De Facto Visa Australia 2026: Eligibility, Proof & Partner Visa Options

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Navigating the path to building a life in Australia with your partner is an exciting journey, but it can often feel like a maze of complex rules and requirements, especially when you are not married. Whether you search for “de facto visa” or “defacto visa,” the pathway is the same — and many couples I speak to feel a sense of uncertainty, wondering, “How do we prove our relationship is real in the eyes of the law?” After more than 27 years as an immigration lawyer, I’ve had the privilege of helping thousands of couples turn that uncertainty into a successful partner visa application. This guide is designed to demystify the process for de facto (defacto) partners, providing you with the clarity and confidence to move forward.

A de facto partner visa is a dedicated pathway for unmarried couples who are in a committed, genuine, and continuing relationship. It acknowledges that marriage is not the only form of a serious partnership. In this article, I will walk you through what a de facto relationship means for Australian immigration, the critical evidence you need to provide, the different visa options available, and the common pitfalls to avoid.

What is a De Facto Relationship in the Eyes of Australian Immigration?

The term “de facto relationship” has a specific legal meaning in the context of Australian migration law. It is defined under Section 5CB of the *Migration Act 1958*, and it goes far beyond simply living together. To be considered de facto partners, you and your partner must have a mutual commitment to a shared life to the exclusion of all others, your relationship must be genuine and continuing, and you must not be related by family.

Crucially, the Department of Home Affairs assesses the *entire nature* of your relationship. They want to see a partnership that mirrors a marital union in its level of interdependence and public recognition. This is a holistic assessment, and no single factor is determinative.

The 12-Month Requirement: The General Rule and Its Major Exceptions

Generally, to be eligible for a de facto partner visa, you must be able to prove that your relationship has existed for at least **12 months immediately before** you lodge your application. This is a strict requirement and a common stumbling block for many applicants.

However, there are significant exceptions to this 12-month rule that can provide a crucial pathway for couples who don’t yet meet the cohabitation timeline. The most powerful of these is relationship registration.

Crucial Exception #1: Registering Your Relationship

If your relationship is registered with an Australian state or territory government, the 12-month minimum relationship period does not apply. This is a game-changer. By formally registering your relationship, the government legally recognizes it, satisfying the Department of Home Affairs on this specific point. This is available in most Australian states and territories, including New South Wales, Victoria, Queensland, and the ACT. For many couples, this is the single most effective step you can take to strengthen your application.

Crucial Exception #2: Compelling and Compassionate Circumstances

This exception is less common and applies in very specific situations. “Compelling and compassionate circumstances” might include having a dependent child from the relationship, which creates a clear, long-term shared commitment. It can also apply where one partner is from a country where de facto relationships are not recognized, and it would be a significant hardship for the couple to live apart.

Choosing Your Pathway: Onshore ($^{820}/_{801}$) vs. Offshore ($^{309}/_{100}$)

Once you have established your eligibility, you need to choose the correct visa stream based on your location at the time of application. There are two main pathways for de facto partners:

Feature	Onshore (Subclass 820/801)	Offshore (Subclass 309/100)
Your Location at Application	You **must** be in Australia when you apply.	You **must** be outside Australia when you apply.
Visa Process	You are granted a temporary visa (820) first, which allows you to live, work, and study in Australia. After approximately two years, you are assessed for the permanent visa (801).	You are granted a temporary visa (309) while overseas, which allows you to travel to Australia. You are then assessed for the permanent visa (100) at a later stage, typically while living in Australia.
Bridging Visa	Yes. Upon lodging a valid application in Australia, you are granted a Bridging Visa A (BVA). This visa activates when your current substantive visa expires and allows you to remain in Australia lawfully during processing.	No. You must wait outside Australia for a decision on the temporary (309) visa before you can move to Australia.
Work & Study Rights	You gain full work and study rights as soon as your Bridging Visa A becomes active.	You gain full work and study rights once your temporary (309) visa is granted and you enter Australia.

