

# Family Visa HANDBOOK



**hansen**  
**migration**



# TABLE OF CONTENTS

**01**

Partner Visa

**06**

Prospective  
Marriage Visa

**09**

New Zealand  
Family  
Relationship Visa

**11**

Parent Visa

**14**

Child Visa

**15**

Frequently Asked  
Questions



## PARTNER VISA

A partner visa allows you to live in Australia permanently if you are in a genuine and continuing relationship with an Australian citizen, a permanent resident of Australia or an eligible New Zealand citizen. In Australia same sex relationships are treated equally to opposite sex relationships.

You must be either married or in a de facto relationship and have a mutual commitment to a shared life at the exclusion of all others. You must either live together, or not live separately and apart on a permanent basis.





### MARRIAGE

Any marriage made under the Australian Marriage Act will be accepted for the purposes of a partner visa. A marriage made outside of Australia must be legally valid in the country in which it is conducted. Some types of marriages (for example underage or polygamous marriages) that are legally accepted outside of Australia are not accepted in Australia and therefore will not be accepted when applying for a partner visa.

### DE FACTO RELATIONSHIP

If you live with your partner and you are not married, you are in a 'de facto relationship'. In Australia de facto relationships are considered in many ways equal to marriage. If applying for a partner visa on de facto grounds, you must have lived in the same house with your partner for at least 12 months. Alternatively, if you have not lived with your partner for 12 months it may be possible to apply for a partner visa on de facto grounds by registering your relationship with an eligible state or territory government:

- |   |  |
|---|--|
|  <b>Australian Capital Territory</b> |  <b>South Australia</b> |
|  <b>New South Wales</b>              |  <b>Tasmania</b>        |
|  <b>Queensland</b>                   |  <b>Victoria</b>        |

It may also be possible to apply for a partner visa on de facto grounds if there are compelling and compassionate circumstances.



## EVIDENCE OF A GENUINE RELATIONSHIP

Simply being married or in a de facto relationship is not enough. You must show evidence that you have a mutual commitment to a shared life to the exclusion of all others, that your relationship is genuine and continuing, and that you either live together, or do not live apart on a permanent basis. The following aspects of your relationship will be considered when your relationship is assessed by the Department of Home Affairs, you must provide evidence and written statements that address each aspect:



### Financial aspects of the relationship:

- 🇺🇸 Joint bank statements
- 🇺🇸 Joint ownership of real estate or other major assets
- 🇺🇸 Joint insurance policies
- 🇺🇸 Evidence of transferring money to each other

### Social aspects of the relationship:

- 🇺🇸 Photos
- 🇺🇸 Evidence of joint travel
- 🇺🇸 Evidence of shared interests or hobbies
- 🇺🇸 Statements from friends and family members

### Nature of the household:

- 🇺🇸 Joint responsibility for care and support of children
- 🇺🇸 Joint lease agreement
- 🇺🇸 Joint utility bills
- 🇺🇸 Sharing of responsibility for housework

### Nature of the commitment:

- 🇺🇸 Superannuation beneficiary
- 🇺🇸 Beneficiary of wills
- 🇺🇸 Evidence of communication
- 🇺🇸 Letters and cards







## TWO-STAGE APPLICATION PROCESS

A partner visa application is a two-stage process:

### Stage 1:

A combined application is made for a temporary partner visa and a permanent partner visa. If you apply from within Australia you are eligible for Medicare and a bridging visa with work rights, which comes into effect once the visa you held at time of application expires. If you apply from outside of Australia, you are not eligible for a bridging visa, but you can visit Australia on another type of visa while stage 1 of your partner visa is being processed.

#### Temporary Visa Grant:

Once stage 1 of the partner visa application is finalised you are granted a temporary partner visa, subclass 820 if you applied from in Australia or subclass 309 if you applied from outside of Australia.

### Stage 2:

Two years after stage 1 of the partner visa application was lodged stage 2 of the partner visa application can be lodged. This stage is about showing that you are still in a relationship, so not as much evidence of the relationship needs to be submitted.

#### Permanent Visa Grant:

Once stage 2 of the partner visa application is finalised you are granted a permanent partner visa, subclass 801 if stage 1 was applied for from within Australia, or subclass 100 if stage 1 was applied for from outside of Australia.





