiving benefits. The guidelines and conditions for bridging visa holders will be addressed in a separate policy statement.

TPVs strike an appropriate and effective balance between genuine need for a safe haven from persecution, disincentive for illegal arrival, and a response to changing circumstances in a person’s home country.

2. A Fairer System for People Waiting Offshore

The Coalition will reserve the Refugee and Special Humanitarian Visa quota for genuine applicants who apply through the proper process.

Unlike Labor, we will not allocate any of the 13,750 visas to be available annually under the Coalition’s Refugee and Special Humanitarian programme to people who have arrived illegally by boat.

The Coalition believes that Refugee and Special Humanitarian Visas should principally be given to genuine refugees waiting offshore in desperate situations.



Under the Rudd-Gillard Government, people who arrive illegally by boat are given Refugee and Special Humanitarian Visas ahead of those genuine refugees offshore. While Labor increased the intake to 20,000 places, these places have not been quarantined from those who have arrived illegally by boat. With more than 30,000 people waiting for one of these permanent visas, Labor's programme will continue to offer permanent visas to those who come off the boats first.

This is not a fair system.

It is a system that puts people's lives at risk by creating an incentive for desperate people to come to Australia illegally by boat.

The Coalition will reserve the Refugee and Special Humanitarian Visa quota for genuine applicants who apply through the proper process. Not one of the Coalition's Refugee and Special Humanitarian Visas will be given to someone who has just illegally arrived by boat.

We will restore fairness to Australia's refugee and humanitarian programme by preventing someone who comes by boat from taking the place of someone who is waiting to come to our country through the proper process.

This means the Coalition can plan with certainty to provide places to people waiting offshore in desperate situations, including family members of Australian citizens, who are facing real persecution in places like Syria, Iraq, Egypt and Burma.

3. Remove the Benefit of the Doubt for those Throwing Their Documents Away

The Coalition will deny asylum seekers the benefit of the doubt in the assessment of their refugee status determination where asylum-seekers' identity documents have been deliberately destroyed.

Where an assessor makes a reasonable assessment that an applicant for asylum has deliberately discarded their identity documentation, there will be a presumption against awarding refugee status under section 91W of the *Migration Act* – section 91W allows the Minister to draw any reasonable inference unfavourable to the applicant's identity, nationality or citizenship, as a result of such acts.

The Coalition is concerned about the subjective nature of determining the refugee status of asylum seekers who are unable to present identity documentation. As many as 90 per cent of boat arrivals have no identity documentation when arriving in Australia, even though the vast majority have had to travel by air to get to Malaysia or Indonesia and therefore originally possessed identity documentation.



While the Coalition recognises some applicants may never have had such documentation, or may have their documentation destroyed against their will or confiscated, there are also many cases where documentation has been deliberately discarded.

4. End Labor's 'Tick and Flick' Assessment Process

The Coalition will take immediate steps to implement reforms needed to end Labor's 'tick and flick' approach to assessing refugee claims.

The first step is to undertake a rapid audit of the assessment process, drawing on the work of the current review underway, with a view to removing appeals to the Refugee Review Tribunal and restoring an administrative (non-statutory) assessment and review process, as practiced under the Howard Government.

A New Fast Track Assessment and Removal process will be established, modelled on the Detained Fast Track system in the United Kingdom to have protection claims assessed and immigration status resolved as quickly as possible.

The Coalition believes that the faster cases can be resolved, the better it is for everyone, eliminating long periods of idleness and uncertainty that can lead to mental illness, reducing detention and bridging visa costs to the community and allowing people to move on and make decisions about the next stage of their lives.

Proposed timetables noted below are based on the United Kingdom model and are provided for indicative purposes only. Final timetables will be determined in government.

The Fast Track approach will involve four key steps:

- **Triaging the Caseload** – a desktop review of cases to establish those that appear less likely to be successful in gaining refugee status and can be determined readily. Such asylum seekers will be referred into the Fast Track process and be held in detention whilst a rapid assessment process is undertaken;
- **Rapid Assessment** – interview and intensive assessment by a case officer with a decision to be made and quality assured within a target of 14 elapsed days. If the protection claim is unsuccessful, an immediate review is initiated. If successful and the 'bar' is lifted by the Minister, a TPV may be granted and settlement services initiated;



- **Rapid Review** – a review of the decision to decline refugee status would be undertaken by another case officer, which provides the asylum seeker with the opportunity to present their claims (supported by an information kit in the relevant language). The initial case officer will present the reasons for the decision. The review decision to be completed within 14 elapsed days; and
- **Rapid Removal** – if the review is unsuccessful, travel documents will be obtained and removal process commenced to the country of origin or voluntary return to a third country where they have a permit for entry. This will be effected within 21 elapsed days. If unable to be removed due to travel document issues, the person will be transferred to Christmas Island pending removal. Voluntary removal options will also be offered at Christmas Island.

Under Fast Track, assessment decisions will be made faster, time in detention will be shorter, relevant TPVs will be provided more quickly and removals will occur promptly.

The total process will be completed within three months for each case, reducing detention health risks to asylum seekers and costs in the detention network.

The Coalition will also establish specialist Country Based Assessment Cells within the Department of Immigration and Citizenship with country information used for assessment purposes continually updated and regularly vetted.

The Choice

The choice is between an Australia under Labor which would continue to be a soft touch for the people smugglers and a Coalition government that will take the tough decisions to restore Australians' confidence that those who we accept as refugees are genuine.

Labor has failed on our borders like no other government in Australia's history.

Illegal arrivals by boat to Australia have increased from an average of just two people per month under the Howard Government to the current rate of more than 4,000 people per month.

Since Kevin Rudd abolished the Howard Government's strong and highly effective border control regime, more than 50,000 people have illegally entered Australia by boat.

