



## Immigration Advice and Rights Centre Inc.

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### VISITOR VISA APPLICATIONS\*

(Reflects law as at 1 July 2010)

A visitor visa allows visitors to Australia to stay for a short period for the purpose of tourism or visiting relatives or friends.

There are two possible types of visitor visa which you can apply for and which are dealt with in this information sheet:

- **subclass 676 Tourist** – granted for up to 12 months to sightsee, travel or visit friends and relatives (generally the visa period will be for either 3 months or 6 months).
- **Sponsored Visitor – either 459 (Business) or 679 (Family)** - granted for up to 12 months where an Australian citizen or permanent resident will guarantee your visit. Generally the visa will be granted for a period of either 3 months or 6 months, unless exceptional circumstances exist. IARC does **not** advise in relation to business visas. Therefore this information sheet only covers sponsored family visitor visas.

You can also apply for a medical treatment visa (either subclass 675 (short stay) or 685 (long stay)) for pre-arranged medical treatment. Passport holders of particular countries may also apply for an Electronic Travel Authority (Visitor) or eVisitor visa, which allows the holder to travel to and enter Australia on multiple occasions within 12 months of being granted, allowing that person to remain in Australia for no longer than 3 months on each occasion. This information sheet does not cover these types of visa. You should seek separate advice from a registered migration agent in relation to them.

#### WHO CAN APPLY?

Applications can be made from any country or from inside Australia for tourist visas but the applicant must be outside Australia for a Sponsored Visitor visa. To apply you must satisfy the Department of Immigration (DIAC) that you:

- have a genuine intention to travel to, and remain in, Australia as a genuine visitor;
- have access to adequate funds to support yourself during your visit;
- are of good character and health;
- have private health insurance (or equivalent) and a 'fitness to travel' certificate from a doctor if you are over 75 years of age;
- have no debts to the Commonwealth;
- will comply with any condition imposed on your visa; and
- if you are in Australia and do not hold a substantive visa, you must apply within 28 days of the date your last substantive visa ceased (note: the last visa you held must have been a substantive temporary visa and not a Domestic Worker visa).

\* IARC does not guarantee the accuracy of any information contained in this information sheet. It contains general information and is not a substitute for legal advice

## **DO I NEED A SPONSOR?**

There is no requirement that applicants for tourist visas should be sponsored by Australian citizens or residents (except for Sponsored Family visitors subclass 679). However, Australian citizens and permanent residents can help friends or relatives who are applying for a visitor visa by sending them a letter or statutory declaration supporting the application including:

- the name and address of the applicant and any dependants travelling with them and the name and address of the person in Australia who is willing to support their application;
- the kind of support the Australian friend or relative can offer (accommodation, meals);
- details of the Australian friend or relative's current employment and income;
- an undertaking that the Australian friend or relative will provide support.

This letter should be sent to the friend or relative overseas who should attach it to their visa application.

If you intend to visit an Australian citizen/ resident in Australia, you should name that relative in your application in order to enable review of DIAC's decision at the Migration Review Tribunal.

## **WHAT EVIDENCE DO I NEED?**

### **Genuine Intention and the Risk Factor Criteria**

All visitors to Australia must convince DIAC that they are a genuine visitor who will not breach visa conditions, for example, by working or overstaying their visa. In deciding whether an applicant satisfies this the Department will consider:

- personal circumstances that may encourage the applicant to leave Australia at the end of the proposed visit (eg ongoing employment, presence of family members in their home country, property or assets in their home country, their economic situation, what country they are living in regardless of their citizenship)
- the applicant's immigration history (for example, previous travel, compliance with immigration laws of Australia or other countries, previous visa applications/compliance action)
- personal circumstances in the applicant's home country that may encourage them to remain in Australia (for example, military service commitments, economic situation, civil disruption)
- conditions that may encourage the applicant to remain in Australia
- the credibility of the applicant in terms of character and conduct (for example, false and misleading information provided with visa application)
- whether the purpose and proposed duration of the applicant's visit, and proposed activities in Australia are reasonable and consistent (for example, period of stay consistent with tourism)
- information contained in statistical, intelligence and analysis reports on migration fraud and immigration compliance developed by the department about nationals from the applicant's home country. Such information developed as profiles may assist assessing officers in determining whether closer examination of an application is required to ensure the integrity of the visitor visa program.

