



Australian Government
**Department of Immigration
and Border Protection**

Partner Migration

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About this booklet

This booklet is designed so that you can understand the steps in applying for **Partner Migration to Australia**, and complete the application form with minimal, if any, help. Information about partner migration can also be found on the Department of Immigration and Border Protection (the Department) website www.border.gov.au/trav/brin/ and at *Fact sheet – Family stream migration: Partners*, available on the website www.border.gov.au/about/corporate/information/fact-sheets/30partners

For general information about migration to Australia, visit the website www.border.gov.au or telephone **131 881** in Australia (for the cost of a local call) or contact the nearest office of the Department outside Australia.

Using a migration agent

You are not required to use a migration agent to lodge a visa application.

Migration agents in Australia

In Australia, migration agents must be registered with the Office of the Migration Agents Registration Authority (Office of the MARA) unless they are exempt. If you use a migration agent, we strongly encourage you to use a registered agent.

Further information, including a list of registered migration agents, is available on the Office of the MARA website www.mara.gov.au

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

Migration agents outside Australia

Migration agents who operate outside Australia do not have to be registered. The Department may give some overseas agents an ID number. This number does not mean that they are registered.

Note: Some Australian registered migration agents operate overseas.

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Important terms

Applicant(s)	The person (or persons) applying to migrate or remain permanently in Australia.
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.
The Department of Human Services	The agency that delivers social security payments and related services in Australia.
Child	Child (when used in relation to another person) means: <ul style="list-style-type: none">• a natural (biological) child; or• an adopted child within the meaning of the <i>Migration Act 1958</i>; or• a child conceived through an artificial conception procedure (ACP); or• a child born under surrogacy arrangements, where parentage has been transferred by court order under a prescribed state or territory law.
Close relative	Your partner, children (including adopted), parents and siblings and step relatives of the same degree.
Complete application	An application that provides all information necessary for processing, including evidence of your relationship, completed health and character checks (if applicable) and other necessary documents.
De facto partner	A person is the de facto partner of another person (whether of the same sex or a different sex) if the person is in a de facto relationship with the other person.
De facto relationship	For the purposes of a Partner visa application, a person is in a de facto relationship with another person if: <ul style="list-style-type: none">• they are not in a married relationship (for the purposes of the <i>Migration Act 1958</i>) with each other;• they are not related by family;• they 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. In addition: <ul style="list-style-type: none">• they both must be aged at least 18 years at the time the application is made;• the relationship must have continued for the 12 months immediately preceding the date of application. <p>Note: The 12-month relationship requirement does not apply in certain circumstances. See page 21.</p>
De jure	Legally married.
Department	Department of Immigration and Border Protection.
Dependant	A person who is wholly or substantially reliant on a family member for financial support to meet their basic needs of food, shelter and clothing; or wholly or substantially reliant on their family member for financial support due to being incapacitated for work because of the total or partial loss of bodily or mental functions.

Dependent child	A child or step-child who has not turned 18 years of age, or, if aged 18 years or over, is a dependant. A dependent child must not have a spouse or de facto partner, or be engaged to be married.
DNA	DNA (Deoxyribonucleic acid) is the genetic material present in every cell of the body. For example, it is in blood, saliva, skin and hair. A comparison of genetic material from 2 or more people can show whether they are biologically related to each other.
Eligible New Zealand citizen	<p>An eligible New Zealand citizen is a person who is defined as a ‘protected Special Category Visa (SCV)’ holder under the <i>Social Security Act 1991</i>.</p> <p>Protected SCV holders are those who arrived in Australia on a New Zealand passport and were:</p> <ul style="list-style-type: none"> • in Australia on 26 February 2001; • in Australia for at least 12 months in the 2 years immediately before 26 February 2001; or • assessed as protected SCV holders before 26 February 2004.
Family head	For migration purposes, the family head is generally the person who is most likely to meet the primary legal criteria for the grant of the Partner visa.
Fiancé(e) relationship	A relationship where a couple is engaged to be married or betrothed. In the context of partner migration, the term fiancé(e) is used to mean a man and a woman who intend to marry each other.
Lawful non-citizen	A non-citizen who holds a valid visa.
Long-term partner relationship	A married relationship or de facto relationship that has continued for 3 years or more, or 2 years or more if there is a dependent child of the relationship.
Married relationship	<p>Persons are in a married relationship if:</p> <ul style="list-style-type: none"> • they are married to each other under a marriage that is valid for the purposes of the <i>Migration Act 1958</i>; • they have a mutual commitment to a shared life as husband and wife to the exclusion of all others; • the relationship between them is genuine and continuing; and • they live together or do not live separately and apart on a permanent basis.
Member of the family unit	<p>A person is a member of the family unit of another person (the family head) if the person is a:</p> <ul style="list-style-type: none"> • partner – married or de facto (same or opposite sex) of the family head; or • dependent child up to 23 years of age (there are some exceptions) of the family head or of a spouse or de facto partner of the family head; or • dependent child of a dependent child up to 23 years of age (there are some exceptions) of the family head or of a spouse or de facto partner of 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 Border Protection in Australia. See www.border.gov.au/about/contact/offices-locations/australia
Office of the Department outside Australia	An office of the Department of Immigration and Border Protection outside Australia which offers visa and citizenship services. This may be an Australian mission or a Service Delivery Partner that operates an Australian Visa Application Centre (AVAC) and/or an Australian Biometric Collection Centre (ABCC). See www.border.gov.au/trav/visa/biom
Partner	Your spouse or de facto partner.
Partner category visa	Includes Prospective Marriage visas and Partner visas.
Permanent resident	See Australian Permanent resident.
Permanent visa	A visa permitting a person to remain indefinitely in Australia and allows travel to and from Australia for 5 years from the date of grant.
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	A 45mm x 35mm photograph taken within the past 6 months. This should be of the head and shoulders only, and should show the person facing the camera and against a plain background. You should print the name of the person on the back of each photograph.
Registrable offence	<p>In relation to the sponsorship limitation for child and partner visas, registrable offence means any of the following:</p> <ul style="list-style-type: none"> • an offence that is a registrable offence within the meaning of any of the following Acts: <ul style="list-style-type: none"> – the <i>Child Protection (Offenders Registration) Act 2000</i> (NSW); – the <i>Sex Offenders Registration Act 2004</i> (Vic); – the <i>Child Sex Offenders Registration Act 2006</i> (SA); – the <i>Crimes (Child Sex Offenders) Act 2005</i> (ACT); • an offence that would be a registrable offence under the above paragraph if it were committed in a jurisdiction mentioned in that paragraph; • an offence that is a reportable offence within the meaning of any of the following Acts: <ul style="list-style-type: none"> – the <i>Child Protection (Offender Reporting) Act 2004</i> (Qld); – the <i>Community Protection (Offender Reporting) Act 2004</i> (WA); – the <i>Community Protection (Offender Reporting) Act 2005</i> (Tas); – the <i>Child Protection (Offender Reporting and Registration) Act</i> (NT); • an offence that would be a reportable offence under the above paragraph if it were committed in a jurisdiction mentioned in that paragraph.

