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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 Migration Agents Registration Authority (MARA) website www.themara.com.au

You can contact the MARA at:

E-mail: themara@themara.com.au

PO Box Q1551
QVB NSW 1230
AUSTRALIA

Telephone: 61 2 9299 5446
Fax: 61 2 9299 8448

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 MARA. The Code of Conduct and complaint form are available from the MARA website.

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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.
Close relative	Your spouse, 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	Not legally married, but in a spouse-like or spouse-equivalent relationship. Sometimes known as 'common law' spouse.
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 natural, adopted, or step-child, who has not turned 18 years of age, or, if aged 18 years or over, is a dependant. A child must not have a spouse 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 two or more people can show whether they are biologically related to each other.
Eligible New Zealand citizen	A New Zealand citizen who was either in Australia on 26 February 2001 and held a Special Category visa (subclass 444); or was in Australia for at least one year of the 2 years before 26 February 2001; or has a certificate issued under the <i>Social Security Act 1991</i> that states that they were residing in Australia on a particular date. Eligible New Zealand citizens must have been able to have met certain health and character requirements on their last entry into Australia.
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 spouse and dependent children.
Interdependent partner	A partner who is mutually dependent on you. This is usually a same-sex partner.
Interdependent relationship	This is usually a same-sex partner relationship in which a couple have a mutual commitment to a shared life 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.
Lawful non-citizen	A non-citizen who holds a valid visa.
Long-term interdependent relationship	An interdependent relationship that has continued for 5 years or more.
Long-term spouse relationship	A spouse relationship that has continued for 5 years or more; or 2 years or more if you have children of the relationship.
Member of the family unit	A spouse or dependent child. Also includes single (unmarried, widowed or divorced) relatives who reside with, and are 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	Includes married (de jure) and de facto spouses, fiancé(e)s and interdependent partners.
Partner visa	A Prospective Marriage, Spouse or Interdependency visa.
Permanent visa	A visa permitting a person to remain indefinitely in Australia.
Prohibited degree of relationship	A relationship between a person and his or her ancestor/descendent (ie. between a parent and a child or grandparent and a grandchild) or between a brother and a sister (full or half blood). This applies to natural and adoptive relationships.
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.
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 Spouse or Interdependency visa are assessed as to whether they continue to meet all the requirements for the grant of a permanent Spouse or Interdependency visa.
Sponsor	The Australian citizen, Australian permanent resident or eligible New Zealand citizen partner who undertakes sponsorship obligations. Generally, for the purposes of partner migration, the sponsor is the partner of the applicant.
Spouse relationship	A married (de jure) or de facto relationship between a couple where 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.
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 migration allows for the grant of a visa that permits married (de jure) partners, de facto partners and interdependent partners (including those in a same-sex relationship) of Australian citizens, Australian permanent residents or eligible New Zealand citizens to enter and/or to 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 migration also allows for the temporary entry to Australia of intended spouses (fiancé(e)s) of Australian citizens, permanent residents and eligible New Zealand citizens.

As the partner of an Australian citizen, Australian permanent resident or eligible New Zealand citizen, you do not have an automatic right of permanent residence in Australia. You must apply and be assessed against the legal criteria for the grant of a partner visa.

There are 3 types of partner visas: Prospective Marriage visa, Spouse visa and Interdependency visa. The type of partner 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 28
Married (de jure) relationship De facto spouse relationship	Spouse visa	Page 31
Interdependent relationship (including a same-sex relationship)	Interdependency visa	Page 35

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

If you want to apply for a partner visa, you must be sponsored by a person (usually 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. In addition, an assurance of support may be requested in respect of you and any dependent family member included in your application. 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 partner decide if you are eligible to apply for a partner visa, for which partner 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 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
partner.

See page 28.



Subclass 820 – Spouse
(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 31.



Subclass 801 – Spouse
(residence)

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

See page 31.

OR

Subclass 309 – Spouse (provisional)

You and your Australian partner:

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

See page 31.



Subclass 100 – Spouse (migrant)

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

See page 31.