The number of people in the immigration detention network or on bridging visas in the community who have arrived illegally by boat has increased from just four people in 2007 to almost 30,000 today.



More than 1,000 people have perished at sea after people smugglers' boats sank.

More than 6,000 children have had their lives put at risk by travelling on people smugglers' boats to Australia.

Labor weakened Australia's borders by abolishing the proven border protection policy regime established by the Howard Government and has provided an open invitation to people smugglers throughout their six years in office.

It was Prime Minister John Howard who declared that "we will decide who comes to this country and the circumstances in which they come." This was a statement of national sovereignty and the need for Australia to control our borders.

A Coalition government will restore effective policies that live up to this declaration.

To do otherwise puts people's lives at risk, disregards the safety and morale of our border protection forces, shows contempt for taxpayer money, and effectively sells out our immigration programme to the people smugglers.

Australians deserve a government that will take control of our borders and restore faith in our immigration system, including our generous humanitarian intake.

Cost

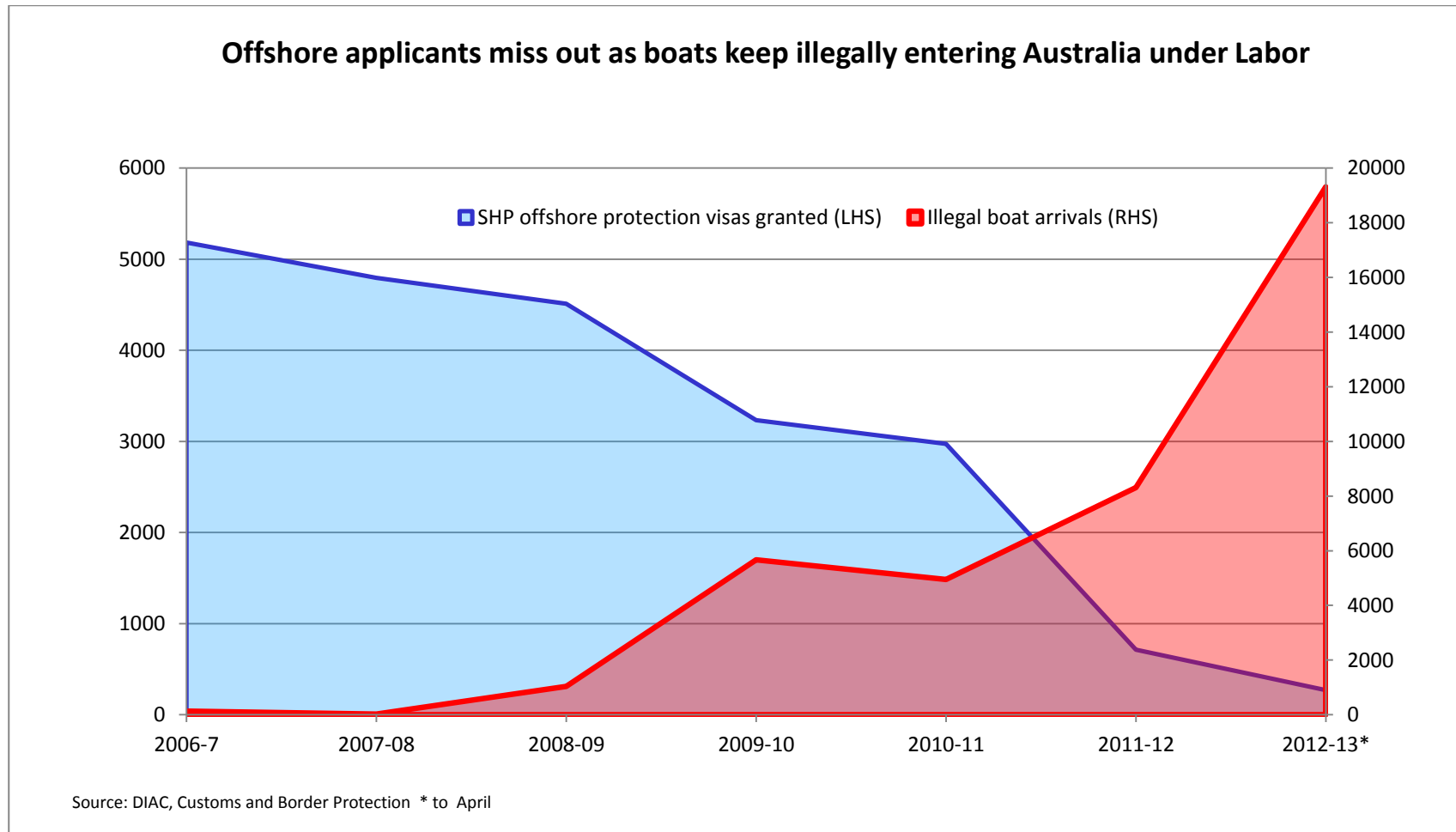
The decoupling of illegal boat arrivals from the regular Humanitarian Programme will result in additional settlement services and other costs for some illegal maritime arrivals granted a temporary protection visa who are approved for access to those services. These costs will be significantly offset by savings in detention centre operations generated by Fast Track processing, which will result in much more rapid processing and removal from Australia of individuals whose refugee applications are rejected.

The balance of these costs will be more than offset by the successful implementation of Operation Sovereign Borders, to reduce illegal boat arrivals to levels achieved during the latter years of the Howard Government.

A full reconciliation of these net savings to the Budget will be provided upon release of all the Coalition's border protection policies.



Appendix A – Impact of Illegal Arrivals on the Number of Offshore Protection Visas Granted



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Hope.
Reward.
Opportunity.



THE NATIONALS *for Regional Australia*

For further details of the Coalition's Plan go to
www.realsolutions.org.au