

2



# Child Migration



Australian Government  
Department of Immigration  
and Citizenship

## About this booklet

This booklet is designed to assist in understanding the steps for applying for **Child Migration to Australia**, and in how to complete the application form with minimal, if any, help.

This booklet is one of a series of booklets about migration to Australia. The booklets are:

- 1 Partner Migration
- 2 Child Migration
- 3 Parent Migration
- 4 Other Family Migration
- 5 Employer Sponsored Migration
- 6 General Skilled Migration
- 7 Business Skills Migration
- 8 Special Migration

For general information about migration to Australia, read information form 1126i *Migrating to Australia*, or visit the website [www.immi.gov.au/immigration.htm](http://www.immi.gov.au/immigration.htm)

## Using a migration agent

Using a migration agent is not necessary to lodge a visa application. However, if an applicant chooses to use an agent, the department recommends that a registered migration agent is used.

Under Australian law, anyone who uses knowledge of migration procedures to offer immigration assistance to a person wishing to obtain a visa to enter or remain in Australia must be registered or exempt from registration (see pages 30–31).

All registered migration agents are bound by the Migration Agents Code of Conduct, which requires agents to act professionally in their clients' lawful best interests. A list of registered migration agents is available from the Migration Agents Registration Authority (MARA) website [www.themara.com.au](http://www.themara.com.au)

The MARA can be contacted at:

E-mail: [themara@themara.com.au](mailto:themara@themara.com.au)

PO Box Q1551  
QVB NSW 1230  
AUSTRALIA

Telephone: 61 2 9299 5446

Fax: 61 2 9299 8448

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

# Contents

<b>Part 1 • General information</b>	<b>5</b>
Basic requirements	5
Sponsorship	7
Assurance of Support	8
Costs and charges	9
<b>Part 2 • Categories</b>	<b>11</b>
Child category	11
Orphan relative category	14
Adoption category	15
<b>Part 3 • Health and character</b>	<b>19</b>
<b>Part 4 • Preparing the child's application</b>	<b>22</b>
<b>Part 5 • Processing visa applications</b>	<b>27</b>

# Terms you need to know

<b>Adoption compliance certificate</b>	A certificate issued by a competent authority in the country in which an adoption takes place stating that the adoption is made in accordance with the Adoption Convention (Hague).
<b>Applicant</b>	The applicant is the person (or persons) applying to migrate or remain permanently in Australia.
<b>Australian mission</b>	An Australian Embassy, High Commission, Consulate or Consulate-General or Australian Trade Commission.
<b>Australian Permanent Resident</b>	A non-citizen, being usually resident in Australia, who is the holder of a permanent visa.
<b>De facto partner</b>	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.
<b>De facto relationship</b>	<p>For the purposes of a Child visa application, a person is in a de facto relationship with another person if:</p> <ul style="list-style-type: none"> <li>• they are not in a married relationship (for the purposes of the <i>Migration Act 1958</i>) with each other;</li> <li>• they are not related by family;</li> <li>• they have a mutual commitment to a shared life to the exclusion of all others;</li> <li>• the relationship between them is genuine and continuing;</li> <li>• they live together or do not live separately and apart on a permanent basis; and</li> <li>• the relationship has continued for the period of 12 months immediately preceding the date of application.</li> </ul> <p><b>Note:</b> The 12-month relationship requirement does not apply if the applicant can establish that there are compelling and compassionate circumstances for the grant of the visa.</p>
<b>Department</b>	The Department of Immigration and Citizenship.
<b>DNA</b>	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.
<b>Eligible New Zealand citizen</b>	An eligible New Zealand citizen is one who held a Special Category Visa (SCV) on 26 February 2001; or held a SCV for at least one year in the 2 years preceding that date; or has a certificate, issued under the <i>Social Security Act 1991</i> , that states that the citizen was, for the purposes of that Act, residing in Australia on a particular date and who would have met certain health and character requirements on last entry to Australia.

# Terms you need to know (continued)

<b>Hague Convention</b>	The Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption signed at The Hague on 29 May 1993.
<b>Married relationship</b>	Persons are in a married relationship if: <ul style="list-style-type: none"> <li>• they are married to each other under a marriage that is valid for the purposes of the <i>Migration Act 1958</i>;</li> <li>• they have a mutual commitment to a shared life as husband and wife to the exclusion of all others;</li> <li>• the relationship between them is genuine and continuing; and</li> <li>• they live together or do not live separately and apart on a permanent basis.</li> </ul>
<b>Migrate</b>	If applying from outside Australia, the child will be applying to migrate. If applying in Australia, the child will be applying for permanent residence. In this booklet the term 'migrate' will cover both.
<b>Office of the department</b>	A regional office of the Department of Immigration and Citizenship in Australia.
<b>Partner</b>	A spouse, de facto partner or fiancé(e).
<b>Permanent Resident</b>	A non-citizen who is the holder of a permanent visa.
<b>Settled</b>	To meet settled requirements, a person must have been resident in Australia for a reasonable period, usually 2 years.
<b>Sponsor</b>	The Australian relative who undertakes sponsorship obligations. Generally, for the purposes of child migration, the sponsor is the parent of the applicant.
<b>Spouse</b>	A person is the spouse of another person if they are in a married relationship.
<b>State/Territory adoption authority</b>	An Australian state or territory government agency responsible for managing the arrangements for adopting children from overseas, including assessing and approving prospective adoptive parents.



# PART 1

# General information

## Basic requirements

For migration to Australia as a child (child, orphan relative or adoption categories), the following basic requirements must be met.

- **Child**

The child must be sponsored by:

- an Australian citizen, Australian permanent resident or eligible New Zealand citizen (the Australian parent); or
- if the Australian parent is under 18 years old, the Australian parent's cohabiting partner if that partner is aged 18 or over and an Australian citizen, Australian permanent resident or eligible New Zealand citizen.

The child must be:

- a natural (biological) child of the Australian parent; or
- an adopted child or a step-child of the Australian parent within the meaning of the *Migration Act 1958*; 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.

A child applying outside Australia who was adopted after their parent became an Australian citizen, Australian permanent resident or eligible New Zealand citizen cannot apply in this category and should consider applying in the adoption category.

The child must be under 25, but if aged 18 or over, must be a full-time student and dependent on their sponsoring parent. The only exception to the age limit and full-time student requirement is where the child has a disability which stops them from working.

Application can be made outside Australia or in Australia.

Details about sponsorship are on the following page.

More details about the child category are on page 11.

**Note: Dependent Children of Partner visa applicants**

A dependent child whose parent holds a 'first stage' partner visa, that is:

- a Partner (temporary) visa; or
- a provisional spouse or interdependency visa; or
- a Partner (provisional) visa;

should consider applying for a subclass 445 (dependent child) visa. If granted, this temporary visa would allow the child to travel to, enter and/or remain in Australia until a decision is made on the parent's application for a permanent visa.

