



Australian Government
**Department of Immigration
and Border Protection**

Other Family Migration

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About this booklet

This booklet is designed to assist in understanding the steps for applying for **Other Family 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 (Permanent)
- 6 Points Based Skilled Migration (subclasses 189, 190 and 489) visa
- 7 Business Skills Entry
- 9 Temporary Work (Skilled) (subclass 457) visa
- 10 Business Innovation and Investment
- 11 SkillSelect

For general information about migration to Australia, read information form 1126i *Migrating to Australia*, or visit the Department of Immigration and Border Protection (the department) website www.immi.gov.au/immigration/

Using a migration agent

You do not need to use a migration agent to lodge a visa application. However, if you choose to use an agent, the department recommends that you use a registered migration agent.

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 26–27).

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 Office of the Migration Agents Registration Authority (Office of the MARA) website www.mara.gov.au

You can contact the Office of the MARA at:

Website: www.mara.gov.au

Email: info@mara.gov.au

Mail: PO Box Q1551
QVB NSW 1230
AUSTRALIA

In person: Level 10
111 Elizabeth Street
SYDNEY NSW
AUSTRALIA

Office hours are 9am – 5pm Australian Eastern Standard Time (AEST)

Telephone: 1300 226 272 or +61 2 9078 3552

Fax: +61 2 9078 3591

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

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Terms you need to know

Applicant	The applicant is the person (or persons) applying to migrate or remain permanently in Australia.
Australian mission	An Australian Embassy, High Commission, Consulate or Consulate General or Australian Trade Commission that is located outside Australia.
Australian relative	An Australian relative is a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
Australian permanent resident	A non-citizen, usually resident in Australia, who is the holder of a permanent visa.
Child	Child (when used in relation to another person) means: <ul style="list-style-type: none">• a natural (biological) child; or• an adopted child within the meaning of the <i>Migration Act 1958</i>; 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.
De facto partner	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.
De facto relationship	For the purposes of a Child visa application, a person is in a de facto relationship with another person if: <ul style="list-style-type: none">• they are not in a married relationship (for the purposes of the <i>Migration Act 1958</i>) with each other;• they are not related by family;• 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• the relationship has continued for the period of 12 months immediately preceding the date of application. <p>Note: The 12-month relationship requirement at time of application lodgement does not apply if the applicant can establish that there are compelling and compassionate circumstances for the grant of the visa.</p>
Department	The Department of Immigration and Border Protection.
Dependent child	A child or step-child who has not turned 18 years of age, or, if aged 18 years or over, is a dependant. A dependent child must not have a spouse or de facto partner, or be engaged to be married.

Eligible New Zealand citizen	<p>An eligible New Zealand citizen is a person who at the time of last entry to Australia would have met health and character checks and:</p> <ul style="list-style-type: none"> • held a Special Category (subclass 444) visa on 26 February 2001; or • held a Special Category (subclass 444) visa that was in force for at least one year in the 2 years before 26 February 2001; or • has a certificate, issued under the <i>Social Security Act 1991</i>, that states the citizen, for the purposes of that Act, was residing in Australia on a particular date (note that the Department of Human Services stopped accepting applications for these certificates in February 2004).
Married relationship	<p>Persons are in a married relationship if:</p> <ul style="list-style-type: none"> • they are married to each other under a marriage that is valid for the purposes of the <i>Migration Act 1958</i>; • 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.
Member of the family unit	<p>A person is a member of the family unit of another person (the family head) if the person is:</p> <ul style="list-style-type: none"> • a spouse or de facto partner of the family head; or • a dependent child of the family head or of a spouse or de facto partner of the family head; or • a dependent child of a dependent child of the family head or of a spouse or de facto partner of the family head; or • a relative of the family head, or of a spouse or de facto partner of the family head, who: <ul style="list-style-type: none"> – is not in a married relationship or de facto relationship; and – is usually resident in the family head's household (see page 4); and – is dependent on the family head. <p>Information on the meaning of dependent is given at page 10.</p>
Migrate	<p>If you apply from outside Australia, you will be applying to migrate. If you are applying in Australia, you will be applying for permanent residence. In this booklet the term 'migrate' will cover both.</p>
Near relative	<p>A person who is your (or your partner's) parent, brother, sister, adult child or non-dependent minor child (or step equivalents of these relationships).</p>
Non-dependent minor child	<p>A child who has not turned 18 and is not wholly or substantially in the daily care and control of the applicant or of the applicant's spouse.</p>
Office of the department	<p>A regional office of the Department of Immigration and Border Protection in Australia.</p>
Partner	<p>A spouse or de facto partner.</p>

Relative

Relative (in relation to the definition of Member of the family unit) means your partner, child, parent, brother, sister, step-child, step-parent, step-sister or step-brother, grand-parent, grand-child, aunt, uncle, niece, nephew, step-grandparent, step-grandchild, step-aunt, step-uncle, step-niece or step-nephew.

