
Partnership Based Temporary Visa Applications

Presentation for NZAMI - October 2015

This presentation provides a general overview of Partnership based temporary visa applications and should not be considered as a substitute for Immigration New Zealand's Instructions as contained in the Immigration New Zealand Operational Manual

Critical requirements

- 1. Applicants must meet the definition of ‘partner’ at E4.1.20; and**
- 2. Be able to satisfy an Immigration Officer they are living together in a genuine & stable partnership as defined at E4.5.25 & all the other requirements in E4.5.5 c.; and**
- 3. Apply on the basis of being the partner of one of the following:**
 - a principal applicant in an application for a temporary entry class visa; or
 - a person who is a New Zealand citizen or residence class visa holder; or
 - a person who is an applicant for, or the holder of a student*, work** or military visa.

* Only holders of student visas specified in WF4.1a.

** Excluding holders of work visas listed in WF3.1a

Partnership Instructions – Definition of Partner – E4.1.20

Where a person relies on a relationship for the purpose of obtaining a temporary entry class visa, 'partner' means a person who is:

- legally married; or
- in a civil union relationship; or
- in a de facto relationship; and

in a genuine & stable partnership with the person whose immigration status they are reliant on for the grant of a visa.

Legally married

- Marriage registered by a Marriage Registrar or a corresponding body.

Civil union

- The Civil Union Act 2004 provides the criteria, rules and processes for two people to have their relationship solemnised as a civil union (by way of a formal ceremony) and officially registered in New Zealand.

De-facto relationship?

- De facto relationship is defined as a relationship between two persons who **live together** as a couple who are not married to each other or in a civil union;

Categories of Partnership Applications

Visitor Visa – Partners and dependant children of a long term worker/student (V3.10)

- Applicants whose partner is on a NZ student visa or work visa may apply for a visitor visa under these instructions. Partners and dependent children of people granted a work visa under the instructions for Foreign Crew of Fishing Vessels, RSE, SSE, Silver Fern Job Search, SMC Job Search, Working Holiday Scheme or as a domestic staff member of diplomatic consular or official staff are not eligible for the grant of a visa under these instructions.

Visitor Visa - Partners and dependant children of New Zealand citizens or residence class visa holders (V3.15)

- Applicants whose partner holds a NZ resident visa or is a NZ citizen may apply for a visitor visa under these instructions.

Intended future partnership:

Visitor Visa - Entry for the purpose of culturally arrange marriage (V3.35)

- People intending to marry New Zealand citizens or residence class visa holders in New Zealand
- Couple intend to marry within 3 months of the applicant's arrival in New Zealand
- Marriage follows an identified cultural tradition where the arrangements for the marriage, including the initial selection of the person to be married, are made by people who are not parties to the marriage

Categories of Partnership Applications

Work Visa - Partners of holders of student visas (WF4)

- Partners of people granted student visas to study for a level 7 or higher qualifications in an area of absolute skill shortage as specified in the Long Term Skill Shortage List
- Partners of people granted student visas to study towards postgraduate qualifications

Work Visa - Partners of New Zealand citizens or residence class visa holders (WF2)

- Applicants whose partners are NZ citizens and residence visa class holders can apply for a work visa under these instructions

Work Visa – Partners of holders of work visas (WF3)

- Partners of people granted work visas allowing a stay in New Zealand of **more than six months**
- Partners of people granted a work visa under the instructions for foreign crew of fishing vessels, Working Holiday Scheme, Recognised Seasonal Employer (RSE) Work Instructions; Supplementary Seasonal Employer (SSE) Instructions , Silver Fern Job Search Instructions, Skilled Migrant Category Job Search Instructions and domestic staff of diplomatic, consular, or official staff are not eligible

Definition of 'Genuine and Stable' Partnership - E4.5.25

A partnership is genuine and stable if an immigration officer is satisfied that it:

- is genuine, because it has been entered into with the intention of being maintained on a long-term and exclusive basis; and
- is stable, because it is likely to endure.

Onus of proving the partnership is genuine and stable lies with the couple involved. Evidential requirements are detailed at E4.5.20 & E4.5.35.

A marriage certificate alone is not sufficient to demonstrate that a partnership is genuine and stable. It just confirms the couple are 'partners' because they are legally married.