After the grant of a subclass 445 visa, the child should apply for a permanent visa of the same class as their parent. This request should be made on form 1002 *Application by a subclass 445 dependent child for a permanent partner visa* and must be lodged before a decision is made on the parent's permanent visa application. Failure to do so may result in the child becoming unlawful.

An application for a subclass 445 visa must be made on form 918 *Application for a subclass 445 (temporary) visa by a dependent child*. A Visa Application Charge is payable and must accompany the application. It is generally not refunded if the application is unsuccessful. Form 990i *Charges* lists the current charge and is available from the department's website [www.immi.gov.au/allforms/](http://www.immi.gov.au/allforms/) or from your nearest office of the department or Australian overseas mission.

• **Orphan relative**

The child must be under 18 years old and have no parent to care for them. They must be **sponsored** by a relative who is an Australian citizen or an Australian permanent resident or eligible New Zealand citizen. The relative must be either the child's brother or sister, grandparent, aunt or uncle, or niece or nephew (or step equivalents).

Application can be made outside Australia or in Australia.

More information about the orphan relative category is on page 14.

• **Adoption**

The child must have been adopted or be in the process of being adopted by an Australian citizen, permanent resident or eligible New Zealand citizen and must be **sponsored** by that person.

The child must be under 18 years old.

Application can only be made **outside Australia**.

More information about the adoption category is on page 15.

**Australian Citizenship**

Any child born outside Australia to a parent who is an Australian citizen at the time of their birth may be eligible for Australian citizen by descent. More information on citizenship is available from [www.citizenship.gov.au](http://www.citizenship.gov.au)

A child who has been adopted outside Australia by an Australian citizen must hold a permanent visa to be eligible to apply for citizenship by conferral.

A child adopted overseas by an Australian citizen under 'full and permanent' Hague Adoption Convention arrangements may be eligible to become an Australian citizen if an adoption compliance certificate has been issued in accordance with Article 23 of that Convention.

More information on adoption is available from Fact sheet 36 *Adopting Children from Overseas*, [www.immi.gov.au/media](http://www.immi.gov.au/media)

If in Australia, contact the Citizenship Information Line on 131 880.

**It is in the applicant's interest to provide all the documents requested with the valid application. Failure to do so may result in the processing of the application being delayed, or a decision being made to refuse to grant the visa.**

# Sponsorship

## What is sponsorship?

The child must be **sponsored** by the parent, relative or guardian (as applicable for the visa category chosen). The sponsor gives a written undertaking to provide support for the child during their first 2 years in Australia, including accommodation and financial assistance as required to meet the child's reasonable living needs.

The sponsor must be aged 18 or over.

**Note:** Eligible New Zealand citizen sponsors must meet health and character requirements. The visa application processing office will advise the sponsor if it is necessary for them to undertake health and/or character checks.

## Protection of children

The department has concerns about Australian citizens and residents who have been convicted of or are facing charges for child sex offences and who are sponsoring partners and minor children for entry to Australia under family migration arrangements. While such cases are rare, it is essential that sponsors disclose to the department any information relating to any conviction 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 answers you provide to Question 33 on form 40CH *Sponsorship for a child to migrate to Australia*; 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.

## Sponsorship form

The sponsor must complete a sponsorship form. A copy of the appropriate form (form 40CH *Sponsorship for a child to migrate to Australia*) is available from the department's website [www.immi.gov.au/allforms/](http://www.immi.gov.au/allforms/)

The sponsor should include the following with the sponsorship form:

- evidence of their relationship with the child;
- evidence that they are an Australian citizen or permanent resident or eligible New Zealand citizen; and
- if sponsoring an orphan relative, evidence that the sponsor is usually resident in Australia.

The sponsorship form should be lodged with the child's application.

The sponsor must complete and sign the 'Sponsorship undertaking' part of the form. A sponsorship is valid for 2 years from the time it is signed by the sponsor. If there are any delays in processing the child's application, the sponsor may need to complete a new sponsorship form.

# Assurance of Support

## What is an Assurance of Support?

An **Assurance of Support** is a commitment to provide financial support to the person applying to migrate so that the migrant will not have to rely on any government forms of support.

It is also a legal commitment by a person to repay to the Government of Australia any recoverable social security payments made by Centrelink to the person or persons covered by the assurance. The assurance is in force for 2 years, from the assuree's arrival in Australia, or for those applying within Australia, the date of grant of permanent residence.

Assurances cover the main applicant and any dependants included in the application.

## When is an Assurance of Support required?

If the child is assessed as a risk of becoming a charge on the Australian social welfare budget an Assurance of Support may be requested. The request will be made by the department during the processing of the child's visa application.

## Who can give an Assurance of Support?

The sponsor and assurer do not have to be the same person.

The person giving an **Assurance of Support** must be:

- an adult (aged 18 or over) Australian citizen, Australian permanent resident or eligible New Zealand citizen;
- usually resident in Australia; and
- financially able to support the sponsored person or persons and repay certain social security payments should they be made to the person/s covered by the assurance.

It is unlikely that an assurer could provide an acceptable **Assurance of Support** if they have received the full rate of any pensions, benefits or allowances (other than family payments) from Centrelink during the past year.

Sponsors will be advised whether an Assurance of Support is required after they have lodged an application for a Child visa.

## Giving an Assurance of Support

Centrelink has responsibility for assessing all Assurance of Support applications. Where appropriate, this also includes managing bond lodgement. More information about the Assurance of Support scheme including application procedures, is available from Centrelink's website [www.centrelink.gov.au](http://www.centrelink.gov.au) or contact Centrelink on **13 2850**.

# Costs and charges associated with the visa application

Some of the costs and charges associated with lodging a visa application are outlined below.

## Visa Application Charge

The correct Visa Application Charge must be paid when the application is lodged. The charge will usually not be refunded if the application is unsuccessful. Until the charge is paid, the application is not legally made and therefore cannot be assessed.

Fees may be subject to adjustment at any time. Visa Application Charges may be subject to adjustment on 1 July each year. This may increase the cost of a visa.

To check the Visa Application Charge, see form 990i *Charges* available from the department's website [www.immi.gov.au/allforms/990i.htm](http://www.immi.gov.au/allforms/990i.htm) or check with the nearest office of the department.

## Method of payment

### In Australia

To make a payment, please pay by credit card, debit card, bank cheque or money order made payable to the Department of Immigration and Citizenship. Debit card and credit card are the preferred methods of payment.

### Outside 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 and currencies they can accept and to whom the payment should be made payable.

If dependents of the child are included in the application, only one application charge is payable.

If siblings apply together, only one application charge is payable.

## Medical costs

The child (or their sponsor) will be required to pay any charges associated with medical and x-ray examinations. The cost of the examinations is set by the doctor.

