



Australian Government

Department of Home Affairs

# Statutory declaration for family violence claim

(for family violence claims first made on or after  
24 November 2012)

Form

1410

## What this statutory declaration is about

**Important – Please carefully read this information together with *Family violence and your visa* before you complete your declaration.**

*Family violence and your visa* is available from the Department of Home Affairs (the Department) website <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/partner-onshore/family-violence-and-your-visa>

Family violence is a crime and is unacceptable in Australia. If you are in Australia and you have applied as a partner for certain permanent residence visas, you (and any member of your family unit included in your application) do not have to remain in an abusive relationship just to get permanent residence.

This statutory declaration relates to the family violence provisions of the *Migration Regulations 1994* (the Regulations). The family violence provisions allow you (or a member of your family unit) to continue with your application to remain permanently in Australia even though the relationship with your partner has ended, if you or a member of your family unit have been a victim of relevant family violence committed by your partner.

To access the provisions, you must:

- have applied in Australia to remain permanently as the partner of an Australian citizen, permanent resident or eligible New Zealand citizen; or
- have been granted outside Australia, a temporary Partner Class visa and have since travelled to Australia; or
- have been granted outside Australia, a Prospective Marriage (fiancé) visa, have since travelled to Australia and, whilst that visa was valid, have married your sponsor; or
- be the partner of a person who has applied to remain permanently in Australia under certain Skilled or Business Skills, Distinguished Talent or Resolution of Status (subclass 851 only – whose application was lodged before 9 August 2008) visa classes.

If you or a member of your family unit have suffered family violence and you fear for your or their safety, and you decide to end your relationship with (or have already ended your relationship and left) your partner, you must decide whether or not you wish to return to your home country or remain in Australia.

If you decide to leave Australia, you must inform the Department in writing that you no longer wish to continue with your application for permanent residence. You must also advise the Department that your relationship with your partner has ended.

If you wish to remain in Australia, you must provide evidence to the Department that is acceptable under migration law that:

- your relationship has broken down and you and your partner have custodial rights under the *Family Law Act 1975* for any children aged under 18 years that you and your partner may have (if you are a Partner visa applicant and this applies, you may not need to complete this form);

OR

- you, or members of your family unit (which may include members of your partner's family unit), have suffered family violence; and

- the family violence took place while your relationship existed with your partner.

'Partner' means your spouse or de facto partner (including same-sex partners).

'Family violence', as it relates to the family violence provisions can include physical, psychological and financial abuse and is defined below.

## What is family violence?

Family violence has a specific definition in the Regulations and this is the definition that must be referred to in relation to a claim that a visa applicant may be the victim of relevant family violence.

For the purposes of the Regulations, the definition of relevant family violence means:

*'conduct, whether actual or threatened, towards:*

- the alleged victim; or*
- a member of the family unit of the alleged victim; or*
- a member of the family unit of the alleged perpetrator; or*
- the property of the alleged victim; or*
- the property of a member of the family unit of the alleged victim; or*
- the property of a member of the family unit of the alleged perpetrator;*

*that causes the alleged victim to reasonably fear for, or to be reasonably apprehensive about, his or her own wellbeing or safety.'*

## Who should use this statutory declaration?

Only visa applicants who lodged their first written claim of family violence on or after 24 November 2012 should use this statutory declaration. On 24 November 2012 the Migration Regulations were amended to streamline the evidentiary requirements for making a non-judicial claim of family violence.

Visa applicants who made their first written claim of family violence prior to 24 November 2012 should use the relevant version of form 1040 which is available from the Department's website [www.homeaffairs.gov.au/allforms/](http://www.homeaffairs.gov.au/allforms/)

## Do I have to meet any other visa requirements?

If you are assessed as meeting the family violence provisions, your application will continue to be processed. You and anyone included on your application as migrating with you must meet other legal requirements, including:

- character (for any members of your family unit aged 16 years or older); and
- health (including all members of your family unit in Australia or outside Australia who are not migrating with you).

There may also be other issues to resolve, such as the custody of minor children. For details on partner visa processing, see <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/partner-onshore>

## Important information about privacy

The *Privacy Act 1988* contains 13 Australian Privacy Principles which regulate the way that the Department collects and handles personal information. Information about how the Department collects, uses and discloses personal information for its key functions can be found in form 1442i *Privacy notice*. More information about the Department's general information handling practices (including form 1442i) can be found in the Department's Privacy policy at

<https://www.homeaffairs.gov.au/access-and-accountability/our-commitments/privacy>

**The information is given and received on the understanding that it will be treated in confidence.**

## Notes for visa applicants

### Evidence you need to provide

In order to be assessed under the family violence provisions, you must submit to the Department evidence that is required under the Regulations that:

- you, or members of your family unit (including members of your partner's family unit), have suffered family violence; and
- the family violence took place while the relationship with your partner still existed.

This evidence can be either from a court (judicial evidence) or non-judicial evidence.

You can provide any of the following judicial evidence:

- a court injunction under the *Family Law Act 1975* against your partner;
- a court order against your partner made under a state or territory law; or
- evidence that a court has convicted your partner of assault against you or members of your family unit (or has recorded a finding of guilt against your partner).

You can also provide non-judicial evidence of a joint undertaking to a court made by you and your partner that relates to an allegation of family violence your partner has committed against you or members of your family unit.

