

.....	2
What are the SHEV pathways? .....	2
Differences between TPVs, SHEVs and permanent visas .....	3
How have TPV and SHEV applications been processed? .....	4
What are the impacts of temporary protection measures on refugees?.....	5
Is temporary protection consistent with international law? .....	5
Do other countries use temporary protection measures?.....	6
European Union .....	6
New Zealand .....	7
United States .....	7
.....	7



migration visas that may give rise to permanent residence.<sup>10</sup> Applicants may apply to the Department of Home Affairs as soon as they have satisfied the requirements. They do not need to wait for their SHEV to expire. However, though there is no guarantee that their application will be successful.

Statements by Scott Morrison, when he was Minister for Immigration, suggest that the SHEV is not intended as a long-term residency solution for most. In September 2014, he stated

<b>Education</b>	Access to primary and secondary education for children.  Fee requirements for adults unclear.	Access to primary and secondary education for children.  Fee requirements for adults unclear.	Same access to education as any other permanent resident; some additional supports available based on need.
<b>Language training</b>	Eligibility for English language education unclear.	Eligibility for English language education unclear.	510 hours of English language education.
<b>Family reunion</b>	No rights to family reunion.	No rights to family reunion.	May apply to sponsor immediate family members (spouse and children).
<b>Overseas travel</b>	Must obtain permission in writing. Department has advised that travel will only be allowed if		



and those who come by authorised means the TPV regime may constitute a breach of the right to non-discrimination.<sup>33</sup> The explicitly punitive underpinning of the TPV regime may also constitute a penalty in violation of article 31 of the Refugee Convention.<sup>34</sup> Moreover, by denying refugees the ability to reunite with their families, the regime may also infringe the right to family and the freedom from arbitrary interference with family life.

## **Do other countries use temporary protection measures?**

*European Union*

requirements, which provides them with a permanent status. These language and income requirements are slightly relaxed for those who have lived on a residence permit for at least five years.<sup>44</sup> Unlike the Australian TPV policy, refugees on a German residence permit are given the same status as Germans within the social insurance system<sup>45</sup> and have a right to family reunion.<sup>46</sup>

### *New Zealand*

In New Zealand, all recognised refugees and protected persons may apply for a temporary entry class visa or permanent resident visa. While adults will be immediately given work visas, school-aged children will generally be granted student visas. Dependent children who are not studying will be granted visitor visas instead.<sup>47</sup>

seekers arriving in NZ in a group of 30 or more). As part of the changes, asylum seekers

granted temporary visas and to have their status reassessed after three years before they are eligible for permanent residence.<sup>48</sup> Under the changes, immediate family members may be sponsored only after residence has been granted, and extended family members are ineligible for sponsorship. According to then-Immigration Minister Michael Woodhouse:

*These policy changes are considered to be an important deterrent to a mass arrival. Asylum seekers may be less likely to endanger their lives by attempting to travel to New Zealand by sea if they know they must wait for three years and have their claim reassessed before they can apply for residence, and if they are unable to reunite with extended family members.<sup>49</sup>*

### *United States*

Asylum seekers who are found to be refugees in the US become eligible to apply for permanent residence after one year if they continue to be a refugee.<sup>50</sup> After five years, they may apply for US citizenship. They may apply for family reunion two years after being granted refugee status in the US.