## Character costs

A child aged 16 or over may be required to obtain a police check. The charge for this varies from country to country. Where a police check is required, the applicant is personally responsible for all arrangements, including costs. The processing office may provide assistance, in terms of contact details and what needs to be provided. More information on penal clearances is available from the department's website [www.immi.gov.au/allforms/](http://www.immi.gov.au/allforms/)

## Other costs

Be prepared to pay other costs associated with the application, such as the cost of certified translations of some documents or, if required, the cost of DNA testing.

## Certified copies and English translations

Except for police checks, do not supply original documents with the application unless asked to do so. If the department requires an original document at any stage, the department will ask for it.

**Note:** Police checks are the exception and the original document must be provided to the department.

'Certified copies' of original documents should be provided. 'Certified copies' are copies authorised, or stamped as being true copies of originals, by a person or agency recognised by the law of the person's home country. All overseas offices of the department have the facility to certify or witness documents if necessary (this service may attract a charge). Persons authorised to certify copies in Australia include:

- a magistrate;
- a Justice of the Peace;
- a Commissioner for Declarations;
- a Commissioner for Affidavits;
- a solicitor;
- a registered medical practitioner;
- a bank manager;
- a postal manager; and
- an Australian Postal Corporation officer with 5 years service.

Documents in languages other than English must be accompanied by an English translation. If the application is being made in Australia, the translator must be accredited by the National Accreditation Authority for Translators and Interpreters (NAATI).

# PART 2

# Categories

## Child category

### Relationship

The child must be sponsored by:

- an Australian citizen, Australian permanent resident or eligible New Zealand citizen (the Australian parent); or
- if the Australian parent is under 18 years old, the Australian parent's cohabiting partner if that partner is aged 18 or over and an Australian citizen, Australian permanent resident or eligible New Zealand citizen.

The child must be:

- a natural (biological) child of the Australian parent; or
- an adopted child or a step-child of the Australian parent within the meaning of the *Migration Act 1958*; or
- a child conceived through an artificial conception procedure (ACP) as provided for in the *Family Law Act 1975*; or
- a child born under surrogacy arrangements, where parentage has been transferred by court order under a prescribed state or territory law.

If an adopted child is **applying outside Australia**, the child must have been adopted before the parent became an Australian citizen or permanent resident or eligible New Zealand citizen. If the child was adopted after the parent became an Australian citizen or permanent resident or eligible New Zealand citizen, they should apply in the adoption category.

A child **applying in Australia** who was adopted after the parent became an Australian citizen or permanent resident or eligible New Zealand citizen may be able to apply in this category subject to meeting certain requirements. Applicants in this situation should seek advice from the department.

A step-child can only be included in the Child visa category if:

- the step-child is under 18 years old; and
- the sponsoring step-parent is no longer the spouse or de facto partner of the child's parent but has parental responsibility in relation to the child.

## Relationship status

The child must not be married or in a de facto relationship or be engaged to be married. If aged 18 or over the child must, in addition to the above, never have had a spouse or a de facto partner.

## Age

Generally the child must be under 25 years old, but if they are aged 18 or over, they must be a full-time student and financially dependent on the sponsoring parent. The only exception to this requirement is where a child has a disability which stops them from working.

If a child turns 18 years old after the application is lodged, the child will continue to be assessed as a child under 18 years old. If the child turns 25 years old after the application is lodged but before it is decided, they may still be eligible for a visa, however they will need to show that they are still dependent on the parent and meet the other requirements for the visa.

Following are the different requirements for children under 18 years old and those aged 18 or over.

## Child under 18 years old at time of lodging application

If under the age of 18 the child must be:

- a natural (biological) child of the Australian relative; or
- an adopted child or a step-child of the Australian relative within the meaning of the *Migration Act 1958*; or
- a child conceived through an artificial conception procedure (ACP) as provided for in the *Family Law Act 1975*; or
- a child born under surrogacy arrangements, where parentage has been transferred by court order under a prescribed state or territory law.

There is no further requirement to be met to satisfy the child's dependence.

## Custody requirement

The custody requirement must be met for every child under the age of 18. If another parent or any other person can legally determine where the child can live, permission for the child to migrate must be obtained from that person. This must be in the form of a statutory declaration.

**Note:** The statutory declaration needs to be accompanied by a certified copy of their identification (eg. passport or driver's licence).

Alternatively, the custody requirement will be satisfied if the sponsor has a valid court order which permits them to permanently remove the child from the child's home country.

The custody requirements will also be met if the sponsor has a residence order, contact order or care order issued by the Family Court of Australia and the grant of the visa would be consistent with that order.

## Child aged 18 or over at time of lodgement of application

If aged 18 or over the child must be:

- a natural (biological) child of the Australian relative; or
- an adopted child or a step-child of the Australian relative within the meaning of the *Migration Act 1958*; or
- a child conceived through an artificial conception procedure (ACP) as provided for in the *Family Law Act 1975*; or
- a child born under surrogacy arrangements, where parentage has been transferred by court order under a prescribed state or territory law.

In addition the child must be:

- under 25 years old (not yet turned 25);
- financially dependent on the sponsoring parent; and
- a full-time student (see below).

The only exception to these requirements is where the child has a disability which prevents them from working.

This is a different test to that which applies to children under 18 years old because a child aged 18 or over is considered to be an adult.

### ‘Dependent’

The normal emotional family ties that may exist between children and parents are not regarded as an indicator of dependency.

To be considered dependent, the child must be in one of the following situations:

- be wholly or substantially reliant on the sponsoring parent for financial support to meet their basic needs of food, shelter and clothing and be able to show that they have relied on this support for a substantial period (usually 12 months); or
- be wholly or substantially reliant on the sponsoring parent for financial support because of a disability which prevents them working to support themselves. The child will still need to meet Australia’s health requirements before being granted a visa (see page 19).

‘Disability’ means that the child has total or partial loss of his or her bodily or mental functions. Acceptable medical evidence must be provided to show that the child has such a disability and they are unable to financially support themselves because of it.

‘Wholly or substantially’ means totally or to a great degree. The child must show that their reliance on the sponsoring parent for financial support is greater than their reliance for financial support on any other person or source.

### ‘Full-time student’

To be considered a full-time student:

- the child must be validly enrolled in, and actively participating in, a full-time post-secondary course of study leading to a professional, trade or vocational qualification;
- the child must have been undertaking that course since turning 18 or have commenced studies within 6 months or a reasonable period of completing secondary education; and
- the child must not be in full-time employment.

Evidence of the child’s full-time student status as described above must be provided, eg. certified copy of official academic record.

**Note:** If the child is aged 18 or over and there has been a gap of over 6 months in study between finishing the final year of secondary school and commencing further studies, please provide a statement explaining this time frame.

The child does not have to be a ‘full-time student’ if they are wholly or substantially reliant on the parent because of a disability which prevents them working to support themselves.

# Orphan relative category

## Relationship

The child must be sponsored by a relative who is an Australian citizen or Australian permanent resident or eligible New Zealand citizen.