Related by family

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

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

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

Relative

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

Relevant offences

Migration legislation defines a *relevant offence* as an offence against a law of the Commonwealth, a state, a territory or a foreign country, involving any of the following matters:

- violence against a person, including (without limitation) murder, assault, sexual assault and the threat of violence;
- the harassment, molestation, intimidation or stalking of a person;
- the breach of an apprehended violence order, or a similar order, issued under a law of a state, a territory or a foreign country;
- firearms or other dangerous weapons;
- people smuggling;
- human trafficking, slavery or slavery-like practices (including forced marriage), kidnapping or unlawful confinement;
- attempting to commit an offence involving any of the matters mentioned above or below;
- aiding, abetting, counselling or procuring the commission of an offence involving any of the matters mentioned above.

Second-stage processing

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

Significant criminal record

A significant criminal record relates to a relevant offence and if, for the offence(s), the person has been sentenced to:

- death;
- imprisonment for life;
- a term of imprisonment of 12 months or more;
- 2 or more terms of imprisonment, where the total of those terms is 12 months or more.

Sponsor

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

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

Spouse

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

Substantial period

12 months or more.

Substantive visa

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

Temporary visa

A visa permitting a person to remain temporarily in Australia.

Visa

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

Part 1 – Introduction

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

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

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

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

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

Relationship type	Visa	Page where information is to be found
Intended marriage (fiancé(e))	Prospective Marriage visa	Page 32
Married (de jure) relationship	Partner visa	Page 36
De facto partner relationship (including a same-sex relationship)	Partner visa	Page 37

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

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

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

You do not need all of the necessary documents to be able to lodge a valid visa application, but lodging a complete application will assist in reducing processing times. The information in this booklet will tell you what you need to make a complete application.

Application stages

You are applying from outside Australia

3 step process

Step 1: Temporary visa

Subclass 300 – Prospective Marriage (temporary)

You:

- plan to marry your Australian fiancé(e);
 - make an application for a subclass 300 visa either online or at the nearest office outside Australia.
- See 'Part 5 – Prospective Marriage visa'.



Step 2: Temporary visa

Subclass 820 – Partner (temporary)

Once the subclass 300 visa is granted, you:

- travel to Australia;
- marry your Australian partner (while the subclass 300 visa is valid); AND
- make an application for a subclass 820 visa (in Australia) to stay in Australia.

See 'Part 6 – Partner visa'.



Step 3: Permanent visa

Subclass 801 – Partner (residence)

Two years after first applying for the subclass 820 visa, you:

- are still in the relationship with your Australian partner (sponsor); AND
- make an application for a subclass 801 visa and provide the required documentation.

See 'Part 6 – Partner visa'.

OR

2 step process

Step 1: Temporary visa

Subclass 309 – Partner (provisional)

You and your Australian partner:

- are legally married; OR
 - intend to legally marry before a decision is made on your visa; OR
 - have been in a de facto relationship for at least the entire 12 months prior to the date of application.
- make an application for a subclass 309 visa either online or at the nearest office outside Australia.
- See 'Part 6 – Partner visa'.



Step 2: Permanent visa

Subclass 100 – Partner (migrant)

Two years after first applying for the subclass 309 visa, you:

- are still in the relationship with your Australian partner (usually your sponsor); AND
- make an application for a subclass 100 visa and provide the required documentation.

See 'Part 6 – Partner visa'.

You are applying from inside Australia

2 step process

Step 1: Temporary visa

Subclass 820 – Partner (provisional)

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 lodging your application; AND
 - (and all the applicants included in your application) are in Australia when you make an application for a subclass 820 visa.
- See 'Part 6 – Partner visa'.



Step 2: Permanent visa

Subclass 801 – Partner (migrant)

Two years after first applying for the subclass 820 visa, you:

- are still in the relationship with your Australian partner (sponsor); AND
- make an application for a subclass 801 visa and provide the required documentation.

See 'Part 6 – Partner visa'.

How to apply

Making a valid application

To make a valid application you must:

- complete the application form *47SP Application for migration to Australia by a partner* in English;
- provide the residential address where you intend to live while your application is being processed. Under legislation, a post office box address will not be accepted as your residential address;
- pay the required Visa Application Charge or evidence of payment;
- lodge your application at the appropriate office of the Department.

In certain circumstances you may need to provide a completed form *40SP Sponsorship for a partner to migrate to Australia* and 2 statutory declarations at time of lodgement for your application to be valid (see 'Part 2 – Are you eligible to apply for or be granted a visa' and 'Part 3 – Information for sponsors' for further details).

Forms

Application form	Who is this for
Form <i>47SP Application for migration to Australia by a partner</i>	For the partner of an Australian citizen, Australian permanent resident or eligible New Zealand citizen to APPLY for a subclass 300, 309/100 or 820/801 visa. This application form covers both the temporary and permanent Partner visas.
Form <i>40SP Sponsorship for a partner to migrate to Australia</i>	For an Australian citizen, Australian permanent resident or eligible New Zealand citizen to SPONSOR their partner for a subclass 300, 309/100 or 820/801 visa. This sponsorship form covers both the temporary and permanent Partner visas.
Form <i>47A Details of child or other dependent family member aged 18 years or over</i>	For the applicant's members of the family unit aged 18 years or over. A separate form is required for each applicable family unit member.

Lodge your application online

Create or login to your ImmiAccount and complete form 47SP.

Attach all required supporting documentation. Refer to the document checklist for the visa you are applying for. You can attach documents to an online application when it has been submitted.

Ensure that your 47SP form is submitted online before your sponsor submits their form 40SP. The sponsor will need your Transaction Reference Number (TRN) in order to complete their sponsorship form.

You must pay the Visa Application Charge by credit card when you apply. Alternatively, you may pay via BPAY where applicable.

You can use your ImmiAccount to continue a saved application, attach documents, update passport details, change email and address details and check progress of your application.

Permanent Partner visa processing

If you currently hold a subclass 309 or a subclass 820 visa and it has been 2 years since you lodged your original partner visa application, you may be eligible for processing of your permanent Partner (subclass 100 or 801) visa.

About 2 months before you are assessed, we will send you a letter or email asking you to provide additional documentation to be granted the permanent visa. Whether you applied for your temporary Partner visa using a paper form or online, you can provide this further information online.

Use the permanent Partner visa calculator

www.border.gov.au/about/corporate/information/forms/online/partner-permanent-calculator to help you determine when you are eligible for permanent Partner visa processing.

Lodge your application by post or in person

Forms 47SP and 40SP are available as PDF files from the Department's website (you will need Adobe Reader on your computer). You can fill in the PDF electronically and then print the form or you can print the form and complete it by hand.

If applicable, a form 47A must be completed and signed by each member of your family unit who is aged 18 years or over (whether they are migrating with you or not).

Form 47SP, form 47A (if applicable), form 40SP and any supporting documentation and the Visa Application Charge (or evidence that the charge has been paid) must be lodged together.

If you are applying for the Prospective Marriage subclass 300 visa, you also use forms 47SP and 40SP. Once you have been granted the subclass 300 visa and you enter Australia and then marry your fiancé(e) while your visa is still valid, you will need to lodge another form 47SP and form 40SP for the Partner (subclasses 820 and 801) visa.

However, if you and your fiancé(e) marry before a decision is made on your Prospective Marriage subclass 300 visa application you must notify the Department. Under the law, you will have been taken to have also applied for a Partner (subclasses 309 and 100) visa once you have notified the Department you have validly married your fiancé(e). You will also need to withdraw, in writing, your subclass 300 visa application (you will no longer meet the requirements for the grant of this visa).

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.

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

You can find checklists relating to your application for a:

- Prospective Marriage visa, see pages 32–35.
- Partner visa, see pages 37–38 and 'Part 7 – Evidence to provide with your application' on page 40.

