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Partner Migration



Australian Government
Department of Immigration
and Citizenship

About this booklet

This booklet is designed so that you can understand the steps for applying for partner migration to Australia, and complete the application form with minimal, if any, help. In addition to this booklet, information about partner migration can also be found on the department's website www.immi.gov.au/migration/family/partners/. Less detailed information can be found at Fact sheet 30 *Family Stream Migration – Partners*, which is available on the department's website www.immi.gov.au/facts/, from any office of the department or Australian mission.

This booklet is one of a series of booklets about migration to Australia. The booklets are:

- 1 Partner Migration
- 2 Child Migration
- 3 Parent Migration
- 4 Other Family Migration
- 5 Employer Sponsored Migration
- 6 General Skilled Migration
- 7 Business Skills Entry
- 8 Special Migration

For general information about migration to Australia, read information form 1126i *Migrating to Australia*, or visit the website www.immi.gov.au/migrate/

Further information about the Department of Immigration and Citizenship is available:

<i>Home page</i>	www.immi.gov.au
<i>General enquiry line</i>	Telephone 131 881 during business hours in Australia to speak to an operator (recorded information available outside these hours). If you are outside Australia, please contact your nearest Australian mission.

Using a migration agent

You do not need to use a migration agent to lodge a visa application. However, if you choose to use an agent, the department recommends that you use a registered migration agent.

Under Australian law, anyone who uses knowledge of migration procedures to offer immigration assistance to a person wishing to obtain a visa to enter or remain in Australia must be registered or exempt from registration (see page 43).

All registered migration agents are bound by the Migration Agents Code of Conduct, which requires agents to act professionally in their clients' lawful best interests. A list of registered migration agents is available from the Office of the Migration Agents Registration Authority (Office of the MARA) website www.mara.gov.au

You can contact the Office of the MARA at:

Website: www.mara.gov.au

E-mail: info@mara.gov.au

Mail: PO Box Q1551
QVB NSW 1230
AUSTRALIA

In person: Level 8
22 Market Street
SYDNEY NSW
AUSTRALIA

Office hours are 9am – 5pm Australian Eastern Standard Time (AEST)

Telephone: 1300 226 272 or +61 2 9078 3552

Fax: +61 2 9078 3591

The Office of the MARA investigates complaints against registered migration agents and may take disciplinary action against them. If you have a concern about a registered migration agent, you should contact the Office of the MARA. The Code of Conduct and complaint form are available from the Office of the MARA website.

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Department of Immigration and Citizenship

www.immi.gov.au

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Important terms

Applicant(s)	The person (or persons) applying to migrate or remain permanently in Australia.
Australian mission	An Australian Embassy, High Commission, Consulate, Consulate-General or Australian Trade Commission overseas.
Australian permanent resident	A person who is the holder of a permanent visa and is usually resident in Australia.
Bridging visa	A type of temporary visa that provides the holder with status as a lawful non-citizen. It can only be granted in Australia.
Centrelink	The agency that delivers social security payments and related services in Australia.
Child	<p>Child (when used in relation to another person) means:</p> <ul style="list-style-type: none"> • a natural (biological) child; or • an adopted child within the meaning of the <i>Migration Act 1958</i>; or • a child conceived through an artificial conception procedure (ACP); or • a child born under surrogacy arrangements, where parentage has been transferred by court order under a prescribed state or territory law.
Close relative	Your partner, children (including adopted), parents and siblings and step relatives of the same degree.
Complete application	An application that provides all information necessary for processing, including evidence of your relationship, completed health and character checks (if applicable) and other necessary documents.
De facto partner	A person is the de facto partner of another person (whether of the same sex or a different sex) if the person is in a de facto relationship with the other person.
De facto relationship	<p>For the purposes of a Partner visa application, a person is in a de facto relationship with another person if:</p> <ul style="list-style-type: none"> • they are not in a married relationship (for the purposes of the <i>Migration Act 1958</i>) with each other; • they are not related by family; • they both must be aged at least 18 years at the time the application is made; • they have a mutual commitment to a shared life to the exclusion of all others; • the relationship between them is genuine and continuing; • they live together or do not live separately and apart on a permanent basis; and • the relationship has continued for the period of 12 months immediately preceding the date of application. <p>Note: The 12-month relationship requirement does not apply in certain circumstances. See page 19.</p>
De jure	Legally married.
Department	Department of Immigration and Citizenship.

Dependant	A person who is wholly or substantially reliant on a family member for financial support to meet their basic needs of food, shelter and clothing; or wholly or substantially reliant on their family member for financial support due to being incapacitated for work because of the total or partial loss of bodily or mental functions.
Dependent child	A child or step-child who has not turned 18 years of age, or, if aged 18 years or over, is a dependant. A dependent child must not have a spouse or de facto partner, or be engaged to be married.
DNA	DNA (Deoxyribonucleic acid) is the genetic material present in every cell of the body. For example, it is in blood, saliva, skin and hair. A comparison of genetic material from 2 or more people can show whether they are biologically related to each other.
Eligible New Zealand citizen	<p>An eligible New Zealand citizen is a person who at the time of last entry to Australia would have met health and character checks and:</p> <ul style="list-style-type: none"> • held a Special Category (subclass 444) visa on 26 February 2001; or • held a Special Category (subclass 444) visa that was in force for at least one year in the 2 years before 26 February 2001; or • has a certificate, issued under the <i>Social Security Act 1991</i>, that states the citizen, for the purposes of the <i>Social Security Act 1991</i>, was residing in Australia on a particular date (note that Centrelink stopped accepting applications for these certificates in February 2004).
Family head	For migration purposes, the family head is generally the person who is most likely to meet the primary legal criteria for the grant of the Partner visa.
Fiancé(e) relationship	A relationship where a couple is engaged to be married or betrothed. In the context of partner migration, the term fiancé(e) is used to mean a man and a woman who intend to marry each other.
Immediate family	Your partner and dependent children.
Lawful non-citizen	A non-citizen who holds a valid visa.
Long-term partner relationship	A married relationship or de facto relationship that has continued for 3 years or more, or 2 years or more if there is a dependent child of the relationship.
Married relationship	<p>Persons are in a married relationship if:</p> <ul style="list-style-type: none"> • they are married to each other under a marriage that is valid for the purposes of the <i>Migration Act 1958</i>; • they have a mutual commitment to a shared life as husband and wife to the exclusion of all others; • the relationship between them is genuine and continuing; and • they live together or do not live separately and apart on a permanent basis.

Member of the family unit

A person is a member of the family unit of another person (the family head) if the person is a:

- spouse or de facto partner of the family head;
- dependent child of the family head or of a spouse or de facto partner of the family head; or
- dependent child of a dependent child of the family head or of a spouse or de facto partner of the family head; or
- relative of the family head, or of a spouse or de facto partner of the family head, who is:
 - not in a married relationship or a de facto relationship; and
 - usually resident in the family head's household; and
 - dependent on the family head.

Migrate

Applicants applying from outside Australia will be applying to migrate. Applicants applying in Australia will be applying for permanent residence. In the context of partner migration information, the term 'migrate' covers both.

NOIM

A Notice of Intended Marriage that is completed by a couple who intend to marry in Australia.

Office of the department

An office of the Department of Immigration and Citizenship in Australia.

Partner

Your spouse or de facto partner.

Partner category visa

Includes Prospective Marriage visas and Partner visas.

Permanent resident

See Australian Permanent resident.

Permanent visa

A visa permitting a person to remain indefinitely in Australia.

Provisional visa

A temporary visa allowing a person to enter and remain in Australia until a decision is made on the permanent visa application.

Recent passport-size photograph

A 45mm x 35mm photograph taken within the past 6 months. This should be of the head and shoulders only, and should show the person facing the camera and against a plain background. You should print the name of the person on the back of each photograph.

Registrable offence

In relation to the sponsorship limitation for child and partner visas, registrable offence means any of the following:

- an offence that is a registrable offence within the meaning of any of the following Acts:
 - the *Child Protection (Offenders Registration) Act 2000* (NSW);
 - the *Sex Offenders Registration Act 2004* (Vic);
 - the *Child Sex Offenders Registration Act 2006* (SA);
 - the *Crimes (Child Sex Offenders) Act 2005* (ACT);
- an offence that would be a registrable offence under the above paragraph if it were committed in a jurisdiction mentioned in that paragraph;

- an offence that is a reportable offence within the meaning of any of the following Acts:
 - the *Child Protection (Offender Reporting) Act* 2004 (Qld);
 - the *Community Protection (Offender Reporting) Act* 2004 (WA);
 - the *Community Protection (Offender Reporting) Act* 2005 (Tas);
 - the *Child Protection (Offender Reporting and Registration) Act* (NT);
- an offence that would be a reportable offence under the above paragraph if it were committed in a jurisdiction mentioned in that paragraph.

Related by family

For the purposes of a Partner visa application on the basis of a de facto relationship, 2 persons are related by family if:

- one is the child (including an adopted child) of the other; or
- one is another descendant of the other (even if the relationship between them is traced through an adoptive parent); or
- they have a parent in common (who may be an adoptive parent of either or both of them).

For this purpose, no regard is given to whether an adoption is declared void or has ceased to have effect.

Relative

A close relative or a grandparent, grandchild, aunt, uncle, niece, nephew or step equivalent.

Second-stage processing

Usually 2 years after the application for a Partner visa was made, persons who are holders of a temporary Partner visa are assessed as to whether they continue to meet all the requirements for the grant of a permanent Partner visa.

Sponsor

The Australian citizen, Australian permanent resident or eligible New Zealand citizen partner who undertakes sponsorship obligations. For the purposes of partner category migration, the sponsor must be:

- the fiancé(e) or partner of the applicant if the fiancé(e) or partner has turned 18 years of age; or
- for Prospective Marriage visa applications, or Partner visa applications made on the basis of a married relationship, a parent or guardian of the fiancé(e) or spouse of the applicant if the fiancé(e) or spouse has not turned 18 years of age.

Spouse

A person is the spouse of another person if they are in a married relationship.

Substantial period

12 months or more.

Substantive visa

Any visa other than a bridging visa or a Criminal Justice visa.

Temporary visa

A visa permitting a person to remain temporarily in Australia.

Visa

Permission to travel to, to enter and/or to remain in Australia for a period of time or indefinitely.

PART 1

Introduction

Partner category migration allows for the grant of a visa that permits married partners (ie. opposite-sex spouses) and de facto partners (including those in a same-sex relationship) of Australian citizens, Australian permanent residents and eligible New Zealand citizens to enter and remain permanently in Australia. Initially, partners who meet the legal criteria for the grant of the visa are granted a temporary visa. Later, a permanent visa may be granted following an eligibility period or, if there is a long-standing relationship or children of the relationship, soon after grant of the temporary visa.

Partner category migration also allows for the temporary entry to Australia of fiancé(e)s (intended spouses) of Australian citizens, permanent residents and eligible New Zealand citizens.

As the partner or fiancé(e) of an Australian citizen, Australian permanent resident or eligible New Zealand citizen, you do not have an automatic right of permanent residence in Australia. If you wish to reside permanently in Australia you must first apply for a permanent visa and be assessed against the legal criteria for the grant of that visa.

There are 2 types of partner category visas: Prospective Marriage visa and Partner visa. The type of visa for which you should apply depends on the type of relationship you are in.

The following table sets out the types of relationship and the visas that correspond to them:

Relationship type	Visa	Page where information is to be found
Intended marriage (fiancé(e))	Prospective Marriage visa	Page 30
Married (de jure) relationship	Partner visa	Page 34
De facto partner relationship (including a same-sex relationship)	Partner visa	Page 34

Note: A Prospective Marriage visa can only be applied for, and granted, outside Australia.

If you want to apply for a partner category visa, you must be sponsored by a person (being your fiancé(e), partner, or in some circumstances, a parent or guardian of your partner) who is an Australian citizen, Australian permanent resident or eligible New Zealand citizen and who can satisfy the legal requirements for being a sponsor. You must also meet health and character criteria. If you have dependent children or other dependent family members, they may make combined applications with your application provided that they meet certain requirements.

This booklet is designed to help you and your fiancé(e) or partner decide if you are eligible to apply for a partner category visa, for which visa you should apply, and what you need to know to lodge an application. It is a guide intended for the use for persons applying for a partner category visa from both within or outside of Australia.

