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## VISA CANCELLATION



If you live in Australia and are **not a citizen** your visa can be cancelled and you could be deported if the government thinks you are of 'bad character'.

Visas can be cancelled or refused for criminal behavior, for giving false information, for not following visa conditions and for not proving your identity.

This can happen to people on permanent visas or on New Zealand Special Category visas. It does not matter if you have lived here for many years.

A temporary visa can be cancelled if the government thinks you are or you may be a threat to the safety of the community.

## STOPPING YOUR VISA BEING CANCELLED



If the Department of Home Affairs (DHA) sends you a Notice of Intention to Cancel or a Notice of Cancellation you only have a short time to try to stop the cancellation.

There are different time limits depending on who made the decision and under which section of the Migration Act. The decision letter should say what the time limit is.

To try to stop your visa being cancelled for 'bad character', you need to provide information from yourself plus family, friends, employers, and other key people and organisations. You must show DHA why you should be given a chance and why the risk of bad behaviour in the future is now low. You must be totally honest about your criminal record and what led to the crimes and how things have now changed.

Other things DHA look at in cancellation cases are: your ties to Australia (how long you've been here, family, education and social links); any problems or harm you would suffer if returned to your home country; any effect on Australian business; and any effect on the community.

If the DHA cancel your visa you may be able apply to the AAT (Administrative Appeals Tribunal) to look at your case again.

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If the AAT doesn't overturn the cancellation, you may be able to apply to the Federal Circuit Court to check if the proper legal process was followed ('judicial review'). If the court says the process was wrong, then it sends it back to the AAT to make a new decision to cancel or not.

## IF YOU HAVE CRIMINAL CHARGES



If you are convicted of criminal charges, tell your criminal lawyer or the court if you are not an Australian citizen. The court should know before it sentences you whether your visa may be cancelled. Give permission to your criminal lawyer to get advice from an experienced migration agent/ lawyer.

If you are a non-citizen and in prison, your visa may be automatically cancelled if you've ever been sentenced to 12 months or more prison, or been convicted of a child sex offence. Contact one of the services below and look at the [Visa Cancellation Kit](#) on the Prisoners Legal Service website at [www.plsqld.com](http://www.plsqld.com)

## GET LEGAL HELP

If you are a non-citizen without a visa and can't apply for any other visa you will be detained and be removed from Australia. You may be banned from coming back to Australia for some years, or forever.

**Visa cancellation is very serious and there are strict time limits on what you can do. You should get urgent advice from a migration agent/lawyer.**

Contact Refugee and Immigration Legal Service (RAILS) 07 3846 9300 [www.rails.org.au](http://www.rails.org.au) or a private migration agent/lawyer through Migration Agents Registration Authority [www.mara.gov.au](http://www.mara.gov.au) or the Youth Advocacy Centre ([www.yac.net.au](http://www.yac.net.au)).

**THIS IS NOT LEGAL ADVICE**

**SEE A MIGRATION AGENT/LAWYER URGENTLY FOR LEGAL ADVICE**