Note: There is also a document checklist in form 47SP and on the website under the visa you are applying for.

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

Where to apply

In Australia

Lodge your paper application by post or courier at the relevant Partner Processing Centre:

If you live in	Post or courier to
New South Wales	Sydney City Office
Victoria	Melbourne Office
Australian Capital Territory Tasmania Queensland	Brisbane Office
Northern Territory South Australia Western Australia	Perth Office

A list of addresses can be found on the last page of this booklet.

Outside Australia

Applications can be made at the relevant office outside Australia.

See a list of all offices www.border.gov.au/about/contact/offices-locations and:

- find your country on the list;
- confirm which office provides visa services for your country;
- check what services they provide; and
- note the contact details for the relevant office or Service Delivery Partner (SDP).

Then check the website of the specific office or SDP for the following:

- the preferred method of lodging a visa application with this office (some offices require you to make an appointment to lodge your application in person); and
- the estimated processing times for partner visas (where provided).

Your location at time of lodgement

Visa	Where you must be to lodge	Where you must be for visa grant
Prospective Marriage (subclass 300) (temporary)	Outside Australia	Outside Australia
Partner (subclass 309) (provisional)	Outside Australia	Outside Australia
Partner (subclass 100) (migrant)	Outside Australia (applied for at the same time as the 309)	In or outside Australia
Partner (subclass 820) (temporary)	In Australia	In Australia
Partner (subclass 801) (residence)	Outside Australia (applied for at the same time as the 820)	In or outside Australia

Note: You must be in the correct location when your application is received by the Department. This means that, if you apply outside Australia, you must be outside Australia when the Department receives your application. Similarly, if you apply in Australia, you must be in Australia when the Department receives your application.

Part 2 – Are you eligible to apply for or be granted a visa

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

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

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

- do not hold a substantive visa and have had a Partner visa refused or cancelled since your last entry to Australia; or
- do not hold a substantive visa (see page 7) and your previous visa has ceased; or
- hold a visa with a *No further stay condition (conditions 8503, 8534 or 8535)*; 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.

Note: If you do not hold a substantive visa and have had a visa refused or cancelled since your last entry to Australia (other than a visa cancellation or refusal on character grounds or a Partner visa refusal), you may be able to make a valid application in Australia as long as you provide a completed form 40SP (see page 15) and 2 statutory declarations from Australian citizens, permanent residents or eligible New Zealand citizens supporting the existence of your relationship with your sponsor (see page 29).

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 before making an application.

Note: There are circumstances that may also affect your partner's ability to sponsor you. See page 17 for details.

Part 3 – Information for sponsors

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

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

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

To help determine whether or not you can meet these criteria, you must complete form 40SP, which includes providing evidence of your employment and financial status and giving a sponsorship undertaking (see page 18).

To lodge your sponsorship form by post or in person, download form 40SP from the Department's website. Fill in the form electronically and then print the completed form or print the form and complete it by hand.

If you apply online via ImmiAccount (see page 10), your partner will need to lodge their application form 47SP and get a TRN before you can lodge your sponsorship form 40SP. You will need your partner's TRN in order to complete the sponsorship form.

If you use a paper application form to apply, you must lodge form 47SP and pay the Visa Application Charge (or evidence that the charge has been paid) together. It is preferred that you also include form 40SP, form 47A (if applicable) and any supporting documentation at time of lodgement.

However, if your partner:

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

it is a legal requirement that they submit a completed form 40SP in order to make a valid application.

There is no guarantee that your fiancé(e) or partner's application for a visa will be successful. This will depend on whether your fiancé(e) or partner can satisfy the applicable legal criteria. If their application is refused, depending on the partner category visa for which they applied and where they applied, either you or your fiancé(e) or partner (the visa applicant) may be able to seek review of the decision. For more information, see page 55.

Sponsorship eligibility

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

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

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

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

If your partner is applying for a...	as sponsor, you must be...
Prospective Marriage visa	<ul style="list-style-type: none">• aged 18 years or over;• known personally to your fiancé(e) and have met in person since you both turned 18 years of age; and• free to marry your fiancé(e). There must be no impediment to your marriage under Australian law.
Partner visa	<ul style="list-style-type: none">• aged 18 years or over*; and• in a married or de facto partner relationship with your partner; or• intending to marry your partner before the visa is granted (overseas applicants only).

*If you are:

- aged 16 or 17 years; and
- wish to sponsor your spouse or intended spouse (overseas applicants only) who is aged 18 years or over;

your parent or guardian must be the 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. See 'Part 4 – Age requirements' for further details).

Limitations on sponsorship

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

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

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

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

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

There is a waiver provision that allows your sponsorship to be approved if the decision maker is satisfied that compelling circumstances affecting you exist. Compelling circumstances include, but are not limited to, those where:

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

The purpose of the sponsorship limitation is to prevent abuse of the partner migration programme and all aspects of your circumstances are relevant and taken into account when considering the waiver provision. The extent and importance of your ties to Australia as well as the consequent hardship/detriment that you would suffer if the sponsorship was not approved are also matters that are taken into consideration.

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

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

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

Further information about sponsorship limitations

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

Sponsorship undertaking

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

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

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

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

It is important that your fiancé(e) or partner and members of their family unit 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.

Reducing violence in the community

The Australian Government is committed to reducing violence in the Australian community, including family and sexual violence. As part of this commitment, if you have been convicted or charged with certain offences that may impact upon your eligibility to be approved as a sponsor. In order for a visa to be granted you must give the Department permission to disclose any convictions to the visa applicant. Further, where a visa applicant is under 18 years of age the Department asks for your permission to disclose convictions to any other person who can lawfully determine where the child lives.

The Department may ask you to provide one or both of the following:

- an Australian National Police check (NPC) for you; and/or
- a foreign police check for every country in which you have lived for a period of 12 months or more or a total period of at least 12 months since the latest of the following dates:
 - 10 years before the date of the request to provide the police check(s); or
 - the date you turned 16.

The Department may refuse the Partner/Prospective Marriage visa application if:

- you are asked to provide the police checks but do not provide them within a reasonable time; or
- you have been convicted of a relevant offence/offences and you have a significant criminal record in relation to these relevant offences.

If grounds to refuse your sponsorship exist, the sponsorship may still be approved if it is reasonable to do so, for example, after considering the length of time since you completed the sentence, the effect a refusal decision may have on any children or the length of the relationship between you and the visa applicant.

Note: If a Partner/Prospective Marriage visa application was lodged before 18 November 2016, the requirements above do not apply to you, even if you submit your Sponsorship form on or after 18 November 2016. The requirements above only apply if a Partner/Prospective Marriage visa application is lodged on or after 18 November 2016.

Protection of children

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

As of 27 March 2010, a sponsorship limitation has existed in the Migration Regulations which prevents a sponsorship from being approved if one of the proposed applicants is under 18 and the Minister is satisfied that the sponsor has a conviction or outstanding charge for a registrable offence. Sponsors of partner or prospective marriage visa applications lodged on or after 27 March 2010 which include an applicant aged under 18 years, are required to provide an Australian Federal Police (AFP) National Police Check and/or foreign police certificate(s) as part of the process of assessing the application. The results of the police certificate(s) are used by the Department to assess the sponsorship application and whether or not the visa application satisfies public interest criteria relating to the best interests of the children.

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

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

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

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

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

Privacy

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

Breakdown of relationships

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

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

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

12-month relationship requirement for de facto partners

About the 12-month relationship requirement for de facto partners

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

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

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

For detailed information on eligibility requirements for a Partner visa on the ground of being in a de facto relationship, see page 37.