It is extremely important that you lodge a COMPLETE application as this will assist in reducing processing times. The information in this booklet will tell you what you need to make a complete application.

Application stages

Applying from outside Australia

Subclass 300 –
Prospective Marriage
(temporary)

You plan to marry
your Australian
fiancé(e).

See page 30.



Subclass 820 – Partner
(temporary)

You:

- travel to Australia;
- then marry your Australian partner while the subclass 300 visa is valid; and
- then make an application (in Australia) to stay in Australia.

See page 34.



Subclass 801 – Partner
(residence)

You are still in the
relationship with your
Australian partner
2 years after first
applying for the
subclass 820 visa.

See page 34.

OR

Subclass 309 – Partner (provisional)

You and your Australian partner:

- are legally married; or
- intend to legally marry in the near future and prior to migration; or
- have been in a de facto relationship for at least the entire 12 months prior to the date of application.

See page 34.



Subclass 100 – Partner (migrant)

You are still in the relationship with
your Australian partner 2 years after first
applying for the subclass 309 visa.

See page 34.

Applying from inside Australia

Subclass 820 – Partner (temporary)

You and your Australian partner:

- are legally married; or
- have been in a de facto relationship for at least the entire 12 months prior to the date of application.

See page 34.



Subclass 801 – Partner (residence)

You are still in the relationship with
your Australian partner 2 years after first
applying for the subclass 820 visa.

See page 34.

How to apply

Forms

The 2 main application forms relating to partner migration are:

- form 47SP *Application for migration to Australia by a partner*; and
- form 40SP *Sponsorship for a partner to migrate to Australia*.

Form 47SP serves as an application for both the temporary and permanent Partner visas and, similarly, form 40SP serves as a sponsorship application for these visas. Therefore, after you have been granted a temporary Partner visa, you do not need to lodge another form 47SP in order for consideration of your permanent visa to occur. At time of this consideration, however, the department may request you obtain another completed form 40SP from your sponsor.

If you are a Prospective Marriage visa applicant, you also use the form 47SP and form 40SP. If you and your fiancé(e) marry before a decision is made on your visa application, you should notify the department and your application will then be changed to that of a Partner visa (for notification requirements, see page 33). However, if you have been granted a Prospective Marriage visa, enter Australia and then marry your fiancé(e) while your visa is still valid, you will need to lodge another form 47SP and form 40SP in order to be considered an applicant for a Partner visa.

Partner visa application forms are available:

- as PDF files from the department's website **www.immi.gov.au/allforms/** printed out and then filled in; or
- in paper format from your nearest office of the department or Australian mission and then filled in.

Note: All Partner visa applications or sponsorship application forms must be signed by, respectively, you and your dependants migrating with you or by your sponsor. Together with all supporting documentation, you must then lodge these forms at the relevant office of the department or Australian mission overseas. **Partner visa applications cannot currently be lodged online.**

Supporting documentation

Before you lodge your Partner visa application, you should make sure that you have read through all parts of this booklet and that you and your sponsor are aware of all the requirements (including supporting documentation) for your migration to Australia as a partner. For further details on supporting documentation, see 'Checklists' on page 11.

If you cannot provide all the supporting documentation when you lodge your Partner visa application, you should tell the office what documents are missing and when you expect to be able to provide them.

If you do not provide all the necessary documents, the department may make a decision based on the information you have provided. It is therefore in your interests to support your Partner visa application with as much information as possible at the time you lodge your application.

Checklists

If you have downloaded the PDF file from the department's website and printed it out, or obtained from your nearest office of the department or Australian mission overseas, a printed version of form 47SP or form 40SP to enable you to fill it in by hand, you can find checklists relating to your application for a:

- Prospective Marriage visa, see pages 31–32.
- Partner visa, see page 36 and 'Part 7 – Evidence to provide with your application' on page 38.

Note: There is also a document checklist in form 47SP.

These checklists are intended as a guide only. Individual offices of the department and Australian missions outside Australia may require further documents or information from you, or may have slightly differing processes. You should check this with the office where you intend to lodge your application.

Where to apply

In Australia

Applications should be lodged by post or courier with a Partner Processing Centre. You can find a list of the Partner Processing Centres on the department's website www.immi.gov.au/contacts

Outside Australia

Applications can be made at an Australian mission overseas that has departmental facilities. Contact details for your nearest Australian mission can be found at the department's website www.immi.gov.au/contacts/

Note: Departmental missions overseas vary greatly in the services that they are able to provide. Please check the mission's website or contact the mission to check if it is preferable to mail your application or to lodge it in person. At some Australian missions, you should make an appointment to lodge your application in person as this may help to speed up processing.

Your location at time of application lodgement

Where you lodge your Partner visa application affects:

- where you must be at time of visa grant if your Partner visa application is successful; or
- who can lodge an application to seek review of the decision if your Partner visa application is not successful.

For temporary Partner visa grants, if you lodge your Partner visa application while you are outside Australia, you must be outside Australia when the temporary Partner visa (subclasses 300 or 309) is granted. If you lodge your application while you are in Australia, you must be in Australia when the temporary Partner visa (subclass 820) is granted.

For permanent Partner visa grants, if you lodge your Partner visa application while you are outside Australia, you may be either in or outside Australia when the permanent visa (subclass 100) is granted. If you lodge your application while you are in Australia, you may be either in or outside Australia when the permanent Partner visa (subclass 801) is granted.

For further details about how your location at time of application lodgement affects you, see 'If your application is refused' on page 51.

PART 2

Are you eligible to apply?

Before you make your Partner visa application, please read the following information **carefully**.

There are certain circumstances that may prevent you from lodging a valid application or may prevent the visa from being granted.

If you are applying in Australia, you may not be able to make a valid application or you may not be eligible to be granted a Partner visa, if you:

- do not hold a substantive visa and have had a Partner visa refused or cancelled since your last entry to Australia; or
- do not hold a substantive visa (see page 6) and your previous visa has ceased; or
- hold a visa with a *No further stay condition* (conditions 8503, 8534 or 8535); or
- hold a Sponsored Visitor visa; or
- hold a Criminal Justice visa; or
- since your last entry to Australia, hold or held a Provisional General Skilled Migration visa and you have not held or did not hold that visa for at least 2 years; or
- have a debt to the Australian Government and have not made satisfactory arrangements to repay the debt.

Note: If you do not hold a substantive visa and have had a visa refused or cancelled since your last entry to Australia (other than a visa cancellation or refusal on character grounds or a Partner visa refusal), you may be able to make a valid application in Australia as long as you provide a completed form 40SP *Sponsorship for a partner to migrate to Australia* (see page 14) and 2 statutory declarations from Australian citizens, permanent residents or eligible New Zealand citizens supporting the existence of your relationship with your sponsor (see page 28).

If you are applying outside Australia and you:

- have a debt to the Australian Government,

you may not be granted a Partner visa until you have made satisfactory arrangements to pay that debt.

If you believe that any of the above circumstances apply, you should contact your nearest office of the department or Australian overseas mission before making an application (see page 12).

Note: There are circumstances that may affect your partner's ability to sponsor you. See page 15 for details.

PART 3

Information for sponsors

All applicants for a partner category visa must have a sponsor. The sponsor must be prepared to sponsor the visa applicant and any dependent family members who are also included in the application and who are also migrating with the applicant. The sponsor is usually the person with whom the visa applicant has the fiancé(e) or partner relationship.

You, as the sponsor, must meet a range of legal criteria to be eligible to sponsor your fiancé(e) or partner.

As part of the application process, your relationship with your fiancé(e) or partner will be assessed. This means that you and your fiancé(e) or partner will be asked to provide personal information and documents to the department. You may also be asked personal questions about your relationship at interview.

To help determine whether or not you can meet these criteria, you must complete form 40SP *Sponsorship for a partner to migrate to Australia*, which includes providing evidence of your employment and financial status and giving a sponsorship undertaking (see page 16). The form is available from the department's website and can be printed out as a PDF, or obtained in paper format from the nearest office of the department or Australian mission overseas, and then filled in. For further details on how to make a sponsorship application, see page 12.

Once you have completed and signed the form, you should give or send it to your fiancé(e) or partner so that they can lodge it together with the form 47SP *Application for migration to Australia by a partner* that they have completed, as well as any other relevant forms and documents and the application charge (or evidence that the charge has been paid).

If your partner:

- is in Australia; and
- does not hold a substantive visa, and
- has had a visa refused or cancelled since their last entry to Australia (other than a visa cancellation or refusal on character grounds or a Partner visa refusal);

it is a legal requirement that they submit a completed form 40SP *Sponsorship for a partner to migrate to Australia* in order to make a valid application.

There is no guarantee that your fiancé(e) or partner's application for a visa will be successful. This will depend on whether or not your fiancé(e) or partner can satisfy the applicable legal criteria. If their application is refused, depending on the partner category visa for which they applied and on where they applied, either you or your fiancé(e) or partner (the visa applicant) may be able to seek review of the decision. For more information, see page 51.

Sponsorship eligibility

The following information is intended for you as the Australian citizen, Australian permanent resident or eligible New Zealand citizen who wishes to sponsor the visa applicant as your fiancé(e) or partner to Australia.

If you wish to sponsor the visa applicant as your fiancé(e) or partner, you must:

- be an Australian citizen, Australian permanent resident or eligible New Zealand citizen; but
- not be the holder of a Woman at Risk visa (subclass 204) that has been granted in the past 5 years and now wishes to sponsor their partner or former partner that they had at the time of visa grant.

If you are an Australian permanent resident or eligible New Zealand citizen, you are required to be usually resident in Australia.

Note: If you are an eligible New Zealand citizen who is sponsoring their fiancé(e) or partner, in addition to meeting the usually resident requirement, you must meet health and character requirements. After your fiancé(e) or partner has lodged their complete visa application (which will include your sponsorship application), the department will contact you to advise if you need to undertake health and/or character checks.

If your partner is applying for a...	as sponsor, you must be...
Prospective Marriage visa	<ul style="list-style-type: none"> • aged 18 years or over*; • known personally to your fiancé(e) and have met in person as adults; and • free to marry your fiancé(e). There must be no impediment to your marriage.
Partner visa	<ul style="list-style-type: none"> • aged 18 years or over*; • in a married or de facto partner relationship with your partner.

*If you are:

- aged 16 or 17 years of age; and
- in Australia; and
- wish to sponsor your fiancé(e) or spouse who is aged 18 years or over;

your parent or guardian must be your fiancé(e) or partner's sponsor. Your parent or guardian must be an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen aged 18 years or over.

For more details on Prospective Marriage visas, see page 30 and Partner visas, see page 34.

Limitations on sponsorship

If you have previously sponsored a partner or been sponsored as a partner

Your partner's visa application may be refused if you are affected by certain sponsorship limitations relating to previously successful partner applications. These include if you:

- have previously sponsored or nominated* 2 or more persons as a fiancé(e) or partner for migration to Australia (including sponsorships/nominations you may have withdrawn but your former fiancé(e) or partner obtained permanent residence on family violence grounds); or
- have sponsored another fiancé(e) or partner within the last 5 years; or
- were sponsored as a fiancé(e) or partner yourself within the last 5 years.

* Prior to 1 July 2002, persons who applied in Australia for migration to Australia as a partner were 'nominated' by their partner. Those who applied outside Australia as a fiancé(e) or partner were 'sponsored'.

Approved sponsorships or nominations are those that resulted in the grant to an applicant of a permission, an entry permit (granted prior to 1 September 1994) or a visa.

You may still be approved as sponsor of your fiancé(e) or partner in compelling circumstances, such as:

- if your previous partner has died;
- if your previous partner has abandoned the relationship leaving young children;
- if your relationship with your current fiancé(e) or partner is long standing; or
- if you and your current fiancé(e) or partner have children of your relationship.

The purpose of the sponsorship limitation is to prevent abuse of the partner migration provisions and this will be considered by a departmental decision maker when considering whether or not to exercise the waiver. Every aspect of your circumstances is relevant to the existence of compelling circumstances, including the extent and importance of your ties to Australia and the consequent hardship/detriment that would be suffered by you if the sponsorship were not approved.