If the applicant comes from a high risk country or area then the Department may request further information, including:

- evidence that the applicant has been employed for at least the previous 12 months, has approved leave for the period of stay sought and will continue to be employed on their return home OR
- if self-employed, evidence they have owned their own business for the previous 12 months OR
- if retired/non-working have other financial commitments and/or family/social ties that would provide sufficient inducement for them to return to their home country at the end of their visit OR
- good immigration history.

Generally, offers of support or guarantees given by family and friends in Australia are not sufficient evidence of a genuine visit (although these may help the applicant satisfy the Department that they have adequate funds).

To demonstrate a genuine intention to return home you should (if possible):

- show that you have **financial, employment or other commitments** that require you to return to your country, for example you could include with your application:
  - any evidence of property ownership in your home country;
  - a letter from your employer or other evidence that you are taking a holiday from your job or business and are expected back at work at the end of your stay in Australia;
  - evidence of any business or other substantial assets you own in your country of origin;
  - evidence that you are studying and must return by a certain date;
- ensure that you have a **history of compliance** with immigration law, for example you could include with your application:
  - evidence that you or other members of your immediate family have previously taken holidays in Australia or elsewhere and returned without overstaying or breaching any of the visa conditions;
- ensure that your stated **intention for the visit** is consistent with your finances or personal commitments, for example you could include with your application:
  - evidence that you have strong family ties or responsibilities in your country of origin; and
  - a letter from a religious or community leader.

## ADEQUATE FUNDS

All visitors to Australia must also demonstrate that they have adequate funds to support themselves during the length of their intended stay in Australia without resorting to work, including in a case of illness or an accident. However, there is no prescribed dollar figure to satisfy this requirement.

The following evidence may be used to convince DIAC that you have adequate funds and don't intend to work:

- a purchased return ticket;
- private health insurance or travel insurance;
- copies of bank statements, bankbooks or letters from banks and other financial institutions indicating your financial position;
- travellers' cheques; and
- letters of support from friends or relatives in Australia indicating the nature and level of support they intend to provide.

You may be granted a further visitor visa onshore with work rights and without the need to prove that you have adequate funds if you can show:

- you are suffering from financial hardship as a result of changes in your circumstances since you arrived in Australia
- you, or a member of your immediate family, is likely to become a charge on public funds in Australia
- for reasons beyond your control you (or a member of your immediate family) cannot leave Australia, and
- you have compelling personal reasons requiring you to work in Australia.

### Adequate funds for visitors over 75 years of age

In order to satisfy the 'adequate funds' requirement, intending visitors over the age of 75 may be requested to provide evidence of private health insurance covering the period they intend to remain in Australia. Particular forms of evidence of health insurance are acceptable. You should consult a registered migration agent for further information on this. This does not apply where there are reciprocal health care agreements (ie with Finland, Italy, Malta, Norway, the Netherlands, New Zealand, the UK, Ireland and Sweden).

## **SPONSORED FAMILY VISITORS (SUBCLASS 679)**

This visa is intended for people who may not be able to obtain a visitor visa due to doubt that they are genuine visitors who will abide by their visa conditions. An Australian sponsor (Australian citizen or permanent resident) can provide an undertaking that their visitor will abide by visa conditions, including that they depart Australia before their visa expires. In some cases, a financial security bond may be requested to ensure that the person leaves at the end of their visit. These visas are for a single visit only.

A Sponsored Family Visitor visa can be granted for up to 12 months, but will generally be for a period of 3 months. If requested and the decision-maker is satisfied that it is a genuine visit, the visa may be granted for 6 months, or 12 months in exceptional circumstances.

In this subclass, only relatives aged 18 years or over and Federal, State and Territory Members of Parliament, local government mayors and government agencies and instrumentalities can provide a sponsorship. Generally the sponsor (other than government agencies and instrumentalities) will need to be “settled”, ie have been lawfully resident in Australia for a period of two years unless there are compelling and compassionate circumstances.