The relative must be:

- either the child's brother or sister, grandparent, aunt or uncle, or niece or nephew (or step equivalents);
- aged 18 or over (if the relative is under 18 years old, their cohabiting spouse or de facto partner may act as sponsor if they are aged 18 or over and are an Australian citizen or Australian permanent resident or eligible New Zealand citizen); and
- 'settled' in Australia – that is, usually resident in Australia and have been lawfully resident for a reasonable period (usually 2 years).

## Relationship status

The child must not be married or in a de facto relationship.

## Age

The child must be under 18 years old.

If the child is under 18 years old at time of application but will turn 18 years old before the application is decided, they may still be eligible for a visa if they meet the other requirements for the visa.

## Orphan relative

The child may be considered an orphan relative if both parents cannot look after the child because they are dead, 'permanently incapacitated' or of unknown whereabouts.

If one or both parents are **dead**, a death certificate or other official documentation must be provided to verify this.

If one or both parent's **whereabouts are unknown**, evidence must be provided of how long they have been missing and what efforts have been made to contact or find them.

If one or both parents are **permanently incapacitated**, evidence must be provided to show why they are unable to care for the child. For example, if a parent has a physical or mental illness which stops them from being able to care for the child, a medical report to verify this must be provided. If a parent is in prison, evidence of the length of the sentence must be provided.

A parent cannot be considered 'permanently incapacitated' simply because he or she is unwilling to look after the child. The inability of a parent to look after the child must be related to a physical or mental illness or some other factor which gives them no choice but to place the child in the care of a relative.

## Custody requirement

If another person can legally determine where the child can live, permission for the child to migrate must be obtained from that person. This must be in the form of a statutory declaration.

**Note:** The statutory declaration needs to be accompanied by a certified copy of their identification (eg. passport or driver's licence).

Alternatively, the custody requirement will be satisfied if the sponsor is in possession of a valid court order which permits them to permanently remove the child from the child's home country.

The custody requirement will also be met if the sponsor has a residence order, contact order or care order issued by the Family Court of Australia and the grant of the visa would be consistent with that order.

## Adoption category

**Note:** *An application in this category can only be made outside Australia.*

In Australia, the processing of intercountry adoptions is the responsibility of state and territory adoption authorities such as departments of family services. These authorities manage arrangements for adopting children from overseas including assessing and approving prospective adoptive parents. The Australian Government, through the Attorney-General's Department, has the responsibility for managing existing programs and negotiating new programs with other countries.

The department cannot provide assistance to arrange adoptions. The department's role is to assess and decide applications for visas in accordance with the requirements of the Migration Regulations.

To be eligible for an adoption visa, the child must have been:

- adopted (or is to be adopted) with the involvement of an Australian state or territory adoption authority (either under the Hague Convention or another adoption agreement); or
- adopted privately by expatriate Australians who have been living overseas for more than 12 months at the time of lodging the visa application; or
- adopted under the Hague Convention and the adoption was arranged between 2 Hague Convention countries other than Australia.

## Relationship to sponsor

The child must have been adopted by an 'adoptive parent' or be in the process of being adopted by a 'prospective adoptive parent' and be sponsored by that person.

The 'adoptive parent' or 'prospective adoptive parent' must be an Australian citizen or permanent resident or eligible New Zealand citizen.

An **adoptive parent** includes a person who:

- has adopted the child under the laws of a country other than Australia and who has been **living outside Australia for the 12 months** prior to lodging the Adoption visa application; or
- has adopted the child under the Hague Convention. The parent must possess a valid adoption compliance certificate testifying that the child has been adopted under the Hague Convention.

A **prospective adoptive parent** includes a person who:

- has been approved by an Australian state or territory adoption authority as a suitable person to adopt the child and who intends to bring the child to Australia under the supervision of that authority – in this case, adoption will be completed in Australia; or
- has been allocated the child for adoption under the provisions of the Hague Convention.

Further information on the different types of adoption arrangements covered by this category are provided below. If the child was adopted before the sponsor became an Australian citizen or permanent resident or eligible New Zealand citizen, they cannot apply in this category, they should apply in the child category.

## Health requirement

The child must undergo a medical examination to ensure that they meet the health criteria for entry to Australia before a visa may be granted (see Part 3). In the case of adoptions supported by a state or territory adoption authority the adoption cannot be finalised until the health criteria are met.

**Note:** *If an adoption does not proceed for health reasons, the Visa Application Charge cannot be refunded or transferred to another child.*

## Age

The child must be under 18 years old.

If the child is under 18 years old at time of application but will turn 18 years old before the application is decided, they will not be eligible for a visa under this category.

## Adoptions involving an Australian state or territory adoption authority

### Hague Convention

On 1 December 1998, Australia became a party to the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption ('the Adoption Convention').

If the child has been allocated to a prospective adoptive parent for adoption under the Adoption Convention, a letter verifying this must be provided from the Australian state or territory adoption authority which is supporting the adoption. This letter should be submitted together with the visa application.

Provided the child meets the health criteria, the adoption will take place and the relevant overseas authority will issue an 'adoption compliance certificate' which certifies that the adoption meets all the requirements of the Adoption Convention. A visa cannot be granted until this certificate has been issued and a certified copy provided to the department.

In some cases, the laws of the overseas country do not provide for full adoption and arrangements may be made for the adoption to be finalised in Australia. If this is the case, a letter from the relevant overseas authority stating that the child is allowed to travel to Australia in the care of the prospective adoptive parents for adoption in Australia must be provided to the department.

If the adoption took place between 2 other Adoption Convention countries and did not involve Australia, a valid 'adoption compliance certificate' issued by the relevant authority in the country in which the child was adopted must be provided to verify this. The child will still need to satisfy the health and other criteria for entry to Australia.

### Bilateral agreements

Australia has bilateral agreements with countries in South America, Asia, Europe, Africa and the Pacific. Specific information on these programs can be obtained from the relevant state and territory adoption authorities.

These agreements are intended to ensure that children in overseas countries are protected from being bought or sold and to provide protection for families who wish to adopt a child from overseas (as they can be assured that the child is legally available for adoption).

For the child to be adopted under one of these agreements, the prospective adoptive parents must have been approved by an Australian state or territory adoption authority as suitable persons to adopt the child. If this is the case, the child will have been allocated to them for adoption by the adoption authority or child institution in the child's home country. The prospective adoptive parents must produce a letter from the Australian state or territory adoption authority to verify this when they lodge the visa application on behalf of the child.

The department must also be satisfied that the laws relating to adoption in the country in which the child is normally resident have been complied with and that the relevant overseas authority has approved the child's departure for Australia.

## Adoptions not involving an Australian state or territory adoption authority

Sometimes Australian citizens, permanent residents or eligible New Zealand citizens living overseas adopt a child while they are overseas and the adoption did not involve an Australian state or territory adoption authority. The child may have been adopted in the country in which they are living, or from another country. In this case, the parents must meet the following requirements:

- they have been living overseas for more than 12 months at the time of the visa application and they did not deliberately live overseas in order to get around the entry requirements for adopting an overseas child; and
- they have lawfully acquired full and permanent parental rights by the adoption – this means that under the laws of the child’s country, the natural parents no longer have any legal responsibility for the child.