Settled

Lawfully resident in Australia for a reasonable period. In normal circumstances, 2 years is considered to be a reasonable period. For Australian citizens this period may be reduced to at least 3 months.

Sponsor

The sponsor is generally the Australian relative who undertakes sponsorship obligations for an applicant migrating from overseas, or applying for permanent residence in Australia.

Spouse

A person is the spouse of another person if they are in a married relationship.

Usually resident

The place that a person is 'usually resident' is decided taking into account their physical residence (ie. where the person eats, sleeps, has a home) and the person's intention to make that place their home.

Part 1 – General information

Basic requirements

For migration to Australia in the other family categories (aged dependent relative, remaining relative or carer), the following basic requirements must be met.

Aged dependent relative

You must be a single, widowed, divorced or formally separated aged person who is dependent on a relative who lives in Australia.

Your relative must be an Australian citizen, Australian permanent resident or eligible New Zealand citizen.

You must have been dependent on the relative for at least 3 years before your application.

You can apply outside Australia or in Australia.

Your relative or their partner (if any) must sponsor you. Your sponsor must be aged 18 years or older.

An Assurance of Support is also required (see page 8).

More details about the aged dependent relative category appear on page 12.

Remaining relative

You must be the brother, sister or child (or step-relative to the same degree) of an Australian citizen, Australian permanent resident or eligible New Zealand citizen.

You must have no near relatives other than those who are usually resident in Australia and are Australian citizens, Australian permanent residents, or eligible New Zealand citizens. The terms 'Australian permanent resident', 'near relative', 'eligible New Zealand citizen', 'sponsor' and 'usually resident' are defined on pages 2–4.

You can apply outside Australia or in Australia.

Your relative or their partner (if any) must sponsor you. Your sponsor must be aged 18 years or older.

Please note that there are limitations on sponsorship that apply to the remaining relative category (see page 7).

An Assurance of Support is also required (see page 8).

More details about the remaining relative category appear on page 14.

Carer

You must be willing and able to give substantial, continuing assistance to an Australian relative (or a member of their family unit) who has a medical condition that is causing physical, intellectual or sensory impairment of their ability to attend to the practical aspects of daily life. The need for assistance must be likely to continue for at least 2 years.

Your relative must be an Australian citizen, Australian permanent resident or eligible New Zealand citizen.

You can apply outside Australia or in Australia.

Your relative (as referred to in paragraph one above) or their partner (if any) must sponsor you. Your sponsor must be aged 18 years or over.

More details about the carer category appear on page 15.

Processing priorities

Under Australia's family reunion migration program, a high priority is given to child and partner applications.

Other family applications have a lower processing priority, and you should expect a substantial wait before your application is finalised.

In the other family categories, carer is given priority over aged dependent relative and remaining relative.

For further information, contact an Australian mission or an office of the department, or visit the department's website www.immi.gov.au/migrants/

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

Sponsorship

What is sponsorship?

Sponsorship is a written undertaking to provide support for you and your dependants during your first 2 years in Australia if you apply outside Australia, or the 2 years following grant of your visa if you apply in Australia, including accommodation and financial assistance as required to meet you and your family's reasonable living needs.

Who can sponsor?

Your sponsor must be the relative specified for each category of visa, aged 18 years or over and an Australian citizen, Australian permanent resident or an eligible New Zealand citizen.

Instead of being sponsored by your relative, you may be sponsored by your relative's cohabiting partner if they are aged 18 years or over and are an Australian citizen, Australian permanent resident or eligible New Zealand citizen. Sponsors must also be usually resident and settled in Australia.

Note: An eligible New Zealand citizen sponsor must meet health and character criteria (see page 16).