If you have any of the above evidence, generally you do not need to complete this form. However, your case officer may request you to complete this form, if necessary.

Alternatively, you can provide your statutory declaration on this form and a minimum two pieces of evidence from the list of documents outlined in the legislative instrument. The list of documents is available on the Department's website

<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/partner-onshore/family-violence-and-your-visa>

### Completing the statutory declaration

Under the Regulations, the statutory declaration must be made by the partner of the person alleged to have committed the family violence.

There are different requirements, depending on who is the alleged victim of family violence. These are described below.

(a) If you are the partner and you are also the alleged victim, you must include the following information in your statutory declaration:

- set out the allegation;
- name the person alleged to have committed the relevant family violence; and
- describe the effect this has had on you.

You need to complete Sections 1, 2, 3 and Part A of the statutory declaration and then sign at Part C in front of a witness as described below.

(b) If someone else is the alleged victim, you (as the partner of the alleged perpetrator) must still make the statutory declaration on their behalf. Under the Regulations, you must provide the following information:

- name the alleged victim;
- set out the allegation of family violence;
- identify the relationship between you (as the maker of the statutory declaration) and the alleged victim;
- name the alleged perpetrator; and
- set out the evidence on which the allegation is based.

You need to complete Sections 1, 2, 3 and Part B of the statutory declaration and then sign at Part C in front of a witness as described below.

### Where to send this form?

You should send the completed statutory declaration to the officer of the Department who is handling your application. Please ensure you have quoted your visa application reference number.

### Who can witness the statutory declaration?

In Australia, statutory declarations must be witnessed by a person prescribed by the *Statutory Declarations Act 1959* and *Statutory Declarations Regulations 2018*. Any attachments to the Declaration must be certified by a prescribed person.

#### Prescribed persons include those who are a:

- Justice of the Peace;
- medical practitioner;
- legal practitioner;
- marriage celebrant or registered minister of religion;
- dentist;
- nurse;
- optometrist;
- pharmacist;
- migration agent registered under Division 3 of Part 3 of the *Migration Act 1958*;
- teacher employed on a permanent full-time or part-time basis at a school or tertiary education institution;
- bank officer with 5 or more continuous years of service;
- permanent employee of the Australian Postal Corporation with 5 or more continuous years of service;
- police officer; or
- public servant with 5 or more continuous years of service.

A full list of prescribed persons can be found in the *Statutory Declarations Regulations 2018*, which is available through the Attorney General's Department website

[www.ag.gov.au/publications/statutory-declarations/pages/default.aspx](http://www.ag.gov.au/publications/statutory-declarations/pages/default.aspx)

A blank statutory declaration form is also available from the same website.

*Home page* [www.homeaffairs.gov.au](http://www.homeaffairs.gov.au)

*General enquiry line*

Telephone **131 881** during business hours in Australia to speak to an operator (recorded information available outside these hours). If you are outside Australia, please contact your nearest Australian mission.

*Please keep these information pages for your reference*



# Statutory declaration for family violence claim

(for family violence claims first made on or after  
24 November 2012)

Please open this form using Adobe Acrobat Reader.  
Either type (in English) in the fields provided or print this form  
and complete it (in English) using a pen and BLOCK LETTERS.

Tick where applicable

<b>Office use only</b>	File number	<input type="text"/>
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## Before completing this declaration

Please ensure that you have read the explanatory notes that accompany this statutory declaration.

### 1 Details of the person making the statutory declaration

I, Family name

Given names

of Your current residential address

POSTCODE

Occupation or qualification

Telephone numbers

Office hours

After hours

### Make the following declaration under the *Statutory Declaration Act 1959*.

### 2 Give the following details about the person or people you allege have suffered relevant family violence

*This can be yourself or another member of your family unit*

Family name	Given names	Date of birth			Relationship to you <i>(eg. you, a member of your family unit)</i>
		DAY	MONTH	YEAR	

### 3 Give the name of the person who you allege has committed the relevant family violence against the person(s) named above

Family name	Given names	Relationship to the visa applicant









## Part C – Declaration

**WARNING:** Under section 11 of the *Statutory Declaration Act 1959*, a person who intentionally makes a false statement in a statutory declaration can be liable for imprisonment for 4 years. Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* – see section 5A of the *Statutory Declarations Act 1959*.

In addition, section 245 of the *Migration Act 1958* provides penalties for providing false or misleading statement of 12 months imprisonment or a fine of AUD12,000.

- 12** I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

I declare that:

- I have read the information contained in form 1442i *Privacy notice*.
- I understand the Department may collect, use and disclose my personal information (including biometric information and other sensitive information) as outlined in form 1442i *Privacy notice*.

**Signature of person making the declaration**

**Declared at** (place)

**On** (date)

DAY	MONTH	YEAR
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Before me,**

(Signature of prescribed person)

Date

DAY	MONTH	YEAR
<input type="text"/>	<input type="text"/>	<input type="text"/>

Details of prescribed person

Family name

Given names

  

Preferred title

Mr  Mrs  Miss  Ms

Other

Contact address

<input type="text"/>
<input type="text"/>
<input type="text"/>
POSTCODE

Occupation or qualification

  

Telephone number

Office hours

(AREA CODE )

We strongly advise that you keep a copy of your application and all attachments for your records.