If you are a current or previous contributory parent category visa holder

If you have been granted a permanent contributory parent category visa on or after 1 July 2009, you are unable to sponsor a person for a partner or fiancé(e) visa for 5 years from your visa grant date if you were in a married or de facto relationship with that person on or before the date you were granted the contributory parent category visa.

There are some exceptions to this limitation if you can provide compelling reasons. Compelling reasons may include if your partner was unable to migrate with you because of a major family illness or other significant obligations, other than financially-related obligations. In this situation, the department expects that you will be able to provide evidence of a change in circumstances that now allows your partner to apply for the Partner or Prospective Marriage visa.

Further information about sponsorship limitations

If you need further information about sponsorship limitations, you should contact your nearest office of the department.

Sponsorship undertaking

As sponsor for your fiancé(e) or partner's visa application to migrate to Australia, you sign a sponsorship undertaking at the end of form 40SP *Sponsorship for a partner to migrate to Australia*.

If your fiancé(e) applies for and is granted a Prospective Marriage visa, as sponsor you are responsible for all financial obligations to the Australian Government that your fiancé(e) might incur during the period they are in Australia.

If your partner applies for and is granted a Partner visa, as sponsor you agree to provide adequate accommodation and financial assistance as required to meet your partner's reasonable living needs. If your partner is applying outside Australia, this assistance would cover their first 2 years in Australia. If your partner is applying in Australia, this assistance would cover the 2 years following the grant of their temporary Partner visa. You are also required to provide financial and other support, such as childcare, that will enable your partner to attend appropriate English classes.

By signing the undertaking, you will also be agreeing to provide information and advice to help your partner settle in Australia. This information and advice should include telling your partner about employment in Australia.

It is important that your fiancé(e) or partner and dependants understand that Australia's national language is English. A good standard of spoken and written English is essential if they want to work in Australia. Without these skills, it may be very difficult for them to gain employment at a level commensurate with their job skills and qualifications. They should therefore assess their own employment prospects in Australia, whether or not they intend to work immediately.

Protection of children

The Australian Government considers that the safety of children is paramount and this is reflected in policies about the sponsorship of minors for visas to enter Australia. The government wants to ensure that children seeking to enter Australia under partner category and child visas are protected from being sponsored by people with convictions for child sex offences or other serious offences indicating that they may pose a significant risk to a child in their care.

A sponsorship limitation in the Migration Regulations prevents a sponsorship from being approved if one of the proposed applicants is under 18 and the Minister is satisfied that the sponsor has a conviction or outstanding charge for a registrable offence. Sponsors of partner or prospective marriage visa applications which include an applicant aged under 18 years, are required to provide an Australian Federal Police (AFP) National Police Check and/or foreign police certificate(s) as part of the process of assessing the application. The results of the police certificate(s) are used by the department to assess the sponsorship application and whether or not the visa application satisfies public interest criteria relating to the best interests of the children.

A sponsorship that would otherwise be refused under this limitation may be approved at the discretion of the Minister or their delegate if 5 years have passed since completion of the sentence for the last relevant offence and there are compelling circumstances affecting the sponsor or the visa applicant.

In addition to the AFP National Police Check or other police certificate(s), sponsors must disclose to the department any information relating to any conviction for child sex offences they have had or any charges currently awaiting legal action. It is also important that migration applicants, and any non-migrating person who can lawfully determine where a migrating minor child is to live, are informed when the sponsor has such convictions or outstanding charges.

When the department is aware of any convictions or charges of this nature, through either:

- the AFP National Police Check or other police certificate(s) provided;
- the answers you provide to Question 39 on form 40SP *Sponsorship for a partner to migrate to Australia* or Question 36 on form 918 *Application for a subclass 445 (temporary) visa by a dependent child*; or
- liaison with relevant Commonwealth, state and territory agencies;

it may inform the migration applicant, and any non-migrating person who can lawfully determine where the applicant's migrating minor child may live, about the convictions or charges. Signing the sponsorship undertaking will be taken as your acknowledgement of this approach.

Privacy

Under Australia's privacy laws, the department can only give you information that your partner could reasonably expect you to be given. This would include general information on the progress of their application. Your fiancé(e) or partner must give written permission for the department to give you more detailed information, such as your fiancé(e) or partner's sensitive personal details or the detailed reasons for a decision on their application.

Breakdown of relationships

As sponsor, you should immediately notify the department if your relationship with your fiancé(e) or partner breaks down.

Once you have written to the department and an officer of the department has confirmed the breakdown, you will be asked to formally withdraw your sponsorship. After you have withdrawn your sponsorship, Australian privacy laws prevent you from receiving further advice or being given information in relation to your former fiancé(e) or partner's visa application.

Under certain circumstances, if your former fiancé(e) or partner has been granted a temporary visa and is already in Australia, they may still be eligible for a permanent Partner visa and may not be required to leave Australia. In addition, your former fiancé(e) or partner will generally have the same rights and entitlements under Australian law (including the *Family Law Act 1975*) as an Australian-born person. This may mean that they are entitled to part of your property, assets and income.

PART 4

General information

12-month relationship requirement for de facto partners

About the 12-month relationship requirement

To be eligible for a Partner visa on the basis of a de facto relationship at the time you apply, you and your partner must be aged 18 years or over and:

- have been in the relationship for at least the entire 12 months before the date you lodged your Partner visa application; or
- meet one of the provisions set out below.

Note: Periods of 'dating' do not count towards the 12-month relationship requirement.

For detailed information on eligibility requirements for a Partner visa on the ground of being in a de facto relationship, see page 35.

Waiver of the 12-month relationship requirement

The 12-month relationship requirement at time of application lodgement does not apply if:

- you can establish that there are compelling and compassionate circumstances for the grant of the visa, such as you have children with your partner or cohabitation was not permissible under the law of the country where you resided for the 12 months before you applied;
- your partner is, or was, the holder of a permanent humanitarian visa, and before that permanent humanitarian visa was granted, you were in a relationship with your partner that satisfies the requirements of a de facto relationship according to the Migration Regulations, and the department was informed of this before the permanent humanitarian visa was granted; or
- at the time of application for the visa the de facto relationship was registered under a law of a state or territory prescribed in the Acts Interpretation (Registered Relationship) Regulations 2008 as a kind of relationship prescribed in those regulations. Relationship registration is not available in all Australian states or territories and eligibility for registration also differs depending on the state or territory. Prospective applicants considering registration of their relationship should check with the relevant state or territory Births, Deaths and Marriages agency for further information.

If you feel that there are compelling and compassionate circumstances that may mean the 12-month requirement does not apply, you should provide a statement with your application that outlines and explains the reasons for your request.

For further information on the 12-month relationship requirement, see Fact sheet 35 *One-Year Relationship Requirement*, which is available from the department's website www.immi.gov.au/media/fact-sheets/, from your nearest office of the department or Australian mission.

Health requirements

You and all members of your family unit must undergo health examinations, including **all** children under the age of 18 years as well as dependants who may not live with you and who are not migrating. If you or any of your dependent relatives do not meet health requirements, you may not be granted a partner category visa.

Usually a medical examination, chest x-ray and possibly some laboratory or specialist tests are required. This can be a lengthy process and costs will be your responsibility. Medical test results are generally valid for one year. Occasionally, assessment of visa applications may be delayed beyond 12 months. If this is the case, you will be required to undergo further health examinations at your own expense.

If you are pregnant, you may choose not to be x-rayed until after the birth of your baby. This may delay the finalisation of your application. Alternatively, you could use a lead shielded x-ray. This would be at your own risk and is not recommended by the Australian Government.

Health conditions that may lead to your application being refused include:

- tuberculosis;
- other conditions where you are assessed by Australian authorities as requiring treatment, support or assistance that are considered to be in short supply, or that have a high cost.

A positive HIV or other test result will not necessarily lead to a visa being refused. However, your result(s) may be disclosed to the relevant Commonwealth and state or territory health agencies in Australia.

Timing and location of medical examinations

If you apply outside Australia	If you apply in Australia
<p>In some cases, you will be able to undertake health examinations before you lodge your visa application. This will enable you to lodge a complete application, which may help to speed up processing of your application. This service is not available in all countries so you should check with the Australian mission at which you will be lodging your application. Contact details for Australian missions are on page 12.</p> <p>The relevant Australian mission will provide you with medical examination forms and directions to listed doctors approved by Australian authorities.</p>	<p>If possible, you should visit Medibank Health Solutions for your medical examinations before you lodge your Partner visa application. If you live in a regional area, contact a Medibank Health Solutions office to find out details of an approved doctor. For more information on Medibank Health Solutions, go to www.medibankhealth.com.au</p> <p>Your local office of the department will provide you with forms and further instructions.</p>

Doctors will charge you fees in accordance with their usual practice and may recommend you undertake other treatment or specialist consultations. You are not obliged to undertake treatment at a listed doctor's direction. However, when it is advised that it is necessary, you will be required to complete the further actions before processing of your Partner visa application can proceed.

Note: The doctor who examines you does not decide whether you meet the health requirements for the visa. Results are sent to the Australian authorities who then make the decision.

You can obtain further information about the medical assessment process from Fact sheet 22 *The Health requirement*, which is available from the department's website www.immi.gov.au/media/fact-sheets/, from offices of the department or Australian missions.

Character requirements

To enter Australia, all partner category visa applicants must be of good character. If you or any of your dependent relatives do not satisfy the character requirements, you may not be granted a partner category visa.

Character test

To be of good character, you must satisfy the character test. You will not satisfy this test if:

- you have a substantial criminal record;
- you have an association with a person or group that is suspected to have been or is involved in criminal conduct; or
- due to your past and present criminal and/or general conduct, there is significant risk that, if you were to enter or remain in Australia, you:
 - would engage in criminal conduct;
 - harass another person in Australia;
 - vilify a segment of the Australian community;
 - incite discord in the Australian community; or
 - become involved in activities that are disruptive or bring harm to the Australian community or a segment of that community.

For further information on the character requirements, see Fact sheet 79 *The character requirement*, which is available from the department's website

www.immi.gov.au/media/fact-sheets/, from your nearest office of the department or Australian mission.

Police checks

As part of having to satisfy the character test, you must provide police checks. Such evidence will be considered in determining whether or not you can meet the character requirements. Police checks are required for yourself and each of your dependants (whether migrating or not) who are aged 16 years or over.

You should obtain a police check for each country in which you or your dependants have resided during the last 10 years where:

- the period of residence was 12 months or longer (in total); and
- the person was aged 16 years or over at the time of residence.

You must provide the department with originals of police checks. These will generally not be returned to you, so you should make copies for your own records.

In undertaking character test assessment, the department may contact you and your dependants seeking additional personal information.

When to supply police checks

If you apply outside Australia	If you apply in Australia
You may need to provide this information when you apply. You will be advised by the office at which you will be lodging your application when police checks are required. That office will also provide you with forms and instructions as appropriate. Contact details for Australian missions are on page 12.	You should provide this information with your application.

Note: If you are required to provide an Australian police check (also known as an Australian penal clearance certificate), you must complete the National Police Check application form that is available from the Australian Federal Police (AFP) website www.afp.gov.au

You should use Code 33 at Question 1 on the form and include details of any, and all, names you have been known by. If an AFP certificate is provided based on incorrect information, the department may request another certificate. Fingerprints are not required for National Police Checks.

Police checks are valid only for 12 months from the date of issue.

More information on police checks, including overseas police checks, is available from the department's website www.immi.gov.au/allforms/character-requirements/

Travel and residence details

You and each person included in your application must provide details of all countries outside Australia that have been visited during the past 10 years.

For any applicant aged 16 years or over, details are also required for all countries where there was a period of residence, in total, of 12 months or longer.

Dependants

Your dependent children and/or other dependent relatives may be included in, or added to, certain applications for partner category migration in some circumstances. However, this can only be done if they can satisfy legislative requirements relating to their location and type of visa and that they are included in the application before your permanent Partner visa is granted.

Note: All your dependants, whether migrating with you or not, must meet the health and character requirements. If not, you may not be granted a partner category visa.

Dependent children

To be considered your dependent child, your child must:

- be under 18 years of age; or
- if aged 18 years or over, have been wholly or substantially dependent on you for a substantial period (at least 12 months) for their basic needs (food, clothing and shelter); or
- if aged 18 years or over, have a total or partial loss of their bodily or mental functions that stops them from earning a living (whether or not they migrate with you).