OR

Subclass 310 – Interdependency (provisional)

You and your Australian partner have been in an interdependent relationship for the entire 12 months prior to the date of application.

See page 35.



Subclass 110 – Interdependency (migrant)

You are still in the relationship with your Australian partner 2 years after first applying for the subclass 310 visa.

See page 35.

Applying from inside Australia

Subclass 820 – Spouse (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 31.



Subclass 801 – Spouse (residence)

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

See page 31.

OR

Subclass 826 – Interdependency (temporary)

You and your Australian partner have been in an interdependent relationship for the entire 12 months prior to the date of application.

See page 35.



Subclass 814 – Interdependency (residence)

You are still in the relationship with your Australian partner 2 years after first applying for the subclass 826 visa.

See page 35.

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 Spouse and Interdependency visas and, similarly, form 40SP serves as a sponsorship application for these visas. Therefore, after you have been granted a temporary Spouse or Interdependency 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 Spouse visa (for notification requirements, see page 30). However, if you have been granted a Prospective Marriage visa, enter Australia and then marry your sponsor 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 Spouse 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 10.

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 page 29
- Spouse or an Interdependency visa, see pages 33 or 36 and 'Part 8 – Evidence to provide with your application' at 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 can be lodged by mail or in person. You should lodge your application in person if possible as this may help to speed up processing. Appointments are now available at most offices of the department and can assist in ensuring that your application is processed efficiently. To make an appointment contact the department on **131 881** during office hours. The department can also mail supplementary forms and instructions to help you complete your application. You can find a list of offices of the department in Australia on page 52 or on the department's website www.immi.gov.au/contacts/australia/

If you are lodging your application in New South Wales, you will need to go to the Sydney City office, see page 52 for details.

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, 309 or 310) is granted. If you lodge your application while you are in Australia, you must be in Australia when the temporary partner visa (subclasses 820 or 826) 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 (subclasses 100 or 110) is granted. If you lodge your application while you are in Australia, you must be in Australia when the permanent partner visa (subclasses 801 or 814) is granted.

For further details about how your location at time of application lodgement affects you, see 'If your application is refused' at page 50.

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 visa refused or cancelled since your last entry to Australia; or
- do not hold a substantive visa (see page 5) 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;
- have a debt to the Australian Government and have not made satisfactory arrangements to repay the debt.

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 11).

Note: There are circumstances that may affect your partner's ability to sponsor you. See page 14 for details.

PART 3

Information for sponsors

All applicants for a partner visa must have a sponsor. The sponsor must be prepared to sponsor the partner 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 partner visa applicant has the partner relationship.

You, as the sponsor, must meet a range of legal criteria to be eligible to sponsor your partner.

As part of the application process, your relationship with your partner will be assessed. This means that you and your 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 15). 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 11.

Once you have completed and signed the form, you should give or send it to your 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).

There is no guarantee that your partner's application for a visa will be successful. This will depend on whether or not your partner can satisfy the applicable legal criteria. If their application is refused, depending on the partner visa for which they applied and on where they applied, either you or your 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 partner to Australia.

Note: If you are an eligible New Zealand citizen who is sponsoring their partner, you must meet health and character requirements. After your 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*; be known personally to your fiancé(e) and have met as adults; and be free to marry your fiancé(e). There must be no impediment to your marriage.
Spouse visa	<ul style="list-style-type: none"> aged 18 years or over*; and in a married or de facto spouse relationship with your partner.
Interdependency visa	<ul style="list-style-type: none"> aged 18 years or over; and in an interdependent 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 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 28, Spouse visas, see page 31; and Interdependency visas, see page 35.

Limitations on sponsorship

You may not be able to sponsor your partner if you:

- are not an Australian citizen, Australian permanent resident or eligible New Zealand citizen; or
- have previously sponsored 2 other partners for migration to Australia (includes sponsorships you may have withdrawn where your former partner obtained permanent residence on family violence grounds); or
- have sponsored another partner within the last 5 years; or
- were sponsored as a partner yourself within the last 5 years; or
- are the holder of a Woman at Risk visa (subclass 204).

