

Migration & Visas for Australia

Here are some frequently asked questions about the migration process as it applies to spouses.

Q: Who can provide advice about migration and visa questions?

A: The Migration Act and Regulations restrict the provision of advice and assistance in relation to migration and visa matters to persons who are registered by the Migration Agents Registration Authority.

In addition, due to conflict of interest limitations, marriage celebrants are not permitted to advise, assist or representing clients in relation to immigration matters. It is not an offence, however, to pass on information produced by a third party, as long as the person does not give substantial comment on, or explanation of, the information.

Q: What visas may an overseas national be eligible to apply for on the basis of a relationship with an Australian citizen or permanent resident?

A: Specific visas are available for de facto partners (with a minimum of 12 months cohabitation), married partners and engaged partners

Q: Does marriage to an Australian permanent resident or citizen automatically entitle an overseas national to residence in Australia?

A: No. As well as providing evidence of the marriage, married partners must provide evidence that they are in a genuine and continuing relationship.

Q: Does a Spouse visa entitle the holder to permanent residence immediately?

A: In most cases, a Spouse visa is granted for an initial period of two years. At the end of that period, upon production of evidence of a continuing genuine relationship, the visa holder may be granted a permanent residence visa.

Q: What constitutes a marriage for migration purposes?

A: A marriage must be solemnised according either to the laws of Australia or the laws of another country. Such marriages will be lawful and valid for the purposes of a visa application. Refer Part VA of the Marriage Act.

Q: Can a couple, who have been married overseas, have a further marriage ceremony conducted in Australia?

A: No. Where the marriage solemnised overseas was lawful and valid, a second marriage ceremony cannot be conducted in Australia. Refer to section 113 of the Marriage Act.

Q: How can an overseas engaged partner come to Australia to marry his / her fiancé(e)?

A: The overseas partner may apply for a Fiancé(e) visa to travel to Australia. The couple must marry within a period of nine months for the overseas partner to be eligible to apply for a Spouse visa.

Other visa options may also be available to the overseas partner.

Q: What documents are an engaged couple required to provide in order to lodge a Fiancé(e) visa application?

A: Relevant to marriage celebrants, the overseas partner is required to submit a valid Notice of Intended Marriage.

Q: What are the penalties for assisting in a sham marriage for migration purposes?

A: Depending upon a person's involvement, penalties can range from two years imprisonment to ten years imprisonment with fines up to \$100 000.

This section has been prepared by *Sarah Gillis & Associates*.

Disclaimer: the questions and answers provided in this section are of a general nature only and do not substitute for obtaining specific professional advice by a registered migration agent.