If your child (regardless of their age) is married, in a de facto relationship or is engaged to be married, they will not be considered to be dependent.

Evidence to provide for dependent children

You will need to show evidence that a dependent child is:

- your natural (biological) child; or
- an adopted child; or
- a child conceived through an artificial conception procedure (ACP); or
- a child born under surrogacy arrangements, where parentage has been transferred by court order under a prescribed state or territory law; or
- your step-child from a previous relationship.

You should provide a certified copy of each child's birth certificate or adoption papers. If your dependent child is aged 18 years or over, you have to prove that the child is more reliant on you than on any other person or source. If you cannot provide such evidence, it is unlikely that your child will be considered dependent on you.

Note: Occasionally, after a partner category visa application is lodged, a departmental decision-maker may not be satisfied with the submitted documentary evidence of a claimed biological relationship. In such a case, an applicant and that claimed dependant may need to undergo a DNA test to establish that claimed relationship. For more details on DNA testing, see page 47.

For each dependent child aged 18 years or over, whether or not they are migrating with you, you must complete a form 47A *Details of child or other dependent family member aged 18 years or over*. This form is available on the department's website

www.immi.gov.au/allforms/, from any office of the department or Australian mission overseas.

When you can include dependent children in your application

Generally, you can include your dependent child in your partner category visa application before you lodge your application.

For details on adding dependent children to your partner category visa application after you lodge your application, see 'Including a dependent child in your application' on page 46.

Applying in Australia while your dependent child is not in Australia

If you are in Australia when you lodge your Partner visa application but your dependent child is overseas, you will not be able to include your child in your application. However, once you have been granted your temporary Partner visa, your child may apply for a Dependent Child visa (subclass 445). For more details on the Dependent Child visa, see page 47.

Adding dependent children in your application after you have applied

In certain circumstances, your dependent children may be added to your Partner visa application after you have applied for your Partner visa. For further details, see pages 46–47.

Custody requirement

The department seeks to ensure that allowing a child to migrate is not in contravention of Australia's international obligations in relation to the prevention of child abduction. If your application includes a child under 18 years of age and that child's other parent is not migrating with you, or there is any other person who has the legal right to determine where that child can live, you will need to provide the evidence as outlined below.

For each child aged under 18 years, you will need to provide one of the following:

- evidence that the law of your home country permits you to remove the child to Australia. This could include an overseas court order granting you sole custody of the child;

- evidence that each person who can lawfully determine where the child is to live consents to the grant of the visa. Such evidence should be either:
 - a statutory declaration or a legal document signed by the child's other parent (or any other person who can lawfully determine where the child shall live) consenting to the grant of the visa; or
 - evidence that the child's other parent is dead, such as a certified copy of the death certificate; and
- evidence that the grant of the visa would be consistent with any Australian child order in force in relation to the child. Such evidence should be the original or certified copy of the Australian Court order providing you with sole responsibility to decide where the child should live.

In the case of a step-child, you will need to provide evidence that you were in a partner relationship with the child's natural parent and that you have been awarded one of the following:

- a parenting order in force under the *Family Law Act 1975* under which the parent is the person with whom a child is to live, or who is to be responsible for the child's long-term or day-to-day care, welfare and development; or
- guardianship or custody, whether jointly or otherwise, under a Commonwealth, state or territory law or a law in force in a foreign country.

Best interests of the child

If an applicant includes a dependent family member under 18 years of age in their application, the sponsorship cannot be approved (except in very limited circumstances) if the sponsor has a conviction or an outstanding charge for an offence against a child. There is also a criterion for the visa that there is no compelling reason to believe that the grant of the visa would not be in the best interests of that dependant.

In order to assess the sponsorship application and the best interests of the child criterion, sponsors of children under 18 years of age are required to submit an Australian National Police Check if the sponsor has spent a total of 12 months or more in Australia since turning 16 years of age. The sponsor must also provide police certificates from each country in which they have spent a total of 12 months or more in the last 10 years since turning 16 years of age.

Sponsors who are required to submit an Australian National Police Check must complete the National Police Check application form which is available from the Australian Federal Police website www.afp.gov.au

Sponsors should use Code 33 at Question 1 on the form and include details of any, and all, names they have been known by. If an AFP certificate is provided based on incorrect information, the department may request another certificate. Fingerprints are not required for National Police Checks.

A police certificate from any country may be considered valid if the sponsor has not spent a total of 12 months or more in the country of issue since the certificate was issued.

More information on police checks, including overseas police checks, is available from the department's website www.immi.gov.au/allforms/character-requirements/

Other dependent relatives

Other dependent relatives may also be included in your Partner visa application, but only in some circumstances.

A person is your dependent relative if they are:

- not your dependent child;
- your parent, brother or sister; step-parent, step-brother or step-sister; grandparent, grandchild, aunt, uncle, niece or nephew, step-grandparent, step-grandchild, step-aunt, step-uncle, step-niece or step-nephew;
- single (eg. a widowed aunt, etc);

- usually resident in your household;
- wholly or substantially financially reliant on you for their basic needs (food, clothing and shelter);
- reliant on you for a substantial period (at least 12 months); and
- more reliant on you for that support than on any other person or source.

If you have any dependent relatives who are aged 18 years or over, you must complete form 47A *Details of child or other dependent family member aged 18 years or over* and attach it to your Partner visa application. Form 47A must be completed for each dependent relative who is aged 18 years or over, whether or not they are migrating with you. This form is available from the department's website www.immi.gov.au/allforms/, from any office of the department or Australian mission overseas.

When you can include your other dependent relatives to your application

A dependent relative (other than a dependent child) can be included in your partner category visa application only when you initially fill in that application.

A dependent relative cannot be added to your partner category visa application after you have lodged your application.

However, your dependent relative is able to be considered for a Partner visa (subclass 820/801) if:

- they are in Australia;
- they can satisfy the requirement that they are a member of your family unit;
- you arrived in Australia as a Prospective Marriage visa (subclass 300) holder and you have lodged a Partner visa (subclass 820/801) application when in Australia; and
- before a decision is made on your permanent Partner visa (subclass 801) application, they have lodged a separate Partner visa application and have paid a Visa Application Charge.

Their application may then be processed together with your Partner visa application.

Evidence to provide for other dependent relatives

For any dependent relative that you include in your partner category visa application at the time you lodge that application, you will need to provide evidence of their relationship to you and their dependency on you and their marital status. Such evidence is:

- a certified copy of your relative's birth certificate and evidence of their relationship to you;
- evidence that the relative resides in your household;
- evidence that your relative has been dependent on you for at least the last 12 months; and
- if your relative is divorced, legally separated or widowed, as appropriate, a certified copy of their divorce decree absolute, or the document of legal separation or the death certificate of the deceased partner.

Costs and charges

Visa Application Charge

You must pay the correct Visa Application Charge when you lodge your partner category visa application. This will usually not be refunded if the application is unsuccessful, or if you decide to withdraw your application after you have lodged it. Until you have paid the charge, your application is not legally made and therefore cannot be assessed.

Note: If you are applying for a Partner visa, you pay only one application charge even though:

- you are making an application for a temporary and also for a permanent visa at the same time and on the same form; and
- you include members of your family unit in your visa application.

Visa Application Charges may be subject to adjustment on 1 July each year. This may increase the cost of a visa.

To check the Visa Application Charge, see form 990i *Charges*, available from the department's website www.immi.gov.au/allforms/990i.htm

If you apply outside Australia	If you apply in Australia
Before making a payment outside Australia, please check with the Australian Government office where you intend to lodge your application as to what methods of payment they can accept. Contact details for Australian missions are available on the department's website www.immi.gov.au/contacts/	To make a payment, please pay by credit card, debit card, bank cheque or money order made payable to the Department of Immigration and Citizenship. Debit card and credit card are the preferred methods of payment.

Medical costs

You will be required to pay any charges associated with medical and x-ray examinations. The doctor sets the cost of the examinations.

Character costs

You may be required to pay a charge for obtaining police checks. This charge varies from country to country. When you are required to obtain your own police checks, you are personally responsible for all arrangements.

Other costs

You should also be prepared to pay other costs associated with your application, such as the cost of translations of some documents.

Certified copies

Do not supply original documents with your application unless asked to do so. If an original document is required at any stage, the department will ask for it. Please note that police checks are the exception. You must provide original police checks.

You should provide 'certified copies' of original documents. 'Certified copies' are copies authorised, or stamped as being true copies of originals, by a person or agency recognised by the law of the country in which you currently reside. All Australian missions have the facility to certify or witness documents and statutory declarations if necessary (this service may attract a charge). For certification in Australia, see the indicative list of persons on the next page under 'Who can witness statutory declarations and/or form 888'.

Statutory declarations

When assessing a Partner visa application, the department is required to consider:

- statements from you and your sponsor regarding the history of your partner relationship; and
- the social aspects of your relationship derived from, amongst other evidence, statements to support your claims from persons who know you and your partner.

The department prefers that these statements not be duplicates of each other, ie. formulaic, but should be written in each declarant's own words. Otherwise, the department may request that you provide new statements.

Statements about the history of your relationship

The statements written by you and your partner in support of your Partner visa application can be on ordinary writing paper or a statutory declaration form may be used. Blank Australian statutory declaration templates are available from the Attorney-General's Department website www.ag.gov.au/statdec

Details of what is required in these statements can be found under 'History of your relationship' on page 39.

Statements from persons who know you and your partner

It is the department's policy that these statements provided about you and your partner should be in the form of a statutory declaration. The persons making these declarations must be:

- aged 18 years or over; and
- either an Australian citizen or an Australian permanent resident.

You must also supply with these statements proof that your supporting witnesses are Australian citizens or Australian permanent residents.

While it is not mandatory, for this purpose, form 888 *Statutory declaration by a supporting witness relating to a partner visa application* is available from the department's website www.immi.gov.au/allforms/pdf/888.pdf or from any office of the department or Australian mission.

Note: Prospective Marriage visa applicants are also required to provide similar statements from persons who can support their claims of their fiancé(e) relationship and its development (see page 31 for details about the documents to be provided by Prospective Marriage visa applicants).

Statements from certain persons usually barred from applying for a Partner visa

If you:

- are in Australia; and
- do not hold a substantive visa; and
- have had a visa refused or cancelled since your last entry to Australia (other than visa cancellation or refusal on character grounds or a Partner visa refusal); and
- wish to apply for a Partner visa; then

in order to make a valid Partner visa application, you must provide statutory declarations from 2 persons who:

- are aged 18 years or over;
- are Australian citizens or Australian permanent residents; and
- can support the existence of your relationship with your partner.

These statutory declarations can be either completed by using either the:

- blank statutory declaration template available from the Attorney-General's Department website www.ag.gov.au/statdec; or
- form 888 *Statutory declaration by a supporting witness relating to a partner visa application* available from the department's website www.immi.gov.au/allforms/pdf/888.pdf or from any office of the department or Australian mission.

The statutory declarations must have been made no more than 6 weeks prior to the day you lodge your application.

Note: If you provide these 2 completed statutory declarations, and they give sufficient evidence to support the existence, as well as the history, of your relationship with your partner, in most cases they will also be acceptable for the purposes of assessing the social context of your relationship (see page 27).

Who can witness statutory declarations and/or form 888

In Australia, all statutory declarations (including form 888) must be witnessed by a person prescribed by the *Statutory Declarations Act 1959* and Regulations. Prescribed persons include, but are not limited to, those who are a:

- Justice of the Peace;
- medical practitioner;
- legal practitioner;
- civil marriage celebrant or registered minister of religion;
- dentist;
- nurse;
- optometrist;
- pharmacist;
- physiotherapist;
- full-time teacher;
- bank manager or bank officer with 5 or more continuous years of service;
- postal manager or permanent employee of the Australian Postal Commission with 5 or more continuous years of service;
- police officer; or
- public servant with 5 or more continuous years of service.

A full list of prescribed persons can be found in the Statutory Declarations Regulations 1993, which is available through the Attorney-General's Department website www.ag.gov.au/agd/WWW/agdhome.nsf/Page/Portfolio. A blank statutory declaration form is also available from the same website.

Note: Under the *Statutory Declarations Act 1959*, people who intentionally make a false statement in a statutory declaration are liable for punishment of up to 4 years imprisonment. In addition, the *Migration Act 1958* provides penalties of up to 12 months imprisonment or a fine of up to AUD12,000 for providing false or misleading statements.