Sponsorship form

Your sponsor must complete a sponsorship form. A copy of the appropriate form (*form 40 Sponsorship for migration to Australia*) is provided with this booklet. This form must be completed and signed by your sponsor.

Your sponsor should include the following with the sponsorship form:

- evidence of their relationship with you; and
- evidence that they are either an Australian citizen, permanent resident or eligible New Zealand citizen.

The form should be lodged with your application.

A sponsorship form is valid for 2 years from the time it is signed by your sponsor.

If there are delays in processing your application, your sponsor may need to complete a new form.

If you have applied for a Remaining Relative visa, you are able to change your sponsor before your visa application is finally determined.

Sponsorship limitations in the Remaining Relative category

An application to migrate or remain permanently in Australia as a remaining relative of an Australian relative cannot be approved if:

- the Australian relative was previously granted a Preferential Family (subclass 104) visa, Family (subclass 806) visa, Remaining Relative (subclass 115) visa or Remaining Relative (subclass 835) visa; or
- the Australian relative or their partner on their behalf, sponsored/nominated another person who was granted a Preferential Family (subclass 104) visa, Family (subclass 806) visa, Remaining Relative (subclass 115) visa or Remaining Relative (subclass 835) visa on the basis of that sponsorship/nomination.

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 the Australian Government any recoverable social security payments made by the Department of Human Services to those covered by the assurance. The assurance is in force for 2 years from the assuree's arrival in Australia, or for those applying in Australia, the date of visa grant.

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

When is an Assurance of Support required?

Applicants for aged dependent relative and remaining relative visas require an Assurance of Support.

You should not lodge an Assurance of Support application until asked to do so by the department.

You should not pay the assurance bond until asked to do so by the Department of Human Services.

Who can give an Assurance of Support?

Your sponsor does not have to be your assurer. You can also have joint assurers.

The person giving an Assurance of Support must be:

- an Australian citizen, Australian permanent resident or eligible New Zealand citizen aged 18 years or over;
- 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 a person 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 the Department of Human Services during the past year.

Assurances of support may also be provided by some organisations.

Giving an Assurance of Support

The Department of Human Services has responsibility for assessing all Assurance of Support applications. Where appropriate, this also includes managing bond lodgement. For more information about the Assurance of Support scheme, including application procedures refer to the Department of Human Services' website www.humanservices.gov.au or contact the Department of Human Services on **132 850** from within Australia or **61 3 6222 3455** from outside Australia. See also, Fact sheet 34 available from www.immi.gov.au/media/fact-sheets/

Costs and charges

Listed below are some of the costs and charges which you should find out about before applying.

Visa Application Charge

The Visa Application Charge (VAC) is payable in 2 instalments.

The first instalment is generally not refunded if your application is unsuccessful.

Payment of the 2nd VAC is not required until after all legal requirements have been satisfied for the grant of the visa for which you applied. The charge must not be paid until after the department sends you a letter requesting its payment. The charge must be paid before a visa can be granted.

Note for carers only: The department may reduce the charge for the second instalment of the VAC, for the carer only, to nil if it can be demonstrated that payment will cause severe financial hardship to the applicant or the person requiring care.

A VAC may be subject to adjustment at any time. This may increase the cost of a visa.

To check the VAC amount, see the department's website www.immi.gov.au/fees-charges

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 Border Protection. 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.

Medical costs

You and members of your family unit will be required to pay for a medical examination. The cost of the examination is a matter between you and the doctor undertaking the examination.

Note for carers only: An additional fee is directly payable to Medibank Health Solutions for a medical assessment of the person requiring care.

Assurance of Support bond

Persons providing an Assurance of Support are required to lodge a refundable bond.

Other costs

You should be prepared to pay other costs associated with your application, such as those required to obtain a character clearance from overseas authorities, or the cost of certified translations of some documents.

Dependants

Your application may cover a family unit, namely a main applicant and, if applicable, partner and dependants.

An application for an Other Family (Migrant) (Class BO) visa must be lodged outside Australia. All members of the family unit included in the application must be outside Australia when the visa is granted.

An application for an Other Family (Residence) (Class BU) visa must be lodged in Australia. All members of the family unit included in the application must be in Australia when the application is lodged and when the visa is granted.

Additional charges may apply. Refer to the department's website www.immi.gov.au/fees-charges for further information.