Waiver of the 12-month relationship requirement

The 12-month relationship requirement does not apply if:

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

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

For further information on the 12-month relationship requirement, see *Fact sheet – One-Year Relationship Requirement for de facto partners*, which is available from the Department's website www.border.gov.au/about/corporate/information/fact-sheets/35relationship

Forced marriage

A forced marriage is where one, or both parties, has not freely and fully consented to the marriage, because of the use of coercion, threat or deception. A marriage entered into without real consent is not a valid marriage under Australian law. More information on marriages recognised in Australia is available from the Attorney-General's Department website www.ag.gov.au

Arranged marriage is not the same as forced marriage. An arranged marriage is where the parties consent to a marriage that has been organised or arranged by a third party, usually the respective families of the parties. Arranged marriage is valid in Australia because both parties give full and free consent.

A Partner or Prospective Marriage visa may be refused if it is found that one or both of the parties has not consented to the marriage.

From 8 March 2013 it is also a criminal offence in Australia to cause another person to enter into a forced marriage or be a party to a forced marriage (this does not apply to the victim of a forced marriage). These offences carry a maximum penalty of 4 years imprisonment, or 7 years imprisonment for an aggravated offence. The offences can apply to marriages performed in Australia, or to marriages performed overseas if the offender is an Australian citizen or resident.

If you, or a member of your family, are at risk of or may be a victim of forced marriage, contact the Australian Federal Police on 131 AFP, or online at www.afp.gov.au. If there is an immediate risk of harm, please call 000. If you are identified as a suspected victim of forced marriage in Australia, the AFP may refer you to a specific support programme.

Information on contact details for support services is available in the *Beginning a Life in Australia* booklet, which is also available in several languages from the Department of Social Services website www.dss.gov.au/our-responsibilities/settlement-services/beginning-a-life-in-australia

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 members of your family unit who may not live with you and who are not migrating. If you or any of the members of your family unit do not meet health requirements, you may not be granted a partner category visa.

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

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

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

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

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

Timing and location of medical examinations

If you apply outside Australia	If you apply in Australia
<p>In some cases, you will be able to undertake health examinations before you lodge your visa application. This will enable you to lodge a complete application, which may help to speed up processing of your application. This service is not available in all countries so you should check with the office outside Australia at which you will be lodging your application. Contact details are on page 12.</p> <p>The relevant office will provide you with medical examination forms and directions to listed doctors approved by Australian authorities.</p>	<p>If possible, you should visit Bupa Medical Visa Services for your medical examinations before you lodge your Partner visa application. If you live in a regional area, contact a Bupa office to find out details of an approved doctor. For more information, go to www.bupamvs.com.au</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 – Health requirement*, which is available from the Department's website www.border.gov.au/about/corporate/information/fact-sheets/22health

Character requirements

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

Character test

In order for the Australian Government to determine whether or not applicants are of good character, applicants and members of their family unit aged 16 years or over may be asked to provide police certificates for each country they have resided in for 12 months or more over the last 10 years (since turning 16 years of age).

In some instances, applicants may also be required to provide personal details to enable additional character checks to be undertaken. In undertaking character test assessment, the Department may contact you and the members of your family unit seeking additional personal information.

The original police check document should be provided to the Department. These may not be returned to the applicant, so copies should be taken for future reference.

Most Partner visa applications are processed in 2 stages, about 2 years apart. During the second stage processing of the application, the Department may require applicants to obtain further police certificates for each country they have resided in for more than 2 months (including Australia), since the grant of their temporary Partner visa.

For further information on the character requirement, see *Fact sheet – The Character Requirement*, which is available from the Department's website

www.border.gov.au/about/corporate/information/fact-sheets/79character

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 outside Australia 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 are on page 12.	You should provide this information with your application.

Note: If you are required to provide an Australian police check (also known as an Australian penal clearance certificate), you must provide an Australian Federal Police (AFP) National Police Check.

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

More information on police checks, including overseas police checks, is available from the Department's website www.border.gov.au/trav/visa/char

Travel and residence details

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

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

Including family members in your application

In your visa application you will be asked for information about each member of your family unit (such as your partner or children) even if they do not intend to migrate with you. Information about which family members are considered to be a 'member of your family unit' for migration purposes is available by referring to form 1496i *Including family members in your application*. Form 1496i is available from the Department's website www.border.gov.au/allforms/ or offices of the Department. You should ensure that you read and understand form 1496i before completing your application.

Dependants

Your dependent children (ie. members of your family unit) may be included in, or added to, certain applications for partner category migration in some circumstances. However, this can only be done if they can satisfy legislative requirements relating to their location and type of visa and that they are included in the application before your permanent Partner visa is granted. Additional charges may apply. Please refer to the Department's website www.border.gov.au/trav/visa/fees for further information

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

Eligible child

To include a child as migrating with you in your visa application, the child must:

- be your child or a stepchild from a current or a previous relationship (in certain circumstances);
- not be married, engaged to be married, or have a de facto partner; and must be:
 1. under 18 years of age; or
 2. over 18 years of age but not yet turned 23, and be dependent on you or your partner; or
 3. over 18 years of age and be unable to earn a living to support themselves due to physical or cognitive limitations and be dependent on you or your partner (**Note:** The child will still need to meet Australia's health requirement); or
 4. a dependent child of a child who is eligible under 1, 2 or 3 above.

Evidence to provide for dependent children

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

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

You should provide a certified copy of each child's birth certificate or adoption papers.

If your dependent child is aged 18 years or over, you have to prove that the child is more reliant on you than on any other person or source. If you cannot provide such evidence, it is unlikely that your child will be considered dependent on you.

Note: Occasionally, after a partner category visa application is lodged, a departmental decision-maker may not be satisfied with the submitted documentary evidence of a claimed biological relationship. In such a case, an applicant and that claimed member of the applicant's family unit may need to undergo a DNA test to establish that claimed relationship. For more details on DNA testing, see page 50.

For each dependent child aged 18 years or over, whether or not they are migrating with you, you must complete a form 47A. This form is available on the Department's website www.border.gov.au/allforms/

When you can include dependent children in your application

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

For details on adding dependent children to your partner category visa application after you lodge your application, see 'Including a dependent child in your application' on page 49.

Applying in Australia while your dependent child is not in Australia

If you are in Australia when you lodge your Partner visa application but your dependent child is overseas, you will not be able to include your child in your application. However, once you have been granted your temporary Partner visa, your child may apply for a Dependent Child visa (subclass 445). For more details on the Dependent Child visa, see page 50.

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 page 49.

Custody requirement

The Department seeks to ensure that allowing a child to migrate is not in contravention of Australia's international obligations in relation to the prevention of child abduction.

If your application includes a child under 18 years of age and that child's other parent is not migrating with you, or there is any other person who has the legal right to determine where that child can live, you will need to provide the evidence as outlined below.

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

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

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

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

Best interests of the child

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

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

Sponsors who are required to submit an Australian National Police Check must complete a National Police Check from the Australian Federal Police (AFP).

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

More information on police checks, including overseas police checks, is available from the Department's website www.border.gov.au/about/corporate/information/fact-sheets/79character

Costs and charges

Visa Application Charge

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

Note: If you are applying for a Partner visa, you pay only one application charge even though you are making an application for a temporary and also for a permanent visa at the same time and on the same form.