If you are outside Australia

If you are outside Australia and are unable to get an Australian citizen or Australian permanent resident to complete a statutory declaration in support of your relationship with your partner, you may obtain statements from people who know you and your sponsor. Such statements are not statutory declarations under Australian law. However, in accordance with policy, they should be witnessed or certified according to the legal practices of the relevant country. Failing that, they should be witnessed by a person whose occupation or qualification is comparable to a person included in the prescribed persons list on page 28. This person should sign, date and specify their occupation or qualification at the bottom of the statement.

You should confirm the requirements with the nearest Australian mission overseas when you lodge your application. Contact details for Australian missions are available from the department's website [**www.immi.gov.au/contacts/**](http://www.immi.gov.au/contacts/)

English translations

Documents in languages other than English that you provide with you partner category visa application must also be accompanied by an accurate English translation of each of those documents.

If you are applying for a Partner visa in Australia and you are therefore having documents translated in Australia, it is recommended that you use a translator who has been accredited by the National Accreditation Authority for Translations and Interpreters (NAATI). Further information on NAATI is available from their website [**www.naati.com.au**](http://www.naati.com.au)

If you are applying for a partner category visa outside Australia and you are therefore having documents translated outside Australia, it is recommended that you use a translator who is professionally qualified.

PART 5

Prospective Marriage visa

If you intend to apply for this visa, you must be outside Australia when you apply and when the visa is granted.

A Prospective Marriage visa is a temporary visa that remains valid for 9 months from the date the visa is granted. If you are granted a Prospective Marriage visa, you must enter Australia and, after that entry, marry your intended spouse (your fiancé(e)) within the period that the visa is valid. You may then apply for a Partner visa when you are in Australia, but you will have to complete another application form and pay a Visa Application Charge. At each stage of the process, your relationship with your partner will be assessed. (For details about Partner visas, see page 34).

If you are planning to marry your fiancé(e) before entering Australia, or if you have been in a de facto relationship with your fiancé(e) for over 12 months, you should apply for a Partner visa (see page 34).

Eligibility requirements

To be eligible for a Prospective Marriage visa, you must:

- be sponsored (see 'Sponsorship eligibility' on page 15);
- be aged 18 years or over (or if you are aged 16 years or over but less than 18 years, you have an Australian court order allowing you to marry your intended spouse);
- be of the opposite sex to your intended spouse;
- have met (as adults) your intended spouse in person and know him or her. This must be the case even if:
 - it is an arranged marriage;
 - you and your sponsor met as children and the marriage was arranged before you turned 18 years of age; or
 - you met on the internet (exchanging photographs is not evidence of having met in person);
- have no impediment to marrying your intended spouse, that is:
 - you are both free to marry;
 - you are both of marriageable age; and
 - the intended marriage is able to be recognised under Australian law;
- genuinely intend to marry your intended spouse;
- genuinely intend to live with your intended spouse as husband and wife; and
- meet health and character requirements.

Your fiancé(e) in Australia can be aged under 18 years if they have an Australian court order allowing them to marry you. In these circumstances, their parent or guardian must be your sponsor and they must be an Australian citizen, a permanent resident or eligible New Zealand citizen aged 18 years or over. In addition, if your fiancé(e) is aged under 18 years and is in Australia, you must be aged 18 years or over since, under Australian law, there is no provision for permission to be granted to allow an underage couple to marry. For more information about court orders, see the Attorney-General's Department website on family law www.familylaw.gov.au/accesspoint

What to provide with your Prospective Marriage visa application

When you lodge your application, you must provide:

- completed application form 47SP *Application for migration to Australia by a partner* and form 40SP *Sponsorship for a partner to migrate to Australia* (completed by your sponsor). These are available from the department's website www.immi.gov.au/allforms/ to be downloaded as PDF files, printed out and filled in, or obtained in hard copy from an office of the department or Australian mission and filled in.
- if appointing a migration agent or exempt agent or authorised recipient, a completed form 956 *Appointment of a migration agent or exempt agent or other authorised recipient*;
- 4 recent passport-size photographs of yourself and 2 recent passport-size photographs of your sponsor (see page 5);
- certified copies of your passport or travel documents (see page 27 for information on certified copies);
- proof of your identity (see page 38);
- proof that your sponsor is aged 18 years or over and is an Australian citizen, Australian permanent resident or eligible New Zealand Citizen (see page 39);
- satisfactory evidence that you and your fiancé(e) have met face to face as adults and that you are personally known to each other;
- evidence that there is no impediment to you marrying your fiancé(e) (for example and as appropriate, if either you and/or your fiancé(e) have been previously married or a previous spouse has died, a certified copy of the divorce decree absolute or the death certificate of the deceased spouse);
- written statements from both you and your fiancé(e) detailing the history of your fiancé(e) relationship (for example, when and how you met, when you became engaged, joint activities, significant events in the relationship) and your future plans as husband and wife;
- evidence that you intend to marry your fiancé(e) within 9 months of being granted the visa. Such evidence must be a signed and dated letter (on letterhead) from an authorised marriage celebrant who will conduct your wedding ceremony. The letter must include the place and date (or date range) on which the planned marriage ceremony may take place. If you plan to marry in Australia, the celebrant must confirm that a Notice of Intended Marriage (NOIM) for you and your fiancé(e) has been lodged with them (see page 32 for further details about NOIMs);
- evidence that both you and your fiancé(e) are both of marriageable age, which means usually you must both be 18 years of age when you marry. If either you or your fiancé(e) is aged under 18 years, you must provide a court order from an Australian magistrate authorising the marriage;

- evidence that you and your fiancé(e) genuinely intend to live in a spouse relationship. The department knows that it is often difficult to provide evidence of your intention in the future to live with your fiancé(e) in a spouse relationship. The required evidence depends on the circumstances of each case. If you have evidence that relates to the financial, household, social context aspects of, and commitment to, your relationship, you should submit this with your Prospective Marriage visa application (see pages 39–40 for guidance about similar such requirements for partner visas).

Note: At the very least, you should submit two statements from family and/or friends who are aware of your intended marriage and can attest to your genuine intention to live together in an ongoing spouse relationship (for guidance about these statements, see ‘Statutory Declarations’ on page 27);

- where possible, completed health and character checks (see pages 20–21).

You must pay the Visa Application Charge (see page 26).

NOIMs

If you intend to marry in Australia after you have been granted a Prospective Marriage visa, a NOIM must be completed and provided to the person who will marry you (the authorised marriage celebrant) at least 1 month and 1 day, but no more than 18 months, before your preferred date of marriage.

You should contact the Registry of Births, Death and Marriages in the state or territory where you intend to marry to enquire about the processing lodging a NOIM. A list of Australian Registries of Births, Deaths and Marriages can be found on the internet at **www.bdm.nsw.gov.au** and **www.bdm.nsw.gov.au/links**

When and where you can marry

The date (or date range) on which the planned marriage ceremony may take place (shown in the letter from the marriage celebrant) should be set far enough in the future to allow for the time it takes to process your visa application. The department’s current service standards for Prospective Marriage visa application processing is 5 to 10 months (depending on your location and circumstances) in 75 percent of cases.

Unless you have an Australian court order or both of you reside outside Australia, both you and your fiancé(e) must be aged 18 years or over (so that the marriage can be recognised under Australian law) when you marry.

If you are granted a Prospective Marriage visa, your marriage can take place either in or outside Australia, but you must have entered Australia at least once on the Prospective Marriage visa before the marriage takes place. In addition, your marriage must occur within the 9-month validity period of your Prospective Marriage visa.

For each dependent child or other dependent family member included in your application, you must provide:

- for each dependant aged 18 years or over, a form 47A *Details of child or other dependent family member aged 18 years or over* (available from the department’s website **www.immi.gov.au/allforms/**, from any office of the department or Australian mission overseas) completed and signed by you, your intended spouse and the dependant concerned;
- 4 recent passport-size photographs;
- certified copies of passports or travel documents;
- certified birth certificates or the family book showing names of both parents;
- custody documents or a statutory declaration from the dependent child’s other parent giving permission for the child to migrate;
- evidence that the signature on the statutory declaration is the signature of that parent, or, if your previous partner died, certified copy of their death certificate;
- for other dependent relatives, evidence that they have been dependent on you for at least the last 12 months;
- if appropriate, completed health and character checks (see pages 20–21); and
- if the dependant is aged under 18 years, an Australian National Police Check or overseas police certificate(s) from the sponsor (see page 17).

For more information on dependent family members, see pages 22–24.

If you marry before you are granted a Prospective Marriage visa

If you marry your fiancé(e) before you are granted a Prospective Marriage visa, you can change your application to that of a Partner visa at no extra charge. To do this, you must:

- immediately send written notification to the department's office or Australian mission processing your application;
- provide a certified copy of the extract from the relevant marriage registry office; and
- provide a written request that, due to your marriage, you wish to withdraw your application for a Prospective Marriage visa and that you wish to change your application to that for a Partner visa.

After you are granted a Prospective Marriage visa

If you are granted a Prospective Marriage visa, you:

- must enter Australia and, after that entry, marry your fiancé(e) within 9 months of visa grant (the date the visa was approved); and
- may then lodge an application for a Partner visa in Australia.

You must ensure that you have made your initial entry to Australia on your Prospective Marriage visa before you marry your fiancé(e). You must also ensure that you marry your fiancé(e) while your Prospective Marriage visa is still valid. The marriage can take place either in or outside Australia provided you have entered Australia on your Prospective Marriage visa at least once before the marriage takes place.

Note: The 9-month visa validity period does not count towards the two-year requirement in relation to Partner visa processing (for details, see page 34).

As the holder of a Prospective Marriage visa, you are entitled to work and study in Australia. However, you are not eligible to apply for Austudy until you have been granted a permanent Partner visa (subclass 801).

If you change address (see page 45) or your circumstances change, you should immediately notify the office handling your application. Such changes in circumstances could be if you have a child with your fiancé(e) or if, after you marry your fiancé(e), your relationship ends. For further information on your visa options if your relationship does end, see page 49.

If you do not marry your fiancé(e) after Prospective Marriage visa grant

If you do not marry your fiancé(e) within the 9-month period of the Prospective Marriage visa, you may not be able to remain in Australia and apply for a Partner visa onshore. Your Prospective Marriage visa would have been granted to you on the basis that you were assessed as genuinely intending to marry your fiancé(e). If you do not travel to Australia and marry your fiancé(e) within the 9-month period of the visa, it may be cancelled and, if you are in Australia, you will have to leave Australia.

If you marry a person other than your fiancé(e), you may still be able to lodge an application for a Partner visa in Australia (see page 34). However, in many cases, if you do not marry your fiancé(e) or if you marry another person instead, your Prospective Marriage visa may be cancelled and, if you are in Australia, you could be required to leave Australia.

PART 6

Partner visa

To be eligible to apply for a Partner visa, you must either be married to, or in a de facto relationship with, your partner at the time you apply.

Persons applying in Australia for a Partner visa may not be immediately eligible to work or study in Australia, unless their previous visa allowed them to do so. Once you have been granted a temporary Partner visa, you will be able to work and study in Australia. However, you are not eligible for Austudy until you have been granted a permanent Partner visa (subclasses 100 or 801).

Processing stages for a Partner visa

Applying for a Partner visa is a 2-stage process.

You apply for a temporary and permanent visa at the one time on the same application form, form 47SP *Application for migration to Australia by a partner* (which is available from the department's website www.immi.gov.au/allforms/ to be downloaded as a PDF file, printed out and filled in, or obtained in hard copy from an office of the department or Australian mission and filled in). You lodge this form together with the form 40SP *Sponsorship for a partner to migrate to Australia* that your sponsor has completed and given to you, any other relevant forms and documents and the application charge (or evidence that you have paid the charge).

You are granted a temporary Partner visa if you meet all the initial criteria. This visa remains valid until a decision is made on your permanent visa application, which is generally 2 years after you initially applied for your Partner visa. If you continue to meet all legal requirements, you will be granted a permanent Partner visa.

Eligibility requirements

Married spouses (de jure)

To apply in Australia for a Partner visa on the basis of marriage, you must be legally married to your partner (in most cases, your sponsor). To apply outside Australia on the basis of marriage, you must either be legally married to your partner at time of application or intend to legally marry your partner in the near future (before a decision is made on the temporary Partner visa).