You may still be permitted to sponsor your partner in compelling circumstances, such as:

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

Sponsorship undertaking

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

If your partner applies for and is granted a Spouse or Interdependency 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 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 department has concerns about Australian citizens and residents who have been convicted of or are facing charges for child sex offences and who are sponsoring partners and minor children for entry to Australia under family migration arrangements. While such cases are rare, it is essential that you as a sponsor disclose to the department any information relating to any conviction you have had or any charges currently awaiting legal action. It is also important that migration applicants, and any non-migrating person with parental responsibility (as defined in section 61B of the *Family Law Act 1975*) for the applicant's migrating minor child or children, are informed when the sponsor falls into this category. Where the department is aware of any convictions or charges of this nature, through either:

- the answers you provide to Question 38 on form 40SP *Sponsorship for a partner to migrate to Australia*; or
- liaison with relevant Commonwealth agencies

it will ensure that the migration applicant, and any non-migrating person with parental responsibility for the applicant's migrating minor child or children, is informed 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 partner must give written permission for the department to give you more detailed information, such as your 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 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 partner's visa application.

Under certain circumstances, if your former 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 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.

You should note that, if an Assurance of Support (AoS) is requested as a condition for the grant of your former partner's temporary partner visa, the assurer remains legally committed to repay certain social security debts (if any) that have been paid to your former partner. This means that, if you provided an AoS for your partner, even if your relationship has ended, you will still be liable to repay any social security debt that they may incur during the two-year period of the AoS (for more details on AoS, see page 26).

PART 4

General information

12-month relationship requirement

About the 12-month relationship requirement

If you are applying for a Spouse visa on the basis of a de facto relationship, or if you are applying for an Interdependency visa on the basis of an interdependent relationship, you must be able to show that you are aged 18 years or over and that you have been in a relationship with your partner for at least the entire 12 months before the date you lodged your partner visa application. The relationship between you must be genuine and continuing. In addition, you and your partner must live together or not live separately and apart on a permanent basis.

A de facto relationship is one where the couple have a mutual commitment to a share life as husband and wife to the exclusion of all others, even though they are not formally married. An interdependent relationship is one in which the couple have a mutual commitment to a shared life to the exclusion of all others, and can include a same-sex relationship.

In assessing a de facto spouse or interdependent relationship, the department usually looks at evidence of such things as living together full-time, sharing important financial and social commitments, and setting up a household separately from other people.

Note: Periods of 'dating' would not generally be considered to count towards the 12-month relationship requirement.

Waiver of the 12-month relationship requirement

The 12-month relationship requirement at time of application lodgement may be waived if:

- you can establish that there are compelling and compassionate circumstances such as:
 - for a Spouse visa, that you have children with your partner; or
 - for an Interdependency visa, that cohabitation was not permissible under the law of the country where you resided for the 12 months before you applied;

OR

- 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.

If you feel that there are circumstances that may warrant a waiver of the 12-month requirement, 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 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 11.</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 Health Services Australia (HSA) for your medical examinations before you lodge your partner visa application. If you live in a regional area, contact an HSA office to find out details of an approved doctor. For more information on HSA, go to www.healthoz.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 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 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 11.	You should provide this information with your application.

Instructions and country information required to request police checks are contained in form 47P *Character requirements penal clearance certificates*, which is available on the department's website www.immi.gov.au/allforms/, from offices of the department or Australian missions.

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

Dependants

Your dependent children and/or other dependent relatives may be included in, or added to, certain applications for partner 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 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
- adopted child; or
- 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 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 visa application before you lodge your application.

For details on adding dependent children to your partner visa application after you lodge your application, see 'Including a dependent child in your application' at 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 Spouse or Interdependency 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 spouse relationship with the child's natural parent and that you have been awarded one of the following:

- a residence order in force for the child under the *Australian Family Law Act 1975*; or
- a specific issues order in force under the *Australian Family Law Act 1975* giving you responsibility 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.

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 visa application only when you initially fill in that application.