You must calculate the Visa Application Charge you need to pay based on your situation and pay the first Visa Application Charge when you lodge. There are additional charges for members of your family unit who are included in your visa application. Refer to the costs under *Additional applicant charge 18 and over* and *Additional applicant charge under 18* in the visa pricing table on the website www.border.gov.au/trav/visa/fees/explanation-of-visa-application-charges/examples-visa-pricing-charges

Visa Application Charges may be subject to adjustment. This may increase the cost of a visa.

To check the Visa Application Charge refer to the Department's website www.border.gov.au/trav/visa/fees

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.border.gov.au/about/contact/offices-locations	To make a payment, please pay by credit card, debit card, bank cheque or money order made payable to the Department of Immigration and Border Protection. 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 offices of the Department outside Australia have a person who can certify or witness documents and statutory declarations if necessary (this service may attract a charge). For certification in Australia, see the indicative list of persons on the next page under 'Who can witness statutory declarations and/or form 888'.

Statutory declarations

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

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

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

Statements about the history of your relationship

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

Details of what is required in these statements can be found under 'History of your relationship' on page 41.

Statements from persons who know you and your partner

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

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

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

While it is not mandatory, for this purpose, form 888 *Statutory declaration by a supporting witness in relation to a partner or Prospective Marriage visa application* is available from the Department's website www.border.gov.au/forms/documents/888.pdf

Note: Prospective Marriage visa applicants are also required to provide similar statements from persons who can support their claims of their fiancé(e) relationship and its development (see page 35 for details about the documents to be provided by Prospective Marriage visa applicants).

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

If you:

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

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

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

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

- blank statutory declaration template available from the Attorney-General's Department website www.ag.gov.au or
- form 888 *Statutory declaration by a supporting witness in relation to a partner or Prospective Marriage visa application* available from the Department's website www.border.gov.au/forms/documents/888.pdf

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

Note: If you provide these 2 completed statutory declarations, and they give sufficient evidence to support the existence, as well as the history, of your relationship with your partner, in most cases they will also be acceptable for the purposes of assessing the social context of your relationship (see page 29).

Who can witness statutory declarations and/or form 888

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

- Justice of the Peace;
- medical practitioner;
- legal practitioner;
- civil marriage celebrant or registered minister of religion;
- dentist;
- nurse;
- optometrist;
- pharmacist;
- physiotherapist;
- full-time teacher;
- bank manager or bank officer with 5 or more continuous years of service;

-
- postal manager or permanent employee of the Australian Postal Commission with 5 or more continuous years of service;
 - police officer; or
 - public servant with 5 or more continuous years of service.

A full list of prescribed persons is available from the Attorney-General's Department website www.ag.gov.au. A blank statutory declaration form is also available from the same website.

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

If you are outside Australia

If you are outside Australia and are unable to get an Australian citizen or Australian permanent resident to complete a statutory declaration in support of your relationship with your partner, you may obtain statements from people who know you and your sponsor. Such statements are not statutory declarations under Australian law. However, in accordance with policy, they should be witnessed or certified according to the legal practices of the relevant country. Failing that, they should be witnessed by a person whose occupation or qualification is comparable to a person included in the prescribed persons list on pages 30–31. 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 office outside Australia when you lodge your application. Contact details are available from the Department's website www.border.gov.au/about/contact/offices-locations

English translations

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

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

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

Part 5 – Prospective Marriage visa

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

A Prospective Marriage visa is a temporary visa that remains valid for 9 months from the date the visa is granted. If you are granted a Prospective Marriage visa, you must enter Australia and, after that entry, marry your intended spouse (your fiancé(e)) within the period that the visa is valid. You may then apply for a Partner visa when you are in Australia, but you will have to complete another application form and pay a Visa Application Charge. At each stage of the process, your relationship with your partner will be assessed. (For details about Partner visas, see page 36).

If you are planning to marry your fiancé(e) before entering Australia, or if you have been in a de facto relationship with your fiancé(e) for over 12 months, you should apply for a Partner visa (see page 36).

Eligibility requirements

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

- be sponsored (see ‘Sponsorship eligibility’ on page 16);
- be aged 18 years or over when the application is lodged;
- be of the opposite sex to your intended spouse;
- have met your intended spouse in person since you both turned 18 years of age and know each other personally. This must be the case even if:
 - it is an arranged marriage;
 - you and your sponsor met as children and the marriage was arranged; 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.

What to provide with your Prospective Marriage visa application

When you lodge your application, you must provide:

- your completed application form 47SP and form 40SP (completed by your sponsor). You can lodge either online via ImmiAccount (see page 10) or download the forms from the Department's website www.border.gov.au/allforms/
 - if appointing a migration agent or exempt agent or authorised recipient, a completed form 956 *Advice by a migration agent/exempt person of providing immigration assistance*;
 - if appointing an authorised recipient that is not a migration agent/exempt person, a completed form 956A *Appointment or withdrawal of an authorised recipient*;
 - 4 recent passport-size photographs of yourself and 2 recent passport-size photographs of your sponsor (see page 5);
 - certified copies of your passport or travel documents (see page 29 for information on certified copies);
 - proof of your identity (see page 40);
 - proof that your sponsor is aged 18 years or over and is an Australian citizen, Australian permanent resident or eligible New Zealand Citizen (see page 41);
 - satisfactory evidence that you and your fiancé(e) have met face to face since you both turned 18 years of age and that you are personally known to each other;
 - evidence that there is no impediment to you marrying your fiancé(e) (for example and as appropriate, if either you and/or your fiancé(e) have been previously married or a previous spouse has died, a certified copy of the divorce decree absolute or the death certificate of the deceased spouse);
 - written statements from both you and your fiancé(e) detailing the history of your fiancé(e) relationship (for example, when and how you met, when you became engaged, joint activities, significant events in the relationship) and your future plans as husband and wife;
 - evidence that you intend to marry your fiancé(e) within 9 months of being granted the visa. Such evidence must be a signed and dated letter (on letterhead) from an authorised marriage celebrant who will conduct your wedding ceremony. The letter must include the place and date (or date range) on which the planned marriage ceremony may take place. If you plan to marry in Australia, the celebrant must confirm that a Notice of Intended Marriage (NOIM) for you and your fiancé(e) has been lodged with them (see page 34 for further details about NOIMs);
 - evidence that you and your fiancé(e) are aged 18 years or over at the time the application is lodged;
 - evidence that you and your fiancé(e) genuinely intend to live in a spouse relationship. The Department knows that it is often difficult to provide evidence of your intention in the future to live with your fiancé(e) in a spouse relationship. The required evidence depends on the circumstances of each case. If you have evidence that relates to the financial, household, social context aspects of, and commitment to, your relationship, you should submit this with your Prospective Marriage visa application (see pages 41–43 for guidance about similar such requirements for partner visas).
- Note:** At the very least, you should submit 2 statements from family and/or friends who are aware of your intended marriage and can attest to your genuine intention to live together in an ongoing spouse relationship (for guidance about these statements, see 'Statutory Declarations' on page 29);
- where possible, completed health and character checks (see pages 23–24).

You must pay the Visa Application Charge (see page 28).

NOIMs

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

You should contact the Registry of Births, Death and Marriages in the state or territory where you intend to marry to enquire about the process of lodging a NOIM. A list of Australian Registries of Births, Deaths and Marriages is available from the Australian Government website www.australia.gov.au

When and where you can marry

The date (or date range) on which the planned marriage ceremony may take place (shown in the letter from the marriage celebrant) should be set far enough in the future to allow for the time it takes to process your visa application. For information on current service standards for Prospective Marriage visa applications, refer to the Department's website.

