

This is a visa for those who are in a relationship with an Australian Citizen, an Australian Permanent Resident or a New Zealand (Eligible) Citizen and want to live in Australia with their Partner/Spouse

This may be the right visa for you, if your relationship with your Australian Partner is:

- a legal/official marriage; or
- a de-facto relationship

The Partner Visa requires a Sponsorship from your Australian Citizen, Australian Permanent Resident or New Zealand (Eligible) Citizen Partner, but this Sponsorship is not what many people think it is. Even though Sponsors are expected to provide accommodation and financial support to their Partners, they are not required to make any payments to or fund their Partners directly, as many people think they must do.



WHAT IF YOUR PARTNER IS FROM NEW ZEALAND?

If your Partner is an "Eligible" New Zealand Citizen you can still apply for a Partner Visa and they can still sponsor you. Be careful as not all New Zealand Citizens living in Australia are Eligible New Zealand Citizens, and if they are not, they cannot sponsor Partners on the Partner Visa. For these New Zealand Citizens, who are not Eligible, there may be another visa option: the NZ Citizen Family Relationship. This is a long-term Temporary Visa and the holder gets full time work permission but does not have access to most government benefits.

HOW DOES THE PARTNER VISA WORK?

IT IS A 2-STAGE VISA:

- The applicant is first granted a Temporary Visa (with most conditions the same as those of a permanent visa);
- Two years after the application date, if the government is satisfied that the relationship is still in place and it continues to be genuine, the applicant is granted a Permanent Visa;
- If the relationship ends before the permanent visa is granted, the applicant cannot be granted that permanent visa (except in limited circumstances);
- If the relationship ends after the permanent visa has been granted the applicant is allowed to keep the visa;
- The department has legal powers however, to cancel permanent visas if there is proof that the relationship was not genuine and/or entered into to secure a migration outcome.

So applicants are actually applying for 2 visas at the time of the application:

- a Temporary Partner Visa, valid until the Permanent Visa is granted, and
- a Permanent Partner Visa, which allows the visa applicant to live in Australia permanently.

WHAT CAN YOU DO AFTER YOU GET A PARTNER VISA?

Once the Temporary Visa is granted, you are allowed to live in Australia and work without limitations, until the Permanent Visa is granted (more about how that works below). You can enrol with Medicare and have access to government-funded health treatments as well as study without limitations.

THE RELATIONSHIP WITH AN AUSTRALIAN PARTNER

As mentioned above, this visa is for people who are **legally married** to an Australian or who are in a **de-facto relationship** with them. Everyone knows what being married means but what is a de-facto relationship?

The meaning of a **de-facto relationship** (also known as "common-law" relationship) will be different depending on where you are. If you are thinking about applying for a Partner Visa for you, or for your Partner, you must understand what a de-facto relationship is under Australian law, as this is the law that will apply in your visa application.



Firstly, it's important to know that "de-facto" is the opposite of "de-jure". De-jure means: "by right, according to law". So a married couple is in a **de-jure relationship**.

"De-facto", on the other hand, means "existing in fact but not necessarily by legal right." So a couple who lives together but is not married could be in a de-facto relationship.

The Family Court of Australia follows the definition of the Section 4AA of the Family Law Act 1975: "two people who may be of the same or opposite sex, who are in a relationship as a couple living together on a genuine domestic basis".

When applying for a Partner Visa though, you need to look beyond the Family Court and its laws. The Migration Act and Regulations will be defining what a **de-facto relationship** is too, in its own way. Generally, the couple should be living together and not apart on a permanent basis, but there are cases where other living arrangements could still indicate a **de-facto relationship**. There is also a big question around the couple having to live together for at least 12 months.

What is most important then is to seek professional advice to understand if your relationship fits under the legal definition(s) that will apply to the Partner Visa and if you and your Partner qualify. Many people think they qualify when actually they don't, while others think they will never be granted this visa (for some reason) when they actually could get the visa. So please consult a Registered Migration Agent to find the facts and real possibilities about your case.

