

Fact Sheet - One-Year Relationship Requirement for De Facto Partners

What is the one year relationship requirement?

The one year de facto relationship requirement is a criterion that must be met by applicants for the following visas who claim to be in a de facto relationship:

- a permanent visa
- a business skills (Provisional) (Class UR) visa
- a business skills (Provisional) (Class EB) visa
- a student (Temporary) (Class TU) visa
- a partner (Provisional) (Class UF) visa
- a partner (Temporary) (Class UK) visa
- a general skilled migration visa.

To satisfy this requirement, the couple must demonstrate that they have been in a de facto relationship for at least 12 months before the visa application is made. For migration purposes, a person is in a de facto relationship with another person if they:

- are not married to each other
- have a mutual commitment to a shared life to the exclusion of all others
- are in a genuine and continuing relationship
- live together or do not live separately and apart on a permanent basis
- are not related by family.

Living together

Living together is regarded as a common element in most on-going relationships. It is recognised that, for various reasons, couples may sometimes have to live apart. Provided the separation is temporary and the couple had, at some point since commencement of the relationship lived together, their relationship might still satisfy the requirements of a de facto relationship.

For this reason, the one year relationship criterion does not require the couple to have physically lived together for the entire 12 months, but rather to have been in a de facto relationship for that period.

Partners who are currently not living together may be required to provide additional evidence that they are not living separately and apart on a permanent basis in order to satisfy the requirements of a de facto relationship.

What evidence is considered?

When submitting evidence of a de facto relationship, applicants must be able to demonstrate that their relationship has existed for at least one year before the application is made. Evidence may include but is not limited to:

The history of the relationship through a signed statement regarding:

- how, when and where the couple first met
- how the relationship developed
- the couple's domestic arrangements, that is, how they support each other financially, physically and emotionally and when this level of commitment began
- any periods of separation, when and why the separation occurred, for how long and how the couple maintained their relationship during the period of separation
- the couple's future plans.

Financial aspects of the relationship, such as:

- joint ownership of the house or joint names on a lease
- correspondence addressed to the couple at the same address
- details of financial commitments including bank statements, and any joint liabilities.

The nature of the household, such as:

- any joint responsibility for the care and support of any children
- the couple's living arrangements including sharing responsibilities within the home.

Social context, such as:

- evidence that the couple is generally accepted and recognised as a couple socially such as joint invitations
- evidence of common friends
- assessments by the couple's friends and family of the relationship
- joint travel or joint participation in sporting, social or cultural activities.

The couple's commitment to each other, such as:

- the duration of the relationship including knowledge of each other
- intention to have a long term relationship, for example, through terms of their wills
- correspondence and telephone accounts to show that the couple maintained contact during any periods of separation.

Exemptions from the one year relationship requirement

The one-year relationship requirement does not apply if the applicant can establish that:

- there are compelling and compassionate circumstances for the grant of the visa, for example, there is a child of the relationship

- the relationship is registered under a law of a state or territory prescribed in the Acts Interpretation (Registered Relationships) Regulations 2008 as a kind of relationship prescribed in those regulations
- their partner is, or was the holder of a permanent humanitarian visa and, before the humanitarian visa was granted, was in a de facto relationship with the applicant that was declared to the Department at the time
- their partner is an applicant for a permanent humanitarian visa.

Commonly asked questions:

I have been in a de facto relationship for 11 months. Do I still have to wait for another month before I can apply?

No. You can apply for a visa even if you have been in a de facto relationship for less than one year. However, your application is likely to be refused unless:

- there are compelling and compassionate circumstances for the grant of the visa, for example, there is a child of the relationship or the laws in your home country prevent you living with your partner
- your relationship is registered under a law of a state or territory prescribed in the Acts Interpretation (Registered Relationships) Regulations 2008 as a kind of relationship prescribed in those regulations
- your partner is, or was the holder of a permanent humanitarian visa and, before the humanitarian visa was granted, was in a de facto relationship with you that was declared to the Department at the time
- your partner is an applicant for a permanent humanitarian visa.

My partner and I met when we were travelling around the world and realise now that we want to remain together. Does our time travelling together count towards the one year requirement?

If your relationship has been on a more casual basis you are unlikely to be able to establish that you are in a de facto relationship. This may be the case if, for example, during your travel, you shared accommodation but you each paid your own expenses, were not committed to a mutually exclusive relationship and made no long-term plans for your future until recently.

To be considered a de facto couple for migration purposes, you must not be related by family and be able to demonstrate that:

- you have a mutual commitment to a shared life to the exclusion of all others
- your relationship is genuine and continuing
- you live together or do not live separately and apart on a permanent basis.

The factors that might be taken into account by the Department in assessing whether you are in a de facto relationship include the history of the relationship, social and financial aspects of the relationship, the nature of the household and your commitment to each other. The one year de facto relationship will only commence from the time you can demonstrate you are in an established de facto relationship.

We have been in a de facto relationship for longer than one year but, as my job in Australia does not allow me to travel to my partner's country, we have only lived together for eight months. Will I be eligible to sponsor my partner on a partner visa to Australia?

Despite not living together for one year, your partner may still be eligible for a partner visa. It is expected that couples will have physically lived together at some time since they committed to the relationship. However, it is recognised that couples may be physically apart for periods of time, for example, due to work or travel commitments, yet remain in a genuine and continuing relationship and are committed to a shared life to the exclusion of all others.

In assessing whether you are in a de facto relationship, the Department may take into account a number of factors other than periods of physical cohabitation such as the history of the relationship, social and financial aspects of the relationship, the nature of the household and your commitment to each other.

I have been in a de facto relationship with my partner for less than one year. My partner has a child from a previous relationship who will be migrating to Australia with my partner. Will my partner be exempt from the one year de facto relationship requirement?

Your partner might be exempt from the one year requirement if she/he can demonstrate compelling and compassionate circumstances or one of the other exemptions outlined in this fact sheet.

Compelling and compassionate circumstances may exist if you and your partner are both parents of the child (for example, through birth or adoption) and the child is dependent on you.

My partner and I met over the internet and we established a close relationship before we had physically met. Can the time since we began our relationship before meeting be considered as part of the relationship requirement period?

No. In order to be in a de facto relationship, you must be able to demonstrate that you have met and have lived together, even if you later lived apart temporarily. The one year relationship requirement will only commence once you have established a de facto relationship.

I want to apply for a partner visa. My partner came to Australia on a permanent visa as a refugee under the humanitarian programme. Are we still required to meet the one year relationship requirement?

No, provided you can show that you were in a de facto relationship with your partner at the time she/he was granted the permanent humanitarian visa and this was declared to the Department at the time.

Where can I register my de facto relationship?

Currently only the Australian Capital Territory, New South Wales, Queensland, Tasmania and Victoria have laws in place allowing a relationship to be registered in accordance with the Acts Interpretation Act (Registered Relationship) Regulations.

You should contact the relevant authorities in your state or territory for information about how to register your relationship.

I have been living away from my partner to fulfil a work contract and therefore cannot satisfy the one year relationship requirement. Does this qualify as a compelling and compassionate circumstance?

There is no clear definition of compelling and compassionate circumstances as it requires an assessment of the individual circumstances of the case.

Compelling and compassionate circumstances may include, but are not limited to, applicants who have a dependent child of the relationship or where the laws of the applicant's country of residence in the one year prior to making the visa application prohibit de facto relationships.

Source: Department of Immigration and Border Protection