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

For each member of the family unit included in your application, you must provide:

- for each dependant aged 18 years or over, a form 47A (available from the Department's website www.border.gov.au/allforms/) completed and signed by you, your intended spouse and the member of the family unit 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;
- if appropriate, completed health and character checks (see pages 23–24); and
- if the member of the family unit is aged under 18 years, an Australian National Police Check or overseas police certificate(s) from the sponsor (see pages 18–19).

For more information on members of the family unit, see pages 25–26.

If you marry before you are granted a Prospective Marriage visa

If you marry before a decision is made on your application, send the following to the office processing your application as soon as possible:

- a certified copy of proof that you have married; and
- a request that, due to your marriage, you want to withdraw your application for a Prospective Marriage visa (subclass 300) and be considered for a Partner visa instead.

After you are granted a Prospective Marriage visa

If you are granted a Prospective Marriage visa, you:

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

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

Note: The 9-month visa validity period does not count towards the two-year requirement in relation to Partner visa processing (for details, see page 36).

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 any kind of fee assistance or subsidy until you have been granted a permanent Partner visa (subclass 801).

If you change address (see page 47) 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 51.

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

The Prospective Marriage visa is valid for 9 months only and cannot be extended. If you do not travel to Australia and marry your fiancé(e) within 9 months of the visa being granted, it will cease. If you travel to Australia but don't marry within the 9 months, you may not be able to remain in Australia and apply for a Partner visa.

Your Prospective Marriage visa was granted to you on the basis that you genuinely intended to travel to Australia and marry your fiancé(e) while on this visa.

However, if you marry a person other than your fiancé(e), you may still be able to lodge an application for a Partner visa in Australia (see 'Part 6 – Partner visa').

Part 6 – Partner visa

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

Persons applying in Australia for a Partner visa may not be immediately eligible to work or study in Australia, unless their previous visa allowed them to do so. Once their previous visa ceases, Partner visa applicants with an associated Bridging visa A or Bridging visa B may be immediately eligible to work in Australia. Further information regarding bridging visas is available from the Department's website www.border.gov.au/trav/visi/visi/bridging-visas

Once you have been granted a temporary Partner visa, you will be able to both work and study in Australia. However, you are not eligible for any kind of fee assistance or subsidy until you have been granted a permanent Partner visa (subclass 100 or 801).

Processing stages for a Partner visa

Applying for a Partner visa is a 2-stage process. However, you apply for the temporary and permanent visa at the same time using form 47SP. You can lodge your application online or by post or in person.

To lodge online create or login to your ImmiAccount and submit form 47SP. Once it is submitted, your sponsor uses your TRN to submit their form 40SP. You must provide all relevant documents and pay the Visa Application Charge when you apply.

To lodge by post or in person, download form 47SP from the Department's website www.border.gov.au/allforms/ Submit form 47SP, form 47A (if applicable), form 40SP (completed by your sponsor) and any supporting documentation and the Visa Application Charge (or evidence it has been paid) together.

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

Eligibility requirements

Married spouses (de jure)

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

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

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

- be sponsored by an eligible person (see ‘Sponsorship eligibility’ on page 16)
- 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 41);
- 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 23–25).

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

To apply for a Partner visa as a de facto partner, you and your partner must show that you have been in a de facto relationship for the entire 12 months immediately prior to lodging your application. For details on the 12-month requirement, see page 21.

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

- be sponsored by an eligible person (usually by your partner) (see ‘Sponsorship eligibility’ on page 16);
- not be related by family;
- together with your de facto partner, be aged at least 18 years at the time your application is made;
- show that you and your partner have a mutual commitment to a shared life to the exclusion of all others;
- show that you have a genuine and continuing relationship with your partner (see page 41);
- show that you and your partner have been in a de facto relationship for the entire 12 months immediately prior to lodging your application;
- show that you and your partner are living together or, if not, that any separation is only temporary; and
- meet health and character requirements (see pages 23–24).

In assessing a claimed de facto relationship, the Department looks at evidence of things such as living together full-time, sharing important financial and social commitments, and setting up a household separately from other people (for acceptable types of evidence, see page 41).

What to provide with your Partner visa application

When you lodge your application, you must provide:

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

Note: The Department does not consider the decorative marriage certificate to be acceptable evidence of marriage. You will need to contact the relevant registering authority in Australia or overseas to request a registry extract. A list of Australian Registries of Births, Deaths and Marriages is available from the Australian Government website www.australia.gov.au

OR

- if you and your partner are in a de facto relationship, evidence that you and your partner have been in a de facto relationship for the entire 12 months prior to lodging your application, or evidence in support of any claim that there are compelling and compassionate circumstances for the grant of the visa, despite not being in a de facto relationship for a full 12 months at time of lodgement.

All Partner visa applicants must also provide the following:

- completed application form 47SP and form 40SP (completed by your sponsor), which can be lodged online via ImmiAccount or downloaded from the website www.border.gov.au/allforms/ and lodged via post or in person;
- if appointing a migration agent or exempt agent or authorised recipient, a completed form 956;
- if appointing an authorised recipient that is not a migration agent/exempt person, a completed form 956A;
- 4 (or 2 if applying in Australia) recent passport-size photographs of yourself and 2 passport-size photographs of your sponsor (see page 5);
- certified copies of your passport or travel documents (see page 29 for information on certified copies);
- proof of identity (see page 40);
- evidence that your relationship is genuine and continuing (see page 41);
- 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 41);
- 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 29 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 23–24).

You must pay the Visa Application Charge (see page 28).

For each member of the family unit included in your application, you must provide:

- for each member of the family unit aged 18 years or over, a form 47A (available from the Department's website www.border.gov.au/allforms/) completed and signed by you, your partner and the member of your family unit 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;
- if appropriate, completed health and character checks (see pages 23–24); and
- if the member of the family unit is aged under 18 years, an Australian National Police Check or overseas police certificate(s) from the sponsor (see pages 18–19).

For more information on members of the family unit, see pages 25–26.

Temporary Partner visa (subclasses 309 and 820)

If you:

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

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

If you:

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

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

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

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

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

If you have been granted a temporary Partner visa, but now have a dependent child who wishes to migrate but was not included in your Partner visa application, refer to 'Dependent Child visa' on page 50.

If you change address (see page 47) 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 51.

Permanent Partner visa (subclasses 100 and 801)

For the grant of the permanent Partner visa (subclass 100 or 801), you can be either in or outside Australia. This is the case whether you lodged your original application in or outside Australia.

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

- at the time you apply, you have been in a partner relationship with your partner for 3 years or more, or 2 years or more if you and your partner have a dependent child of your relationship; or
- your partner holds or held a permanent humanitarian visa and you were in the relationship before the visa was granted and this relationship was declared to the Department at the time (applies to subclass 100 visas only).

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 members of your family unit, 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 29.

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.

Members of the applicant's family unit

For each member of the family unit, 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 the members of your family unit 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 the members of your family unit have previously been married, the previous marriage registry extract; a copy of the divorce decree absolute, annulment papers, or the death certificate of the deceased spouse (as appropriate).

Sponsor

You must provide certified copies of the following:

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

Evidence that your relationship is genuine

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

History of your relationship

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

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

The statements written by you and your partner can be on ordinary writing paper or a statutory declaration form may be used. Each statement or statutory declaration must be signed and dated by the author. For details on who can witness statutory declarations, see pages 30–31.