The department must also be satisfied that the laws relating to adoption in the country in which the child is normally resident have been complied with.

### A word of caution on adoptions

- An adoption visa cannot be granted to a child who has been adopted in circumstances other than those outlined above, even if the child has been adopted lawfully in another country.
- State and territory adoption authorities will not generally support the adoption of a child who is a relative, nor a specific child where the adoption has not been arranged by that authority.
- ‘Full and permanent adoption’ does not exist in the laws of some countries. An adoption order which does not grant full parental rights to the adoptive parents is not acceptable for the grant of a visa.
- If you wish to proceed with an adoption that has not been arranged by your state or territory adoption authority, it is strongly recommended that you first seek legal advice both in Australia and the overseas country, to ensure that the adoption can be recognised, and that the child will be eligible to enter Australia.

## Guardianship arrangements

Unless the adoption is completed overseas under the Adoption Convention, an overseas adoption order does not receive automatic recognition under Australian law.

Where the adoption is not recognised under Australian law, the child will enter Australia under the guardianship of the Minister for Immigration and Citizenship. This arrangement is set down in the *Immigration (Guardianship of Children) Act 1946* (‘the IGOC Act’). The IGOC Act provides a framework for state and territory adoption authorities to supervise the adoption process in Australia.

The Minister’s guardianship powers are delegated to the relevant state/territory adoption authority. These guardianship arrangements cease to apply once the child obtains Australian citizenship, in most cases when an Australian adoption order is made for the child.

# PART 3

## Health and character

### Health

#### Health standards

The child and any dependent family members must meet strict health standards designed to protect Australia from high health risks and costs, and overuse of scarce health resources such as organs for transplant.

Sponsors who are eligible New Zealand citizens must also undertake medical examinations.

#### Medical examination

The child and any dependents of the child must undergo health checks.

Usually a medical examination, chest x-ray and possibly some laboratory or specialist tests are required. Children under the age of 15 may not be required to undergo HIV testing and children under the age of 11 may not be required to undergo a chest x-ray.

Medical examinations can be a lengthy process and costs will be the responsibility of the child or the child's parent or guardian. Please note that medical test results are generally valid for one year but in some cases they can be valid for a shorter period where there are health concerns. Occasionally, in particular circumstances, assessment of visa applications may be delayed beyond 12 months. If this is the case, new health checks will be required at the child's expense. If the child is pregnant, they will be advised not to be x-rayed until after the birth of the baby, meaning that the application may not be finished until then. Alternatively, although not preferred by the Australian Government, arrangements may be made with the radiologist for the use of a lead shielded x-ray.

**Note:** All child migration applicants need to undergo permanent visa medical assessments, even though they may have previously undertaken medical assessments for grant of a temporary visa. This is due to permanent visa medical assessments being of a more rigorous nature than those required for temporary visa applications.

#### **If the child is applying in Australia**

If possible, the child should visit a Commonwealth Medical Officer at Health Services Australia (HSA) for their medical examination before their visa application is made. If the child is living in a regional area, contact HSA to find out details of an approved medical practitioner. Forms and further instructions will be provided by the local office of the department, or can be obtained from the department's website

[www.immi.gov.au/allforms/](http://www.immi.gov.au/allforms/)

### **If the child is applying outside Australia**

In some cases the child will be able to undertake health checks before the application is made. This will enable a complete application to be lodged, which may help to shorten the processing time for the visa. This service is not available in all countries and contact should be made with the Australian mission where the application is to be lodged to discuss the requirements for the visa application. Officers of the department will provide the relevant medical examination forms and directions to listed doctors approved by Australian authorities who can conduct medical examinations.

Please note that, should the child's application be refused, it will not be possible to claim a refund of any costs incurred nor should the issue of medical forms be seen as an indication of any formal or informal approval of the application.

Information about the medical assessment process for the child's visa is available from the department's website [www.immi.gov.au/media/fact-sheets/](http://www.immi.gov.au/media/fact-sheets/)

### **Health conditions of concern**

In view of the World Health Organisation's declaration of a global epidemic of tuberculosis, particular care is taken to screen for this disease including stringent treatment recommendations where signs of earlier infection, however small or old, are apparent.

Australia has one of the lowest rates of tuberculosis in the world and maintains one of the strictest regimes for screening and treatment. Detection of the disease does not lead to automatic rejection, but the application may only continue after recommended treatment and successful retesting.

Other health conditions of concern are those where a person is assessed by Australian authorities as requiring treatment, support or assistance which are considered to be in short supply, or which cost a significant amount.

The department is authorised to collect information under the *Migration Act 1958*. The information the child provides, including the results of any tests for Human Immunodeficiency Virus (HIV), will be used to assess the child's health for an Australian visa. A positive HIV **or other** test result will not necessarily lead to a visa being denied. The child's result(s) may be disclosed to the relevant Commonwealth, state and territory health agencies.

### **Doctors**

Doctors charge fees in accordance with their usual practice. They may recommend other treatment or specialist consultations. This may be in the child's own interest because listed doctors know what is required for the assessment of examination results in Australia. Doctors must complete the examination form in English.

### **Basis for decision**

A decision is made on, first, any detection of tuberculosis, however old or small, and then, of medical conditions which are likely to result in significant health treatment and community services costs in Australia, or which may use treatment or services in short supply. Some allowance is made for normal health and welfare costs (calculated as a multiple of average annual costs for an Australian). When the Medical Officer of the Commonwealth is of the opinion that an applicant's costs are beyond these and are therefore significant, this generally leads to refusal. The cost assessment takes no regard of whether a person has or intends to take private health insurance or make other financial or nursing arrangements to lessen the claim on public funds.

It is not the doctor who examines the child who determines whether the child meets the health requirement, but Australian authorities.

# Character

To enter Australia, applicants must be of good character.

In order for the Australian Government to determine whether applicants are of good character, applicants 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).

In some instances, applicants may also be required to provide personal details to enable additional character checks to be undertaken.

Sponsors who are eligible New Zealand citizens also have to satisfy character requirements.

The original document of the police checks should be provided to the department. These will generally not be returned to the applicant, so copies should be taken for future reference.

More information on penal clearances is available from the department's website **[www.immi.gov.au/allforms/](http://www.immi.gov.au/allforms/)**

If applying outside Australia, seek advice from the Australian mission as to when police checks should be undertaken.

If applying in Australia, provide this information with the visa application. Where necessary, forms and instructions will be provided by the local office of the department.

# PART 4

## Preparing the child's application

### Forms

Provide completed forms:

- form 47CH *Application for migration to Australia by a child*;
- form 40CH *Sponsorship for a child to migrate to Australia*;
- form 956 *Appointment of a migration agent or exempt agent or other authorised recipient*, if applicable.

Forms are subject to change, ensure the forms used remain valid at time of application.

