

# Do you have a dependent child left at your home country?

As an Australian citizen, permanent visa holder or eligible New Zealand citizen, you are allowed to sponsor your the dependent **natural child, adopted child or stepchild** to migrate to stay with you in Australia. To qualify for dependent child, the child should be below 18 years old. An child migration applicant aged 18-24 must be a full time student and financially dependent on the parent supporting the application. (Children who have a disability that stops them from working are not subject to these requirements, but must meet the health requirement.)

Child migration applicants must not be married, engaged to be married or living in a de facto (common law) relationship. If aged over 18, the applicant must never have had a spouse.

In the case of a step child relationship, the child can only be granted a permanent Child visa in circumstances where:

- the child's natural or adopted parent is an Australian citizen, permanent resident or eligible New Zealand citizen, or;
- the natural parent is no longer a spouse of the step parent and that step parent has been granted legal responsibility for the child by a court.

Where a child is overseas and was adopted after the sponsor became a permanent resident, they should apply under the Adopted Child category.

## **Orphan Relative category**

An applicant for an Orphan Relative visa must be **under 18 and have no parents to care for them** because they are dead, permanently incapacitated or of unknown whereabouts. If the child is under 18 at the time of the application but will turn 18 before the application is decided, they may still be eligible for a visa if they meet the other visa requirements. The child must not be married or living in a de facto (common law) relationship. Permission for the child to migrate must be obtained from every person who has a right to decide where the child will live. This may be in the form of a statutory declaration or a court order. There must be no compelling reason why it is not in the best interests of the child to live with their relative in Australia.

The sponsor must be either the child's brother or sister, grandparent, aunt or uncle, or niece or nephew (or step equivalents). The sponsor must be an Australian citizen, Australian permanent resident or eligible New Zealand citizen.

## **Adoption category**

The Adoption category is for a child under 18 years of age **who** has been adopted **or** is in the process of being adopted by their sponsor. The sponsor must be an Australian citizen, holder of a permanent visa or eligible New Zealand citizen. If the child is under 18 at the time of the application but will turn 18 before the application is decided, they will **not** be eligible for a visa under this category.

The adoption must be supported by a State or Territory adoption authority, unless the adoptive parent has been resident overseas for a period of at least 12 months at the time of the migration application, and they can demonstrate that their residence overseas was not contrived to deliberately bypass the requirements concerning entry of adopted children.

If the child is overseas and was adopted before the sponsor became an Australian citizen, holder of a permanent visa or eligible New Zealand citizen, then you should apply under dependent child category. However, please note that you must have declared this adoption relationship in your previous permanent resident application.

## **Dependent Child (temporary) category**

The Dependent Child (temporary) category is for the natural child, adopted child or stepchild of the holder of a provisional Partner visa. An applicant for a Dependent Child (temporary) visa must be the natural child, adopted child or stepchild of the holder of a subclass 309, 310, 445, 820 or 826 visa (this parent is termed the "visa-holding parent"). Generally the child must be under 18, but may be over 18 if financially dependent on his/her visa holding parent. The child must not be married or living in a de facto (common law) relationship or be engaged to be married. If the child is an orphan or adopted child, written permission for the child to migrate must be obtained from every person who has a right to decide where the child may live. This may be in the form of a statutory declaration or a court order. The child must be sponsored by his/her visa-holding parent's sponsor.

The Dependent Child (temporary) visa is a provisional visa which enables a dependent child of a holder of a provisional Partner visa to travel to or remain in Australia for the same period as their parent.

Once this visa has been granted, the child can apply to be added to their parent's permanent Partner visa application.

An AoS may be requested for a Child, an Orphan relative or an Adopted Child application if the child is assessed as likely to become a charge on the Australian welfare budget.

## General comments:

One good thing from child migration category is that there is currently no strict quota on child migration and the application will be processed on merit and may not be subject to queuing like parent migration category. However, it must be noted that, other than special adopted child scheme where the sponsor has been resident overseas for a period of at least 12 months at the time of the migration application, the intended sponsor must have previously notified DIMIA such a child relationship has existed prior to their application for migration to Australia. Otherwise, the authenticity of the application will be questioned. The Minister for Immigration and Multicultural and Indigenous Affairs has issued a direction giving guidance to migration officers Highest processing priority be given to child applicants (including dependent children, orphan relatives and children for adoption). In all cases, the child migration applicant(s) must fulfill the health check requirements and security clearance.

## Latest News

DIMIA has on JUNE 2004 advised of a change on the allocation of points for English for nationals of some countries who are studying in Australia and intend to apply for a skilled Onshore visa. Basically, assessment level 3 and 4 student, when assessed on the initial Student visa they arrived on ( i.e. India, Kenya, China, Indonesia, etc), now need to do an IELTS if claiming 20 points for language. However, current waiver of IELTS guidelines still continue to apply for those claiming 15 points in English.