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 aspect of the relationship

How your relationship with your partner is recognised socially 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);
- evidence that you and your partner have declared your relationship to government bodies, commercial/public institutions or authorities;
- information provided in statutory declarations made by your or your partner's parents, family members, relatives, friends or acquaintances;
- joint membership of organisations or groups;
- evidence of joint participation in sporting, cultural or social activities; or
- joint travel.

Note: Providing only statutory declarations is not normally sufficient to evidence the social aspect of your relationship.

The nature of your commitment to each other

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

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

Part 8 – Other important information

Your personal information

Collection, use and disclosure of your personal information

You and your sponsor should read this information carefully.

Your personal information is protected by law, including the *Privacy Act 1988*. Important information about the collection, use and disclosure (to other agencies and third parties, including overseas entities) of your personal information, including sensitive information, is contained in form 1442i *Privacy notice*. Form 1442i is available from the Department's website www.border.gov.au/allforms/ or offices of the Department. You should ensure that you read and understand form 1442i before completing any visa application forms.

The Department is authorised to collect information about you under Part 2 of the *Migration Act 1958* (the Act) '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 Act.

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.

Children

When sponsorship applications present potential child protection issues, the Department may provide the information that raises child protection concerns to the visa applicant(s) and any non-migrating person who can lawfully determine where the applicant's migrating minor child may live. See 'Protection of children' on pages 18–19.

Disclosure for law enforcement

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.

Access to your personal information

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

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

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 office outside Australia with an address in Australia to which copies of personal records can be sent.

The Department has authority under 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.border.gov.au/allforms/

Obtaining information from other agencies and organisations

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

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

For further information, see form 1442i *Privacy notice*, which is available from the Department's website www.border.gov.au/allforms/

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, complete the part of form 47PA titled *Options for receiving written communications* and:

- if you are appointing a migration agent or exempt person (who will also be your authorised recipient), complete and submit form 956; or
- if you are appointing an authorised recipient who is not a migration agent or exempt person, complete and submit form 956A.

See below for an explanation of what a migration agent, exempt person or authorised recipient can do.

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 person information

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

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

Consent to communicate electronically

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

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

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

What the Department will do

The Department will:

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

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

Change of address

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

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

The Department will then send communication about your application to the latest address for correspondence you have provided (unless you have authorised another person or migration agent to receive on your behalf all communication relating to your partner category visa application – see page 45).

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

Initial entry date to Australia

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

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

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

Travel during visa processing

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

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

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

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

Bridging visas

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

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

If you wish to travel overseas while your partner category visa application is being considered, you may 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.

Further information on bridging visas is available from the Department's website www.border.gov.au/trav/visi/visi/bridging-visas

Including a dependent child in your application

If you have a dependent child that you did not include in your partner category visa application but you later decide you want to include them, you must advise the Department. You should use form 1436 *Adding an additional applicant after lodgement – Details and payment form*. There will be a charge for any additional applicants. Refer to the costs under *Additional applicant charge 18 and over* and *Additional applicant charge under 18* in the visa pricing table on the website www.border.gov.au/trav/visa/fees

You must do this **before** a decision is made on your temporary Partner visa application. You should send the form to the office that is processing your visa application.

For information about who can be counted as dependent children, see page 25.

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

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

If the dependent child is aged under 18 years, the sponsor will need to provide an Australian National Police Check and/or overseas police certificate(s) (see page 27), unless one has already been provided with the application.

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

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

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

If your child was born in Australia, your child will have automatically been granted the same visas that you and your partner hold at the time of your child's birth.

If the child's other parent was an Australian citizen, permanent resident or an eligible New Zealand citizen at the time of the child's birth, the child may be an Australian citizen by birth. Information to help you determine your child's eligibility to apply for Australian citizenship is available from the Department's website www.border.gov.au

Adding a dependent child after you are granted a temporary Partner visa

Once you have been granted your temporary Partner visa, your dependent child will need to apply for, and be granted, a Dependent Child (subclass 445) visa to be eligible to be added to and granted a permanent Partner visa. Use form 918.

Once granted a subclass 445 visa, your child can then apply to be added to your permanent Partner visa application via form 1002 *Application by a subclass 445 dependent child for a permanent partner visa*.

See the following page for further information on the Dependent Child (subclass 445) visa.

DNA testing

DNA testing can show if 2 or more people are biologically related.

DNA testing is used by the Department as one way to prove claimed family relationships. It can be a useful option when documentary evidence is considered unreliable or is unavailable.

When a decision maker is not satisfied with available evidence of a relationship, they may suggest that you undergo DNA testing to prove the claimed relationship.

Do not undergo any DNA testing unless asked to do so by the Department. We will tell you how the test is to be arranged, as any test which does not meet our requirements may not be accepted. Where a DNA test is requested, you must meet the full costs of DNA testing.

Further information about DNA testing can be found in form 1259i *Information about DNA testing for visa and citizenship applicants*.

Dependent Child visa

Who can apply for a Dependent Child visa

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

- your dependent child to travel to and enter or to remain in Australia until a decision is made on your permanent Partner visa application; and
- for you to arrange that they be considered for a permanent Partner visa at the same time as your permanent Partner visa application is considered (see page 49).

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.border.gov.au/trav/visa-1/445-

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 office of the Department outside Australia.

If your child is in Australia, they must send the application to the Department's office in Perth – attention Child and Other Family Processing Centre Hobart. Applications cannot be lodged in person in Australia.

Use form 918, available from the Department's website www.border.gov.au/allforms/. It includes detailed information on how to lodge an application and the requirements to be met.

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

If the dependent child is aged under 18 years, the sponsor will need to provide an Australian National Police Check or overseas police certificate(s) with the application (see page 27).

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, which is available from the Department's website www.border.gov.au/allforms/. This will enable them to be considered for a permanent Partner visa at the same time that your permanent Partner visa application is considered.

If the relationship with your partner ends

If your relationship with your partner ends, you must inform the Department immediately. In certain circumstances, you may still be eligible to be granted a permanent Partner visa.

Prospective Marriage visa holders

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

You or a member of your family is the victim of family violence

You may still be eligible for the Partner visa if you:

- enter Australia as the holder of a Prospective Marriage visa (subclass 300);
- marry your fiancé(e) while the visa is valid; and
- or a member of your family (who were also granted a 300 visa) is the victim of family violence committed by your partner before your relationship ends (whether or not you have applied for a Partner visa before the relationship ends).

Your relationship ends and you have parental responsibility for at least one child

You may still be eligible for the Partner visa if you:

- enter Australia as the holder of a Prospective Marriage visa (subclass 300);
- marry your fiancé(e) while the visa is valid;
- lodge a valid application for a Partner visa (subclass 820) before your relationship ends; and
- have parental responsibility for at least one child under the age of 18 years (of whom your sponsoring spouse also has parental responsibility).

Your partner dies

You may still be eligible for the Partner visa if your partner dies after you were granted the Prospective Marriage visa (subclass 300) and after you have married. You will need to establish that, had your partner not died, the relationship would have continued and that you have developed close ties with Australia.

Temporary Partner visa (subclass 820 or 309) holders whose relationship with their partner ends

If your relationship with your partner ends while you are the holder of a temporary Partner visa you may still be eligible for the grant of the permanent Partner visa without having to fulfil the usual two-year waiting period. This may apply in the following circumstances.