**Note:** Other forms may be required and will be provided by the department at the appropriate time.

### Application charge

- Charges are listed in form 990i *Charges* which is available from the department's website [www.immi.gov.au/allforms/](http://www.immi.gov.au/allforms/)

# Other documents

Other documents to be provided are listed on the following page.

**Note:** Applicants and sponsors are encouraged to use the local websites of Australian overseas missions to check for specific local documentation requirements before lodging the child's visa application. Website addresses are located on the department's website [www.immi.gov.au/contacts/](http://www.immi.gov.au/contacts/)

## Complete applications

A complete application is one that provides all information necessary for processing of the application. If the application is being made in Australia, health and character checks can be completed before lodgement of the application. If the application is being made outside Australia, please check the overseas mission's website or contact them about when to do health and character checks.

If all the documents cannot be provided with the application, the department should be told which documents are missing and when they will be provided.

## Certified copies

Original documents should not be supplied with the application. If the department requires an original document at any stage, we will ask for it.

'Certified copies' of original documents should be provided. 'Certified copies' means copies authorised or stamped as being true copies of originals by a person or agency recognised by the law of the child's home country. In Australia such authorised persons include a magistrate, justice of the peace, commissioner for declarations, commissioner for affidavits, a person before whom a statutory declaration may be made under the law of the state in which the declaration is made, a solicitor, registered medical practitioner, bank manager, postal manager, Australian postal corporation officer with 5 years service.

## English translations

Documents in languages other than English must be accompanied by an English translation. If the child is applying in Australia, the translator must be accredited by the National Accreditation Authority for Translators and Interpreters (NAATI). If the child is applying outside Australia, please contact the nearest Australian mission for information about how to get the documents translated.

We suggest checking off each of the following documents as they are attached to the application to ensure that all necessary documents are included.

## DNA testing

DNA test results show whether two or more people are biologically related.

The department endorses the use of DNA testing as one possible means of providing evidence for claimed family relationships. DNA testing can be a useful option when documentary evidence of the claimed relationship is considered unreliable or is unavailable.

When a decision maker is not satisfied with available evidence of a relationship, he or she may suggest that an applicant undergo DNA testing as another means to establish a claimed relationship. The department will specify how the test is to be arranged. Any test obtained outside these requirements may not be accepted by the department.

Where a DNA test is requested, applicants for migrant visas must meet the full costs of DNA testing.

Further information on DNA testing can be found on form 1259i *Information about DNA testing for visa and citizenship applicants*, and can be obtained from the department's website [www.immi.gov.au/allforms/](http://www.immi.gov.au/allforms/)

**The following documents must be provided as part of the visa application.**

For **all** visa categories, please provide the following documents (see page 10 about certified copies of documents and English translations)

- If the child is applying in Australia, certified copies of the passport or travel document the child used to enter Australia, and of any passports held since then.
- 2 recent passport sized photographs (45mm x 35mm) of the child (4 photos if health examinations have not been completed). These should be of the head and shoulders only, and should show the child facing the camera and against a plain background. Print the name of the child on the back of each photograph.
- If the child is aged 16 years or over, a police good conduct/character certificate for each country outside Australia where the child has lived for more than 12 months over the past 10 years (since turning 16).
- Evidence that the child's sponsor is an Australian citizen, permanent resident or eligible New Zealand citizen, (certified copy of birth certificate, Australian passport or foreign passport containing evidence of permanent residence or Australian citizenship certificate).

For **Child** visa category, please provide the following documents

- A certified copy of the child's birth registration showing both parents' names. If a birth certificate is not available, a certified copy of the identification pages of at least one of the following documents must be provided:
  - passport;
  - family book showing both parents' names;
  - identification document issued by the government; or
  - document issued by a court that verifies the child's identity.
- If the child is an adopted child, certified copies of the adoption papers.

- If the child is a step-child of the sponsor:
  - the step-child must be under 18 years old;
  - provide evidence that the child's parent is the former partner of the sponsoring step-parent; and
  - provide evidence of the child's biological or adoptive parentage; and
  - provide evidence that the step-parent (sponsor) has parental responsibility in relation to the child.
- If the child is aged 18 or over and is a full-time student, evidence of their enrolment and active participation in a post-secondary course of study.
 

**Note:** If the child is aged 18 or over and there has been a gap of over 6 months in study between finishing the final year of secondary school and commencing further studies, please provide a statement explaining this time frame.
- If the child is aged 18 or over and is claiming to have a disability, evidence from a qualified medical practitioner that the child has total or partial loss of bodily or mental functions and this stops them from working.
- If the child is aged 18 or over, evidence that they are financially dependent on their sponsor for their basic needs of food, shelter and clothing, and how long this support has been provided. Evidence may include bank statements, money transfers, rent receipts, etc.
- If the child is aged under 18, evidence that the sponsor has the legal right to determine where the child shall live (eg. court order) or a statutory declaration from each person with a legal responsibility to the child stating that they have no objection to the child's migration, or a court order supporting the child's migration.
 

**Note:** Where a non-migrating parent has the legal right to determine where the child can live, please provide a statutory declaration from the non-migrating parent granting their permission for the child to migrate to Australia, together with a certified copy of the non-migrating parent's identification (eg. passport or driver's licence).
- If the child's name has been changed, a certified copy of evidence of the name change.
- If the child has served in the armed forces of any country, certified copies of military service record or discharge papers.

For **Orphan Relative** visa category, please provide the following documents.

- A certified copy of the child's birth registration showing both parents' names. If a birth certificate is not available, a certified copy of the identification pages of at least one of the following documents must be provided:
  - passport;
  - family book showing both parents' names;
  - identification document issued by the government; or
  - document issued by a court that verifies the child's identity.
- If the child's name has been changed, a certified copy of evidence of the name change.
- Documents to show the child's relationship to the sponsor, eg. birth certificate of child's natural/adoptive parents and birth certificate of sponsor would indicate sibling relationship.
- If one or both parents are dead, a death certificate or other official documentation to verify this.
- If one or both parents' whereabouts are unknown, evidence of how long they have been missing and what efforts have been made to contact or find them.
- If one or both parents are permanently incapacitated, evidence showing why they are unable to care for the child. For example, if a parent has a physical or mental illness which stops them from being able to care for the child, provide a medical report to verify this.
- Evidence that the sponsor has the legal right to determine where the child shall live (eg. court order) or a statutory declaration from each person with a legal responsibility to the child stating that they have no objection to the child's migration, or a court order supporting the child's migration.

**Note:** The statutory declaration needs to be accompanied by a certified copy of their identification (eg. passport or driver's licence).

For **Adoption** visa category, please provide the following documents.

- If the child has been allocated for adoption, a letter from the Australian state/territory adoption authority supporting the adoption.
- If the child has been adopted, certified copies of the adoption papers or adoption compliance certificate, including evidence that the authority in the child's home country permits the child to migrate to Australia.
- If the child has been adopted by expatriate adoptive parents **without** the support of an Australian state/territory adoption authority, provide a written statement outlining the reasons for the adoptive parent's residence overseas.