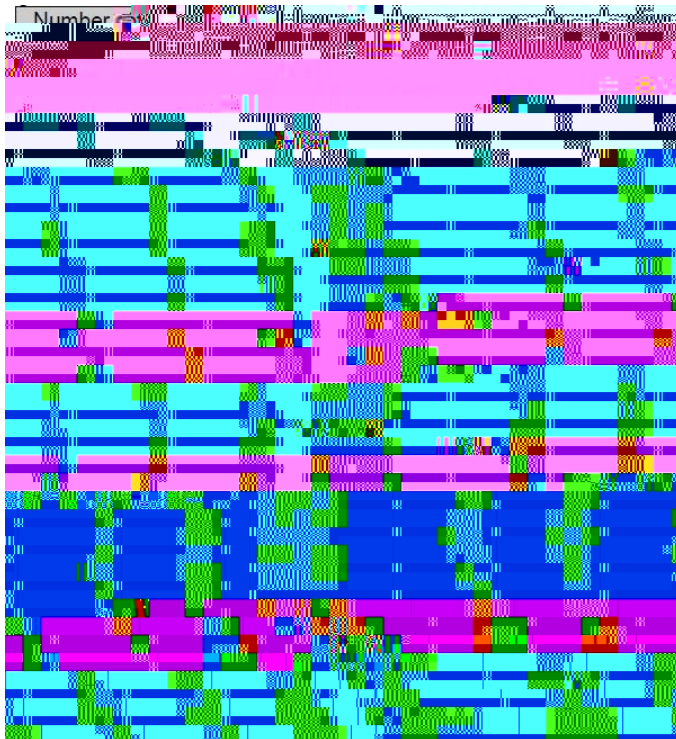
### *Canada*

Asylum seekers who are found to be refugees in Canada may apply for permanent residence upon being granted refugee status.<sup>51</sup>

## **Do temporary protection measures deter asylum seekers?**

There is little evidence that introducing temporary protection measures have a deterrent effect. Indeed, after TPVs were introduced by the Howard Government, there was an increase

The following tables, which provide a breakdown of boat arrivals by age and gender in the two years before and after the introduction of TPVs, show an increase in the number of women and children arriving in Australia after the introduction of TPVs.<sup>53</sup>





Source: *Budget Estimates 2012-2013, Senate Legal and Constitutional Affairs, Immigration and Citizenship Portfolio, Reply to Question on Notice BE12/0265*

## How could people be moved from temporary protection to permanency in Australia?

Policy Brief 13, \_\_\_\_\_  
\_\_\_\_\_ (June 2022) makes clear and practical recommendations for how people within the

### Endnotes

<sup>1</sup> Australia. Department of Home Affairs, [Protection Visas](#)

<sup>2</sup> Senator Chris Evans, [Budget 2008-2009 – Rudd Government Scraps Temporary Protection Visas](#), 14 May 2008.

<sup>3</sup> Australia. [Migration Amendment Regulations 2008 \(No 5\) \(Cth\)](#).

<sup>4</sup> Janet Phillips and Harriet Spinks, [Boat Arrivals in Australia Since 1976](#) (Parliamentary Library, 2013) 18.

<sup>5</sup> Australia. Parliamentary Joi002n0.003 Tc 309.63 528.65 Td((Cth))TjETEMC GD 18 BDC q0agtr1.65 518.4 842ETTEM C\$

26

*operation of the Migration Act 1958: report*

52, para. 8.33.

*Administration and*

27 *ibid*, 22-23 [2.34]-[2.37].

28 See further: M Leach, \_\_\_\_\_, *The Conversation*, 26 August 2013; A Killeddar

*Australian and New Zealand Journal of Public Health*, 41(4)  
mental health of refugees with temporary versus permanent

*The Medical Journal of Australia*, 185(7), 2006, 357-361.

29 BJ Liddell et al (2022) '[Understanding the effects of being separated from family on refugees in Australia: a qualitative study](#)', *Australian and New Zealand Journal of Public Health*, published online 31 March 2022; BJ Liddell et al 2020, '[Mechanisms underlying the mental health impact of family separation on resettled refugees](#)', *Australian and New Zealand Journal of Psychiatry*, pp. 4867420967427; A Miller et al (2018).

*American Journal of Orthopsychiatry*, 88(1), 26-37. doi:10.1037/ort0000272

30 Human Rights and Equal Opportunity Commission, [A Last Resort? National Inquiry into Children in Immigration Detention](#) (April 2004), 20, 815 20.

31 Australian Human Rights Commission, [Lives on hold: Refugees and Asylum Seekers in the Legacy Caseload](#), (2019)

32 United Nations High Commissioner for Refugees (UNHCR), [Roundtable on Temporary Protection, 19–20 July 2012: Summary Conclusions](#)

33 See Jane McAdam and Tristan Garcia, [Submission to the National Human Rights Consultation](#), 10 June 2009, 26

34

*International Journal of*

*Refugee Law* 192, 197 200; [1951 Convention relating to the Status of Refugees and its 1967 Protocol](#) UNTS 189

35