You or a member of your family is the victim of family violence

You may still be eligible for the Partner visa if:

- you enter Australia as the holder of a Partner visa (subclass 309);
- your relationship breaks down; and
- you and/or a member of the family unit of you or your partner (who were also granted a 309 visa) is the victim of family violence committed by your partner.

You may still be eligible for the Partner visa if:

- you were granted a temporary Partner visa (subclass 820) in Australia;
- your relationship breaks down; and
- you and/or a dependent child of you or your partner are the victim of family violence committed by your partner.

You have parental responsibility for at least one child

You may still be eligible for the Partner visa if:

- you were granted a temporary Partner visa (subclass 820) in Australia or you enter Australia as the holder of a Partner visa (subclass 309);
- your relationship breaks down; and
- you have parental responsibility for at least one child under the age of 18 years (of whom your sponsoring partner also has parental responsibility).

Your partner dies

You may still be eligible for the Partner visa if you were granted a temporary Partner visa (subclass 820) in Australia or you have entered Australia as the holder of a Partner visa (subclass 309) and your partner dies.

You will need to establish that, had your partner not died, the relationship would have continued. If you have applied for a Partner visa while in Australia, you must also show that you have developed close ties with Australia.

Family violence provision

Violence within the home and within marriage is known as family violence (also known as domestic violence). Family violence is unlawful. This is behaviour by a person that results in the victim experiencing or fearing physical, sexual or psychological abuse and damage, forced sexual relations, forced isolation or economic deprivation.

Family violence is an unacceptable occurrence that has a tragic impact on the lives of victims, the community and the economy. The Australian Government is committed to achieving a reduction in family and sexual violence, particularly against women and their children. As part of this commitment, all successful applicants will be provided with a link in their visa grant letter to information about family and sexual violence, forced marriage and Australian law, and the services and support available within Australia.

For counselling and assistance with family violence issues there are national help lines and services in your state or territory. The states and territories are responsible for services to support adults and children affected by family violence and to assist those who want to change their violent behaviour. Further information on contact details for support services is available in the *Beginning a Life in Australia* booklet, which is also available in several languages from the Department of Social Services website www.dss.gov.au/our-responsibilities/settlement-services/beginning-a-life-in-australia

For information about the family violence provisions in the Migration Regulations 1994, see *Fact sheet – Family violence provisions* and form 1410 *Statutory declaration for family violence claim*.

Note: Persons who have previously made a claim under the family violence provisions prior to 24 November 2012, need to use form 1040 *Statutory declaration relating to family/domestic violence*.

Fact sheet – Family violence provisions is available from the Department's website www.border.gov.au/about/corporate/information/fact-sheets/38domestic and forms 1410 and 1040 are available from the Department's website www.border.gov.au/allforms/

If your relationship breaks down due to family violence and you have notified the Department, Australian privacy laws prevent the Department from providing further advice, or giving information, to a third party.

If your application is approved

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

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

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

If the travel facility of your 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 about Resident Return visas is available from the Department's website www.border.gov.au/trav/visa/appl/resident-return

Visa label

You should note the following:

- you do not need an Australian visa label in your passport;
- visa labels are no longer routinely issued;
- there is now a charge for a visa label;
- Australian authorities, such as immigration and customs officers, can check your visa electronically through your passport number, so it is important to advise us when you get a new passport;
- your visa is linked to your passport or ImmiCard through its unique visa grant number, which will be needed by you or other parties to do a visa check online;
- if you want to request and pay for a visa label, use form 1405 *Visa label request and payment*.

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

If you have been granted your temporary Partner or Prospective Marriage visa (subclass 309/820/300) and are waiting for your permanent Partner visa (subclass 100 or 801), you should be aware that any subsequent visa grant will override your current temporary Partner visa.

This will particularly be an issue if, for example:

- in addition to your outstanding permanent Partner visa application, you also have an undecided Business visa (subclass 457) or a Tourist visa (subclass 676) application. If either of these visas are granted while you hold a temporary Partner visa the temporary Partner visa will cease. This is because you will no longer satisfy one of the requirements for the permanent Partner visa, which is that you hold a temporary Partner visa (309/820); or
- you are the holder of a New Zealand passport and have been granted a temporary Partner or Prospective Marriage visa (309/820/300). It is very important that when you arrive at an air or sea border, you advise the immigration officer that you are the holder of a temporary Partner category visa. If you do not do so, you will automatically be granted a Special Category visa (subclass 444) which will override your current temporary Partner visa.

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

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

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

If your application is refused

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

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

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

Applying for a review of a decision

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

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

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

More information on review of migration decisions is available from the Administrative Appeals Tribunal (AAT) website www.aat.gov.au or contact the AAT 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 Office.

Sydney City Office

Ground Floor
26 Lee Street (near Railway Square)
SYDNEY NSW 2000

Postal address:
GPO Box 9984
SYDNEY NSW 2001
(Courier access: Level 3)

Fax (02) 8862 6050

Parramatta Office

9 Wentworth Street
PARRAMATTA NSW 2150

Postal address:
GPO Box 9984
SYDNEY NSW 2001
Fax (02) 8861 4422

Australian Capital Territory

Canberra Office

3 Lonsdale Street
BRADDON ACT 2612

Postal address:
GPO Box 717
CANBERRA ACT 2601

Fax (02) 6195 6077

Victoria

Melbourne Office

Ground Floor
Casselden Place
2 Lonsdale Street
MELBOURNE VIC 3000

Postal address:
GPO Box 241E
MELBOURNE VIC 3001

Courier address:
Converga Technology Centre
170 Clarendon Street
SOUTH MELBOURNE VIC 3001

Fax (03) 9235 3300

Dandenong Office

Level 5
76 Thomas Street
DANDENONG VIC 3175

Postal address:
GPO Box 241
MELBOURNE VIC 3001

Courier address:
Converga Technology Centre
170 Clarendon Street
SOUTH MELBOURNE VIC 3001

Fax (03) 8762 2600

Tasmania

Hobart Office

Ground Floor
188 Collins Street
HOBART TAS 7000
(Courier access: Level 14)

Postal address:
GPO Box 794
HOBART TAS 7001

Temporary Work (subclass 401) –
Fax (03) 6281 9579

Special Programme (subclass 416) and Training and Research (subclass 402) –
Fax (03) 6281 9454

Queensland

Brisbane Office

299 Adelaide Street
BRISBANE QLD 4000

Postal address:
GPO Box 9984
BRISBANE QLD 4001
(Courier access: Level 2)

Fax (07) 3136 7473

Cairns

Level 2
GHD Building
95 Spence Street
CAIRNS QLD 4870

Postal address:
PO Box 1269
CAIRNS QLD 4870
Fax (07) 4051 0198

Thursday Island

Commonwealth Centre
Hastings Street
THURSDAY ISLAND

Postal address:
PO Box 299
THURSDAY ISLAND QLD 4875

Western Australia

Perth Office

Wellington Central
Ground floor
836 Wellington Street
WEST PERTH WA 6005

Postal address:
Locked Bag 7
NORTHBRIDGE WA 6865

Fax (08) 9415 9766

South Australia

Adelaide Office

70 Franklin Street
ADELAIDE SA 5000

Postal address:
GPO Box 2399
ADELAIDE SA 5001

Fax (08) 7421 7653

Northern Territory

Pella House
40 Cavenagh Street
DARWIN NT 0800

Postal address:
GPO Box 864
DARWIN NT 0801

Fax (08) 8981 6245