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

However, your dependent relative is able to be considered for a Spouse visa (subclass 820/801) visa 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 Spouse visa (subclass 820/801) application when in Australia; and
- before a decision is made on your permanent Spouse visa (subclass 801) application, they have lodged a separate Spouse visa application and have paid a Visa Application Charge.

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

Evidence to provide for other dependent relatives

For any dependent relative that you include in your partner visa application before you have lodged 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 spouse.

Costs and charges

Visa Application Charge

You must pay the correct Visa Application Charge when you lodge your partner 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 Spouse or Interdependency 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.

As the Visa Application Charge is subject to regular changes, you should check the amount with your nearest office of the department or Australian mission before you lodge your application. Current charges are also listed in form 990i *Charges*, which is available from the department's website www.immi.gov.au/allforms/, offices of the department or Australian missions.

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 'Statutory declarations'.

Statutory declarations

When assessing a Spouse or Interdependency visa application, the Department of Immigration and Citizenship (the department) is required to consider the social aspects of the claimed relationship. Statements from persons who know you and your sponsor may be provided to support your claims.

It is the department's policy that at least 2 people aged 18 years or over, who know both you and your partner and who are Australian citizens or Australian permanent residents, each complete a statutory declaration about you and your partner's relationship. For this purpose, form 888 *Statutory declaration by a supporting witness relating to a Spouse or Interdependency visa application* is available from department's website www.immi.gov.au/allforms/, from any office of the department or Australian mission.

In addition to the 2 completed form 888s, you should provide with your application proof that your supporting witnesses are Australian citizens or Australian permanent residents. The evidence you provide must show the current name of the person making the declaration.

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 25. 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/

In Australia, statutory declarations 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.

English translations

Documents in languages other than English that you provide with you partner 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

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

Assurance of Support

The aim of the Assurance of Support scheme is to ensure that an Australian citizen or Australian permanent resident bears social security costs during your initial settlement in Australia.

An Assurance of Support (AoS) is a commitment to provide financial support to a partner visa applicant so that they will not have to rely on any government forms of support. It is also a legal commitment by a person to repay the Australian Government any recoverable social security payments made by Centrelink to those covered by the assurance. For the recoverable benefits that must be repaid by the person providing the undertaking, you should contact Centrelink (see contact details on page 27).

The assurance is in force for 2 years from the assuree's (ie. the partner visa applicant's) arrival in Australia or, for those applying in Australia, the date of visa grant.

Assurances cover the main applicant and any dependants included in the application.

When is an AoS required?

An AoS is required only if, after you have lodged your partner visa application, the department informs you that you need to arrange an AoS. This would occur if your circumstances, or those of your sponsor, indicate that you or your dependants are likely to become high users of Australia's social security system.

The decision to request an AoS is not made lightly, and failure on your part to arrange an acceptable AoS may lead to your partner visa application being refused.

Once an AoS has been requested, you can have the AoS requirement waived only by providing evidence to the relevant office of the department or Australian mission that your, or your sponsor's, circumstances have improved to a point where the AoS is no longer necessary. If the department is satisfied with the evidence provided, the AoS request will be withdrawn.

Once the AoS has started:

- the AoS requirement cannot be waived; and
- your assurer is still liable for any social security debts you may incur even if your relationship ends.

Who can give an AoS?

Your sponsor does not have to be your assurer. You can also have joint assurers.

For details of who can give an AoS, please refer to the Centrelink website www.centrelink.gov.au/internet/internet.nsf/factors/assurance_support.htm

It is unlikely that an assurer could provide an acceptable AoS if they have received the full rate of any pensions, benefits or allowances (other than family payments) from Centrelink during the past year.

Giving an AoS

Centrelink has responsibility for receiving and assessing all AoS applications.

For more information about the AoS scheme, including application forms and procedures, see Fact sheet 34 *Assurance of Support* on the department's website www.immi.gov.au/media/fact-sheets/ or contact Centrelink (see contact details on page 27).

Centrelink contact details

Your location	Centrelink telephone number	Centrelink website
In Australia	132 850 (English) 131 202 (other languages)	www.centrelink.gov.au
Outside Australia	61 3 6222 3455	

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 Spouse 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 Spouse visas, see page 31).