If you were married in a country other than Australia and that marriage is valid in that country, generally it will be recognised as valid under Australian law. There are some exceptions, such as same-sex, underage or polygamous marriages, which are not accepted in Australia. For more information on marriages recognised in Australia, see the Attorney-General's Department website on family law

www.familylaw.gov.au/accesspoint

To be eligible for a Partner visa on the basis of your marriage, you must:

- be sponsored by an eligible person (see 'Sponsorship eligibility' on page 15)
- be legally married to your partner (usually your sponsor);
- show that you and your partner have a mutual commitment to a shared life as husband and wife to the exclusion of all others;
- show that you have a genuine and continuing relationship with your partner (see page 40);
- show that you and your partner are living together or, if not, that any separation is only temporary; and
- meet health and character requirements (see pages 20–21).

De facto partners (not married but in a de facto relationship)

To apply for a Partner visa as a de facto partner, you and your partner must show that you have been in a de facto relationship for the entire 12 months immediately prior to lodging your application. For details on the 12-month requirement, see page 19.

To be eligible for a Partner visa as a de facto partner, you must:

- be sponsored by an eligible person (usually by your partner) (see 'Sponsorship eligibility' on page 15);
- not be related by family;
- together with your de facto partner, be aged at least 18 years at the time your application is made;
- show that you and your partner have a mutual commitment to a shared life to the exclusion of all others;
- show that you have a genuine and continuing relationship with your partner (see page 39);
- show that you and your partner have been in a de facto relationship for the entire 12 months immediately prior to lodging your application;
- show that you and your partner are living together or, if not, that any separation is only temporary; and
- meet health and character requirements (see pages 20–21).

In assessing a claimed de facto relationship, the department looks at evidence of things such as living together full-time, sharing important financial and social commitments, and setting up a household separately from other people (for acceptable types of evidence, see page 39).

What to provide with your Partner visa application

When you lodge your application, you must provide:

- if you and your partner are married, a certified copy of the registry extract showing details of your marriage;

Note: The department does not consider the decorative marriage certificate to be acceptable evidence of marriage. You will need to contact the relevant registering authority in Australia or overseas to request a registry extract. A list of Australian Registries of Births, Deaths and Marriages can be found on the internet at **www.bdm.nsw.gov.au**

OR

- if you and your partner are in a de facto relationship, evidence that you and your partner have been in a de facto relationship for the entire 12 months prior to lodging your application, or evidence in support of any claim that there are compelling and compassionate circumstances for the grant of the visa, such as you and your partner have a child of your relationship.

All Partner visa applicants must also provide the following:

- completed application form 47SP *Application for migration to Australia by a partner* and form 40SP *Sponsorship for a partner to migrate to Australia* (completed by your sponsor), (which are available from the department's website **www.immi.gov.au/allforms/** to be downloaded as PDF files, printed out and filled in, or obtained in hard copy from an office of the department or Australian mission and filled in);
- if appointing a migration agent or exempt agent or authorised recipient, a completed form 956 *Appointment of a migration agent or exempt agent or other authorised recipient*;
- 4 (or 2 if applying in Australia) recent passport-size photographs of yourself and 2 passport-size photographs of your sponsor (see page 5);
- certified copies of your passport or travel documents (see page 27 for information on certified copies);
- proof of identity (see page 38);
- evidence that your relationship is genuine and continuing (see page 39);
- proof that your sponsor is an Australian citizen, Australian permanent resident or eligible New Zealand citizen who is aged 18 years or over (see page 39);
- statutory declarations from 2 people who are Australian citizens or Australian permanent residents and who support your claim that the relationship is genuine and continuing (see page 27 for information on statutory declarations);
- if previously married, certified copy of divorce certificate or death certificate for each previous marriage; and
- if appropriate, completed health and character checks (see pages 20–21).

You must pay the Visa Application Charge (see page 26).

For each dependent child or other dependent family member included in your application, you must provide:

- for each dependant aged 18 years or over, a form 47A *Details of child or other dependent family member aged 18 years or over* (available from the department's website **www.immi.gov.au/allforms/**, from any office of the department or Australian mission) completed and signed by you, your partner and the dependant concerned;
- 4 (or 2 if applying in Australia) recent passport-size photographs;
- certified copies of passports or travel documents;
- certified copies of birth certificates or the family book showing names of both parents;
- custody documents or a statutory declaration from the child's other parent giving permission for him/her to migrate;
- evidence that the signature on the statutory declaration is the signature of that parent, or if your previous partner died, certified copy of their death certificate;
- for other dependent relatives, evidence that they have been dependent on you for at least the last 12 months;

- if appropriate, completed health and character checks (see pages 20–21); and
- if the dependant is aged under 18 years, an Australian National Police Check or overseas police certificate(s) from the sponsor (see page 17).

For more information on dependent family members, see pages 22–24.

Temporary Partner visa (subclasses 309 and 820)

If you:

- lodge your Partner visa application outside Australia; and
- are outside Australia at the time you apply,

you must also be outside Australia when the temporary Partner visa (subclass 309) is granted.

If you:

- lodge your Partner visa application in Australia; and
- are in Australia at the time you apply,

you must also be in Australia when the temporary Partner visa (subclass 820) is granted.

If you are granted a temporary Partner visa, you will:

- have permission to travel to and from Australia until a decision is made on your permanent visa application; and
- be able to work in Australia.

Approximately 2 years after you first made your Partner visa application, you will be assessed for the grant of the permanent Partner visa (subclasses 100 or 801).

If you have been granted a temporary Partner visa, but now have a dependent child who wishes to migrate but was not included in your Partner visa application, refer to 'Dependent Child visa' on page 47.

If you change address (see page 44) or your circumstances change, you should immediately notify the office handling your application. Such changes in circumstances could be if you have a child with your sponsor or if your relationship ends. For further information on your visa options if your relationship ends, see page 50.

Permanent Partner visa (subclasses 100 and 801)

If you:

- lodged your Partner visa application outside Australia; and
- were outside Australia at the time you applied,

you can be either in or outside Australia when the permanent Partner visa (subclass 100) is granted.

If you:

- lodged your Partner visa application in Australia; and
- were in Australia at the time you applied,

you can be either in or outside Australia when the permanent Partner visa (subclass 801) is granted.

In most cases, permanent residence cannot be granted less than 2 years from when you lodge your application. You may, however, be granted a permanent visa without having to fulfil the usual two-year waiting period if:

- at the time you apply, you have been in a partner relationship with your partner for 3 years or more, or 2 years or more if you and your partner have a dependent child of your relationship; or
- your partner was granted a Protection visa or a permanent visa under the humanitarian program and you were in the relationship before the visa was granted and this had been declared to the department at the time.

PART 7

Evidence to provide with your application

Proof of identity/personal documents

You must provide documentary evidence of your identification and background with your application, along with evidence that your relationship is genuine and continuing. Your sponsor must also provide proof of identification and personal documents.

If you have dependants, you must also provide their documentation with your application.

If you cannot provide all the documents when you make your application, you should tell the department what documents are missing and when you expect to be able to provide them.

If you do not submit all the necessary documents, the department may make a decision based on the information you have provided. It is therefore in your interests to support your application with as much information as possible at time you make your application.

Note: All documents you provide will need to be in the form of certified copies as the department will not return to you most documents you submit with your application. For further details on certified copies, see page 27.

Applicant

You must provide certified copies of the following:

- birth certificate showing both parents' names; OR
one of following: Baptism certificate, passport, family book showing both parents' names, identity document issued by the government, document issued by a court that verifies your identity.
If none of these are available, other acceptable evidence of your identity must be provided;
- evidence of any name changes (for example, deed poll, marriage certificates or divorce certificates);
- your current passport or travel document, and all your previous passports or travel documents; and
- if you have served in the armed forces of any country, certified copies of your military service record or discharge papers.

Applicant's dependants

For each dependant, you must provide certified copies of the following:

- birth certificate showing both parents' names; OR one of following: Baptism certificate, passport, family book showing both parents' names, identity document issued by the government, document issued by a court that verifies the person's identity.
If none of these are available, other acceptable evidence of their identity must be provided;
- evidence of any name changes (for example, deed poll, previous marriage registry extracts or divorce certificates);
- their current passport or travel document, and all their previous passports or travel documents;
- if any of your dependants have served in the armed forces of any country, certified copies of their military service record or discharge papers;
- custody documents (for example, adoption certificates, court orders); and
- if any of your dependants have previously been married, the previous marriage registry extract; a copy of the divorce decree absolute, annulment papers, or the death certificate of the deceased spouse (as appropriate).

Sponsor

You must provide certified copies of the following:

- evidence of your sponsor's status (for example, certified copy of birth certificate, Australian passport or foreign passport containing evidence of proof of residency or, for New Zealand citizens, evidence of New Zealand citizenship and evidence of length of residence in Australia, such as certified copies of passport pages); and
- evidence of any name changes your sponsor may have had (for example, deed poll, previous marriage registry extracts or divorce certificates).

Evidence that your relationship is genuine

When you apply for a Partner visa, you must provide evidence that supports your claims of a genuine and continuing relationship with your partner.

History of your relationship

You and your partner must each provide a statement regarding the history of your relationship, including:

- how, when and where you first met;
- how your relationship developed;
- when you decided to marry or commence a de facto partner relationship;
- your domestic arrangements – how you support each other financially, physically and emotionally and when this level of commitment began;
- any periods of separation – when and why the separation occurred, for how long and how you maintained your relationship during the period of separation; and
- your future plans.

The statements written by you and your partner can be on ordinary writing paper or a statutory declaration form may be used. Each statement or statutory declaration must be signed and dated by the author. For details on who can witness statutory declarations, see page 27.

Evidence of your relationship

There are 4 broad categories of evidence that you need to provide:

- financial aspects;
- the nature of the household;
- social context of the relationship; and
- the nature of your commitment to each other.

All relationships are different, so you should provide as much evidence as you can that you believe will support your claims.

The lists below are only a guide and are neither all inclusive or exclusive.

You may be asked to provide additional information during processing of your application.

Financial aspects

Evidence will be required that you and your partner share financial commitments and responsibilities, including:

- evidence of any joint ownership of real estate or other major assets (for example, cars, appliances) and any joint liabilities (for example, loans, insurance);
- sharing of finances;
- legal commitments that you and your partner have undertaken as a couple;
- evidence that you and your partner have operated joint bank accounts for a reasonable period of time; or
- sharing of household bills and expenses.

The nature of the household

You will be asked to provide evidence that you and your partner share responsibilities within your household, including:

- your living arrangements;
- a statement outlining the basis on which responsibility for housework is distributed;
- joint ownership or joint rental of the residence in which you live;
- joint utilities accounts (electricity, gas, telephone);
- joint responsibility for bills for day-to-day living expenses;
- joint responsibility for children; or
- correspondence addressed to both you and your partner at the same address.

Social context of the relationship

How your relationship with your partner is seen by your friends and family will be considered including:

- evidence that you and your partner are generally accepted as a couple socially (for example, joint invitations, going out together, friends and acquaintances in common);
- the assessment of your friends and acquaintances about the nature of your relationship (see 'Statutory declarations' on page 27);
- evidence that you and your partner have declared your relationship to government bodies, commercial/public institutions or authorities;
- statutory declarations made by your or your partner's parents, family members, relatives and other friends;
- joint membership of organisations or groups;
- evidence of joint participation in sporting, cultural or social activities; or
- joint travel.

Note: Providing only statutory declarations from your and your partner's parents, family members, relatives and other friends is not normally sufficient to evidence your relationship.

The nature of your commitment to each other

Factors that could assist in evidencing mutual commitment between you and your partner include:

- knowledge of each other's personal circumstances (for example, background and family situation, which could be established at interview);
- intention that your relationship will be long-term (for example, the extent to which you have combined your affairs);
- the terms of your wills; or
- correspondence and itemised phone accounts to show that contact was maintained during any period of separation.

PART 8

Other important information

Your personal information

Collection and release of your personal information

You and your sponsor should read this information carefully.

Note: Under section 245 of the *Migration Act 1958*, you may be prosecuted for deliberately providing false or misleading information relating to partner migration to the department.

