



Immigration Advice and Rights Centre Inc.

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FIANCE(E) APPLICATIONS

(Reflects law as at 1 October 2008)

This is known as the Prospective Marriage visa, and is for people who are outside Australia, are engaged to be married to an Australian citizen, Australian permanent resident or eligible NZ citizen and who wish to lodge an application for a visa to come to Australia to marry their fiancé(e)

The visa is valid for nine-month from the time it is granted, and allows the visa holder to travel to, enter and remain in Australia until the expiry of the nine months. The applicant must marry the sponsor within that time. The law requires that the applicant and sponsor have met and are known to each other personally for the visa to be granted. After marriage you should apply for the onshore spouse visas (subclass 820 and 801). Subclass 820 is a two year provisional visa allowing you to remain in Australia with your partner. At the end of the two years the relationship will be assessed and if the Department of Immigration is satisfied that your relationship is ongoing and genuine, a permanent visa should be granted.

If your sponsor has previously sponsored/nominated a partner or was sponsored/nominated themselves as a partner then there may be limitations on this visa application. If this applies to your situation you should obtain advice from a registered migration agent.

MAKING AN APPLICATION

You can download a Partner Migration Booklet free of charge from the Department of Immigration's website (www.immi.gov.au) or buy it from a Department of Immigration office for \$10 (see below for addresses) or ask for the specific forms listed below, provided without charge.

- Form 47SP or Form 47SP (Internet) the application form, to be completed by the applicant.
- Form 40SP or Form 40SP (Internet) the sponsorship form to be completed by the Australian partner.
- Statutory declarations – you should use Form 888 for these and you should get at least 2 statutory declarations.
- Form 80 character check.
- Police clearance from any country where the fiancé(e) has lived for more than 12 months in the last 10 years. See the form *Character Requirements Penal Clearance Certificates (formerly form 47P)* for details for countries other than Australia, see form 1101 for Australia.
- 4 passport sized photographs of all applicants with the name of each person written on the back of the photograph.
- Visa application charge of \$1,420.

* IARC does not guarantee the accuracy of any information contained in this information sheet. It contains general information and is not a substitute for legal advice

EVIDENCE

You should provide evidence that:

- you and your fiancé(e) have met and are known to each other personally; and
- you both genuinely intend to get married and to live together as husband and wife.

The evidence should be detailed and describe your relationship as much as possible. The evidence provided should include:

- a statutory declaration from the applicant giving the following information:
 - when/where/how you met your partner;
 - whether you go out/socialise/entertain people as a couple;
 - what your plans are for the future such as when/where you plan to be married, where you plan to work, where you plan to live, whether you are planning to have children;
 - whether you give each other emotional support and companionship; and
 - if the marriage has been arranged according to traditional custom then explain the customs;
- a statutory declaration from your partner covering the same things, but in her/his own words;
- evidence of the marriage arrangements – this should include a letter from the priest/celebrant stating when and where the marriage is to take place and also that a notice of intention to marry has been lodged;
- at least 2 statutory declaration from friends or relatives explaining how they know the applicant and their partner, what they know about the relationship, why they believe it is genuine and the reasons why they believe that you intend to be married in Australia – Form 888 should be used for these;
- evidence of ongoing contact during times spent apart such as letters(with envelopes) written to each other, copies of telephone bills showing the itemised calls to each other, evidence of any money sent to each other;
- certified copies of the applicant's passport and birth certificate and the birth certificates of any children; and
- certified copy of partner's Australian passport, birth certificate, Australian citizenship certificate or permanent residence visa.

HEALTH AND CHARACTER

In order to be granted a fiancé visa the applicant will need to satisfy relevant health and character criteria. This will involve undergoing appropriate medical examinations, providing appropriate criminal record checks and passing general character requirements. Detailed discussion of these criteria and how to satisfy them is set out in IARC's *Health* and *Character* information sheets.

Applicants should be aware that all members of their family unit (ie dependent children and some dependent relatives) will also need to satisfy the health criteria **even if they are not applying to migrate to Australia**. If any member of the family unit fails the health test the fiancé application may be refused. In some circumstances the health criteria may be waived (at the Minister's discretion). For more detail about this please refer to IARC's *Health* information sheet.

CERTIFIED COPIES, STATUTORY DECLARATIONS AND TRANSLATIONS

Any photocopies of documents to be included with the application must be certified¹ by a solicitor/Justice of the Peace/bank manager etc).

People who make a statutory declaration for you must attach proof of identity such as a certified copy of the front page of their passport, birth certificate, Australian citizenship certificate or permanent resident's visa. The statutory declaration must be signed in front of a solicitor, Justice of the Peace or Bank manager. If the person

¹ a certified copy is a copy containing a statement to the effect that the copy is a true copy of the original document.

making the statutory declaration is outside Australia then the statutory declaration should be in form prescribed for the country where the declaration is being made.