# Lodging the application

## If applying outside Australia

Lodge the application at the nearest Australian mission in accordance with their advice.

## If applying in Australia

Lodge the application by sending it to the nearest office of the department as detailed below.

### New South Wales

#### Sydney City Office

Ground Floor  
26 Lee Street (near  
Railway Square)  
SYDNEY NSW 2000  
Postal address:  
GPO Box 9984  
SYDNEY NSW 2001  
Fax (02) 8862 6096

#### 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) 6248 0479

### Victoria

#### Melbourne Office

Ground Floor  
Casselden Place  
2 Lonsdale Street  
MELBOURNE VIC 3000  
Postal address:  
GPO Box 241E  
MELBOURNE VIC 3001  
Fax (03) 9235 3300

#### Dandenong

51 Princes Highway  
DANDENONG VIC 3175  
Postal address:  
Private Mail Bag 5001  
DANDENONG VIC 3175  
Fax (03) 8762 2625

### Tasmania

#### Hobart Office

Ground Floor  
Tower Block  
188 Collins Street  
HOBART TAS 7000  
Postal address:  
GPO Box 794  
HOBART TAS 7001  
Fax (03) 6223 8247

### Queensland

#### Brisbane Office

299 Adelaide Street  
BRISBANE QLD 4000  
Postal address:  
GPO Box 9984  
BRISBANE QLD 4001  
Fax (07) 3360 5819

#### Cairns

Level 2  
GHD Building  
95 Spence Street  
CAIRNS QLD 4870  
Postal address:  
PO Box 1269  
CAIRNS QLD 4870  
Fax (07) 4051 0198

#### Southport

Level 1  
72 Nerang Street  
SOUTHPORT QLD 4215  
Postal address:  
PO Box 2868  
SOUTHPORT QLD 4215  
Fax (07) 5591 5402

#### Thursday Island

Commonwealth Centre  
Hastings Street  
THURSDAY ISLAND  
QLD 4875  
Fax (07) 4069 1884

### Western Australia

#### Perth Office

Wellington Central  
Level 3  
836 Wellington Street  
WEST PERTH WA 6005  
Postal address:  
Locked Bag 7  
NORTHBRIDGE WA  
6865  
Fax (08) 9415 9286

### South Australia

#### Adelaide Office

Level 3  
55 Currie Street  
ADELAIDE SA 5000  
Postal address:  
GPO Box 2399  
ADELAIDE SA 5001  
Fax (08) 8237 6699

### Northern Territory

#### Darwin Office

Pella House  
40 Cavenagh Street  
DARWIN NT 0800  
Fax (08) 8981 6245

## Any enquiries?

- Go to the department's website – [www.immi.gov.au/immigration.htm](http://www.immi.gov.au/immigration.htm); or
- **In Australia** – telephone **131 881** (for the cost of a local call); or
- **Outside Australia** – contact the nearest Australian mission.

# PART 5

# Processing visa applications

The Australian Government decides who should be granted a visa. The application will be decided on the basis of the information given and generally, the law at the time of application.

Applicants and sponsors should read all information and instructions, and provide the right information and documents. This will avoid delays in processing the application. Any charge paid will not be refunded if the application is unsuccessful.

Applicants and sponsors may be asked to complete a number of steps during the processing of the application, however, it does not mean the application will be successful. The applicant should not anticipate a successful outcome and sell a house or other property until they have been advised in writing that they have been granted a visa.

### **Non-citizens must have a visa to travel to and stay in Australia**

The following information explains how to make visa applications and how they are processed.

### **It is important to read this information**

It is important to read this information – it may affect whether a visa is granted or cancelled.

Applicants and sponsors should read all information and instructions about the type of visa applied for. Do not apply for a visa if it is likely that the applicant and/or sponsor cannot qualify, because any visa charge paid will not be refunded if the application is unsuccessful.

### **Where to get information**

In Australia, information about visas, charges and forms is available from offices of the department or you can go to [www.immi.gov.au/immigration.htm](http://www.immi.gov.au/immigration.htm), or call **131 881** (for the cost of a local call). Outside Australia, go to [www.immi.gov.au/immigration.htm](http://www.immi.gov.au/immigration.htm), or contact the nearest Australian mission.

### **How to apply for a visa**

To make a valid application the applicant must:

- indicate the desired class of visa;
- use the correct form;
- provide the applicant's residential address;
- pay the required charge;
- satisfy any other requirements (for example, the applicant may have to be outside Australia to apply for the visa);
- send or deliver the application to the nearest office of the department or at the nearest Australian mission.

The applicant must also:

- complete the application in English;
- answer all questions truthfully – if incorrect information or documents are provided, a visa may not be granted;
- provide originals or certified copies of any required documents unless the department advises otherwise.

## Family members

In some cases, siblings who apply at the same time and same place can pay one charge. A child who is born after an application is made (but before it is decided) will be automatically included in the parent's application, once the department is notified of the details of the newborn child. In some circumstances, a dependent child can be added to an application.

## Communicating with the department

Communication with the department about the visa application should generally be in writing. Applicants should send communications to the office where they applied unless the department notifies them of another address.

## Withdrawal of applications

Applicants can withdraw their application by advising the department in writing at any time before a decision is made. Any charges that were paid at time of application are usually not refunded.

## Applicants must correctly identify themselves

When communicating with the department about the application, applicants must:

- include their name (as in their application);
- include their date of birth;
- include the department's client number if it has been given, or the department's file number, or the application receipt number;
- if the application is made outside Australia, include the name of the office where the application was lodged.

## Let the department know if an address is changed

If an applicant changes their residential address for more than 14 days while their application is being processed, they must tell the department their new address and how long they will be there. The department will send communication about the application to the latest address for correspondence that has been provided.

Communication about the application can be sent to another person who has been authorised, however the applicant will be taken to have received the communication that the department sends to that person. The department must be informed (in writing) of any address change for either the applicant or their authorised person.

## Extra information about the application

Additional information can be provided (in writing) at any time, until a decision is made on the application. All relevant information is taken into account.

If invited to give additional information or comment on information, the applicant will be given a date by which to do so. After that date, the department can continue processing the application. Applicants cannot delay a decision by saying that they may or will give more information later.

## Interviews

If invited to attend an interview, the applicant must attend on the date and time agreed with the department. Otherwise, the department may process the application and make a decision on the basis of the information it already has.

## Invitation to comment

If another person gives the department information that could result in the applicant being refused a visa, the department will generally give the applicant an opportunity to comment on the information. The applicant will need to comment by a set date.

## Advise the department if circumstances change

If any of the applicants circumstances change, such that any answer in the application or information given to the department is no longer correct, the applicant must inform the department (in writing) as soon as practicable.

