



## Fact Sheet: De Facto Visa vs. Partner Visa (on spousal grounds)

### Overview

- **De Facto Visa** and **Partner Visa (on spousal grounds)** are often seen as equivalent in terms of their purpose—allowing the foreign partner of an Australian citizen, permanent resident, or eligible New Zealand citizen to live in Australia.
- While both visas lead to the same result (residency rights for the partner), they are targeted at different relationship types.

### Key Differences

| Criteria                               | De Facto Visa (applying as a De facto couple)                                                                                                                                                              | Partner Visa (applying as a married couple)                                                                                                                                                                                                             |
|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Relationship Type</b>               | De facto relationship (couples who are not married but meet criteria for being in a De facto relationship)                                                                                                 | Married couples                                                                                                                                                                                                                                         |
| <b>Length of Relationship</b>          | Requires proof of showing the De facto relationship has existed for 12 months before the application is lodged (unless certain exemptions apply)                                                           | No minimum time requirement for married couples; the relationship must still be genuine and ongoing                                                                                                                                                     |
| <b>Proof of Relationship</b>           | Must provide evidence of a genuine de facto relationship, including evidence across the four pillars of relationship (financial aspects, nature of household, social aspects and commitment to each other) | Must provide evidence of the marriage and that's its legally valid as well as proof of an ongoing, genuine relationship (across the four pillars of relationship - financial aspects, nature of household, social aspects and commitment to each other) |
| <b>Eligibility for Engaged Couples</b> | A couple can be engaged and in a De facto relationship                                                                                                                                                     | Engaged couples should look at applying on De facto grounds (if criteria is met) or a Prospective Marriage Visa (Subclass 300)                                                                                                                          |
| <b>Legal Definition</b>                | Relationship must meet the legal definition of "de facto" under the Australia Migration Act                                                                                                                | A marriage must be legally recognized, and both partners must meet the legal criteria for marriage                                                                                                                                                      |



## Key Similarities

| Criteria                                 | De Facto Visa                                                                                                                                                                                                                              |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Visa Subclasses</b>                   | Both fall under the same visa subclasses: - Subclass 820/801 (onshore) - Subclass 309/100 (offshore)                                                                                                                                       |
| <b>Sponsorship</b>                       | In both cases, the Australian citizen, permanent resident, or eligible New Zealand citizen must act as the sponsor                                                                                                                         |
| <b>Path to Permanent Residency</b>       | Both typically involve a two-stage process: temporary visa followed by a permanent visa after two years                                                                                                                                    |
| <b>Work and Study Rights</b>             | Both offer full work and study rights for the partner once the temporary visa is granted. You may be eligible to work and study full time when the application is lodged, depending on the visa you hold at time of making the application |
| <b>Health and Character Requirements</b> | Applicants must meet the same health and character requirements for both                                                                                                                                                                   |
| <b>Visa Fees</b>                         | The cost of applying for a Partner Visa on either De facto grounds or marital grounds is the same                                                                                                                                          |
| <b>Processing Times</b>                  | The processing times are the same, regardless of applying on De facto grounds or marital grounds                                                                                                                                           |

## Exemptions for De Facto Visas

Certain exemptions may apply if your De facto relationship hasn't existed for 12 months before you lodge such as:

- **Registered Relationships:** If you have registered your relationship under state or territory law in Australia, the 12-month requirement may be waived.
- **Compelling Circumstances:** If you can demonstrate that your relationship is genuine but you have not spent 12 months in a De facto relationship prior to lodgement, then you can put forward reasons for having the 12 month De facto criteria waived (this is difficult and we recommend you have a Registered Migration Agent assist you or manage the case for you)



## Conclusion

The De facto visa is another term used for a Partner Visa. Couples can apply for a Partner Visa based on two grounds:

1. Whether they are in a De facto relationship;
2. Whether they are in a spousal/married relationship.

If you are already married, then you will be applying for a Partner Visa on the grounds of being in a spousal relationship. Whereas, if you are not married but you are in a long term relationship you may be eligible to apply for a Partner Visa based on your De facto relationship.