Dependent children

A dependent child may be your child or a step child. 'Step-child' means a child of your current partner or a child of your former partner where the child is under 18 years of age and you have a legal responsibility to care for the child (for example, where your former partner is deceased and you have legal custody of the child). You will need to provide a certified copy of the overseas or Australian court order which you have in relation to the child.

A child of any age is not considered dependent if they are married or in a de facto relationship or are engaged to be married.

A child 18 years of age or over will not be considered dependent unless you can show that they are wholly or substantially reliant on you for financial support for their basic needs of food, shelter and clothing. You must also show that you have provided that support for a substantial period and that the child is more reliant on you than on any other person or source. Unless you can provide evidence of this, they should apply separately. You should also be aware that a child 25 years of age or over will generally not be considered dependent.

Children of any age who have a total or partial loss of bodily or mental functions which stops them earning a living are regarded as dependent and part of the family unit (whether or not they migrate with you). Give details of such children whether they are in your care or in an institution.

In all cases you should attach evidence of your child's dependency on you.

Other dependants

You may include other relatives in your application if they are wholly or substantially reliant on you for financial support for their basic needs of food, shelter and clothing and they have been reliant on you for that support for a substantial period. They must also be more reliant on you for support than on any other person or source.

A relative may also be considered dependent on you if they are reliant on you for financial support because they have a mental or physical disability which stops them from earning a living to support themselves.

Other relatives dependent on you or your spouse may include, for example, an aged, unmarried relative.

If you have dependants who are 18 years of age or over, please obtain form 47A *Details of child or other dependent family member aged 18 years or over*. A form 47A must be completed for each dependant aged 18 years or over, whether they are migrating or not.

Custody requirement

The department will seek to ensure that allowing a child to migrate is not in contravention of Australia's international obligations in relation to the prevention of child abduction. If your application includes a child under 18 years of age and the child's other parent is not migrating with you or there is any other person who has the legal right to determine where the child can live, you will need to provide a Statutory Declaration from each of them giving permission for the child to migrate. Alternatively, you can provide a certified copy of a valid court order showing that you/your spouse has the legal right to remove the child from the country.

Aged dependent relative

An aged dependent relative is a person who:

- is old enough to be granted an age pension under the *Social Security Act 1991*; and
- is not in a married relationship or a de facto relationship; and
- has been dependent, and remains dependent on the Australian relative for a reasonable period (normally 3 years).

Your relative must be an Australian citizen, Australian permanent resident or eligible New Zealand citizen.

Age

You will meet the age requirement if you are eligible to be granted an age pension under the *Social Security Act 1991*. Men qualify for an age pension at age 65 years or over. For women, it depends on their date of birth. The minimum age for women to get an age pension began to increase from 1 July 1995. It will continue to increase until it reaches 65 by 2014, making it the same for everyone. Until then, a woman's qualifying age depends on her date of birth.

Qualifying ages for Australian age pension

For men – the qualifying age is 65 years.

For women – the qualifying age for women depends on their date of birth (see below)

Date of birth	Qualification age (at time of application)
Before 1 July 1935	60
1 July 1935 – 31 December 1936	60.5
1 January 1937 – 30 June 1938	61
1 July 1938 – 31 December 1939	61.5
1 January 1940 – 30 June 1941	62
1 July 1941 – 31 December 1942	62.5
1 January 1943 – 30 June 1944	63
1 July 1944 – 31 December 1945	63.5
1 January 1946 – 30 June 1947	64
1 July 1947 – 31 December 1948	64.5
1 January 1949 and later	65

Relationship status

You must demonstrate that you do not have a partner (spouse or de facto partner). To establish your current relationship status, you should provide official documents such as death certificate of your previous partner, divorce certificate, family status certificates or family books (if these documents are officially issued and maintained).

Relationship to you

Your relative in Australia must be a close relative, that is: a child, parent, brother or sister, grandchild, uncle, aunt, niece or nephew (or step-relatives of the same degree).

So that the line of relationship to your relative can be clearly traced, you should provide official documents such as birth certificates (showing full names of parents), marriage certificates, death certificates, adoption certificates, family status certificates or family books (if these documents are officially issued and maintained).

Dependent

You must demonstrate that you are wholly or substantially dependent on your Australian relative for financial support for basic needs of food, shelter and clothing, or because you have a disability which prevents you from working, and that the support has been provided for a reasonable period (normally 3 years).