The department is authorised to collect information about you under Part 2 of the *Migration Act 1958* 'Control of Arrival and Presence of Non-Citizens'. The information collected is used to assess your eligibility for a visa to travel to, enter and remain in Australia and for other purposes relating to the administration of the Migration Act.

When sponsorship applications present potential child protection issues, the department may provide the information that raises child protection concerns to the visa applicant(s) and any non-migrating person who can lawfully determine where the applicant's migrating minor child may live. See 'Protection of children' on page 17.

The information the department collects about you might also be disclosed to agencies that are authorised to receive such information. Relevant information about you will be disclosed to federal, state and territory police to assist in your location and possible detention in the event that you become an unlawful non-citizen. You may become an unlawful non-citizen if your visa ceases (for example, by cancellation for breach of visa conditions or it expires) and you do not hold another visa authorising you to remain in Australia.

The collection, access, storage, use and disclosure by the department of the information you provide in the forms and documents submitted to the department for your Partner visa application is governed by the *Privacy Act 1988*. For further information on how the department protects your privacy and about agencies to which your personal information may be disclosed, you should read form 993i *Safeguarding your personal information*, which is available from the department's website www.immi.gov.au/allforms/, from any office of the department or Australian mission.

The *Freedom of Information Act 1982* (the FOI Act) also relates to personal information. Under the FOI Act, you can apply for access to documents containing your personal information.

Information on making requests under the FOI Act can be found in form 424A *Request for access to documents or information*, which is available from the department's website www.immi.gov.au/allforms/, from any office of the department or Australian mission.

Note: Form 424A or a request under the FOI Act can only be lodged within Australia.

You or someone authorised by you to access documents on your behalf can apply to do this at any office of the department in Australia. If you are outside Australia, you must provide the Australian mission with an address in Australia to which copies of personal records can be sent.

The department has authority under the *Migration Act 1958* (the Act) to collect a range of personal identifiers from non-citizens, including visa applicants, in certain circumstances. For more detailed information, you should read information form 1243i *Your personal identifying information*, which is available from the department's website www.immi.gov.au/allforms/, from any office of the department or Australian mission.

Obtaining information from other agencies and organisations

Under section 56 of the Act, the department may seek information about the applicant and sponsor that is relevant to the migration and/or sponsorship application from other agencies and organisations. These agencies and organisations may include:

- federal, state, territory and foreign government agencies;
- federal, state, territory and foreign law enforcement agencies;
- state or territory housing authorities (including private landlords);
- local government authorities in Australia or overseas;
- financial institutions;
- private businesses (for example, telecommunication and internet service providers, insurance companies); and
- any other relevant businesses or agencies.

For further information, see form 993i *Safeguarding your personal information*, which is available from the department's website www.immi.gov.au/allforms/, from any office of the department or Australian mission.

Communication with the department

Options for receiving written communications

You may authorise another person to receive all communications, both written and electronic, about your application with the department. You will be taken to have received any documents sent to that person as if they had been sent to you.

To do this you will need to complete the section of the application form with the heading *Options for receiving written communications* and form 956 *Appointment of a migration agent or exempt agent or other authorised recipient*. For an explanation of what a migration agent or exempt agent or authorised recipient can do please read the sections on page 43.

Authorised recipient information

An authorised recipient is someone you appoint to receive written communications about your application with the department.

All written communication about your application will be sent to your authorised recipient, unless you indicate that you wish to have health and/or character information sent directly to you.

The department will communicate with the most recently appointed authorised recipient as you may only appoint one authorised recipient at any time for a particular application.

Migration agent information

A migration agent is someone who can:

- advise you on the visa that may best suit you;
- tell you the documents you need to submit with your application;
- help you fill in the application and submit it; and
- communicate with the department on your behalf.

If you appoint a migration agent, the department will assume that your migration agent will be your authorised recipient, unless you indicate otherwise.

Your migration agent will be the person with whom the department will discuss your application and from whom it will seek further information when required.

Exempt agents

The following people do not have to be a registered migration agent in order to provide immigration assistance, but they must not charge a fee for their service:

- a close family member (spouse, de facto partner, child, parent, brother or sister);
- a sponsor or nominator for this visa application;
- a member of parliament or their staff;
- an official whose duties include providing immigration assistance (eg. a Legal Aid provider);
- a member of a diplomatic mission, consular post or international organisation.

Consent to communicate electronically

The department may use a range of means to communicate with you. However, electronic means such as fax or e-mail will only be used if you indicate your agreement to receiving communication this way.

To process your application, the department may need to communicate with you about sensitive information (for example, health, police checks, financial viability or personal relationships). Electronic communications, unless adequately encrypted, are not secure and may be viewed or interfered with. The Australian Government accepts no responsibility for the security or integrity of any information sent to the department over the internet or by other electronic means.

If you agree to the department communicating with you by electronic means, the details you provide will only be used by the department for the purpose for which you have provided them. The only exception to this is where there is a legal obligation or necessity to use them for another purpose, or you have consented to their use for another purpose. Your details will not be added to any mailing list.

PART 9

After you apply for your visa

What the department will do

The department will:

- receipt and acknowledge your application;
- assign you a case officer;
- consider your application;
- arrange to interview you and/or your partner (where necessary);
- check the information that you provide and, if necessary, ask for more information; and
- notify you in writing of the decision (and reasons if a refusal).

The notification letter will give you further information about the visa (if granted) and review rights (if your application is refused).

Change of address

If you change your residential address for longer than 14 days while your partner category visa application is being processed, you must tell the department. You can do this by either:

- writing to the department and include in your statement your new address and telephone number, when you moved, or will move, and for how long you expect to be there, as well as your full name, date of birth, your file number and, if you applied for a Partner visa from outside Australia, the office at which your application was made; or
- complete and give to the department form 929 *Change of address and/or passport details*, which is available from the department's website www.immi.gov.au/allforms/, from any office of the department or Australian mission.

The department will then send communication about your application to the latest address for correspondence you have provided (unless you have authorised another person or migration agent to receive on your behalf all communication relating to your partner category visa application – see page 42).

Note: Form 47SP serves as an application for both the temporary and permanent Partner visas. As an address for correspondence is required when the permanent visa is processed (usually 2 years after you lodged your application), if your address for correspondence has changed at any time since you applied, please advise the department of that new address. This is particularly important if you applied for, and were granted, a temporary Partner visa outside Australia and are now in Australia. The department needs to be able to contact you to enable processing of your permanent Partner visa application to continue.

Initial entry date to Australia

If you are outside Australia when you are granted a partner category visa, you will be required to make your first entry to Australia by a certain date. You will be told your initial entry date in the letter you receive from the department advising you of the grant of your visa. The purpose of this initial entry date is to ensure that persons migrate to Australia within a reasonable period of being granted a visa so that the planning levels for settler services for newly arrived migrants are sufficient. The date is usually tied to the earliest date of the validity periods of any health and character checks you had as part of the process of applying for a partner category visa.

Before your partner category visa is granted, if you know that the date will not allow you a reasonable period for you to finalise your affairs and make the necessary arrangements to travel to Australia, you must advise the office of the department that is processing your visa application of your circumstances and consideration will be given to a later initial entry date. However, you may need to undergo new health or character checks before your visa can be granted.

After your partner category visa has been granted, an initial entry date cannot be changed and, unless exceptional and compelling circumstances can be proven, your visa may be cancelled. You would need to re-apply for a visa.

Travel during visa processing

After you apply for a partner category visa, you should inform the department if you intend to travel (either to or from Australia) while your visa application is being processed.

This is because, if you applied for a partner category visa while you were:

- in Australia, you **must** be in Australia at the time your temporary visa is granted. You may be either in or outside Australia when the permanent visa is granted; or
- outside Australia, you **must** be outside Australia when the temporary visa is granted. You may be either in or outside Australia when the permanent visa is granted.

If you have applied in Australia, you must ensure that, before you travel outside Australia, you have a visa to return. Otherwise, you may not be able to return to Australia and, if your partner category visa application is refused while you are outside Australia, you may not have a right of review.

Bridging visas

If you apply for a partner category visa in Australia, you will usually be eligible for a bridging visa. A bridging visa keeps you lawfully in Australia in the event that:

- your current visa ceases before a decision is made by the department on your partner category visa application; and/or
- your partner category visa application is refused and you apply for merits review of the decision.

Your bridging visa will have the same work conditions as the visa you hold immediately before being placed on a bridging visa. For example, if your current visa restricts the hours you can work, your bridging will have the same restrictions. (However, if you are experiencing financial hardship, you will be able to apply for permission to work.)

If you wish to travel overseas while your partner category visa application is being considered, you will need to apply for a specific bridging visa to allow you to travel overseas and then return to Australia. To be granted such a bridging visa, you will have to provide reasons for the travel and then the travel component of the visa will be tailored accordingly.

For further information on bridging visas, see form 1024i *Bridging visas*, which is available from the department's website www.immi.gov.au/allforms/, from any office of the department or Australian mission.

Including a dependent child in your application

If you have a dependent child that you did not include in your partner category visa application but you later decide you wish to include them, you can write to the department and ask for them to be added to the application. However, you must do so before a decision is made on your temporary partner category visa application. You should send the letter to the office that is processing your visa application and give all details of the child (eg. names, date of birth, place of birth, parents' full names and dates of birth, etc). For information about who can be counted as dependent children, see page 22.

Note: If you applied for a partner category visa while you were outside Australia, your dependent child must also be outside Australia at the time you make the request to add them to your visa application. Similarly, if you were in Australia when you applied for your partner category visa, your dependent child must also be in Australia when you make the request.

A new sponsorship form for the dependent child will also need to be completed by your sponsor.

If the dependent child is aged under 18 years, the sponsor will need to provide an Australian National Police Check or overseas police certificate(s) (see page 24), unless one has already been provided with the application.

Including a newborn child after you apply for a partner category visa

If a child is born to you and your partner after you have applied for your partner category visa, under migration law, your child will have automatically been included in your partner category visa application. However you should write to the office processing your visa application to tell them that the child has been born and include a certified copy of the birth certificate so that the decision maker knows that the child is also included in your visa application.

If your child was born overseas and the child's other parent was an Australian citizen at the time of the child's birth, the child may be eligible for registration as an Australian citizen by descent.

If your child was born in Australia, your child will have automatically been granted the same visas that you and your partner hold at the time of your child's birth. If the child's other parent was an Australian citizen or permanent resident at the time of the child's birth, the child may be an Australian citizen by birth.

Including a dependent child in your application after you are granted a temporary Partner visa

Once you have been granted your temporary Partner visa, your dependent child cannot be added to your permanent visa application. However, your child may apply for a Dependent Child visa (subclass 445) by lodging a form 918 *Application for an extended eligibility (temporary) visa by a dependent child*, which is available from the department's website www.immi.gov.au/allforms/, from any office of the department or Australian mission overseas.

Your dependent child can then apply on form 1002 *Application by a subclass 445 dependent child for a permanent Partner visa*, for a permanent Partner visa of the same class as the one you have applied for.

DNA testing

DNA test results show whether 2 or more people are biologically related.

The department endorses the use of DNA testing as one possible means of providing evidence for claimed family relationships. DNA testing can be a useful option when documentary evidence of the claimed relationship is considered unreliable or is unavailable.

When a decision maker is not satisfied with available evidence of a relationship, he or she may suggest that an applicant undergo DNA testing as another means to establish a claimed relationship. The department will specify how the test is to be arranged. Any test obtained outside these requirements may not be accepted by the department.

Where a DNA test is requested, you must meet the full costs of DNA testing.

If you and your relative have been asked to undergo DNA testing and you have further questions, please contact the office that requested the test.

Dependent Child visa

Who can apply for a Dependent Child visa

If you are the holder of a temporary Partner visa, your dependent child may apply for a Dependent Child visa (subclass 445). Once granted, the Dependent Child visa allows:

- your dependent child to travel to and enter or to remain in Australia until a decision is made on your permanent Partner visa application; and
- for you to arrange that they be considered for a permanent Partner visa at the same time as your permanent Partner visa application is considered (see page 46).

If you have already been granted your permanent visa, your dependent child will not be eligible for a Dependent Child visa. They would have to apply for a Child visa, information on which is available from the department's website

www.immi.gov.au/migrants/, from any office of the department or Australian mission.

