

Filipino Migrants Forum

CAN YOUR PARENTS OBTAIN PERMANENT RESIDENCE IN AUSTRALIA?

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There are recent changes to the Migration Regulations affecting applicants under skilled migration visas particularly overseas students, business migration visas, retirement visas, and parent visas.

Additional 500 places to the existing 500 quota for existing parent visas and new *Contributory Parent* visas numbering 3,500 places per year were created on 5 March 2003.

The new contributory parent visas will take effect on 27 June 2003, if the visa application is filed outside Australia, and on 1 July 2003, if the visa application is filed in Australia.

These new *Contributory Parent* visas consist of Two Year Temporary visas and Permanent resident visas. The visa application for each may be filed either outside Australia or in Australia. If the visa application is filed outside Australia, there is no age requirement. However, if the visa application is filed in Australia, one parent must be of pensionable age in Australia. At present, the pension age is 65 for men and 62 for women.

From 1 July 2003, the initial filing fee for the existing parent visa and the two Year Temporary visa is \$1210.00 if filed outside Australia. If the aged parent visa or contributory parent visa is filed in Australia the first charge is \$1795.00. For the temporary contributory visa, the second charge of \$15,000.00 per adult person is payable before visa approval. No assurance of support is required. Once granted, the visa holder is entitled to Medicare and work rights. At anytime during this period, the visa holder can upgrade by filing an application for permanent residence by paying an additional \$10,000.00 plus \$10,000.00 bond, and \$4,000.00 bond for additional adult dependents or the spouse. The AoS bond shall be held for a period of 10 years. DIMIA charges are usually adjusted every year. Existing parent visa applicants may be eligible to apply for the contributory parent visa free of the first visa charge.

In all cases of existing parent visa, contributory temporary or permanent, the parent visa applicant must pass the balance of family, health and character tests, and must be sponsored by settled a Australian citizen, Australian permanent resident or eligible New Zealand citizen.

Age is a factor in determining whether the visa may be filed and granted outside Australia or within Australia. The current definition of "aged" parent relates to eligibility for age pension in Australia and is 65 years of age for men and currently 62 years of age for women.

“Settled” in relation to an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen, means lawfully resident in Australia for a reasonable period.

If the parent visa applicant has had some health problems, has overstayed or has previously applied for a protection visa in Australia based on false claims, professional advice should be sought prior to lodgement of visa application to avoid disappointment.

The “balance of family test” has a technical definition under the Migration Regulations. This should be carefully checked when applied to each individual case before filing the application. Generally, a parent usually satisfies the balance of family test if: (a) each children of the parent is either lawfully and permanently residing in Australia; or (b) the number of children of the parent who are lawfully and permanently residing in Australia is (i) greater than, or equal to, the total number of children of the parent who are resident overseas; or (ii) greater than the greatest number of children of the parent who are resident in any single overseas country.

The existing parent visa and the contributory permanent resident parent visa differ mainly in regard to the second visa charge and duration and amount of Assurance of Support (AoS).

The two types under the existing non contributory parent visa are non-aged Parent and the aged Parent visa. The non-aged Parent visa is filed and granted outside Australia and the aged Parent visa is filed and granted within Australia. The AoS bond is \$3,500.00 for two years.

The six types of contributory parent visas differ in visa validity period, age requirement, location of applicant when visa is granted, visa charge and amount and validity period of AoS bond, if required:

- § Two year temporary visa- **no age** requirement, applicant must be *outside* Australia, second visa charge of \$15,000.00 and no bond requirement.
- § Two year temporary visa- must pass **aged** requirement, applicant must be *inside* Australia, second visa charge of \$15,000.00 and no bond requirement.
- § Permanent visa- no age requirement, lodged outside Australia, second visa charge of \$25,000.00 and AoS of \$10,000.00 valid for 10 years.
- § Permanent visa for holders of two year temporary visa - no age requirement, applicant may be inside or outside Australia, second visa charge of \$10,000.00 and AoS of \$10,000.00 valid for 10 years.
- § Permanent visa- must pass aged requirement, lodged inside Australia, second visa charge of \$25,000.00 and AoS of \$10,000.00 valid for 10 years.
- § Permanent visa for holders of two year temporary visa – must pass aged requirement, applicant must be inside Australia, second visa charge of \$10,000.00 and AoS of \$10,000.00 valid for 10 years.

You will note that there are no “aged” requirements for visas filed outside Australia for temporary or permanent visas and there is no AoS bond required for temporary visas.

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A community forum on “Immigration Issues” is being organised for August 2003. The topic will focus on carer visa and sponsored visitor visa. Readers of the Philippine Community Herald Newspaper are invited. Those interested may pre book by writing “The President, Filipino Migrants Forum” c/o Imelda Argel & Associates, Solicitors & Attorneys, by email at info@iargel.com.au or by fax at (+612) 9699 3210 or by post to Suite 41, Ground Floor, 61-89 Buckingham St. SURRY HILLS NSW 2010. You may read some articles in www.iargel.com.au.

The writer, Atty. Imelda Argel is a practising Filipino lawyer and a registered migration agent in Sydney, Australia. She is a Solicitor of the Supreme Court of New South Wales, the High Court of Australia, an Attorney at law in the Philippines and in the State of New York, USA. Her Registered Migration Agent no. is 9682957.