The applicant must continue to do this until a decision is made on their application (or, in the case of a visa granted outside Australia, until the applicant travels to Australia and is cleared by immigration). A visa may be cancelled if an applicant gives incorrect information or fails to advise the department that some information is no longer correct. However, if the department is advised of the correct information before a visa is granted (or in the case of a visa granted outside Australia, before the visa holder is immigration cleared), their visa cannot later be cancelled on the basis of that incorrect information.

## Visa decisions

Processing times vary between offices. Applicants will be notified by the department when a decision has been made on the application.

If a visa is refused, the applicant will be notified why they were refused and, if applicable, where they can apply for merits review of the decision. Unsuccessful applicants will be notified of the time to seek review or to depart Australia.

When the department advises an applicant, or a person they have authorised to act and receive communication on their behalf, of the decision on the visa application, the applicant will be taken to have received the notification:

- 7 working days after the date of the letter (if sent in Australia); or
- 21 days after the date of the letter (if sent outside Australia).

If the notification is handed to the applicant, they will be taken to have been notified at that moment.

If the notification is faxed or e-mailed to the applicant, they will be taken to have been notified at the end of that day.

## Applicants must abide by all conditions on their visa

If a visa is granted subject to conditions (for example, restrictions on work or study) applicants must abide by those conditions or the visa may be cancelled. If applicants wish to change those conditions or stay longer than the visa allows, contact the department for information about how to do this.

## Leaving Australia while an application is being processed

Applicants should inform the department if they travel (either to or from Australia) during processing of an application. This is because the application may be refused if the applicant is in the 'wrong place' when a decision is made:

- for most visas applied for in Australia, the applicant must be in Australia when a decision is made; and
- for most visas applied for overseas, the applicant must be outside Australia when a decision is made.

In addition, if an applicant has applied for a visa in Australia they must ensure before they leave Australia that they have a visa to return. Otherwise they may not be able to return to Australia and, if their application is refused, they may not have a right of review.

## Bridging visas

If an applicant applies for a visa in Australia, they will usually be granted a bridging visa to keep them lawful, in case their previous visa ceases before a decision is made on their application. It will also keep them lawful if their visa is refused and they seek merits review of that decision.

However, if an applicant wished to travel overseas, they will need to apply for a specific bridging visa to allow them to return to Australia (unless they already have another visa which allows them to return to Australia).

## About the information you give

The department is authorised to collect information under Part 2 of the *Migration Act 1958* 'Control of Arrival and Presence of Non-Citizens'. The information provided will be used for assessing eligibility for a visa to travel to, enter and remain in Australia and for other purposes relating to the administration of the Migration Act, for example to assist migrants with settling in Australia, to monitor the conduct of migration agents, or for ensuring compliance with the Migration Act.

Where sponsorship applications present potential child protection issues, the department will ensure the applicant, or a person with parental responsibility (as defined in section 61B of the *Family Law Act 1975*) for the applicant, is made aware of the information collected which raises child protection concerns. The section titled *Protection of children* on page 7 of this booklet gives details of situations where the department may take such action.

The information provided might also be disclosed to agencies that are authorised to receive information relating to adoption, border control, business skills, citizenship, education, health assessment, health insurance, health services, law enforcement, payment of pensions and benefits, taxation, review of decisions and regulation of migration agents.

The information on this form, including the results of any tests for Human Immunodeficiency Virus (HIV), will be used to assess the applicant's health for an Australian visa. A positive HIV **or other** test result will not necessarily lead to a visa being denied. These result(s) may be disclosed to the relevant Commonwealth, state and territory health agencies. Form 1071i *Health requirement for permanent entry to Australia* provides additional information on Australia's visa health requirements. This form is available at offices of the department or from the website **[www.immi.gov.au/allforms/](http://www.immi.gov.au/allforms/)**

The *Privacy Act 1988* is the key law designed to safeguard personal information collected by government agencies. The information privacy principles in the Privacy Act must be obeyed by federal government agencies, including the department, when gathering, processing and disclosing information about a person.

Please read the information form 993i *Safeguarding your personal information*, which is available from the department's website **[www.immi.gov.au/allforms/](http://www.immi.gov.au/allforms/)** or from an office of the department, so as to be better informed about the agencies to which personal information might be disclosed.

The department has authority under the *Migration Act 1958* to collect a range of personal identifiers from non-citizens, including visa applicants, in certain circumstances. For more detailed information please read information form 1243i *Your personal identifying information*, which is available from the department's website **[www.immi.gov.au/allforms/](http://www.immi.gov.au/allforms/)**

The *Freedom of Information Act 1982* also relates to the applicant's personal information. Under this Act the applicant can apply for access to documents containing their personal information.

The applicant or someone authorised by the applicant to access information on their behalf can apply to do this at any office of the department in Australia and pay a fee. If the applicant is overseas, they must also provide the Australian mission overseas with an address in Australia to which copies of personal records can be sent. More information on how to make a request under the Freedom of Information Act is given on the form 424A *Request for access to documents*.

## Options for receiving written communications

An applicant may authorise another person to receive all communications, both written and electronic, about this application with the department. The applicant will be taken to have received any documents sent to that other person as if they had been sent to the applicant.

To do this the section on the application form with the heading *Options for receiving written communications* and form 956 *Appointment of a migration agent or exempt agent or other authorised recipient* will need to be completed. For an explanation of what a migration agent or exempt agent or authorised recipient can do please read the sections below.

## Authorised recipient information

An authorised recipient is someone appointed to receive written communications about an application with the department.

All written communication about the application will be sent to the authorised recipient, unless the applicant indicates that they wish to have health and/or character information sent directly to themselves.

The department will communicate with the most recently appointed authorised recipient as only one authorised recipient may be appointed at any time for a particular application.

## Migration agent information

A migration agent is someone who can:

- advise on the visa that may best suit an applicant;
- inform an applicant on the documents needed to be submitted with the application;
- help an applicant fill in the application and submit it; and
- communicate with the department on the applicant's behalf.

If a migration agent is appointed, the department will assume that the migration agent will be the authorised recipient, unless the applicant indicates otherwise.

The migration agent will be the person with whom the department will discuss the application and from whom it will seek further information when required.

### **Exempt agent 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 an applicant. However, electronic means such as fax or e-mail will only be used if the applicant agrees to receiving communication in this way. The department may also contact people by mail, telephone or in person. However, if an e-mail address is provided, this may speed up communication.

To process an application the department may need to communicate with the applicant about sensitive information, for example, health, police checks, financial viability and personal relationships. Electronic communications, unless adequately encrypted, are not secure and may be viewed by others or interfered with. If the applicant agrees to the department communicating by electronic means, the details provided will only be used by the department for the purpose for which they have been provided, unless there is a legal obligation or necessity to use them for another purpose, or the applicant has consented to use for another purpose. They will not be added to any mailing list.

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.

# Child Migration

©COMMONWEALTH OF AUSTRALIA, 2009  
Department of Immigration and Citizenship  
[www.immi.gov.au](http://www.immi.gov.au)

**people** our business