SAME-SEX COUPLES

In 2017, the Australian Government made possible for same-sex couples to get married in Australia. So where a same-sex couple in the past could not get married, their only option when applying for a Partner Visa was to do it under a De-Facto Relationship. But now, same-sex marriage is legal, and this means **same-sex couples can also get married before they apply for a Partner Visa**. This change also means that same-sex couples can apply for a Prospective Marriage Visa, which was not possible before.



HOW DO I SHOW EVIDENCE THAT WE ARE LIVING TOGETHER?

This is by far the most frequently-asked question that we get here at Bravo Migration. The answer however is: it depends. There are many ways of showing evidence that you and your Partner are in a de-facto relationship and there are even more ways of showing that you live together. **The type of documents that you use to do that will be determined by your personal circumstances.**

The Department of Immigration will not treat your application for Partner Visa like it's an application for a Skilled Visa. What we means is that an application for a visa within the Skilled Migration Program has very strict requirements that define what the applicant must be or have: you must have a certain profession, a certain degree and work experience, you must be of a certain age and have a certain level of English, and there is no arguing your case in many situations. You either meet the requirements, or you don't.

With couples and Partner Visa applications, however, the situation is very different and the Department of Immigration cannot impose what couple's lives should "look" like.

Some couples live together in a rented property, others in share accommodation, others have their own property, and so own. The length of time that a couple has spent together and where, how they met, and many other factors, are all fluid and vary from couple to couple.

On top of that, you or your Partner may have been married before, or may have children from other relationships.

Therefore, with couples and the Partner Visa, each case is a different case and the Department of Immigration cannot demand that couples meet a certain profile and have certain documents, putting them and their story in a "box", like in the case of requirements for professionals applying for Skilled Migration.

The onus thus falls on each couple to show the Department of Immigration that they meet the requirements and tell their story. So what we do here at Bravo is tell the couple's story via the best documents that can show evidence of that, in that couple's particular case, making sure their circumstances meet the requirements. We always assess couples before they apply to avoid wasting time and money and make sure that it is clear in the application that the relationship is genuine and continuing.

WHAT IS THE REGISTRATION OF RELATIONSHIP?

That is another very frequent question we get. Many couples choose to register their de-facto relationship with the government before applying for a Partner Visa. A word of advice from us though:

DON'T PRESUME EVERYONE MUST DO THIS

Many couples think this is the only way to show you are in a de-facto relationship but that is completely wrong. If, in your case in particular, it is determined that you have to register the de-facto relationship to meet the requirements of the Partner Visa, as this would be the only way to do so, then you should register with the state government where you and/or your Partner reside. Otherwise you don't have to do it, unless you and your Partner choose to do it for personal reasons.

But be careful: not all states offer a register for relationship: Western Australia and the North Territory do not accept registration of relationships at all and South Australia only accepts it if the couple is of the same sex.

This can become a problem for some people, as illustrated in an article on the Advertiser newspaper from South Australia, in December 2015, where they reported that about 500 couples a year in South Australia are being split up or forced to move elsewhere by immigration because South Australian state laws make it harder for relationships to be formally recognised.

Be also aware that different states have different requirements for registering a relationship: some will demand that both people in the couple be living in that state for a minimum period of time, where other states require much less.

When you get married, if the relationship ends, you will end up getting a divorce, which takes a while in Australia. When you register your de-facto relationship, this can be cancelled immediately at anytime.

To be able to register a relationship, both parts have to be single or divorced. You cannot register a relationship if you or your Partner are still married to someone else, even if they have been separated for years.

If you and Partner decide to get married at any point after registering your de-facto relationship, it will make the registration of the de-facto relationship null. **You cannot be married and be in a de-facto relationship.**

A lot of same sex couples in Australia choose to register their relationships with the government, in some cases when there is not even a visa application involved. This is because the registration of relationship is the only way a same-sex couple can formalise their relationship in this country, since same-sex marriage is not allowed.

Again, it's important to distinguish between how **Family Law and Migration Law** impact your visa application. Family Law determines who can and cannot get married, the manner in which people legally get married, the definition of de-facto relationship, arrangements for same sex couples, how a divorce works, etc. On the other hand Migration Law determines the requirements that couples have to meet to be granted the Partner Visa.