If you are planning to marry your sponsor before entering Australia, or if you have been in a de facto relationship with your sponsor for over 12 months, you should apply for a Spouse visa (see page 31).

Eligibility requirements

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

- be sponsored (see 'Sponsorship eligibility' on page 14);
- 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 4);
- certified copies of your passport or travel documents (see page 24 for information on certified copies);
- proof of your identity (see page 38);
- satisfactory evidence that you have met your fiancé(e) in person and that you are known to each other;
- 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 38);
- a signed and dated letter (on letterhead) from an authorised marriage celebrant who will conduct your wedding ceremony. The letter must include the date and place of the planned marriage ceremony and confirmation that a Notice of Intended Marriage (NOIM) has been lodged with the celebrant (if you plan to marry in Australia);
- evidence of your relationship (see page 39);
- if either you or your fiancé(e) is aged under 18 years, a court order from an Australian magistrate authorising the marriage; and
- if appropriate, completed health and character checks (see pages 18–19).

You must pay the Visa Application Charge (see page 23).

Note: If you intend to marry in Australia, a NOIM must be completed and provided to the person who will marry you (the marriage celebrant) at least 1 month and 1 day, but no more than 18 months, before your preferred date of marriage. The date you intend to marry (shown in the letter from the authorized celebrant) should be set far enough in the future to allow for the time it takes to process your visa application. Your marriage date also has to be within the 9-month validity period of your visa.

You should contact the Registry of Births, Deaths and Marriages in the state or territory where you intend to marry to enquire about the process of 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

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 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; and
- if appropriate, completed health and character checks (see pages 18–19).

For more information on dependent family members, see pages 20–23.

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 Spouse 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 Spouse 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 Spouse 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 Spouse visa processing (for details, see page 31).

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 Spouse visa (subclass 801).

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 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 Spouse 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 Spouse visa in Australia (see page 31). 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

Spouse visa

To be eligible to apply for a Spouse visa, you must either be married to, or in a de facto spouse relationship with, your partner at the time you apply. Interdependent partners, including same-sex partners, should apply for an Interdependency visa (see page 35).

Note: The Interdependency visa is the only visa that is available for a person who is a same-sex partner of another person. A same-sex partner of a person cannot be included as a member of the family unit on a visa application, even if the same-sex couple has been married according to the laws of another country. Under Australian law, only opposite-sex relationships can constitute a spouse relationship (ie. de jure (married) or de facto).

Persons applying in Australia for a Spouse 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 Spouse 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 Spouse visa (subclasses 100 or 801).

Processing stages for a Spouse visa

Applying for a Spouse 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).

Note: Generally, you should be living with your partner in a spouse relationship at the time you apply for a Spouse visa.

You are granted a temporary Spouse 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 Spouse visa. If you continue to meet all legal requirements, you will be granted a permanent spouse visa.

Eligibility requirements

Married spouses (de jure)

To apply in Australia for a Spouse 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 Spouse 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 Spouse visa on the basis of your marriage, you must:

- be sponsored by an eligible person (see 'Sponsorship eligibility' at page 14)
- 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 39);
- 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 18–19).

De facto spouses (not married but in a spouse relationship)

To apply for a Spouse visa as a de facto spouse, you and your partner must show that you have been in a de facto spouse relationship for the entire 12 months immediately prior to lodging your application. However, if you and your partner have children together, the 12-month relationship requirement may be waived. For details on the 12-month requirement, see page 17.

To be eligible for a Spouse visa as a de facto spouse, you must:

- be sponsored by an eligible person (usually by your partner) (see 'Sponsorship eligibility' at page 14);
- be of the opposite sex to your partner;
- be aged 18 years or over if you live in Australia, or 16 years or over if you and your partner both live in another country;
- 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 spouse 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 18–19).

In assessing a claimed de facto spouse relationship, the department usually 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 Spouse 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 spouse relationship, evidence that you and your partner have been in a de facto spouse relationship for the entire 12 months prior to lodging your application, or evidence that you have children together.