If you are claiming financial dependency, documented evidence of the transfer of funds on a regular basis over a reasonable period will need to be provided to support your claim.

Remaining relative

This category is designed to enable Australian citizens, Australian permanent residents or eligible New Zealand citizens, (who are usually resident and settled in Australia), to sponsor a remaining relative to migrate to Australia.

You are a remaining relative if:

- you are the brother, sister, child (or step equivalent) of a person who is settled and usually resident in Australia, **and** is an Australian citizen, Australian permanent resident or eligible New Zealand citizen; **and**
- that person, or their partner (if any), is aged 18 years or over and is sponsoring you; **and**
- your sponsor is not subject to the sponsorship limitations outlined at page 7; **and**
- if you are a child under 18 years of age, who was adopted overseas by an Australian citizen, Australian permanent resident or eligible New Zealand citizen, your adoptive parent had spent the required 12 months living overseas prior to visa application; **and**
- you and your partner do not have any near relatives other than those who are usually resident in Australia and are Australian citizens, Australian permanent residents or eligible New Zealand citizens.

A near relative (see 'Terms you need to know' on pages 2–4) is a person who is your (or your partner's) parent, brother, sister, adult child or non-dependent minor child (or step equivalents of these relationships).

If you have any near relatives (other than those who are usually resident in Australia and are an Australian citizen, Australian permanent resident or an eligible New Zealand citizen) you are not eligible for a remaining relative visa. If you have any near relative who holds a temporary entry visa for Australia you are not eligible for a remaining relative visa.

Your application must include information about all near relatives of yourself and your partner, including whether or not each of those near relatives holds Australian citizenship or Australian permanent residence status or is an eligible New Zealand citizen.

If any near relatives of yourself or your partner are deceased, you may be required to provide documentary evidence.

Carer

You must be willing and able to give substantial, continuing assistance to an Australian relative. That Australian relative's need for assistance must exist because either:

- they have a long-term or permanent medical condition that is causing physical, intellectual or sensory impairment of their ability to attend to the practical aspects of daily life; or
- they require practical support to help them care for a member of their family unit (see 'Terms you need to know' on pages 2–4) in their household with such a medical condition.

You need to fully understand the nature of the assistance required by the Australian relative.

The type of assistance you provide must be of a type which cannot reasonably be provided by any other relative or obtained from welfare, hospital, nursing or community services in Australia.

The need for assistance must be likely to continue for at least 2 years.

Your relative must:

- be your partner, child, parent, brother, sister, step-child, step-parent, step-sister or step-brother, grand-parent, grand-child, aunt, uncle, niece, nephew, step-grandparent, step-grandchild, step-aunt, step-uncle, step-niece or step-nephew; and
- be an Australian citizen or a Australian permanent resident or an eligible New Zealand citizen; and
- usually reside in Australia.

Medical assessment of the person with the medical condition

The person with the medical condition may be your relative or a member of your relative's family unit. That person must be an Australian citizen, Australian permanent resident or eligible New Zealand citizen and be medically assessed by Medibank Health Solutions.

To arrange their appointment with Medibank Health Solutions, your relative can telephone 1300 361 046 from anywhere in Australia for the cost of a local call.

When your relative speaks to the Medibank Health Solutions office, they must mention that the medical examination is in relation to a Carer visa.

After Medibank Health Solutions has made an assessment of your relative, it will provide a certificate that will:

- include a score based on the Tables of Impairment currently used by the Department of Human Services to assess eligibility for payment of the Disability Support Pension;
- state whether your relative has a medical condition that will affect their ability to attend to their needs (such as eating, dressing, hygiene and mobility, but not everyday domestic tasks such as shopping, gardening and housekeeping) for at least the next 2 years; and
- include an assessment of the type of assistance required to manage those needs.

Your application cannot be accepted unless you provide evidence that an examination by Medibank Health Solutions has been sought.

You will be advised by the Overseas Mission/Regional Office of further processing requirements.

Part 3 – Health and character

Health

Health standards

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

Medical examination

You will be asked to undertake an examination by a doctor, selected by Australian authorities. Usually, a chest x-ray, medical examination and possibly some laboratory or specialist tests and referral to Medical Officers of the Commonwealth for final decision will be required. This can be a lengthy process and costs will be your responsibility. All members of your immediate family must meet the standards for your application to be successful. Dependants who are not planning to migrate must also be examined.

