

Immigration and Refugees

Immigration and refugee policies have been the subject of great controversy in Australia. Since 1945, nearly seven million people have migrated to Australia. Immigration has made a substantial contribution to the increase in Australia's population from approximately seven million in 1947, to over 20 million today. While most migrants have arrived as free settlers, over half a million have arrived as refugees under the Humanitarian Program. The highest intake of immigrants in any twelve months was 185,099 people between 1969 and 1970.

Until the 1970s, immigration policies largely excluded non-European nationalities. The 1970s marked a decade of dramatic change in immigration policies under both the Whitlam and Fraser governments. Since this period, immigration flows have largely responded to labour market demand, and migrants are typically skilled and qualified with good English language skills. Australia's current immigration policy allows people to migrate regardless of ethnic origin, gender, colour, religion, or country of origin. All applicants are, however, assessed according to selection criteria based on health, character, and other entrance requirements.

A controversial Australian citizenship test was introduced on 1 October 2007 designed to "assist people who want to become Australian citizens gain an understanding of Australian values, traditions, history and national symbols... and [to ensure] that migrants have the capacity to fully participate in the Australian community as citizens... [to] promote social cohesion and successful integration into the community." Following its election in November 2007, the Rudd Labor government ordered an independent review of the test, looking at the first six months of the test's operation. The committee handed down its report in November 2008. The government has published its response to the report (see <http://www.citizenshiptestreview.gov.au/content/gov-response/>), but no formal changes have yet been adopted.

There are currently two main programs: the Migration Program and the Humanitarian Program. The Migration Program has three streams: Skill, Family, and Special Eligibility.

Skill stream

For the skill stream, migrants can apply under a number of categories and in some instances must satisfy criteria which may include English language competency, age, skills and qualifications. In 2007-08, the number of migrants in the skill stream was 108,540, representing the largest migration category.¹ This includes:

- Skilled-Independent - for migrants who possess specific work skills, experience, and qualifications;
- Skilled-Australian Sponsored - migrants must satisfy the skill and experience criteria, but must also have a sponsor in Australia;
- Business Skills - requires that migrants possess particular skills that will bring economic benefit to Australia;
- Employer Nomination Scheme - includes highly skilled migrants who have been nominated by an Australian employer who has been unable to fill the position from the Australian labour market;
- Regional Sponsored Migration Scheme - enables employers in isolated areas to nominate skilled employers for permanent entry into Australia. Migrants under this category must meet threshold skill, age and language requirements;
- State Specific Migration Mechanisms - state and territory governments may identify shortages and encourage diversity in migrant intake.
- Distinguished Talent Migrants- a very small category for individuals with exceptional records of achievement in, for instance, sport, the arts or business.

Family stream

To be eligible for the family stream, the migrant must either be a spouse, fiancé, or dependent child of an Australian citizen, a permanent resident or a New Zealand citizen. In some situations, applicants may be eligible for a visa based on sponsorship of other family members, including parents, orphan relatives, aged dependent relatives, special need relatives and last remaining relative. In 2007-08, the number of migrants in the family stream was 49,870 people.

Special Eligibility

For 2007-08, the number of migrants in the Special Eligibility category was 220.

Humanitarian Program

The Humanitarian Program includes refugees and other eligible displaced persons. In 2007-08, the number of migrants in the humanitarian program was 13,014 people. The program has three main components:

- Offshore Refugee Program - for people who are subject to persecution in their own countries; who meet the United Nations definition of 'refugee', and who have been identified by Australia or the United Nations High Commissioner for Refugees (UNHCR) as in need of resettlement;
- Offshore Special Humanitarian Program - for people suffering discrimination or gross human rights violations in their own countries and who have been nominated by an individual or organisation within Australia; and
- Onshore Refugees – for people arriving by other means. Australia's primary obligation under the 1951 Convention relating to the Status of Refugees is to protect refugees arriving onshore. An 'asylum seeker' is a person who has left their own country to seek sanctuary in another state and who is applying for the right to be recognised as a genuine refugee. Although it has become common in Australia to describe such people as 'illegal' immigrants, the 1951 Refugee Convention makes it clear that it is not illegal under international law to seek protection from persecution in another country, even if the entry is unauthorised. Asylum seekers usually arrive in Australia either by boat (usually without visas) or by air (mostly with visas) and are treated according to their mode of arrival. Those with valid visas may live in the Australian community while applying for refugee status, while those without visas are subject to mandatory detention.