A relative is defined in the *Migration Regulations* as a spouse, parent, brother, sister, child, adopted child, aunt, uncle, niece, nephew, grandparent, grandchild and the 'step' or adopted equivalents of these. There are no provisions for fiancés, partners of the same sex, in-laws, cousins or friends to provide a sponsorship.

### **The security bond**

DIAC officers may request a security bond, which may be forfeited if the visitor breaches visa conditions. The amount of the security bond is determined on a case by case basis by the Australian Government office overseas, and may range from A\$5,000 - A\$15,000 per person.

If a security bond is required, a letter outlining the process for lodging the bond will be sent to the sponsor. It must be paid in full in Australia before a final decision can be made on the application. Refunds are arranged once the visitor has lawfully left Australia.

The security bond will normally not be refunded if the visitor stays longer than the period authorised on their sponsored visitor visa or is granted another temporary or permanent visa (even if this occurred due to reasons beyond their control).

### **Note: Sponsorship Restrictions -**

If you have previously sponsored any person on a subclass 679 visa and:

- that person did not comply with a condition on their visa;
- 5 years has not passed since that person was granted their visa,

the Minister will consider whether or not to grant a visa to another person sponsored by the same sponsor within the 5 years from the date the previous visa holder was granted their visa. In considering this, the Minister will look at whether the previous visa holder exceeded their period of stay (ie condition 8531) due to circumstances beyond their control which occurred after they had entered Australia. If the previous visa holders subclass 679 visa is still in effect, you should seek professional advice before sponsoring another person for a subclass 679 visa.

## **WHAT IF MY APPLICATION IS REFUSED?**

If your application for a visitor visa is refused then you will have a right of review of that decision at the Migration Review Tribunal if:

- you applied in Australia, or
- you applied for a sponsored family visitor visa; or
- you applied for a visitor visa a criteria for which is that you intend to visit an Australian citizen or permanent resident who is a parent, spouse, child, brother or sister, and you put their details on your primary application form.

You will be entitled to an expedited review at the Migration Review Tribunal if:

- the application was refused because:
  - the Minister was not satisfied that the expressed intention of the applicant only to visit Australia was genuine, or
  - the applicant was within one of the risk categories specified by the Minister
- the application was made to allow you to visit Australia for a special event in which you were involved
- you specified that event in your application, and
- you made your application long enough before the event to enable any decision to refuse the application to be reviewed before the event.

In these cases the Migration Review Tribunal is required to review the decision immediately. You should specify this in your application for review.

### **CAN I EXTEND MY VISITOR VISA IN AUSTRALIA?**

Generally Visitor visas may be extended in Australia by making an application for a Tourist visa before your current visa expires. However, if the grant of the further Tourist visa would result in you remaining in Australia for more than 12 months on one or more Tourist visas then you must show that there are exceptional circumstances requiring the grant of the further Tourist visa. It is possible that any further Tourist visa granted will have a condition 8503 (no further stay) condition attached to it. This will prevent any further applications in Australia (except for a protection visa application) unless the Minister waives that condition.

Some visitor visas cannot be extended, including Sponsored Visitor visas and any visa with an "8503-no further stay" condition (unless DIAC waives this condition).

### **VISA CONDITIONS**

Conditions that may be attached to a Tourist visa include:

- 8101 - no work
- 8201 - you must not study for more than three months
- 8503 - no further stay (this condition is mandatory for sponsored visitor visas but will not be attached to a Tourist visa applied for over the Internet while the applicant is offshore if the Tourist visa is granted automatically)<sup>1</sup>
- 8531 - must depart within the validity of the visa (this condition is mandatory for sponsored visitor visas)
- 8205 - where an applicant is at least 11 years of age and intends to study in a classroom environment for a period greater than four weeks, they must pass an X-ray examination.

### **MAKING AN APPLICATION**

You can download the forms listed below from the DIAC website ([www.immi.gov.au](http://www.immi.gov.au)) or visit a DIAC office and ask for the specific forms listed below, provided without charge.