## EXCEPTIONAL CIRCUMSTANCES

Generally, if the relationship breaks down before stage 2 of the partner visa application is finalised the partner visa application is refused, however there are some exceptions:





### Death of sponsor

If the sponsor dies before stage 2 of the application is finalised, then the applicant can be granted a permanent partner visa. The applicant must be able to show that the relationship would have continued if the sponsor had not died and that they have developed close business, cultural or personal ties in Australia.

### Custody of a child

The applicant may be eligible for a permanent partner visa in any of the following circumstances.

#### If the applicant has:

-  custody of the child
-  joint custody of the child
-  access to the child
-  a residence order or a contract order made under the Family Law Act 1975 which relates to at least 1 child which the sponsorship partner has also been granted joint custody, or has a residence order, contact order, an obligation under a child maintenance order, or any other formal maintenance obligation.

## LONG TERM RELATIONSHIP

It may not be necessary to lodge stage 2 of the partner visa application if you have been in a long-term relationship when stage 1 of the partner visa application is lodged. If you have been married or in a de facto relationship for 3 years, or if you have a dependent child from the relationship and you have been married or in a de facto relationship for 2 years at the time of application then you are in a long-term relationship. You will therefore be granted a temporary partner visa and a permanent partner visa at the same time, meaning that you become a permanent resident sooner.

### Family violence

If the applicant and or a dependent child has suffered family violence committed by the sponsoring partner, then the applicant may be eligible to be granted a permanent partner visa.





## **SPONSORSHIP LIMITATIONS**

An Australian citizen, permanent resident of Australia or an eligible New Zealand citizen can only sponsor 2 partners in their lifetime. If you have previously sponsored someone for a partner visa or a prospective marriage visa and that relationship had ended and you plan to sponsor someone else, it must be at least 5 years since you previously applied to be a sponsor before you can submit another sponsorship application.

If you have previously been sponsored for a partner visa yourself and your relationship with the sponsor has ended, it must be at least 5 years since your visa application was made before you can sponsor someone else for a partner visa or a prospective marriage visa.

The sponsorship limitations can be waived if there are compelling circumstances which affect the sponsor, in reality this is very difficult.



# PROSPECTIVE MARRIAGE VISA



## PROSPECTIVE MARRIAGE VISA

A prospective marriage visa (subclass 300) allows you to travel to Australia, get married to your fiancé, and apply for a partner visa within 15 months of grant. You must have met your fiancé in person at least once since turning 18 and they must be an Australian citizen, a permanent resident of Australia or an eligible New Zealand citizen. It's a good option to consider if you have no other way of getting to Australia, for example if you have applied for a visitor visa and the application was refused.



## EVIDENCE OF MEETING

You must submit evidence that you have met your fiancé in person, this can include:

-  Photos of you together
-  Accommodation bookings
-  Flight tickets or itineraries
-  Statements from witnesses

## INTENTION TO GET MARRIED

You can either get married in Australia or outside of Australia. If getting married in Australia, your marriage celebrant will lodge a notice of intention to marry ('NOIM') on your behalf. The celebrant needs to write a letter of support to include in the prospective marriage visa application which includes your names, the date of proposed marriage, the location and confirmation that a NOIM has been lodged with the Australian government.

## NO IMPEDIMENT TO MARRIAGE

There must be nothing stopping you from getting married. Both the applicant and sponsor will need to get a single status certificate or a similar form of document. These certificates are issued by Births, Deaths and Marriages in each state of Australia. In overseas jurisdictions it may be possible to obtain a certificate or in some cases an affidavit that confirms that you are not married.

## INTENTION TO LIVE AS A MARRIED COUPLE

It is not enough to show that you have met your fiancé, you must also show that you intend on living together as a married couple. After all, the purpose of a prospective marriage visa is to allow you to travel to Australia and apply for a partner visa. We recommend writing a statement that addresses each of the following aspects of your relationship and where possible include supporting documents:

### Financial aspects of the relationship:

-  How do you plan on sharing the responsibility for finance?
-  Will you open a joint bank account?
-  Who will pay for what?
-  Do you plan on saving to buy a house or other assets?



### Nature of the household:

- 🇺🇸 Do you plan on renting a house together?
- 🇺🇸 Where do you plan on living?
- 🇺🇸 How will you share the responsibility of housework?
- 🇺🇸 Do you plan on getting a pet?