The Four Pillars of Proof: How to Evidence Your Relationship

The success of your de facto partner visa application rests on your ability to provide comprehensive evidence across four key areas. The Department of Home Affairs needs to be convinced of the genuine and continuing nature of your relationship, and this is how you do it.

Financial Aspects of the Relationship

This pillar demonstrates your financial interdependence. You need to show that you have combined your financial affairs and share financial responsibilities. It’s not about how much money you have, but rather how you manage it as a couple.

- **Evidence to include:** Joint bank account statements showing pooled income and shared expenses, joint ownership of major assets like a house or car, shared bills (rent, utilities, internet), and evidence of joint financial commitments like loans or credit cards.

The Nature of the Household

This aspect focuses on your living arrangements and how you share your domestic life. You need to prove that you live together or, if you are temporarily apart, that you maintain a shared household.

- **Evidence to include:** A joint lease agreement or mortgage, mail addressed to both of you at the same address (from different sources over time), and written statements detailing how you share household chores and responsibilities.

Social Aspects of the Relationship

This pillar is about proving that you are publicly recognized as a couple. The Department wants to see that your friends, family, and community know you as committed partners.

- **Evidence to include:** The most powerful evidence here is Statutory Declarations (Form 888) from Australian citizen or permanent resident friends and family who can attest to the nature of your relationship. Also include photos of you together over time (especially with others), joint invitations to events, shared travel itineraries, and evidence of joint participation in social activities.

The Nature of the Commitment

This is arguably the most personal and crucial pillar. It requires you to demonstrate your long-term commitment to each other. You need to show that you have combined your lives on a deeper level and have plans for a future together.

- **Evidence to include:** Personal written statements (often called “relationship narratives”) detailing the history of your relationship, your feelings for each other, and your future plans. Evidence of knowing each other’s personal circumstances (family, work, etc.), and proof that you have combined your affairs, such as naming each other as beneficiaries on your superannuation or life insurance policies.

Tips for Same-Sex Couples

Australian migration law recognizes and treats all relationships equally, regardless of gender or sexual orientation. The same criteria and four pillars of evidence apply to same-sex de facto partners. However, there can be unique considerations. For couples where one partner is from a country where their relationship is not recognized or must be kept private, demonstrating the history can be challenging. In these cases, registering the relationship in Australia becomes an even more powerful strategic tool. It provides a clear, legally recognized starting point for your de facto status in Australia, even if you couldn't be open about it previously.

Common Reasons for Refusal (and How to Avoid Them)

Partner visa applications can be refused, and it is often for avoidable reasons. Understanding these common pitfalls is the first step to building a stronger application.

- **Insufficient Evidence:** The most common reason for refusal is a failure to provide sufficient evidence across all four pillars. Do not assume that one strong area will compensate for a weak one.
- **Inconsistent Information:** Ensure that all dates, names, and details are consistent across every document you submit. A simple typo can raise red flags.
- **Failing the 'Genuine and Continuing' Test:** This happens when the case officer is not convinced by the overall picture you have presented. Your evidence must paint a clear and credible story of a shared life.
- **Not Meeting the 12-Month Rule:** Applying without 12 months of cohabitation evidence and without qualifying for an exception is a direct path to refusal.

If your application is refused, you may have the right to a review of the decision by the **Administrative Review Tribunal (ART)**. The ART is an independent body that has taken over the functions of the former Administrative Appeals Tribunal (AAT) as of 2024. An appeal can be complex, and this is where professional advice is critical.

What Should You Do Next?

Securing a de facto partner visa is a detailed and demanding process, but it is absolutely achievable with careful and thorough preparation. Every relationship is unique, and the evidence you provide should be a true reflection of your shared life. The key is to be organised, detailed, and honest.

If you are feeling overwhelmed by the amount of evidence required, or if you simply want to ensure your application is as strong and decision-ready as possible, I invite you to **book a consultation** with me. In a brief call, we can quickly assess your circumstances, identify any potential challenges, and discuss the best strategy for your successful de facto visa application in 2026.

About the Author

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