What is 'living together'?

Factors that have a bearing on whether two people are 'living together' in a partnership that is genuine and stable may include, but are not limited to:

- the duration of the parties' relationship;
- the existence, nature, and extent of the parties' common residence;
- the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties;
- the common ownership, use, and acquisition of property by the parties;
- the degree of commitment of the parties to a shared life;
- children of the partnership, including the common care and support of such children by the parties;
- the performance of common household duties by the partners; and
- the reputation and public aspects of the relationship.

'Living together' does not include:

- time spent in each other's homes while still maintaining individual residences; or
- shared accommodation during holidays together; or
- flatmate arrangements

Periods of Separation

If a principal applicant and partner have lived apart for periods during their partnership, evidence must be submitted to enable an immigration officer to determine whether there are genuine and compelling reasons for the periods of separation **such as**:

- either partner's family, education or employment commitments;
- the duration of the partnership and the length of time the couple has spent apart;
- the extent to which the couple has made efforts to be together during the time apart.

Despite the above, immigration officers will only consider whether there are genuine and compelling reasons for any periods of separation if the couple is able to satisfactorily demonstrate that they have lived together prior to the periods of separation

The Fourfold Test

Satisfactory and sufficient proof **is required** of *all* four of the following elements being met:

- 'Credibility': the principal applicant and the partner both separately and together, must be credible in any statements made and evidence presented by them concerning the relationship.
- 'Living together': the principal applicant and partner must be living together unless there are genuine and compelling reasons for any period(s) of separation (see E4.5.35(f) and E4.5.35(g) below).
- 'Genuine partnership': the principal applicant and partner must both be found to be genuine as to their:
 - reasons for marrying, entering a civil union or entering into a de facto relationship; and
 - intentions to maintain a long term partnership exclusive of others.
- 'Stable partnership': the principal applicant and partner must demonstrate that their partnership is likely to endure.

What type of Visa should your client apply for?

You are required to present your client's application for a visa in a way which is most likely to result in the grant of a visa. This includes choosing the most appropriate visa category for your client to apply under and ensuring adequate evidence is submitted with the application to demonstrate your client meets the criteria.

What if your clients do not meet the partnership requirements?

Where you know INZ is unlikely to be satisfied the partnership threshold is met (insufficient time 'living together' to demonstrate 'stability'), applying for a partnership based temporary visa is probably not the best option.

Clients in a relationship with a NZ resident or citizen which does not meet partnership requirements can instead consider applying for a General Visitor Visa for the purpose of 'family and social visits'.

If the General Visitor Visa option is used the Immigration Officer will need to be satisfied that the couple are both individually 'credible' and 'genuine' in their intentions for entering into and maintaining a long term partnership, and that the supporting information/evidence supports that. If they are satisfied of this, then the applicant is more likely to be considered bona fide, and a General Visitor Visa may be issued.

Top Tips for Lodging Partnership Applications

Applications lodged with good supporting evidence which is presented in a clear and logical fashion are easier to assess

For applications lodged under Partnership you can help us by including the following:

- Completed Visa Application Form
- Covering letter with a comprehensive outline of how the relationship developed including how the couple met, current living arrangements, history of relationship
- Evidence of living together (E4.5.25 & E4.5.5 c)
- Evidence that the relationship is genuine, stable and likely to endure (E4.5.20 & E4.5.35)
- Evidence of communication during periods of separation.

What do we do once our client enters NZ?

A partner of a NZ citizen or resident who has been granted a VVG to enable them to meet the 'living together' and 'stability' elements of the Fourfold Test should be advised not to apply for a partnership based work or visitor visa until they can provide sufficient evidence to satisfy an Immigration Officer they are living together with their partner in a genuine and stable partnership.

It is unlikely that a client will be able to meet this evidential requirement immediately after arriving in NZ.

Tips for lodging an application onshore:

- Credible evidence that the couple are living together such as examples provided in E4.5.35
- Letters of support from friends and family need to be backed up with independent and verifiable evidence that a couple are in a genuine relationship
- Often a client will provide a joint bank statement (recently opened) that has minimal transactions – this is not sufficient, clients should provide a collection of documents, the documents should demonstrate that the 'fourfold test' has been met.