In regards to Migration Law, registering your relationship may waive some of the Partner Visa requirements in relation to living together. Again, please seek professional advice with a Registered Migration Agent when trying to determine if registering the relationship is a good idea in your case, or even if is a requirement.

BUT IF I AM MARRIED EVERYTHING IS OK, RIGHT? (AND OTHER MISCONCEPTIONS)

While a lot of people in de-facto relationships think that there will be complications with their Partner Visa application, we see the opposite occur with married couples who think that getting married will solve all visa problems.

But, contrary to that, getting married doesn't automatically make you eligible for a Partner Visa. A married couple should also show extensive evidence of being in an exclusive, genuine and continuing relationship. This is much more than just having a marriage certificate.

We also see a lot of clients who think that having a child with an Australian will automatically make them eligible for a Partner Visa. In some cases yes, having children may waive some other requirements but eligibility is never automatic.

Another misconception comes from clients who think that because they have children from other relationships they cannot apply for a Partner Visa with someone who is not the parent of their children. That is not correct either. It is possible to apply and even to include your children from other relationships in the application, subject to all other requirements being met.

And we also see some couples who believe that they will never be able to apply for a Partner Visa because one of them is still legally married to someone who refuses to divorce them. There are circumstances in which you can apply for a Partner Visa with someone while legally being married to someone else. Please seek professional advice if you are in this situation, but don't despair as you may have an option.

WHAT ABOUT THE PROSPECTIVE MARRIAGE VISA?

This is a temporary visa for people who are engaged to marry an Australian Citizen, Australian Permanent Resident or New Zealand Eligible Citizen. This visa is valid for 9 months and allows people to enter and stay in Australia until they are married to their sponsors.

Once they do get married, they follow on to apply for the Partner Visa, and all the requirements we discuss above will apply to them as well.

One important point that many people don't know: [you cannot apply for this visa inside Australia](#). The visa is what we call an "offshore" visa and can only be applied for if the person is outside of Australia.

Even though this visa could be a possibility for couples who met online, there is a requirement that the couple must have met in person and are serious about getting married in the 9 months after the visa grant.

OFFSHORE OR ONSHORE APPLICATION?

An offshore application is when you apply for the Partner Visa from outside Australia. In this case the Partner Visa applied for will be the Subclass 309 Provisional Partner Visa/Subclass 100 Permanent Partner Visa.



If you are applying from inside Australia then it application will be an onshore application and the Partner Visa will be the Subclass 820 Temporary Partner Visa/Subclass 801 Permanent Partner Visa.

Why would you choose to apply onshore or offshore? Again, it depends: it will depend on your plans and circumstances as a couple and on the person who is making the application. Do they have a visa to be in Australia and lodge it onshore? Does that visa allow them to lodge the application onshore? Are there any limitations? Does the person applying for the visa wants to be in or out of Australia during processing times?

All these questions need to be answered when deciding where to lodge the Partner Visa Application. We strongly recommend you don't make this decision without a registered professional as the legislation is very complex and there are a lot of subtleties to it that need to be taken into consideration, to avoid any issues.

WHAT KIND OF ISSUES CAN I HAVE?

BRIDGING VISA ISSUES

Many people think that as soon as they apply for a Partner Visa while in Australia, they will get a Bridging Visa and all their other visas and conditions will magically disappear.

By now after reading this mini-report you will hopefully have realised that there is no magic when the Department of Immigration is involved.

You will indeed be granted a Bridging Visa in most cases after you apply for a Partner Visa onshore but your Bridging Visa doesn't necessarily come into effect when you want it to do so and that means all your problems will not be solved magically.

Many people end up having visa cancellations and complications (such as ending up an unlawful person in Australia or losing all work permission rights) because they presumed a Bridging Visa would be in effect.

Please work with an experienced Registered Migration Agent so they can analyse your situation and explain exactly how and when your Bridging Visa will come into effect, (if ever!) and what impact this will have on your stay in Australia while you wait for your Partner Visa onshore.

It is also important to understand what rights and conditions you will get when and if the Bridging Visa comes into effect, keeping you out of trouble and avoiding cancellations.

(UNNECESSARY) DELAYS

The Department of Immigration is currently **taking 16 to 20 months to process** a Partner Visa application. This doesn't mean that they will spend 16 to 20 months looking at your application, but rather that it will take a case officer 16 to 20 months to be allocated your case.