All Spouse 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 4);
- certified copies of your passport or travel documents (see page 24 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 24 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 18–19).

You must pay the Visa Application Charge (see page 23).

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 spouse 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; and
- if appropriate, completed health and character checks (see pages 18–19).

For more information on dependent family members, see page 20.

Temporary Spouse visa (subclasses 309 and 820)

If you:

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

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

If you:

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

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

If you are granted a temporary Spouse 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 Spouse visa application, you will be assessed for the grant of the permanent Spouse visa (subclasses 100 or 801).

If you have been granted a temporary Spouse visa, but now have a dependent child who wishes to migrate but was not included in your Spouse 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 49.

Permanent Spouse visa (subclasses 100 and 801)

If you:

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

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

If you:

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

you must also be in Australia when the permanent Spouse 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 spouse relationship with your partner for 5 years or more, or 2 years or more where there are dependent children of your relationship; or
- your spouse 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

Interdependency visa

To be eligible to apply for an Interdependency visa, you must be in an interdependent relationship with an Australian citizen, permanent resident or eligible New Zealand citizen. Generally this visa is for same-sex partners. Applicants in a married or de facto relationship with a partner of the opposite sex should apply for a Spouse visa (see page 31).

Persons applying in Australia for an Interdependency 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 Interdependency visa (subclasses 310 or 826), you will be able to work and study in Australia. However, you are not eligible for Austudy until you have been granted a permanent Interdependency visa (subclasses 110 or 814).

Processing stages for an Interdependency visa

Applying for an Interdependency visa is a 2-stage process.

You apply for a temporary and permanent visa at the one time on the same application form.

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

Eligibility requirements

To be eligible for an Interdependency visa you must:

- be sponsored by your partner (see 'Sponsorship eligibility' at page 14);
- be at least aged 18 years at time of application;
- not be within a prohibited degree of relationship with your partner (see page 4);
- show that you and your partner have a mutual commitment to a shared life to the exclusion of all others;
- show that you and your partner have a genuine and continuing relationship (see page 39);
- show that you and your partner have been in an interdependent relationship (see page 4) for the entire 12 months immediately prior to making 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 18–19).

12-month relationship requirement

To apply for an Interdependency visa, you and your partner (your sponsor) must show that you have been in an interdependent relationship for the entire 12 months immediately prior to lodging your application. For details on the 12-month requirement, see page 17.

In assessing a claimed interdependent relationship, the department usually 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 Interdependency 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), (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 4);
- certified copies of your passport or travel documents (see page 24 for information on certified copies);
- proof of identity (see page 38);
- evidence that your relationship is genuine and continuing (see page 39);
- evidence that you and your partner have been in an interdependent relationship for the entire 12 months prior to lodging your application;
- 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 24 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 18–19).

You must pay the Visa Application Charge (see page 23).

For each 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 or her to migrate; and
- 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; and
- if appropriate, completed health and character checks (see pages 18–19).

For more information on dependent family members, see page 20.

Temporary Interdependency visa (subclasses 310 and 826)

If you:

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

you must also be outside Australia when the temporary Interdependency visa (subclass 310) is granted.

If you:

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

you must also be in Australia when the temporary Interdependency visa (subclass 826) is granted.

If you are granted a temporary Interdependency 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 application, you will be assessed for the grant of the permanent Interdependency visa (subclasses 110 or 814).

If you have been granted a temporary Interdependency visa, but now have a dependent child who wishes to migrate but was not included in your Interdependency 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 your relationship ends with your partner. For further information on your visa options if your relationship ends, see page 49.

Permanent Interdependency visa (subclasses 110 and 814)

If you:

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

you can be either in or outside Australia when the permanent Interdependency visa (subclass 110) is granted.

If you:

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

you must also be in Australia when the permanent Interdependency visa (subclass 814) is granted.

In most cases, permanent residence cannot be granted less than 2 years from when you lodge your application. However you may 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 an interdependent relationship with your partner for 5 years or more.

PART 8

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 24.

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 Spouse or Interdependency 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, spouse or interdependent 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 24.

