



RAILS INFORMATION SHEET

*This information is not a substitute for legal advice. If you have questions about a specific case you should seek assistance from RAILS or another registered migration agent.
Information current at 20 Oct 2005*

PARTNER VISAS AFTER RELATIONSHIP ENDS

In most cases, if a temporary partner visa holder's relationship with their sponsor breaks down, the temporary visa holder loses his/her right to a permanent partner visa and will have to leave Australia. However, there are some exceptions.

For:

- those who hold or have held prospective marriage ("fiancée") visas (where the visa holder and sponsor have married), or who hold provisional/temporary spouse visas or interdependency visas; and
- applicants for onshore spouse or interdependency visas whose application has not yet been decided:

A permanent visa may still be able to be granted where:

- the Australian citizen or permanent resident spouse has died; or
- the temporary visa holder is eligible for the grant of permanent residence under the domestic violence provisions; or
- the temporary visa holder and the sponsoring spouse have certain shared arrangements in respect of a child.

The domestic violence exception also applies to spouses of main applicants for certain permanent business and business skills visas.

VISA CLASSES AND EXCEPTIONS

- Prospective Marriage ("Fiancee") Subclass 300 Visa - Offshore Visa

A person who holds or has held a subclass 300 visa may still be eligible for a permanent spouse visa (a subclass 801 visa) if they have travelled to Australia and married their sponsoring spouse and:

- their spouse has died; they can prove that they would have continued to be the spouse of the sponsor if the sponsor had not died and they have developed close business, cultural or personal ties in Australia ; or
- the relationship has broken down and they, or a member of their family unit, or a dependent child (of theirs, or the sponsoring spouse, or both of them) has suffered domestic violence committed by the sponsor.

In these circumstances, people who hold or have held prospective marriage visas apply for a temporary spouse visa (subclass 820) and are considered under the domestic violence provisions or the provisions regarding death of their sponsor, for a permanent spouse visa (subclass 801).

- Spouse (Provisional) Subclass 309 Visa – Offshore Visa

A person who holds a subclass 309 visa may still be eligible for a permanent spouse visa (a subclass 100 visa) if they have travelled to Australia and:

- their sponsoring spouse has died and they can prove that they would have continued to be the spouse of the sponsor if the sponsor had not died; or
- the relationship has broken down and they or a member of the family unit of them or the sponsoring spouse or both of them has suffered domestic violence committed by the sponsor; or

- the relationship has broken down and they have certain joint arrangements with their sponsor in relation to the care of or financial support of a child.

- Spouse Subclass 820 – Onshore Visa

A person who holds a subclass 820 visa or an applicant for a subclass 820 visa whose visa has not yet been granted, may still be eligible for a permanent spouse visa (a subclass 801 visa) if:

- their spouse has died and they can prove that they would have continued to be the spouse of the sponsor if the sponsor had not died and they have developed close business, cultural or personal ties in Australia; or
- The relationship has broken down and they or a dependent child of them or the sponsoring spouse or both of them has suffered domestic violence committed by the sponsor; or
- The relationship has broken down and they have certain joint arrangements with their sponsor in relation to the care of or financial support of a child.

- Interdependency (Provisional) Subclass 310 – Offshore Visa

A person who holds a subclass 310 visa may still be eligible for a permanent interdependent partner visa (a subclass 110 visa) if they have travelled to Australia and:

- their spouse has died and they can prove that they would have continued to be the spouse of the sponsor if the sponsor had not died; or
- the relationship has broken down and they or a member of the family unit of them or of their sponsor has suffered domestic violence committed by the sponsor.

- Interdependency Subclass 826 – Onshore Visa

A person who holds a subclass 826 visa or an applicant for a subclass 826 visa whose visa has not yet been granted may still be eligible for a permanent interdependent partner visa (a subclass 814 visa) if:

- their sponsor has died and they can prove that they would have continued to be in an interdependent relationship with the sponsor if the sponsor had not died and they have developed close business, cultural or personal ties in Australia; or
- the relationship has broken down and they or a dependent child of the sponsor or the applicant has suffered domestic violence committed by the sponsor.

- Permanent Skills and Business Skills Visas

Spouses of main applicants for the following permanent visas may still be eligible for permanent residence, where their relationship breaks down after the visa application has been made and there has been domestic violence against them, or against a member of their family unit who made a combined application with them or against their or their sponsoring spouse's dependant child:

- Employer Nomination Scheme visas (856)
- Regional Sponsored Migration Scheme visas (857)
- Labour Agreement visas (855);
- Established Business in Australia visas 845);
- State/Territory sponsored regional Established Business in Australia visas (846);
- Distinguished Talent Visas (subclass 858);

Spouses of main applicants for a resolution of status (subclass 851) visa are also eligible to access the domestic violence exception and the exception regarding death of sponsoring spouse.

However, the main applicant's visa must be granted for the spouse's visa to be granted.

GETTING ASSISTANCE

Certain specified evidence of the above exemptions and evidence of the genuineness of the relationship must be provided to the Department of Immigration before a permanent visa will be granted on the basis of any of the above exceptions. Other requirements of the visa such as health and character requirements, will also have to be met. You should therefore seek legal advice and assistance if you think you may be eligible for a visa under one of the exceptions.

Refugee and Immigration Legal Service (RAILS)

Ph 07 38463189 OR www.rails.org.au

RAILS can provide immigration legal advice by telephone from **anywhere in Queensland**. A RAILS case worker will provide preliminary advice over the telephone and in some limited circumstances may be able to take on the case and act as the person's Migration Agent. RAILS can also provide referrals to private registered Migration Agents.

The Migration Agents Registration Authority (MARA)

Ph 02 02995446 or www.themara.com.au

The MARA Register of Migration Agents provides contact details for all registered Migration Agents in Australia, if you are in a position to pay for private immigration advice and assistance.

Legal Aid

Ph 1300 65 11 88 or www.legalaid.qld.gov.au

Legal Aid can provide advice and in some cases representation about family law or domestic violence matters. Legal Aid may also be able to provide women with referrals to domestic violence court assistance workers.

The Immigrant Women's Support Service (IWSS)

www.iwss.org.au

Ph - 38463490

RAILS works closely with IWSS, a community based organisation working with women and children from non English speaking backgrounds who are or have been in domestic violence situations and/or have experienced rape and/or sexual assault.

DV Connect

Ph 1800 811 811 (Womensline)

Ph 1800 600 636 (Mensline)

DV Connect Womensline provides 24 hour 7 day a week crisis intervention, support, information, advocacy, telephone counselling, referrals and statewide coordination of emergency refuge and shelter placement.

DV connect can place women with a refuge and provide referrals to other women's support agencies, who may be able to work with RAILS to assist women on temporary visas, from wherever the women is in Queensland.