

## Filipino Migrants Forum

### WHO MAY BE INCLUDED IN AN APPLICATION FOR PERMANENT RESIDENCE?

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As visa charges are steadily increasing, queries have been raised as to who may be joined in one visa application and who should be the main applicant, if both spouses are qualified.

In case of the skilled independent visa applications, the spouse who is able to readily pass the points test, the work experience requirements, if applicable and the English Test should be the primary applicant.

In the case of skilled Australian sponsored visa, the person who is *related to the sponsor must* be the primary applicant even if it is the spouse who is able to pass the points test. In such case, the points assessed for the spouse of the primary applicant for skills, age, English shall be deemed allotted to the primary applicant, provided, *the spouse meets the age, work experience or exemption requirements at the date of lodgement of the visa application.*

Except for student visa applications, members of the family unit who may be included in the visa application are:

- spouse or de facto or common law spouse
- dependent children (either of the family head or of the spouse or
- a dependent children of the dependent child  
(for example, grandchild of the visa applicant, who is the child of his child who is a single parent and is a college student under 25 years of age)
- any other *dependent* close relative such as a grandparent, grandchild, aunt, uncle, niece or nephew, who *usually lives* with them and has *never married or is widowed, divorced or separated.*

Dependence must be for at least a year and must be wholly or substantially reliant on the family head for basic necessities of food, shelter and clothing.

A child born after the application is lodged but before decision can be added to the parent's visa application provided the application has not yet been decided.

*Student visa* applicants may include their prospective spouse in their visa application provided they show intention to marry within 3 months from arrival in Australia.

Note however that family members may not arrive in Australia before the primary applicant but may arrive together.

Parent's consent to migrate with other parent

If parents are permanently separated and therefore, one parent is not migrating, children under 18 years of age who are included in the visa application must obtain the *consent of the non-migrating parent* and there must be no compelling reason to believe that the grant of the visa would not be in the best interests of the additional applicant.

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February 2004

*This information is of a general nature and should not be taken as authoritative legal advice for specific cases. 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. More information is available at [www.iargel.com.au](http://www.iargel.com.au)*

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