



INFORMATION ABOUT DECISIONS

We provide a final independent merits review of visa and visa-related decisions made by officers of the Department of Home Affairs (the department) acting as delegates of the Minister.

If we **affirm** the decision under review, we have decided that the delegate's decision should not be changed. The effect of this is that the delegate's decision remains in force.

If we **set aside** the decision under review, we have decided that the delegate's decision should be changed. We may replace (substitute) the delegate's decision with a new decision.

If we **remit** the decision under review, we have decided that the delegate's decision should be reconsidered. The effect of this is that the department is required to reconsider the application having regard to any directions made by us.

If we decide that we have **no jurisdiction** to review the delegate's decision, we have decided that we have no power to review the delegate's decision.

If you think that our decision is wrong in law, you may consider seeking judicial review in the Federal Circuit and Family Court of Australia.

Combined applications

In cases involving members of the same family, any document or correspondence given by us to the primary review applicant or an authorised recipient will, unless otherwise indicated, apply to all members of the family who combined their applications.

What happens next?

After the department receives advice of the decision on your review, the department will act to give effect to our decision. Your immigration status in Australia may change following our decision.

If you hold a bridging visa associated with the application that was the subject of the AAT's review, or with a decision to cancel a visa, your bridging visa may cease, depending on our decision. One of the following situations may apply:

- Where we **set aside** the decision under review and substitute a decision that your visa be granted, your bridging visa will cease.
- If we **remit** the decision under review back to the department for reconsideration, your bridging visa will remain in effect while your

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application is being processed by the department.

- If we **affirm** the decision under review, deciding that the delegate's decision should not be changed, or decide we have **no jurisdiction** to review a decision, your bridging visa will cease either,
 - 35 days after our decision is made (if your bridging visa was granted on or after 19 November 2016); or
 - 28 days after you are notified of our decision (if your bridging visa was granted prior to 19 November 2016).

If you decide to seek judicial review of our **affirmed** or **no jurisdiction** decision, you may be eligible for a bridging visa that will keep your immigration status lawful throughout this process. You should apply for another bridging visa before your current bridging visa ceases.

The effect on a bridging visa may be different where there is a decision to **set aside** the decision under review and **substitute** a decision not to cancel a visa, or that the visa application is invalid. In these circumstances contact the department for specific information about your situation.

If you have any questions about your immigration status, or if your contact details have changed since you last communicated with the department, you should contact the department on 131 881.

Special arrangements during the COVID-19 pandemic

If you do not have a visa to remain in Australia and you are unable to depart Australia due to travel restrictions or no available flights, you must apply to the Department of Home Affairs for a further visa prior to your current visa ceasing. If you are unable to apply for a substantive visa prior to your current visa ceasing, you should apply for a Bridging Visa E.

You will be expected to leave Australia as soon as practicable once your departure from Australia becomes possible.

For further information visit:

<https://immi.homeaffairs.gov.au/visas/visa-about-to-expire/stay-longer>.

The Minister may substitute a more favourable decision

The Minister has powers under the *Migration Act 1958* to substitute our decision with a decision that is more favourable to the applicant. Generally, the Minister will only do so if there are compelling, compassionate or humanitarian considerations.

Review of decisions

Applicants can apply to the Federal Circuit and Family Court of Australia (the Court) for judicial review of our decisions. The Court will consider whether we made a jurisdictional error. If you wish to apply for review, you must do so within 35 days of the date of our decision. If you require an extension of time,

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you must ask for it in the application and explain why. The Court will decide whether or not to grant an extension of time.

Immigration assistance

Our website (www.aat.gov.au) provides a list of organisations that may be able to provide immigration assistance or referrals to other services.

What if I want to make a comment, compliment or a complaint?

You can help us by telling us what you like about your dealings with us or where you think we can improve. If you wish to provide us with feedback you can tell the officer who is dealing with your case. Alternatively you can complete the online Feedback form available on our website under [Contact us](#), or forward a written complaint marked 'confidential' to us at GPO Box 9955, Sydney NSW 2001.

Publication of decisions

If we have prepared a written statement of the reasons for our decision in your case, it may be made public and published on the AustLII website (www.austlii.edu.au).

In cases about protection (refugee) visas, the published decision will not include names or other details which may identify the applicant or any relative or other dependants of the applicant. Decisions in other types of cases are usually published in full. If we are satisfied it is in the public interest, the AAT can decide not to publish some information or the entire decision.

For more information about the decisions we publish, see our Publication of Decisions Policy on our website.

Refund of application fee for review of a migration decision

If you are entitled to get a refund of all or part of the application fee, you will be given a form to provide bank account details for receiving the refund through electronic funds transfer (EFT).

An application fee cannot be refunded where we affirm the decision under review, and can only be refunded in specific circumstances where an application for review is withdrawn.

Requirement to pay a fee for review of a refugee decision

If the review application is not successful, you are required to pay a fee. The AAT will send you an invoice. You are required to pay the fee within 7 days of receiving this invoice.

If you have any questions about the fee, after you have received the invoice, contact the AAT using the details provided in the invoice.

When this Fact Sheet refers to "You" it means the applicant, and includes his or her nominee, representative or support person. When it refers to "We" or "Us" it means the AAT.

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