#### **Tourist visa**

- The applicant must complete:
  - Form 48, 48N or 48R if applying from outside Australia (note: form 48N is not available on the DIAC website at the time of printing this information sheet)
  - Form 601 if applying from within Australia
  - Form 601E if applying over the Internet for a Tourist visa while in Australia
  - Form 48(Internet) if applying over the Internet for a Tourist visa while outside Australia

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<sup>1</sup> Note: your Internet application is unlikely to be granted automatically if:

- there are health/character/safety concerns
- you are considered a "client of interest" by DIAC

- You will need to pay the fee of \$255 if lodged in Australia or \$105 if you are outside Australia at the time of lodgment.
- You should include with your application:
  - your passport;
  - a recent passport photograph of yourself any children included on your passport (write the name of the person on the back of the photograph);
  - details of how you want your passport returned (eg include a passport sized envelope with your address and sufficient postage); and
  - if required, authorisation for children to travel with you.

### Sponsored Family Visitor visa

- Form 48S the application form, to be completed by the applicant
- Form 1149 to be completed by the sponsor
- You will need to pay the fee of \$105
- The sponsor will need to lodge the application at an office of the DIAC in Australia. The sponsor should include with the application:
  - a recent passport photograph of the applicant and any children included on the applicant's passport (write the name of the person on the back of the photograph);
  - if required, authorisation for children to travel with the applicant; and
  - evidence of the relationship between the applicant and the sponsor – for example, birth certificate, marriage certificate etc.

### When can I apply on the Internet?

An application can be made for a visitor visa via the Internet only where the applicant:

- is in Australia
- applies for a Subclass 676 Tourist visa, and
- holds a Subclass 651 eVisitor visa, Subclass 676 Tourist visa (without a condition 8503 attached) or a Subclass 976 Electronic Travel Authority.

## VISA APPLICATION PROCESS

- Step 1** Applicant should fill out and complete the appropriate application form referred to above (and the sponsor should fill out the appropriate sponsorship form if required).
- Step 2** Attach the evidence and documents mentioned above.
- Step 3** Attach a cover letter to the application form with
- your name;
  - current address;
  - reasons for applications; and
  - list of documents attached to application. If you are waiting for any information to be included with the application say that it will be provided to DIAC as soon as it is received.
- Also offer to provide any further information required by DIAC.
- Step 4** Keep a photocopy of all the documents you submitted to the DIAC.
- Step 5** For a Sponsored Family Visitor visa the sponsor should lodge these forms with the application fee at their nearest DIAC office. It is best to ring the National Enquiry Line first (see Contact details below) as you may need to make an appointment. **Remember to keep your receipt as it is proof that you lodged the application.**

For a Subclass 676 Tourist visa the applicant should lodge these forms with the application fee at the appropriate Australian Embassy if the applicant is outside Australia, or at the nearest DIAC office if the applicant is in Australia. If you are not sure which Australian Embassy you need to lodge the application at you should seek advice from a registered migration agent.

**Remember to tell DIAC or the Embassy of any change in your circumstances, for example if you change your address or the relationship ends.**

## CONTACT INFORMATION

### DEPARTMENT OF IMMIGRATION AND CITIZENSHIP (DIAC)

#### Counter service all NSW offices

9am–4pm Monday to Friday

Sydney CBD 26 Lee Street, Sydney 2000  
GPO Box 9984, Sydney, NSW 2001

Parramatta 9 Wentworth St  
Parramatta NSW 2150  
GPO Box 9984, Sydney, NSW 2001

National Telephone Inquiry Line: 131 881

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

### IMMIGRATION ADVICE AND RIGHTS CENTRE INC (IARC)

Administration line: (02) 9279 4300 (between 9am and 5pm)

Website: [www.iarc.asn.au](http://www.iarc.asn.au)

IARC Telephone Advice	IARC Face-to-face advice (by appointment only)
(02) 9262 3833 Tuesday and Thursday 2.00pm–4.00pm	Contact us to make an appointment at:  <b>Immigration Advice and Rights Centre Inc.</b> Level 5, 362 Kent Street Sydney NSW 2000 Ph: +61 2 9279 4300 (Admin Line, 9-5pm)