### Social aspects of the relationship:

- 🇺🇸 What shared interests and hobbies do you have?
- 🇺🇸 Do you plan on travelling together?
- 🇺🇸 How do you plan on introducing each other to your family and friends?

### Nature of the commitment:

- 🇺🇸 Do you plan on having children?
- 🇺🇸 How do you emotionally support each other?
- 🇺🇸 How have you communicated with each other while apart?

## OPTION TO SWITCH TO OFFSHORE PARTNER VISA (SUBCLASS 309/100) APPLICATION

If you have applied for a prospective marriage visa and then get married before the application is finalised your application will be converted to a subclass 309/100 partner visa application. In this instance you would need to ensure that you meet the partner visa requirements otherwise you risk the visa application being refused.







# NEW ZEALAND FAMILY RELATIONSHIP VISA

A subclass 461 New Zealand family relationship visa is a temporary visa that allows you to live in Australia for up to 5 years. It is available to family members (spouses, de facto partners, and dependent children) of New Zealand citizens who either hold or are eligible for a subclass 444 special category visa. Family members of an 'eligible New Zealand citizen' are not eligible for a Subclass 461 New Zealand Family Relationship Visa.

You must be either married or in a de facto relationship and have a mutual commitment to a shared life at the exclusion of all others. You must either live together, or not live separately and apart on a permanent basis. In Australia same sex relationships are treated equally to opposite sex relationships.

## MARRIAGE

Any marriage made under the Australian Marriage Act will be accepted for the purposes of a New Zealand Family Relationship visa. A marriage made outside of Australia must be legally valid in the country in which it is conducted. Some types of marriages (for example underage or polygamous marriages) that are legally accepted outside of Australia are not accepted in Australia and therefore will not be accepted when applying for a New Zealand Family Relationship visa.

## DE FACTO RELATIONSHIP

If you live with your partner and you are not married, you are in a 'de facto relationship'. In Australia de facto relationships are considered in many ways equal to marriage. If applying for a New Zealand Family Relationship visa on de facto grounds, you must have lived in the same house with your partner for at least 12 months. Alternatively, if you have not lived with your partner for 12 months it may be possible to apply for a New Zealand Family Relationship visa on de facto grounds by registering your relationship with an eligible state or territory government:

 **Australian Capital Territory**

 **Queensland**

 **Tasmania**

 **New South Wales**

 **South Australia**

 **Victoria**

## DEPENDENT CHILD

If applying based on being a child of a New Zealand citizen, the child must have not turned 18. Children between 18 and 23 can apply if they are dependent on the New Zealand citizen.



## EVIDENCE OF A GENUINE RELATIONSHIP

Simply being married or in a de facto relationship is not enough. You must show evidence that you have a mutual commitment to a shared life to the exclusion of all others, that your relationship is genuine and continuing, and that you either live together, or do not live apart on a permanent basis. The following aspects of your relationship will be considered when your relationship is assessed by the Department of Home Affairs, you must provide evidence and written statements that address each aspect:



## ADDITIONAL NEW ZEALAND FAMILY RELATIONSHIP VISA

At the end of the 5 years it may be possible to apply for another subclass 461 visa, even if the relationship with the New Zealand citizen has ended.

### Financial aspects of the relationship:

- 🇺🇸 Joint bank statements
- 🇺🇸 Joint ownership of real estate or other major assets
- 🇺🇸 Joint insurance policies
- 🇺🇸 Evidence of transferring money to each other

### Nature of the household:

- 🇺🇸 Joint responsibility for care and support of children
- 🇺🇸 Joint lease agreement
- 🇺🇸 Joint utility bills
- 🇺🇸 Sharing of responsibility for housework

### Social aspects of the relationship:

- 🇺🇸 Photos
- 🇺🇸 Evidence of joint travel
- 🇺🇸 Evidence of shared interests of hobbies
- 🇺🇸 Statements from friends and family members

### Nature of the commitment:

- 🇺🇸 Superannuation beneficiary
- 🇺🇸 Beneficiary of wills
- 🇺🇸 Evidence of communication
- 🇺🇸 Letters and cards









# PARENT VISA



## PARENT VISA

A parent visa allows your parent to live in Australia permanently if you are an Australian citizen, a permanent resident of Australia or an eligible New Zealand citizen, and they pass the 'balance of family' test.