For each unauthorised arrival in Australia, a place is taken away from the Special Humanitarian Program.

For 2007-08, available places in the Humanitarian Program were set as follows:

- Offshore Refugees—6004 (46 per cent)
- Offshore Special Humanitarian Program—4795 (37 per cent)
- Onshore Refugees—2215 (17 per cent)²

Australian immigration trends

Every year there are large movements of people into and out of Australia. Net overseas migration refers to the number of people added to Australia's resident population each year. It is made up of the difference in numbers between permanent and long-term arrivals³ and permanent and long-term departures. The following statistics show migration to Australia for the period 2007-08:

- Net overseas migration for 2007-08 was 278,987 persons. This estimate is made up of 582,042 new arrivals (including 432,677 long-term arrivals and 149,365 permanent arrivals) less 303,055 departures (including 226,132 long-term departures and 76,923 permanent departures);
- Skilled migrants accounted for 44 per cent of all permanent arrivals to Australia in 2007-08. Family stream migrants accounted for 26 per cent and Humanitarian Program migrants 6 per cent, while Non-Program Migration (consisting mostly of New Zealander citizens) comprised 24 per cent of all permanent arrivals in 2007-08;
- There are also large numbers of 'overstayers' remaining in Australia after their visas have expired. Overstayers are people who arrived in Australia with valid temporary visas, mainly as tourists, but also as working holiday makers, students and temporary residents. The number was estimated to be around 46,000 at 31 December 2005, comprising around 39,200 visitors, 2,700 students, 2,300 temporary residents, and 2,200 people in other categories.

Population growth in Australia is achieved through a combination of natural increase (the number of births minus the number of deaths) and net overseas migration. Net overseas migration now contributes to more than half of Australia's population growth, whereas, in the past, natural increase was more prominent. In the decade between

1997-98 and 2007-08, the Migration Program continued to grow, with an increased emphasis on skilled, as opposed to Family stream, migrants, to support the demand for skilled workers in the Australian economy. One particularly controversial development was the Pacific Seasonal Worker Pilot Scheme (PSWPS), announced on 17 August 2008, with the aim of addressing both the skills shortages in the horticulture industry and contributing to Australia's Pacific region economic development objectives. In March 2009, in response to the economic downturn brought about by the Global Financial Crisis, the government announced a 14 per cent cut to the Migration Program for 2009-10, stating that the measure was designed to protect local jobs, while still ensuring that skills shortages were being addressed.

Asylum seekers and refugees

In signing the 1951 Refugee Convention, Australia undertook the following: not to impose penalties on refugees on account of their illegal entry if they are coming directly from a territory where their life or freedom was threatened (Article 31); to accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals (Article 23); and to issue to refugees lawfully staying in their territory travel documents for travel outside their territory (Article 28). Most importantly, it undertook not 'refoule' or return any refugee to a country where their life or freedom may be threatened. Australia has also endorsed or signed many other international standards and conventions applying to the treatment of refugees and asylum seekers. They include fair and efficient methods of determining refugee status, the prohibition on arbitrary detention (including mandatory, indefinite and non-judicially-reviewable detention), separation of families and the principle that children should only be detained as a last resort. As a result of the legislation introduced since 1992, Australia has been accused of breaching many of these international laws and standards.

In global terms, the number of asylum seekers reaching Australia is very small. At the end of 2008, Australia's share of the world's asylum seekers was just 0.3%. The largest numbers of refugees are hosted by Pakistan, Syria and Iran, with the UK and Germany being the only OECD countries with intakes in the top ten. Australia's refugee intake is ranked 51st with a share of only 0.2% of the glo-

bal total. Per capita, Australia is ranked 69th for its intake of refugees.

Mandatory, indefinite and non-reviewable immigration detention

In 1992, the Hawke Labor Government introduced harsh new laws to punish and deter boat people by making it mandatory for every man, woman and child seeking refuge in Australia without a visa to be held in detention for an indefinite period until given a visa or deported. In 2008, the Rudd Labor government announced changes to the mandatory detention policy. Mandatory detention remains in place, but the new policies seek to use detention only for the purpose of conducting health, identity, and security checks, or otherwise, to detain people who are deemed to pose a risk to the wider community or who fail to comply with their visa conditions. The government has also pledged that it will not allow children to be held in detention.