Any documents which are not in English should be translated by an accredited translator. Both the translation and a certified copy of the untranslated original should be submitted with the application. For accredited translators call either the Ethnic Affairs Commission on (02) 9716 2231 or the Translating and Interpreting Service on 131 450.

OFFENCES

You must ensure that you are honest with the Department of Immigration. Under the *Migration Act 1958* it is an offence to:

- arrange a marriage for the purposes of obtaining permanent residence
- make false, misleading or unsupported statements in relation to whether or not other persons have a genuine and continuing marital relationship between them.

ASSURANCE OF SUPPORT

The Minister may request an assurance of support ('AOS') before making a decision. An AOS is a legal commitment by a person or entity ('Assurer') to repay to the government the amount of any welfare payments made to the applicant within the first two years after the applicant enters Australia/is granted their visa. The Assurer does not have to be the sponsor.

An AOS does not need to be provided at the time of application. It should only be provided if requested later by the Minister. The Minister may require an AOS where the Minister believes that the applicant is likely to claim welfare allowances from the Australian government.

The factors which are relevant to whether an AOS is requested are:

- the applicant's age
- the applicant's employment prospects (including skills and qualifications)
- the applicant's eligibility for social security, and
- the sponsor's ability to provide assistance beyond that to be provided as part of the sponsorship undertaking.

The Assurer must have sufficient income to ensure that they can meet any debts if they arise. Income, assets, liabilities and spouse's income may all be relevant to the assessment of the Assurer financial status. Generally an AOS will not be accepted from an Assurer if they have received social security benefits in the last 12 months or if their income is low enough to qualify for a Health Care Card.

If the Minister requires that an AOS is provided then the Department will direct the applicant to Centrelink. Centrelink is responsible for the processing of all AOSs. For further details in relation to an AOS please refer to IARC's *Assurance of Support* information sheet.

Where an AOS has been requested and cannot be provided, a decision may be made refusing the visa.

VISA APPLICATION PROCESS

- Step 1** Applicant should fill out and sign form 47SP or Form 47SP (Internet).
- Step 2** The sponsor should fill out and sign form 40SP or Form 40SP (Internet). This should be sent to the applicant to lodge with the visa application form 47SP or Form 47SP (Internet).
- Step 3** Attach the evidence mentioned above.
- Step 4** Attach a cover letter to the application form with
- your name;
 - current address;
 - reasons for applications; and
 - list of documents attached to application. If you are waiting for any information to be included with the application say that it will be provided to the Department as soon as it is received.
- Also offer to provide any further information required by the Department of Immigration.
- Step 5** Photocopy all the documents to be submitted to the Department of Immigration.
- Step 6** Lodge these forms with the fee of \$1,420 at the appropriate overseas post of the Department of Immigration. These are usually in an Australian Embassy or Consulate. A complete list of overseas posts and the countries or regions they service can be found on the Department of Immigration's website: www.immi.gov.au
- Remember to keep your receipt as it is proof that you lodged the application.
If you have not done the following during processing, you will be asked to:
- Step 7** Complete a form 80 and attach it to the application.
- Step 8** When you are asked to have a medical examination the Embassy will send you the appropriate forms, take these to the doctor identified by the Embassy and have your X-Ray taken and medical examination. The forms will be completed by the doctor. They will then be sent directly to the Embassy to be included in your application. If the forms are handed back to you, they should be sealed. **DO NOT OPEN THE ENVELOPE**, send it directly to the Embassy.
- Step 9** If the visa is approved you will be granted the subclass 300 visa which will allow you to travel to Australia. It is a condition of the visa that you marry within 9 months of the date of grant of the visa.
- Step 10** After marriage, you should apply for the on-shore spouse visa, subclasses 820/801 by completing form 47SP or Form 47SP (Internet) and paying the application fee of \$685 or \$870 (depending on whether you fiancé visa is valid at the time of application for the spouse visa). You might like to contact IARC or another registered migration agent for advice about this process when the time comes.

Remember to tell the Department Immigration of any change in your circumstances, for example if you change your address or the relationship ends.

CONTACT INFORMATION

DEPARTMENT OF IMMIGRATION & CITIZENSHIP (DIAC)

Counter service all NSW offices

9am–4pm Monday to Friday

Sydney CBD 26 Lee Street, Sydney 2000
GPO Box 9984, Sydney, NSW 2001

Parramatta 9 Wentworth St
Parramatta NSW 2150
Locked Bag CC7, Parramatta 2123

National Telephone Inquiry Line: 131 881

Website: www.immi.gov.au

IMMIGRATION ADVICE & RIGHTS CENTRE Inc (IARC)

Administration line: (02) 9279 4300 (between 9am and 5pm)

Website: www.iarc.asn.au

| IARC Telephone Advice | IARC Face-to-face advice (by appointment only) |
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| (02) 9262 3833 Tuesday and Thursday 2.00pm–4.00pm | Contact us to make an appointment at: Immigration Advice and Rights Centre Inc. Level 5, 362 Kent Street Sydney NSW 2000 Ph: +61 2 9279 4300 (Admin Line, 9-5pm) |