There are 6 types of parent visa:

-  **Parent Visa (subclass 103)**
-  **Contributory Parent Visa (subclass 143)**
-  **Contributory Parent Visa – Temporary (subclass 173)**
-  **Aged Parent Visa (subclass 804)**
-  **Contributory Aged Parent Visa (subclass 864)**
-  **Contributory Aged Parent Visa – Temporary (subclass 884)**

When applying for a parent visa (subclass 103), a contributory parent visa (subclass 143) or a contributory parent visa – temporary (subclass 173) the applicant can be inside or outside of Australia at the time of application and must be outside of Australia at the time of grant.

When applying for an aged parent visa (subclass 804), a contributory aged parent visa (subclass 864) or a contributory aged parent visa – temporary (subclass 884) the applicant must be in Australia at the time of application and at the time of grant. As this is an onshore visa the applicant is eligible for a bridging visa with work rights, which comes into effect once the visa the applicant held at time of application expires.





## BALANCE OF FAMILY TEST

All parent and contributory parent visa applicants (subclass 103, 143, 173, 804, 864 and 884) are required to pass a balance of family test. This means that at least half the applicant's children or stepchildren must be 'eligible children', or there are more 'eligible children' than children living in any other single country. An eligible child is either:

- 🇦🇺 an Australian citizen,
- 🇦🇺 a permanent resident of Australia who is usually resident in Australia, or
- 🇦🇺 an eligible New Zealand citizen who is usually resident in Australia

## CONTRIBUTORY FEE

Parent visa processing times can be more than 15 to 20 years, so there is an option to pay a 'contributory fee' to reduce the processing time. The contributory fee is more than \$40,000 per person.

## SPONSOR MUST BE SETTLED IN AUSTRALIA

As the sponsor you must show evidence that you have been lawfully present in Australia for at least 2 years at the time of application.




## ASSURANCE OF SUPPORT

An assurance of support ('AoS') is a legal commitment to repay any recoverable social security payments received by the visa holder from the Australian Government during the first 10 years of living in Australia.



To be eligible to provide an AoS, the assurer must meet certain requirements, which include an income test for individual assurers. In addition, the assurer must pay a bond for each adult included in the visa application. This bond will be refunded ten years after the visa is granted (less any social security payments received).

Currently, the required bond is as follows:

-  Parent visa or aged parent visa (subclass 103 or 804): \$5,000 for the main visa applicant, and \$2,000 for each additional applicant aged 18 or older
-  Contributory parent visa or aged contributory parent visa (subclass 143 or 864): \$10,000 for the main visa applicant, and \$4,000 for each additional applicant aged 18 or older.
-  Contributory parent visa or contributory aged parent visa – Temporary (subclass 173 or 884): Not required

These amounts may be higher if the assurer is an organisation.

The AoS scheme is managed by the Services Australia, which is responsible for providing AoS application forms, assessing the assurer's eligibility, and providing advice about bond lodgement and release.

## AGED PARENT

The aged parent visa (subclass 804) and aged contributory parent visa (subclass 864 or 884) is only available to parents who are 67 years of age or older at the time of application. A husband or wife under 67 years of age can apply as a secondary applicant.

### No Pending Parent Visa Application

An applicant for a parent visa cannot have a pending parent visa application. Any pending applications must be withdrawn for another parent visa application to be lodged.

### What is the Difference Between a Contributory Parent Visa and a Temporary Contributory Parent Visa?

It is possible to apply directly for a contributory parent visa (subclass 143) or contributory aged parent visa (subclass 864) but the visa fees are quite high (over \$47,000). Alternatively, it is possible to apply for a 2-year contributory parent visa - temporary (subclass 173) or a contributory aged parent visa - temporary (subclass 884) which has lower fees (over \$31,000). During the two-year validity of the temporary visa (subclass 173 or 884) a parent can then apply for the permanent visa (subclass 143 or 864) and make the remaining payment (over \$19,000). Using the two-stage process (temporary then permanent) costs more but allows the costs to be spread out over a longer period of time.

