



Australian Government
Department of Home Affairs

Submission

For decision

PDMS Ref. Number: MS24-001460

Date of Clearance: 06/08/2024

To **Minister for Home Affairs, Minister for Immigration and Multicultural Affairs, Minister for Cyber Security**

Subject **Longer-term visa options for onshore Palestinians, Israelis and Ukrainians affected by recent crises**

Timing *Not time critical, however an early decision will enable the rollout of the preferred visa pathway and associated supports.*

Recommendations

That you:

1. Agree to provide, on a case by case basis, Palestinian nationals and Israeli nationals from affected areas who are in Australia an offer of a temporary stay in Australia. agreed / not agreed

2. Agree that individuals will be prioritised for consideration of an offer of subclass 449 and 786 visas on the basis of the following compassionate and compelling circumstances: agreed / not agreed

s. 47C(1)

3. Agree existing checks for the subclass 786 visa, including character, security and health, be retained for this cohort, s. 47E(d) agreed / not agreed

4. s. 47C(1), s. 47E(d) agreed / not agreed

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5. Agree that Ukrainian nationals currently holding a subclass 786 visa be provided a pathway to a permanent Resolution of Status (subclass 851) visa on a case by case basis prior to their subclass 786 visa expiring (with no announcement at this stage).

agreed / not agreed

6. **S. 47C(1)**

7. Note further advice on implementation, including resourcing implications, will be provided should you agree to the approach above.

noted / please discuss

Minister for Home Affairs, Minister for Immigration and Multicultural Affairs, Minister for Cyber Security

Signature.....

Date:...../...../2024

Minister's Comments

Key Issues

Pathways for Palestinians and Israelis

1. Since the commencement of the Hamas-Israel conflict, Australia has supported the assisted departure of Australian citizens and permanent residents, as well those with a close connection to Australia, from Israel and the Occupied Palestinian Territories.
 - a. Between 7 October 2023 and 29 July 2024 the Department of Home Affairs (the Department) has granted more than 2,906 migration and temporary visas to people declaring Palestinian citizenship, including 2,555 visitor visas to people who met all visa requirements.
 - b. As at 29 July 2024, of the 1,387 Palestinian arrivals between 7 October 2023 and 29 July 2024; 735 have applied for a Protection (subclass 866) visa.

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2. s. 47C(1) this submission seeks agreement to the below longer-term visa response for Palestinians and Israelis from affected areas who are in Australia. The offer will provide immediate certainty for vulnerable visa holders in Australia who are unable to return due to the ongoing Hamas-Israel conflict.
 - a. A three-year temporary pathway (through an offer of a subclass 449 visa followed by a subclass 786 visa) for Palestinians and Israelis from affected areas who are in Australia, provided on a case by case basis. The subclass 786 visa would provide visa holders with work and study rights, and access to Medicare, Special Benefits and settlement services.
 - b. s. 47C(1), s. 47E(d)
 - c. Prioritising the offer to individuals with compassionate and compelling circumstances as outlined in recommendation 2.
 - i. s. 47E(d)
 - d. The application of existing public interest criteria including health, security and character checks.

s. 47C(1)

Pathways for Ukrainians

5. Since 24 February 2022, 17,400 visas have been issued to Ukrainians with 13,300 having since arrived in Australia. Of these, 3,696 individuals (as at 30 June 2024) hold a subclass 786 visa s. 47C(1)

6. s. 47C(1)

Next steps

7. s. 47C(1)

Proposed implementation for 786 pathway

8. The subclass 786 visa requires an offer to be made by the Government and accepted. The visa is then processed through two steps:
 - a. subclass 449 - Humanitarian Stay (Temporary) visa.
 - i. Grant criteria = individual is 'displaced', and meets Public Interest Criteria 4002 (security) and 4003A (not associated with proliferation of weapons of mass destruction) and 4007 (health – can be waived).
 - b. subclass 786 Temporary (Humanitarian Concern) visa – three year stay
 - i. Grant criteria = applicant holds a subclass 449 visa, the Minister is satisfied they should stay due to 'humanitarian concern', and they meet Public Interest Criteria 4002, 4003A, have undertaken a medical examination (including chest x-ray), and pass the character test unless the Minister is otherwise satisfied there are no character concerns.

9.

s. 47E(d)

10.

s. 47C(1)

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Background

11. While the subclass 786 visa provides access to Medicare, the 449 visa does not. s. 47C(1), s. 47E(d)

[REDACTED]

- a. Providing Medicare access to subclass 449 holders would require a legislative instrument signed by the Minister for Health and Aged Care.

12. s. 47C(1)

[REDACTED]

- a. s. 47C(1)

[REDACTED]

- b. s. 47C(1)

[REDACTED]

13. Palestinian and Israeli nationals in Australia who are not offered the subclass 786 visa option may be able to access other visa options, including the skilled, family, student and visitor visa programs. Those who are unable to access those visa options or cannot return to Palestine or Israel may apply for a Bridging E (subclass 050) visa (BVE) or a Protection (subclass 866) visa. Arrangements have been made for Palestinian and Israeli nationals from affected areas who hold BVE visas to access Medicare. A Bridging Visa granted in association with a Protection visa application also provides access to Medicare, work rights and free Translating and Interpreting Services.

14. s. 47C(1)

[REDACTED]

The RoS provides further access to family reunion and full range of government benefits/services.

15. s. 47C(1), s. 47E(d)

[REDACTED]

Consultation – internal/external

16. Acting Chief Finance Officer was consulted on this submission.
17. Group Manager Legal was consulted on this submission.

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Consultation – Secretary / Associate Secretary Immigration / ABF Commissioner

18. **SECRETARY** - The Secretary requested this advice be provided to you and was consulted on this submission.
19. **ASSOCIATE SECRETARY IMMIGRATION** - was consulted on the approach in the submission.
20. **ABF COMMISSIONER** - The Commissioner was not consulted on this submission.

Client service implications

21. The Department will engage closely with affected individuals through the Palestinian and Israeli communities in Australia and public communications mechanisms. Similarly the Department will work closely with Ukrainian communities in rolling out the RoS visa on a case by case basis. s. 47E(d)

22. s. 47C(1)

Risks and Sensitivities

23. s. 47C(1), s. 47E(d)

s. 47C(1)

24. s. 47E(d)

- a. s. 47E(d)

- b. s. 47E(d)

25. s. 47E(d)

Financial/systems/legal/deregulation/media implications

26. s. 47C(1)

27. s. 47C(1)
28. s. 47C(1)
29. Should you agree to the proposal in this submission, a communication strategy (including media) will be developed, s. 47C(1)
30. The Department will provide further advice on implementation including on resourcing, systems and other processing implications.

Attachments

Attachment A s. 47C(1)

Authorising Officer Cleared by: Andrew Kiley First Assistant Secretary Refugee, Humanitarian and Settlement Division Date: 12 August 2024 Mob: s. 22(1)(a)(ii)

Contact Officer Michael Peterer, A/g Assistant Secretary, Humanitarian Policy and Child Wellbeing Branch, Ph: s. 22(1)(a) / Mob: s. 22(1)(a)(ii)

Through Secretary
Acting Chief Finance Officer
Group Manager Legal

CC ABF Commissioner
Associate Secretary Immigration
DS Chief Operating Officer
DS Executive
DS Cyber and Infrastructure Security
DS National Security and Resilience
GM Technology and Major Capability
GM Immigration Policy
GM Immigration Operations
FAS Executive Coordination

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