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' at page 24);
- 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 9

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*.

Where sponsorship applications present potential child protection issues, the department will ensure the migration applicant is made aware of the information collected which raises child protection concerns. The section titled *Protection of children* on page 15 of this booklet gives details of situations where the department may take such action.

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 under the Freedom of Information Act 1982*, 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 or territory government agencies;
- federal, state or territory law enforcement agencies;
- state or territory housing authorities (including private landlords);
- local government authorities;
- 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, child, adopted 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 10

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 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 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 Spouse or Interdependency visa outside Australia and are now in Australia. The department needs to be able to contact you to enable processing of your permanent Spouse or Interdependency visa application to continue.

Initial entry date to Australia

If you are outside Australia when you are granted a partner 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 partner 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 visa.

Before your partner 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 partner 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 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 partner visa.

Travel during visa processing

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

- in Australia, you **must** be in Australia at the time your temporary and permanent visas are 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 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 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 visa application; and/or
- your partner 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 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 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 visa application. You should send the letter to the office that is processing your partner 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 21.

Note: If you applied for a partner 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 partner visa application. Similarly, if you were in Australia when you applied for your partner 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.

Including a newborn child after you apply for a partner visa

If a child is born to you and your partner after you have applied for your partner visa, under migration law, your child will have automatically been included in your partner visa application. However you should write to the office processing your partner 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 Spouse or Interdependency 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 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 Spouse or Interdependency 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 Spouse or Interdependency 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.

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.

Note: If you have applied in Australia for your partner visa, your child must also be in Australia for the grant of the permanent partner visa.

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 Spouse visa application. Until a decision is made on the permanent Spouse visa, a dependent relative of yours can lodge a separate Spouse visa application, pay the charge and that application will be processed with your Spouse 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, after you marry your partner, your relationship ends, you may still be eligible to apply for, and be granted, a Spouse visa (subclass 820) in Australia if:

- after you have entered Australia as the holder of a Prospective Marriage visa (subclass 300) and married your fiancé(e) while your visa was still valid, your relationship ends and either you or a member of your family (who were also granted a Prospective Marriage visa) are the victim of family violence committed by your partner whether or not you have applied for a Spouse visa; or
- your relationship breaks down and you and your partner have joint custody or access, or a residence or contact order made under the *Family Law Act 1975* relating to a child or children aged under 18 years; or
- your partner dies, 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 Spouse and Interdependency visa holders

If your relationship with your partner ends while you have a temporary Spouse or Interdependency visa (subclass 820 or 826), you may still be eligible for the grant of the permanent Spouse or Interdependency visa without having to fulfil the usual two-year waiting period if:

- after you have entered Australia as the holder of a Spouse visa (subclass 309) or a Interdependency visa (subclass 310), 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 Spouse visa (subclass 820) or an Interdependency visa (subclass 826), 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
- your relationship breaks down and you and your partner have joint custody or access, or a residence or contact order made under the *Family Law Act 1975* relating to a child or children aged under 18 years; 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 family violence*. Both 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 available from your nearest office of the department.

If your application is approved

If your partner 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 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. Depending on the type of partner visa that you have been granted, the visa allows you to travel:

- a Prospective Marriage visa (subclass 300): for 9 months from date of visa grant; or
- a temporary Spouse or Interdependency visa (subclasses 309 and 820 or 310 and 826): until a decision is made on your permanent Spouse or Interdependency visa; or
- a permanent Spouse or Interdependency visa (subclasses 100 and 801 or 110 and 814): 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 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 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 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.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) 9032 4096

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) 9706 7068

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

Southport office

Level 1
72 Nerang Street
SOUTHPORT QLD
4215

Postal address:
PO Box 2868
SOUTHPORT QLD
4215

Fax: (07) 5591 5402

Western Australia

Perth office

City Central
411 Wellington Street
PERTH WA 6000

Postal address:
Locked Bag 7
NORTHBRIDGE WA
6865

Fax: (08) 9415 9286

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

Partner Migration

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Department of Immigration and Citizenship
www.immi.gov.au

people our business