



Migration Changes for Same-Sex De Facto Partners

Questions and Answers

From 1 July 2009 the following changes commenced.

Same-sex partners are recognised as *de facto partners*

The definition of *de facto partner* now includes same-sex and opposite-sex partners. A person is the *de facto partner* of another person (whether of the same sex or a different sex) if:

- they have a mutual commitment to a shared life to the exclusion of all others;
- the relationship between them is genuine and continuing;
- they live together or do not live separately and apart on a permanent basis; and
- they are not related by family.

For an application for a permanent, Business Skills (Provisional), Student (Temporary), Partner (Provisional), Partner (Temporary), or a General Skilled Migration visa the *de facto* relationship must have existed for at least 12 months immediately preceding the date of application.

For visa applications both people in the *de facto* relationship must be 18 years or over.

Opposite-sex married partners are recognised as *spouses*

The definition of *spouse* now refers to opposite-sex partners in *married relationships*. Persons are in a *married relationship* if:

- they are married to each other under a marriage that is valid for the purposes of the Migration Act 1958;
- they have a mutual commitment to a shared life as husband and wife to the exclusion of all others;
- the relationship between them is genuine and continuing; and
- they live together or do not live separately and apart on a permanent basis.

The terms *interdependent partner* and *interdependent relationship* are no longer used

Up until 1 July 2009, same-sex partner were recognised as being *interdependent partners* in *interdependent relationships* for migration purposes. Interdependent partners of Australian citizens, Australian permanent residents or eligible New Zealand residents could apply for Interdependency partner visas (subclasses 310/110 and 826/814). Interdependent partners could also be included in their partner's application for Temporary Business (Long Stay) visas (subclass 457) and General Skilled Migration visas.

From 1 July 2009, same-sex partners are recognised as being *de facto partners* for migration purposes.

See: [Partner Category Visa Options](#)

For information on Interdependency (subclass 310/110 and 826/814) visa applications lodged **before** 1 July 2009.

See: [Spouse or Interdependency Visa Applications](#)

A broader range of parent-child relationships are recognised

A broader range of parent-child relationships are now recognised. A spouse or de facto partner of a parent of a child conceived through artificial conception procedures (such as in vitro fertilisation) or of a child born under certain surrogacy agreements recognised under a prescribed law of an Australian state or territory as per the *Family Law Act 1975* may be recognised. See below for more on surrogacy.

An expanded range of visas are available for same-sex de facto partners

Same-sex de facto partners and their dependent children are now recognised as being family members for migration purposes. This means that same-sex de facto partners and their children are eligible to apply for all visas available to opposite sex de facto partners, including student, business, skilled and humanitarian visas.

Registered relationships

Yes, for migration purposes, along with marriage certificates, the registration of a de facto relationship under a prescribed law of an Australian state or territory will be recognised as being (non-conclusive) evidence of a genuine and continuing relationship.

Please contact your local state or territory government or the Attorney General's Department for information on relationship registration schemes.

See: www.ag.gov.au

Surrogacy arrangements

Yes, the new changes recognise surrogacy arrangements, where a court order has been made under a **prescribed law** of an Australian state or territory as per the *Family Law Act 1975*.

You should contact your local state or territory government or the Attorney General's Department for information on Australian surrogacy laws before you enter overseas surrogacy arrangements, as most overseas surrogacy arrangements are currently not recognised under Australian state or territory laws.

See: www.ag.gov.au

More information

More information on migration is available from the department's website.

See: www.immi.gov.au