



Applications for some permanent and temporary visas allow the applicant to include a family member in their application. This information is for people who can include a family member in their application for a visa, other than a refugee, humanitarian or protection visa.

For information on including family members in a refugee, humanitarian or protection visa application see form 1497i *Including family members in your refugee, humanitarian or protection visa application*.

Not all visas are the same. Read the requirements for the visa you are applying for to confirm who can be included in your application. A member of your family unit can be your:

- partner – married or de facto (same or opposite sex); or
- dependent child, up to 23 years of age (there are some exceptions, see below under 'Eligible child').

If your child is born after you lodge your application (but before it is decided), the child will automatically be included in your application(s). It does not matter if the child is born in or outside Australia. You will need to tell us about the birth as soon as possible.

## Partner

Your partner can be married to you or they can be your de facto partner. Your de facto partner can be the same or opposite sex. You must prove:

- the relationship is genuine and continuing;
- your partner is at least 18 years of age when the application is lodged (there are some exceptions);
- you are not related by family (if you are in a de facto relationship);
- you and your partner have a mutual commitment to a shared life to the exclusion of all others; and
- you live together, or do not live separately on a permanent basis.

For a married partner, the marriage must be legal under Australian law. For a de facto partner, the relationship needs to have existed for 6 or 12 months before you lodge the application. The length of the de facto relationship depends on the visa you are applying for.

## 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 23 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.

Your child or stepchild is considered to be dependent if they continue to be wholly or substantially reliant on you for their basic needs (food, clothing and shelter).

Acceptable documents that can show a parent-child relationship include:

- a certified copy of each child's birth certificate; or
- a certified copy of adoption papers.

Some visas require that the child has never been married or in a de facto relationship.

## Newborn child

If your child is born after you lodge your application (but before it is decided), you must tell us as soon as possible. You can do this as follows:

- Complete form 1022 *Notification of changes in circumstances*.
- Attach a certified copy of the birth certificate to the form.
- Mail them to the office that is processing your application.

**Outside Australia** – If your child is born outside Australia and either parent is an Australian citizen at the time of the child's birth, the child might be eligible for Australian citizenship by descent.

**In Australia** – If your child is born in Australia, they are automatically granted the same visa you and your partner hold at the time of the child's birth. If either parent is an Australian citizen or Australian permanent resident at the time of the child's birth, the child might be an Australian citizen by birth.

## Parental responsibility (custody) for children under 18 years of age

Australia must fulfil its international obligations in relation to the prevention of child abduction.

If a child is applying for a visa (on their own or as part of a family unit) and they are under 18 years of age, each person who has the legal right to decide where the child lives may be required to either give consent for the visa to be granted, or provide a court order allowing the grant of the visa to the child.

Acceptable documents include certified copies of:

- an overseas court order giving you the sole right to decide where the child should live;
- a completed form 1229 *Consent to grant an Australian visa to a child under the age of 18 years*;
- a statutory declaration, signed by the child's other parent (or other person with a legal right to decide where the child lives), that allows you to take the child to Australia;
- a death certificate for the other parent and other documents giving you the sole right to decide where the child should live; or
- an Australian court order giving you the sole right to decide where the child should live.

In the case of a stepchild from a former relationship, you must prove you were in a relationship with the child's parent and that you have been awarded:

- a residence order in force for the child under the *Australian Family Law Act 1975*; or
- a specific issues order in force under the *Australian Family Law Act 1975*, giving you responsibility for the child's long term or day-to-day care, welfare and development; or
- guardianship or custody, whether jointly or otherwise, under a Commonwealth, state or territory law or a law in force in a foreign country.

## **Evidence of your family relationship**

When there is not enough evidence to support a claimed family relationship, the Department of Immigration and Border Protection (the department) might request you and the relevant family member have DNA tests to confirm the relationship.

If this happens, the department will tell you what you need to do to arrange the test. The department might not accept the results of tests done in any other way. You must pay for requested DNA tests.