If when a case officer gets to your case, they don't understand everything about you and your Partner, they don't have all the information or documents they need to make a positive decision on the application, or if you made a mistake or forgot something, they will not approve your application. They will issue a request for further documents and give you 28 days to respond. Then your case may go to the back-burner until the case officer can again return to it. This can take months again on top of all the time you have already waited.

If you however lodge a "decision-ready" application, that covers all the issues and your circumstances, with the correct documents and information, that will provide all that the case office needs to get to your case and approve it without having to contact you, you are reducing the risk of delays.

Plus, case officers are legally allowed to make a decision on your application (which normally would not be a positive decision) without having to contact you for further information or documents. So they can in theory refuse your application straight away. Normally case officers do contact applicants, but why would you run the risk?

How do you know then, what is a decision-ready application? Yes, there are checklists in the Department of Immigration's website, but those lists are not there to help you, **but to make the case officer's job easier**. Those checklists don't and cannot possibly take into consideration all the different scenarios that couples may be living.

There are some standard documents that apply to everyone on those lists, but they may not apply to you. You may need to send other things instead of what's there. Or you may not have something that is featured on that list and you or your Partner will be under so much stress for nothing, thinking you need a document that you don't.

So you know where I am going with this right? You need to work with a registered professional. They will be able to determine what **your** decision-ready application will be, and you will be reducing risks and minimising (if not completely avoiding) mistakes.



(UNNECESSARY) REFUSALS

This is what you must avoid at all costs.

As mentioned above, case officers can refuse visa applications outright but if you are in a genuine relationship, there shouldn't be any reasons for the Department of Immigration to refuse your Partner Visa application.

However, every day there are hundreds of people who get a refusal due to silly mistakes that could have been avoided. In a lot of cases, after a refusal people may have to leave the country as limitations on applications onshore may be imposed.

In other cases after a Partner Visa refusal you have to re-lodge the application (if you can),

meaning the lodgement fee will have to be paid again or lodge an appeal with the AAT (Administrative Appeals Tribunal), which also have a cost.

Having a visa refused is always a stressful situation and a you can see it brings with it extra costs and delays, to make matters worse.

In most cases, if your relationship is genuine, the refusal could have been avoided if you had worked with an experienced Registered Migration Agent.

DID YOU KNOW THAT 10% OF ALL PARTNER VISA APPLICATIONS WERE REJECTED OUTRIGHT IN 2012?

This means that these applications did not even proceed to a further document/information request where the applicants got a chance to better explain their circumstances to the Department of Immigration. This means those applicants wasted all that time (12 to 15 months until a case officer even got to their application, only to refuse it outright) and wasted all that money. [How much money exactly?](#)

ISSUES WITH THE SPONSORING PARTNER/SPONSORSHIP APPLICATION

Many people think that all your sponsor needs to do is be Australian and the Partner Visa application will take its course.

There are many requirements for the sponsor too, and it is important to be mindful of their circumstances:

- Has your Partner been married or been in a relationship before?
- Have they sponsored someone else on a visa before?
- Have they migrated to Australia themselves? With which visa?
- Are there children from previous or current relationships?
- Can they sponsor you? Are there any limitations for them to sponsor you under Migration Law?

All these questions need to be asked and taken into consideration when assessing if your Australian Partner can indeed sponsor you.

On top of that, many people don't know that there are 2 electronic applications to lodge in relation to the Partner Visa and if you don't lodge them in a timely manner, [your visa could be refused on a technicality](#).

The Sponsorship aspect of the application is very important and applicants in many cases overlook the questions above or don't even know that they can cause issues such as refusals.



TIMEFRAMES AND COSTS

Applicants only pay for 1 visa application fee, at the initial lodgement time, even though they are technically applying for 2 visas.

The application fee is AUD\$7,160.00 and the processing time, as indicated by the Department of Immigration, is 16 to 20 months.

DID YOU KNOW THE PARTNER VISA HAS THE MOST EXPENSIVE APPLICATION FEE IN THE HISTORY OF AUSTRALIAN VISAS?