Eligibility for a Dependent Child visa

To be eligible for a Dependent Child visa, your child must:

- be aged under 18 years or financially dependent on you;
- be sponsored by your sponsor;
- meet health and character requirements; and
- meet custody requirements.

Lodging an application for a Dependent Child visa

If your child is outside Australia, they will need to lodge an application at the nearest Australian mission. If your child is within Australia, they will need to give or send the application to the department's office in Hobart.

The appropriate application form for a Dependent Child visa is form 918 *Application for an extended eligibility (temporary) visa by a dependent child*, which is available from the department's website www.immi.gov.au/allforms/, from any office of the department or Australian mission. The form includes detailed information on how to lodge an application for a Dependent Child visa and the requirements to be met.

Your child's Dependent Child visa application must be decided before you are granted your permanent Partner visa. Please ensure that the decision-maker assessing your application knows that your child has applied for a Dependent Child visa.

If the dependent child is aged under 18 years, the sponsor will need to provide an Australian National Police Check or overseas police certificate(s) with the application (see page 24).

What to do after your child is granted a Dependent Child visa

Once a Dependent Child visa is granted to your child, the visa will be valid for the same period as your temporary Partner visa. It will cease when a decision is made on your permanent Partner visa. Therefore, you must ensure that your child is added to your permanent Partner visa application before that decision is made.

To be added to your permanent Partner visa application after they are granted the Dependent Child visa, your child should complete form 1002 *Application by a subclass 445 dependent child for a permanent Partner visa*, which is available from the department's website www.immi.gov.au/allforms/, from any office of the department or Australian mission. This will enable them to be considered for a permanent Partner visa at the same time that your permanent Partner visa application is considered.

Adding any other dependent relative to your application

Once you have lodged a Partner visa application, apart from your dependent children (see page 46), you cannot add any other dependent relative to your application. Your relative must apply for a visa that is relevant to their own circumstances.

The only exception is if you arrived in Australia as a Prospective Marriage visa (subclass 300) holder and you have lodged a Partner visa application. Until a decision is made on the permanent Partner visa, a dependent relative of yours can lodge a separate Partner visa application, pay the charge and that application will be processed with your Partner visa application.

If the relationship with your partner ends

If your relationship ends with your partner, you must inform the department immediately. If in Australia, you may still be eligible to be considered for and granted a permanent Partner visa in Australia so you may not be required to leave Australia.

Prospective Marriage visa holders

If your relationship ends you may still be eligible to apply for and be granted a Partner visa (subclass 820) in Australia in the following circumstances:

- you enter Australia as the holder of a Prospective Marriage visa (subclass 300), marry your fiancé(e) while your visa is still valid, and either you or a member of your family (who was also granted a Prospective Marriage visa) are the victim of family violence committed by your partner before your relationship ends (whether or not you have applied for a Partner visa before the relationship ends); or
- you enter Australia as the holder of a Prospective Marriage visa (subclass 300), marry your fiancé(e) while your visa is still valid, lodge a valid application for a Partner visa (subclass 820) before your relationship ends and you have parental responsibility for at least one child (under the age of 18 years) in respect of whom your sponsoring spouse also has parental responsibility; or
- your partner dies after you were granted the Prospective Marriage visa (subclass 300) and after you have married. You will need to establish that, had your partner not died, the relationship would have continued and that you have developed close ties with Australia.

Temporary Partner visa holders

If your relationship with your partner ends while you have a temporary Partner visa (subclasses 820 or 309), you may still be eligible for the grant of the permanent Partner visa without having to fulfil the usual two-year waiting period if:

- after you have entered Australia as the holder of a Partner visa (subclass 309), your relationship breaks down and either you or a member of the family unit of yours or your partner are the victim of family violence committed by your partner; or
- after you were granted a Partner visa (subclass 820), your relationship breaks down and either you or a dependent child of yours or your partner are the victim of family violence committed by your partner; or
- after you enter Australia your relationship ends and you have parental responsibility for at least one child (under the age of 18 years) in respect of whom your sponsoring spouse also has parental responsibility; or
- your partner dies. You will need to establish that, had your partner not died, the relationship would have continued. If you have applied for Partner visa while you are in Australia, you must also be able to show that you have developed close ties with Australia.

Family violence provision

You should notify the department immediately if your relationship breaks down as you may not be required to leave Australia.

For information about the family violence provision in the Migration Regulations 1994, see Fact sheet 38 *Family violence provision* and form 1040 *Statutory declaration relating to domestic violence* (for visa applications lodged before 15 October 2007) or form 1040 *Statutory declaration relating to family violence* (for visa applications lodged on or after 15 October 2007). These publications are available from the department's website (respectively www.immi.gov.au/media/fact-sheets/ and www.immi.gov.au/allforms/) and the Fact sheet is also available from your nearest office of the department.

If your application is approved

If your partner category visa application is approved, you will receive a letter from the relevant office of the department or Australian mission advising you that you have been granted the visa. The letter will give you full details of what you must next do, including whether or not your passport is required for visa label endorsement. However, you and any dependants will also be given a visa grant number, which is a unique number assigned to the visa. You and your dependants should keep this visa grant number safe, as you may have to provide it to the department during the life of the visa.

Note: You may not get a visa label in your passport when your visa is granted. If you do not have a visa label, Australian authorities, such as immigration and customs officers, will be able to check your visa electronically through your passport number.

The partner category visa that you are granted will have a multiple re-entry facility, which means that you can leave, and return to, Australia as many times as you wish within a specified period.

- A Prospective Marriage visa (subclass 300) allows you to travel for 9 months from date of visa grant.
- A temporary Partner visa (subclasses 309 and 820) allows you to travel until a decision is made on your permanent Partner visa.
- A permanent Partner visa (subclasses 100 and 801) allows you to travel for up to 5 years from date of grant.

If your initial permanent Partner visa expires and you wish to continue to travel to and from Australia as an Australian permanent resident, you must obtain a Resident Return visa, information on which is available from the department's website

www.immi.gov.au/migrants/

More details on the documents you require to enable you to enter Australia can be found in Fact sheet 95 *Documents Needed to Enter Australia*. This Fact sheet is available from the department's website **www.immi.gov.au/media/fact-sheets/**, from any office of the department or Australian mission.

If you are granted, or have applied for, another temporary visa

After you are granted a Partner visa (subclasses 309 or 820) or a Prospective Marriage visa (subclass 300), you need to be aware that, until you are granted a permanent Partner visa (subclasses 100 or 801), any subsequent substantive visa grant will override your temporary partner category visa grant. This will particularly be an issue in the following circumstances:

- in addition to your outstanding permanent Partner visa application, if you also have, say, an undecided Business (Long Stay) visa (subclass 457) or a Tourist visa (subclass 676) application. If either one of those visas are granted after you are granted a temporary Partner visa (subclass 309 and 820), the temporary Partner visa will cease. This means that you will no longer be able to satisfy one of the requirements for the grant of the permanent Partner visa, that is, that you are the holder of a temporary Partner visa (subclasses 309 or 820); and
- if you are the holder of a New Zealand passport and have been granted a Partner visa (subclasses 309 and 820) or a Prospective Marriage visa (subclass 300), it is very important that when you arrive at border control at the airport/seaport, you must advise the immigration officer that you are the holder of a temporary partner category visa. This is very important since you will automatically be eligible for a Special Category visa (subclass 444) and, unless advised to the contrary, this visa will be granted to you and will override your temporary partner category visa.

It is therefore recommended that, as soon as you are granted a temporary partner category visa, that you:

- withdraw any other unfinalised temporary visa applications that you have with the department; and/or
- carefully consider if it is appropriate to apply for another substantive temporary visa.

If this is an issue, please contact the office of the department where you lodged your partner category visa application.

If your application is refused

If your application is refused, you will receive a letter advising the reasons for the refusal decision, your review rights (including whether it is you or your sponsor who can apply for review) and, if you made your application within Australia, the date by which you must leave Australia.

If neither you nor your sponsor apply for review and you do not leave Australia by the required date, you will become unlawful and be liable for detention and removal from Australia. If this occurs, you:

- may not be allowed to return to Australia for a certain period of time; and
- will be liable for the costs of your detention and removal. Goods and earnings you have in Australia may be confiscated to cover these costs.

Applying for a review of a decision

If you validly applied for a Partner visa while you were in Australia and the department refuses the grant of the visa, you may be eligible to seek a review of the decision. However, you must be in Australia at the time of lodging the review application.

If you applied for a partner category visa while you were outside Australia and the department refuses the grant of the visa to you and any dependants, your sponsor may be eligible to seek a review of the decision.

You must ensure that an application for review of the decision to refuse you the grant of a partner category visa is lodged within the timeframe specified in the visa decision letter. In accordance with migration legislation, extensions of the time in which you or your sponsor have to lodge a review application cannot be given.

For more information on review of migration decisions, see the Migration Review Tribunal website www.mrt-rrt.gov.au or contact the Migration Review Tribunal on **1300 361 969**.

Offices of the department in Australia

If you have any queries please call **131 881** within Australia (for the cost of a local call). We suggest you speak to an operator before coming into the office as not all services are available at all offices. You may not need to come into the office, or you may need to bring certain documents with you.

New South Wales

Note: In New South Wales you will need to lodge your application at the Sydney City office.

Sydney City office

Ground Floor
26 Lee Street
SYDNEY NSW 2000

Postal address:
GPO Box 9984
SYDNEY NSW 2001

Fax: (02) 8862 6096

Parramatta

9 Wentworth Street
PARRAMATTA NSW 2150

Postal address:
GPO Box 9984
SYDNEY NSW 2001

Fax: (02) 8861 4422

Australian Capital Territory

3 Lonsdale Street
BRADDON ACT 2612

Postal address:
GPO Box 717
CANBERRA ACT 2601

Fax: (02) 6248 0479

Tasmania

Hobart

Ground Floor
188 Collins Street
HOBART TAS 7000

Postal address:
GPO Box 794
HOBART TAS 7001
Fax: (03) 6223 8247

Victoria

Melbourne office

Ground Floor
Casselden Place
2 Lonsdale Street
MELBOURNE VIC 3000

Postal address:
GPO Box 241E
MELBOURNE VIC 3000

Fax: (03) 9235 3300

Dandenong

51 Princes Highway
DANDENONG VIC 3175

Postal address:
Private Mail Bag 5001
DANDENONG VIC 3175

Fax: (03) 8762 2625

Queensland

Brisbane office

299 Adelaide Street
BRISBANE QLD 4000

Postal address:
GPO Box 9984
BRISBANE QLD 4001

Fax: (07) 3360 5006

Cairns office

Level 2, GHD Building
95 Spence Street
CAIRNS QLD 4870

Postal address:
PO Box 1269
CAIRNS QLD 4870

Fax: (07) 4051 0198

Western Australia

Perth office

Wellington Central
Level 3
836 Wellington Street
WEST PERTH WA 6005

Postal address:
Locked Bag 7
NORTHBRIDGE WA 6865

Fax: (08) 9415 9766

South Australia

Commonwealth Centre
Building
Level 3
55 Currie Street
ADELAIDE SA 5000

Postal address:
GPO Box 2399
ADELAIDE SA 5001

Fax: (08) 8237 6699

Northern Territory

Street address:
Pella House
40 Cavenagh Street
DARWIN NT 0800

Fax: (08) 8981 6245

Australian Government Websites

assisting business entry and skilled migration

Australian Government

Department of Immigration and Citizenship

www.immi.gov.au/business/title.htm

Including information on:

- business entry and skilled migration
- contacts for Australian missions overseas
- business trips to Australia

With links to:

- Australian missions overseas
- Australian Government websites
- Useful business websites

Business Entry Point

www.business.gov.au

Australian Taxation Office

www.ato.gov.au

State/Territory Governments

Australian Capital Territory

ACT Government

www.business.act.gov.au

New South Wales

Department of State and Regional Development

www.business.nsw.gov.au

Northern Territory

Department of Industries and Business

Enquiries to: migration.dib@nt.gov.au

Queensland

Department of Tourism, Regional Development and Industry

www.migration.qld.gov.au

South Australia

Immigration South Australia

www.immigration.sa.gov.au

Tasmania

Tasmanian Government

www.tas.gov.au

Victoria

State Government of Victoria

www.liveinvictoria.vic.gov.au

Western Australia

Small Business Development Corporation

www.sbdc.com.au