## TEMPORARY SPONSORED PARENT VISA

A sponsored parent visa – temporary (subclass 870) is a temporary visa that allows a parent to stay in Australia for either 3 years or 5 years. There is no balance of family test for a temporary sponsor parent visa. As the sponsor you must meet a minimum income test, which is currently \$83,454.80 and can be divided with your spouse or de facto partner. As the sponsor you must first be approved before a sponsored parent visa application can be lodged. A temporary parent visa is an offshore visa meaning that your parent must apply from outside of Australia within 6 months of sponsorship approval. It may be possible to get permission to apply from within Australia, in which case your parent must apply within 2 months of sponsorship approval. It is possible to apply for further visas allowing your parent to stay in Australia for up to 10 years in total.



## CHILD VISA

A child visa allows your child to live in Australia if you are an Australian citizen, a permanent resident of Australia or an eligible New Zealand citizen. If you hold a subclass 820 or subclass 309 partner visa your child can apply for a dependent child visa.

There are three types of child visa:

- 🇦🇺 Child Visa (subclass 101)
- 🇦🇺 Child Visa (subclass 802)
- 🇦🇺 Dependent Child Visa (subclass 445)

When applying for a child visa (subclass 101) the applicant must be outside of Australia at the time of application and at the time of grant.

When applying for a child visa (subclass 802) the applicant must be inside of Australia at the time of application and at the time of grant.

When applying for dependent child visa (subclass 445) the applicant can be in or outside of Australia at the time of application. If the applicant is in Australia at the time of application, they must be in Australia at the time of grant. If the applicant is outside of Australia at the time of application, they must be outside of Australia at the time of grant.

# CHILD VISA



### WHAT IS THE DIFFERENCE BETWEEN A CHILD VISA AND A DEPENDENT CHILD VISA?

A child visa (subclass 101 or 802) is a permanent visa that is available to children or step-children of Australian citizens, permanent residents of Australia or eligible New Zealand citizens. Whereas a dependent child visa (subclass 445) is a temporary visa that is available to children or step-children of temporary partner visa holders (subclass 309 or 820). A dependent child visa holder then transitions onto a permanent partner visa (subclass 100 or 801) at the same time as their parent.

### ASSURANCE OF SUPPORT

An assurance of support (AoS) is sometimes required for a Child Visa. This is a financial bond which is paid by an assurer to provide financial support to your migrating child. This means that they don't have to rely on social welfare payments, which are normally at the cost of the Australian community. The assurer does not necessarily have to be the sponsor of the child. An AoS is not often requested for a child visa application.



# FREQUENTLY ASKED QUESTIONS

## **How long does it take for a visa application to be processed?**

Visa processing time can vary, for guidance on processing times we recommend visiting the Department of Home Affairs website: <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/global-visa-processing-times>

## **How do you become an Australian citizen?**

The most common ways to become an Australian citizen are by birth, by descent or by conferral.

### **Birth**

Any person born in Australia is automatically an Australian citizen if either or both of their parents is an Australian citizen or a permanent resident of Australia at the time of their birth.

### **Descent**

A person born outside of Australia can claim Australian citizenship by descent if at the time of birth either or both of their parents was an Australian citizen.

### **Conferral**

To obtain Australian citizenship by conferral a person must have been in Australia for at least 4 years and have been a permanent resident of Australia for at least 1 year. A residency requirement must also be met, which requires the person to have not been absent from Australia for more than 12 months cumulatively within the previous 4 years, and no more than 90 days in the previous 12 months.

## **What is a permanent resident of Australia?**

A permanent resident of Australia is a person who holds a permanent visa for Australia. A permanent visa allows a person to remain in Australia indefinitely and allows them to work and study. A permanent visa is granted to a person through an application process, some common application processes include skilled, work and family. A permanent resident of Australia is not the same as an Australian citizen.



## What is a Special category visa?

A special category visa (subclass 444) is a temporary visa that is automatically granted to New Zealand citizens upon arrival to Australia. It allows the holder to live, work and study indefinitely in Australia. A special category visa holder is not a permanent resident of Australia.

## What is an eligible New Zealand Citizen?

You are an eligible New Zealand citizen, or 'protected special category visa ('SCV') holder', if you were in Australia on 26 February 2001 as the holder of an SCV, or you spent at least 12 months in Australia as the holder of an SCV in the two years immediately before 26 February 2001. An eligible New Zealand citizen is effectively the same as a permanent resident of Australia.

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