Forms for your medical examination, together with directions to listed doctors, will be provided by staff processing your migration application. If you are pregnant, you are advised not to be x-rayed until after the birth of your baby, meaning that your application may not be finished until then. Alternatively, although not preferred by the Australian Government, you may care to discuss with your radiologist the use of a lead shielded x-ray.

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 will not lead to automatic rejection, but your 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. This may differ from treatments in other countries.

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

Doctors

Doctors may charge you fees in accordance with their usual practice. They may recommend that you undertake other treatment or specialist consultations. This may be in your own interest because listed doctors know what is required for the assessment of your 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 charges (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 arrangements to lessen a claim on public funds.

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

There is no waiver of the health requirements for applicants in the other family categories (aged dependent relative, remaining relative or carer).

Character

To enter Australia, applicants must be of good character.

In order for the Australian Government to determine whether you are of good character, you may be asked to provide police certificates for each country you have resided in for 12 months or more over the last 10 years. In some instances, applicants may also be required to provide personal details to enable additional character checks to be undertaken.

You do not have to provide this information when you apply. You will be advised when it is required.

Part 4 – Preparing your application

Forms

Provide completed forms:

- form 47OF *Application for migration to Australia by other family members*;
- form 40 *Sponsorship for migration to Australia*;
- if you are using a registered migration agent, a non-registered migration agent outside Australia, or an exempt person, form 956 *Advice by a migration agent/exempt person of providing immigration assistance*;
- if you are appointing an authorised recipient or withdrawing the appointment of your authorised recipient, form 956A *Appointment or withdrawal of an authorised recipient*.

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.

Visa Application Charge

- Information about the Visa Application Charge applicable to your application is on the department's website www.immi.gov.au/fees-charges

Other documents

Other documents you must provide

Other documents you must provide are listed on pages 19–20.

You should provide all the documents necessary to support your claims to eligibility when you make your application.

If you cannot provide all the documents when you make your application, you should tell the department which documents are missing and when you expect to be able to provide them.

If you do not provide all the necessary documents a decision may be made on the information you have provided. It is in your interests to support your application with as much information as possible at the time of application.

Certified copies

Do not supply original documents with your application. If we require an original document at any stage, we will ask for it.

You should provide 'certified copies' of original documents. This means a copy which is authorised as a true copy by a person before whom a Statutory Declaration may be made. Such authorised persons include the following: 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 you are applying in Australia, the translator must be accredited by the National Accreditation Authority for Translators and Interpreters (NAATI). If you are overseas, you should ask at your nearest Australian mission for further information about how to get your documents translated.

If you are applying outside Australia, please contact the nearest Australian mission for information about how to get your documents translated.

You must provide the following documents with your completed application form

We suggest you check off each of the following documents as you attach it to your application to ensure that you include all necessary documents.

- If you are applying in Australia, certified copies of the passports or travel documents you and your dependents used to enter Australia, and of any passports held since then.
- Documents to prove your identity – a certified copy of your birth registration showing both parents' names. If you do not have a birth certificate or are unable to get one, you must provide a certified copy of the identification pages of at least one of the following documents:
 - passport;
 - family book showing both parents' names;
 - identification document issued by the government; or
 - document issued by a court that verifies your identity.

If you are unable to provide one of these documents, you must provide other acceptable evidence that you are who you claim to be.

- 4 recent passport sized photographs (45mm x 35mm) of yourself and any other person included in the application. These should be of the head and shoulders only, and should show the person facing the camera and against a plain background. You should print the name of the person on the back of each photograph.
- If you or anyone included in the application is or has been married, certified copies of the marriage certificate(s).
- If anyone included in the application has been divorced or widowed, a certified copy of the divorce decree absolute or the death certificate of the deceased partner (as appropriate).
- If anyone included in the application has changed his or her name (for example by marriage or deed poll), a certified copy of evidence of the name change.
- Certified copies of birth certificates or the family book, showing names of both parents, for all the children included in the application.
- Certified copies of documents to verify custody and access arrangements for children under 18 years of age unless both parents of the child are included in the application.
- If any child included in the application is adopted, certified copies of the adoption papers.
- If you are separated or divorced and you have a child under 18 years of age included in the application, evidence that you have the legal right to determine where the child will live (that is, court order) or a Statutory Declaration from each person with a legal responsibility to the child, stating they have no objection to the child migrating.

