



Migration – visas, application and appeals

Q:

I'm married to an American citizen who wants to live in Australia permanently.

What are our options?

A:

Consider applying for a Partner Visa. This is a two stage application over two years. You will need to apply for a Subclass 820 (Temporary Visa) and also a Subclass 801 (Permanent Visa).

If you are legally married you will satisfy the first hurdle of the application, but you can also apply if you are in a de facto relationship. You will be required to sponsor your partner and any other dependent family members who are to be included in the application. Your partner will need to satisfy the character and health requirement which will require a full health examination and police clearance, both inside and in the United States.

At the second stage of the application you will need to provide evidence that you are still in a relationship with your partner. There are four categories which will need to be satisfied, including the financial aspects of the relationship, the nature of the household, the social context of the relationship and the nature of your commitment to each other.

The second stage of making an application can be the most complicated, as in some cases, if all of the required evidence has not been obtained or provided at the time of application it may result in your visa being refused. It is important to obtain proper advice prior to making an application.



Q:

I recently travelled to Australia on a Visitor Visa. There is a ‘No Further Stay’ condition on my visa, what does this mean?

A:

If you are currently on a Visitor Visa then it is likely that a “No Further Stay” condition 8503 has been imposed.

This means that you are prevented from applying (in Australia) for any further substantive visa other than a Protection Visa. Before your Visitor Visa expires you will need to leave Australia. If you do not do so you can be detained as you will be recognised as an unlawful non-citizen.

It is possible to get a condition 8503 waived in certain circumstances, except if you are on a Work and Holiday Visa (subclass 462). If you are wanting to make an application to waive condition 8503 you will need to provide detailed submissions to the Minister with supporting evidence showing.

1. A change in circumstances since the Visitor Visa was granted.
2. That the change in circumstances is / was beyond your control.
3. There are compelling and compassionate reasons, resulting in a major change to your personal circumstances, to justify the waiver of the condition.

A waiver of condition 8503 is never guaranteed and is assessed carefully upon the circumstances of each case.

It is always important to seek advice rather than risk your chances of obtaining a temporary or permanent visa to stay in Australia.



Q:

I have extended family overseas and they want to come to Australia for a visit. They have not been to Australia before.

What visa options are available to them?

A:

For individuals intending to visit family in Australia, one visa option is the Visitor visa (subclass 600). This visa is for people who wish to come to Australia to visit family or for tourism purposes and it is usually granted for a period of 3, 6 or 12 months. The Visitor Visa (subclass 600) is made up of Tourist stream and the Family Sponsored stream.

Tourist Stream

Applications under the Tourist stream can be made online or they can lodge a paper application at any of the immigration offices outside Australia. To be eligible for this visa, they must meet the health and character requirements of the Commonwealth of Australia, produce evidence showing that they are travelling to Australia as genuine visitors and have enough funds to support themselves.

Family Stream

If you are an Australian citizen or permanent resident and have settled in Australia for a reasonable period, you may be eligible to sponsor a relative under the Family Sponsored stream. It is important to note you cannot sponsor fiancés, in-laws or cousins. While applicants under a Family Sponsored stream are obliged to comply with the same eligibility criteria as the Tourist stream, departmental officers may request a security bond from the sponsor. This monetary bond will be forfeited if the sponsored visitor breaches visa conditions.

Another Visitor visa is the eVisitor (subclass 651). There is no application charge for this visa. Only passport holders from certain countries are eligible to apply.

Each visa option has different conditions attached. It is best to seek adequate migration advice to determine which option will be the most appropriate for your circumstances. Scammell & Co. has registered migration agents as staff members. They can assist you with your matter.

Contact Us Today

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