Asylum seekers living in the community

In 1997, the Howard Coalition Government introduced new laws preventing asylum seekers from obtaining income support or permission to work (thus leaving them without Medicare coverage) if they do not lodge an application for asylum within 45 days of arrival. While intended to deter non-genuine applicants, this policy left many genuine asylum applicants totally dependent on charities for food, clothing, housing and medical help. Many already suffer from previous health complaints and cannot properly recover without adequate health care.

Temporary Protection Visas

In 1999, the Coalition Government issued new laws denying people landing in Australia without a visa the right to apply for permanent refugee status for three years. Other policies also sought to restrict Permanent Protection Visas to asylum seekers who applied overseas or who entered Australia with a visa. For example, even once found to be genuine refugees, those who had originally arrived without a visa were only eligible for a three-year Temporary Protection Visa. These visas contained numerous restrictions, and effectively left people who had been found to be genuine refugees with no certainty about their future. This policy was discontinued in 2008 as part of the newly-installed Labor Government's changes to the immigration system.

The Pacific Solution

In 2001, the Government introduced the Pacific Solution whereby asylum seekers en-route to Australia were intercepted by the Navy and forcibly transferred to the Pacific where they were detained while being processed. From here either another resettlement country accepted them or they were given a protection visa and brought to Australia.

A number of other policies were introduced to deter the so-called 'influx' of asylum seekers coming into Australia. Such measures included: penalising airlines for allowing unauthorised arrivals; the continuing excision of vast expanses of Australian territories from the migration zone (the zone considered to be a part of Australia within which asylum and visa applications can be made); border control interception powers; and limitations of judicial review for protection applications. On 13 April 2006, the Australian Government announced its intention to introduce new legislation to extend the Pacific Solution (off-shore interception, detention and processing) to all unauthorised boat arrivals arriving in Australia (not just excised offshore Islands). The bill was ultimately defeated, and in February 2008, the 'Pacific Solution' immigration policy was officially ended by the Labor Government when the last of the remaining asylum seekers left the detention camp on Nauru. The Rudd government will maintain the controversial 'exclusion zone', but detainees on Christmas Island will now have access to legal assistance, independent review, oversight by the Immigration Ombudsman and procedural fairness. In a further move, the Immigration minister, Chris Evans, has introduced legislation to repeal the liability for immigration detention costs, and immediately to waive existing detention debts for all current and former detainees.

Useful sources

Australian Bureau of Statistics (2008), Migration Australia 2006-07, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/3412.0>
This ABS report presents statistics on international and interstate migration as well as information on overseas-born Australian residents.

Department of Immigration and Citizenship (DIAC), <http://www.immi.gov.au>
This site presents up-to-date Australian research and statistics on migration, refugees and asylum seekers.

Australian Human Rights Commission, <http://www.humanrights.gov.au/>
http://www.humanrights.gov.au/racial_discrimination/face_facts/FTF_2008_Web.pdf

National Program on Refugees and Displaced People, Christian World Service, National Council of Churches in Australia, www.ncca.org.au/cws/rdp

Neumann, K. (2004). *Refuge Australia: Australia's Humanitarian Record*, Sydney, NSW: UNSW Press.
Winner of the 2004 Human Rights Award for Non Fiction, historian Klaus Neumann explores Australia's response to refugees and asylum seekers.

Refugee Council of Australia, <http://www.refugeecouncil.org.au/>

UNHCR: The UN Refugee Agency <http://www.unhcr.org/cgi-bin/texis/vtx/home>
This site contains, among other things, information on the 1951 Convention relating to the Status of Refugees.

Australia and the United Nations. Annual Report Card 2007. <http://www.unaa.org.au/pdf/UNAA%20Report%20Card%202007.pdf>

See, in particular, the chapter on 'The Global Movement of People'.

See fact sheets on [Population](#) and [A Multicultural Australia](#)

Endnotes

1. Please note that the figures given in this section relate to the number of 'permanent additions' to the population. Permanent additions consist of two components: those persons who while already in Australia on a temporary basis are granted permanent residence status; and those persons who arrive from overseas and are entitled to stay permanently in Australia.
2. This figure includes permanent protection visa grants resulting from applications for further protection and does not include grants of temporary protection visas or temporary humanitarian visas.
3. Long-term arrivals comprise overseas travellers who indicate an intention to stay in Australia for 12 months or more (in effect, temporary residents who will eventually leave Australia) and Australian residents returning after an absence of 12 months or more overseas.

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