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- If you have served in the armed forces of any country, certified copies of military service record or discharge papers.
 - Evidence of your relationship to your sponsor.
 - Evidence that your sponsor is an Australian citizen, Australian permanent resident or eligible New Zealand citizen.
 - Carer applicant:** The certificate from Medibank Health Solutions or evidence that your relative who needs care has commenced the Medibank Health Solutions assessment.

If the person requiring care is a member of the sponsor's family unit, evidence that they are also an Australian citizen, Australian permanent resident or eligible New Zealand citizen.

- Aged Dependent Relative applicant:** Evidence of financial dependency on your relative in Australia.
- A completed form **47OF**.
- A completed form **47A** for each dependant aged 18 years or over of you and/or your partner.
- A completed form **40** from your sponsor in Australia.

Note: The department will advise you when to provide medical and x-ray examinations, police good conduct/character certificates and Assurance of Support forms.

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

Courier address:
Converga Technology
Centre
170 Clarendon Street
SOUTH MELBOURNE
VIC 3001

Fax (03) 9235 3300

Dandenong Office

Level 5
76 Thomas Street
DANDENONG VIC 3175

Postal address:
GPO Box 241
MELBOURNE VIC 3001

Courier address:
Converga Technology
Centre
170 Clarendon Street
SOUTH MELBOURNE
VIC 3001

Fax (03) 9235 3206

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

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; 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

You must have a visa to travel to and stay in Australia

This information booklet explains how to make visa applications and how they are processed.

It is important that you read this information

It is important that you read this information – it may affect whether you are granted a visa or have your visa cancelled.

You should read all information and instructions about the class of visa you want. If you do not think you can qualify for a visa, you may wish to reconsider whether to apply because any visa charge paid will not be refunded if you are unsuccessful.

Where to get information

In Australia, you can get information about visas, charges and forms from any office of the department, call **131 881** (for the cost of a local call) or go to www.immi.gov.au/migrants/. Outside Australia, you should contact your nearest Australian mission, or go to www.immi.gov.au/migrants/

How to apply for a visa

To make a valid application, you must:

- indicate the class of visa that you want;
- use the correct form; or
- lodge an application via the internet (where applicable);
- provide your residential address;
- pay the required charge (where applicable);
- satisfy any other requirements (for example, you may have to be outside Australia to apply for the visa);
- send or deliver your application to the nearest office of the department as detailed at the end of this form or at the nearest Australian mission overseas.

You must also:

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

Internet applications

Certain visas can be applied for via the internet. Further information can be found by going to www.immi.gov.au/e_visa/

Family members

For most visas, family members (partners, dependent children or dependent relatives) who apply at the same time can apply on the same form. Charges may apply for each family member included in the application. Refer to the department's website www.immi.gov.au/fees-charges

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 spouse or dependent child can be added to an application after lodgement but before a final decision is made.

Limitations on applications

If you are in Australia, you may be prevented from making further applications if, for example:

- you do not hold a substantive visa (which is any visa other than a bridging visa, a criminal justice visa or an enforcement visa) and have had a visa cancelled or refused since you last arrived in Australia;
- your last visa was granted on the condition that you would not be granted a substantive visa while you remain in Australia;
- you hold a sponsored visitor visa;
- you are in immigration detention.

In these cases, the department can provide you with information about which visas, if any, you can apply for.

More than one application

If you apply for more than one visa, the visa granted last will generally be the visa you have (and the visa granted first will no longer be valid). You can get advice about your situation from any office of the department or nearest Australian mission.

Communicating with the department

Communication with the department about your application should generally be in writing. You should send the communication to the office where you applied unless the department notifies you of another address.

Withdrawal of applications

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

You must correctly identify yourself

If you communicate with the department about your application, you must:

- include your name (as in your application);
- include your date of birth;
- include the department client number if it has been given to you, or, if you do not have a client number, the department file number or the application receipt number;
- if your application is made outside Australia, include the name of the office where you applied.

Let the department know if you change your address

If you change your residential address for more than 14 days while your application is being processed, you must tell the department your new address and how long you will be there. The department will send communication about your application to the latest address for correspondence you have provided.

