

# In prison and had your visa cancelled?

If you want to get your visa back you must act quickly.



## **Will my visa be cancelled if I am in prison?**

Your visa will be cancelled if you answer yes to these two questions:

1. Are in custody?
2. Are you sentenced (either now or in the past) to a term of imprisonment of 12 months or more?

If you answer yes to the questions, there are things you can do to get your visa back.

## **What will happen if my visa is cancelled?**

You will get a letter from Immigration. The letter will say that your visa has been mandatorily cancelled.

If you want to get your visa back, you must reply to the cancellation letter quickly. You need to fill out the Revocation Request Form and send it to Immigration. Immigration must get your reply in 28 days. There is no way to make the time longer.

When Immigration gets your Revocation Request Form, they will investigate your situation. You can provide more information about your situation. Immigration will then make a final decision.

# What do I do first?

Follow these steps if you want to try to get your visa back:

1. The important thing to do first is find the Revocation Request Form in the letter from Immigration. Fill it in and send it to Immigration quickly.
2. It is easy to fill in the form. You don't need to send reports or letters.
3. Fill out this form with your full name, date of birth and Immigration file number.
4. If your visa was granted when you were outside Australia, you will need to write the name of the Immigration office where your application for the visa was made.
5. Explain why you want to keep your visa. You can provide a short answer. Your reasons might be:
  - you have community, family or employment ties to Australia
  - your children will be affected if you were removed from Australia
  - you have done things to make sure you don't commit any more offences, or
  - you will face hardship if you were returned to your home country. You can explain if you have a refugee claim.
6. Send in the Revocation Request Form so that Immigration will get your reply in 28 days.
7. After you have sent the Revocation Request Form, read your documents and think about the reports or letters you could send to Immigration.

## What else do I need to do?

After you have sent your Revocation Request Form, think about what you can provide to Immigration to explain your situation.

Fill in the Personal Circumstances Form carefully.

This form has lots of questions about your situation.

You can provide information about your reasons and send in letters of support.

## What do I do if the final decision is to cancel my visa?

If you want to challenge the decision to cancel your visa you must act quickly. You need to do two things:

1. Ask for the decision to be reviewed.
2. Ask Legal Aid NSW for help.

There are two different ways to ask for the decision to be reviewed. Look at the letter from Immigration and see who made the decision. The letter will tell you if the decision was made by a delegate or the Minister for Immigration.

## If the decision was made by a delegate:

- Contact the Administrative Appeals Tribunal.
- Ask for a form to challenge the decision.
- You have nine days from the date you were notified about the decision to ask for a review.
- No extension of time is possible.
- You can give a simple reason in your application.

A lawyer from Legal Aid NSW can help you but don't wait to talk to a lawyer before you call the Administrative Appeals Tribunal.

## **If the decision was made by the Minister for Immigration:**

- Contact the Federal Court.
- Ask for judicial review of the decision.
- You have 35 days from the date of the decision to ask for a review.
- An extension of time is possible, but you should not delay.

A lawyer from Legal Aid NSW will be able to help you but don't wait to talk to a lawyer before you call the Federal Court.

## **How can Legal Aid NSW help me?**

You can get legal advice about the final decision to cancel your visa.

## **How do I get help from Legal Aid NSW?**

Prisoners can call Legal Aid NSW on the prison Common Auto Dial List (CADL) phone system as a free call – just press **#2**.

This publication is a general guide to the law. You should not rely on it as legal advice, and we recommend that you talk to a lawyer about your situation.

The information is correct at the time of printing, however it may change. For more information contact LawAccess NSW on **1300 888 529**.



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### Do you need help to contact us?



If you need an interpreter, call the Translating and Interpreting Service (TIS National) on **131 450** (9am–5pm) and ask for LawAccess NSW.

### Do you find it hard to hear or speak?



If you are deaf, or have a hearing or speech impairment, contact us through the [National Relay Service \(NRS\)](#). Ask for LawAccess NSW on **1300 888 529**.