A series of articles by the SBS in Australia reported that the Australian fees are the highest in the world. The visa application fee, at the time of writing, is AUD\$7,000.00 for the main applicant. If there are children included in the application it becomes even more expensive.

Comparing to the UK and the US, we are way above: the fee to apply for the equivalent visa for the UK is AUD\$2,428.00 and the US charges less than a third of what Australian does: just AUD\$1,477.00.

THIS LED THE AUSTRALIAN BROADCASTING COMPANY SBS TO ASK THE QUESTION: IS AUSTRALIA RIPPING OFF AUSTRALIANS WHO HAPPEN TO FALL IN LOVE WITH PEOPLE BORN OVERSEAS?

Application fees for other visas, even Investor Visas, are not that expensive. The Department of Immigration and Border Protection told SBS they don't receive any of the money raised from these fees, it goes into general government revenue. The Migration Institute of Australia says the fees should be linked to the services so that service standards improve.

DID YOU KNOW THAT THE PARTNER VISA HAS ONE OF THE LONGEST PROCESSING TIMEFRAMES IN THE WHOLE MIGRATION PROGRAM?

SO IF APPLICANTS ARE PAYING THAT MUCH IN APPLICATION FEES, YOU WOULD EXPECT THAT THE PROCESSING OF A PARTNER VISA IS FAST AND SMOOTH RIGHT?

Unfortunately no. 16 to 20 months is a long time for processing these visas and on top of that, a common complaint from applicants is that case officers processing their applications lack training and take too long to finalise their applications.

CAN YOU LODGE A PARTNER VISA APPLICATION YOURSELF?

Sure can! But you're not a specialist and even though your case and relationship may seem straight-forward, there are a series of small details and potential problems that only an experienced Registered Migration Agent can see and prevent, which will avoid all the issues we mentioned above but mainly will avoid delays and refusals, and having to pay for the Partner Visa more than once.

But... Can't I trust the Department of Immigration to help me and give me detailed information?

Being very sincere, you can't. There are a few reasons for that:

- The department's job is not to assist you in getting a visa, but rather is to process your application.
- The department only publishes standard, very general information and that cannot take every single case, and every complex nuance of the legislation into consideration, otherwise it gets impossible to put concise information out there.
- As you saw above, many case officers and attendants in the department lack training and knowledge, so forget about calling them to give you the right information.

We see so many cases where people get in trouble for silly reasons and because the department did not help them correctly. Sometimes bad things happen to good people.

DON'T RISK IT!

Don't risk wasting valuable time and money on visa applications that may never be approved. Seek professional legal help from a Registered Migration Agent before lodging anything, and they will remove the stress and uncertainty from the process, so you can get on with planning for the future.

At Bravo Migration many of our Registered Migration Agents and staff have applied for an been granted Partner Visas themselves. We are all Australians who one day migrated to Australia too so we understand all that is involved in getting a visa.

THIS TRUE STORY IS JUST ONE CASE AMONG MANY THAT COME TO US WHEN IT IS ALREADY TOO LATE

S* and his Partner contacted Bravo Migration for help with their situation but when they came to us the couple had already had one application refused for a silly mistake and went on to lodge further applications that they shouldn't have lodged at all, as they were never eligible for those visas.

They spent almost AUD\$10,000.00 when all they should have spent, was AUD\$325.00.

S is a New Zealand Citizen but he is not an Eligible New Zealand citizen, so he cannot sponsor Partners on a Partner Visa. Him and his Partner K* were a genuine couple they had a look at the Department of Immigration's website and thought that the New Zealand Family Visa would be the best visa for them, which was correct. Theirs should have been a reasonably straightforward case.

They called the department and asked about what documents they needed and when they could lodge it. This is when their problems started, as you should not use the general advice the Department of Immigration gives you because you don't know if it applies to your case. Plus, staff at the department are not Registered Migration Agents and many of them lack the knowledge or training to be able to advice in your case in particular, as this story will show you.

S and K lodged the application with the very few documents they were told to provide and 2 days after K's previous visa (a Student Visa) had expired. They were following the Department of Immigration's advice so the visa should have been approved right?