Communication about your application can be sent to another person that you have authorised, but you 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 you or your authorised person.

Extra information about your application

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

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

Interviews

If you are invited to attend an interview, you must attend on the date and time agreed with the department. If you do not, the department can process your 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 you being refused a visa, the department will generally give you an opportunity to comment on the information. You will need to comment by a set date.

Advise the department if your circumstances change

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

You must continue to do this until a decision is made on your application (or, in the case of a visa granted outside Australia, until you travel to Australia and are cleared by immigration). Your visa may be cancelled if you give incorrect information or fail to advise the department that some information is no longer correct. However, if you advise the department of the correct information before your visa is granted (or in the case of a visa granted outside Australia, before you are immigration cleared), your visa cannot later be cancelled on the basis of that incorrect information.

Visa limits

The Australian Government may suspend application processing and/or apply limits (caps) to the number of visas granted each year. If a cap is applied, your application will be processed but you will not get a visa that year if the visa limit is reached.

Visa decisions

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

If you are refused a visa, you will be notified why you were refused and, if applicable, where you can apply for merits review of the decision. You will be notified of your time to seek review or your time to depart Australia.

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

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

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

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

You must abide by all conditions on your visa

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

If you wish to enter or leave Australia while your application is being processed, check with the department before you travel

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

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

In addition, if you have applied in Australia you must ensure before you leave Australia that you have a visa to return. Otherwise you may not be able to return to Australia and, if your application is refused, you may not have a right of review.

Bridging visas

If you apply for a visa in Australia, you will usually be granted a bridging visa to keep you lawful, in case your previous visa ceases before a decision is made on your application. It will also keep you lawful if your visa is refused and you seek a merits review of that decision.

However, if you wish to travel overseas, you will need to apply for a specific bridging visa to allow you to return to Australia (unless you already have another visa which allows you to return to Australia).

What happens if your application is refused while you are in Australia

If you receive a letter advising that your application has been refused, you will be advised of any review rights and the date by which you must leave Australia. If you do not apply for review of the decision and you do not leave Australia by the required time, you will become unlawful and be liable for detention and removal from Australia. If this occurs, you:

- may not be allowed to return to Australia for a period of time; and
- will be liable for the costs of your detention and removal. Goods and earnings you have in Australia may be confiscated to cover these costs.

Review rights

If you apply for the visa in Australia, and you are refused the visa, you may apply for review of the decision.

If you apply for the visa outside Australia, and you are refused the visa, your sponsor may apply for review of the visa application.

If your application is refused, you will be notified of your review rights in writing. You will also be advised how to apply for a review.

Authorised recipient information

An authorised recipient is someone you appoint to receive written communications about your application with the department.

All written communication about your application will be sent to your authorised recipient, unless you indicate that you wish to have health and/or character information sent directly to you.

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

Migration agent information

A migration agent is someone who can:

- advise you on the visa that may best suit you;
- tell you the documents you need to submit with your application;
- help you fill in the application and submit it; and
- communicate with the department on your behalf.

If you appoint a migration agent, the department will assume that the migration agent will be your authorised recipient, unless you indicate otherwise.

Your migration agent will be the person with whom the department will discuss your 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 you. However, electronic means such as fax or e-mail will only be used if you indicate your agreement to receiving communication in this way.

To process your application the department may need to communicate with you 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 you agree to the department communicating with you by electronic means, the details you provide will only be used by the department for the purpose for which you have provided them, unless there is a legal obligation or necessity to use them for another purpose, or you have 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.

Authorisation of a person to act and/or receive communication

You may nominate another person (migration agent/exempt person/authorised recipient) to receive all communications, both written and electronic, about your application. The department will send to that person any written communications relating to your application that would otherwise have been sent to you. You will be taken to have received any documents sent to that person as if they had been sent to you.

To do this you will need to complete *Options for receiving written communications* in form 47OF. Then:

- if you nominate a migration agent or exempt person, that person should complete a form 956 *Advice by a migration agent/exempt person of providing immigration assistance*; **or**
- if you nominate any other person to be an authorised recipient, you should complete form 956A *Appointment or withdrawal of an authorised recipient*.

You can only authorise one recipient at a time. If, after you have lodged your application, you decide to change the migration agent/exempt person/authorised recipient that you have nominated, you must promptly advise the department in writing and again complete the appropriate forms above.