WRONG! The visa was refused because the case officer claimed the relationship was not genuine and there was the issue of lodging the application after K's visa had expired.

At that state S and K should have gone and seen a Migration Agent, but instead they called immigration again, and were told to re-lodge the New Zealand Citizen Family Visa.

This information was incorrect as K could not have that visa granted in Australia after having the first one refused, being on a Bridging Visa as he was then. But they listened to the department once more and lodged the visa application again, spending another AUD\$325.00.

The application was refused and to our disbelief, went to the Department of Immigration yet again.



They were desperate at this stage but still didn't go see a Migration Agent. The Department of Immigration told them to not worry and to lodge a Partner Visa Application!

Now remember: S is NOT an Eligible New Zealand Citizen so a Partner Visa for K would never have been approved. There are other issues there that should have also been discussed with the couple, such as if any limitations on applications after having a refusal would apply to them, if the fact that K was on a Bridging Visa C would have implications on the success of the Partner Visa application, and many others. But the main problem was: S cannot sponsor Partners on a Partner Visa as he is not an Eligible New Zealand Citizen. The definition of what makes a New Zealand citizen eligible for this visa is clearly defined and beyond misunderstandings, so it's clear that S is not eligible, but S and K were never asked by the department about this.

What does this show you? That the department doesn't ask you all the questions that need to be asked. Again, it is not their job to do so, and they certainly don't do it. This can and will affect your case.

But our clients in this story kept believing the department was giving them correct information (after all, they are a government department right?). So S and K thought that they got things wrong in the beginning and maybe they did qualify for the Partner Visa and ahead and did what they were told by the Department of Immigration: they lodged a Partner Visa and spent AUD\$6,865.00 on it.

THIS TRUE STORY IS JUST ONE CASE AMONG MANY THAT COME TO US WHEN IT IS ALREADY TOO LATE

Only after a friend told them they should not have listened to the department and told them a couple of horror stories he was aware of, that the couple came to see us. By then it was too late and not long after the Partner Visa was refused. For many technical reasons, we cannot even send K out of Australia to lodge the correct visa and come back because he now has a period of exclusion for 3 years if he applies for that visa.

So S and K had to lodge an appeal with the AAT to buy some time and decide what to do. The appeal lodgement cost them AUD1,673.00 and it will not be successful as they don't meet the requirements of the Partner Visa.

All that money and time wasted and very soon, S and K will have to leave Australia and wait a couple of years until K can apply for the right visa and come live with S. The stress this situation put on the couple is huge and they don't even know if they want to live in Australia anymore. S and K are valuable members of the community, have jobs and the country will be missing out if they leave. But that is the situation.

They spent almost AUD\$10,000.00 when all they should have spent was the AUD\$325.00 of the initial application. If they had hired a Migration Agent they would not have spent that much and K's visa would have been approved a long time ago.

So, please, think wisely when dealing with the Department of Immigration and don't work alone on your visa application. You will save time and money, but when there is a Partner Visa involved, you will save a lot of stress and heartbreak too.



SO WHO IS BRAVO MIGRATION?



We are an Australian migration firm **founded in 2008** by migrants, which counts with **8 Registered Migration Agents**, who worked on more than 3,000 visa applications (yes, we counted!).

Our Migration Agents work with case managers who are in many cases registered too and we all had to apply for a visa one day, so we know first hand what you are going through.

No other migration firm can offer this understanding and this service delivery model:

2 people looking after your case who are very experienced and have seen everything... no Partner Visa is too hard for us!

If you want to save time and money and avoid migration headaches and complications, hire an experienced Registered Migration Agency with a 100% approval rate for Partner Visas like Bravo Migration to work with you on your case.



HEAR FROM BENE:

"Bravo Migration helped us with the whole Partner Visa application process, being very efficient and professional. They made things much easier for my Partner and I than if we had done this ourselves. Excellent and passionate migration and visa lawyers. Now my visa has been approved and I would recommend them to everyone!"

Benedetta V. from Italy



LET'S CONNECT!



www.bravomigration.com.au



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*S and *K - Names have been changed to protect our clients' privacy.

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*Disclaimer – the information presented above is only a summary of all the requirements involved in applying for the visas discussed and should be used as general information only.

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