

Positive Migration Guide

Immigration for people living with HIV,
their family members and others

halc

HIV/AIDS Legal Centre Incorporated (NSW) ABN 39 045 530 926

This guide summarises the relevant laws in the Commonwealth of Australia for those who desire to migrate to Australia as of 1 November 2021.

This document has been prepared by the HIV/AIDS Legal Centre Inc. (HALC) ABN 39 045 530 926.

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Disclaimer

This publication is intended as a general guide to the law. It should not be relied on as legal advice. It is recommended that you talk to a lawyer or registered migration agent about your particular situation. This guide is made available on the understanding that HALC, as a result of providing this information, is not engaged in providing professional advice.

The information contained in this guide is correct at the time of writing but may be subject to change. HALC accepts no responsibility for the accuracy or completeness of any material contained in this guide and recommends that persons exercise their own skill and care with respect to its use and seek professional advice regarding their particular circumstances.

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The HIV/AIDS Legal Centre (HALC)

The HIV/AIDS Legal Centre is a not-for-profit, specialist community legal centre, and the only one of its kind in Australia. It provides free and comprehensive legal assistance to people with HIV or hepatitis-related legal matters. You can contact us at www.halc.org.au. For more information on this guide, see page 35.

HIV/AIDS Legal Centre เป็นศูนย์กฎหมายชุมชนผู้เชี่ยวชาญที่ไม่แสวงหาผลกำไร และเป็นศูนย์เดียวในออสเตรเลีย ให้ความช่วยเหลือทางกฎหมายฟรีและครอบคลุมแก่ผู้ที่ติดเชื้อเอชไอวีหรือประเด็นทางกฎหมายที่เกี่ยวข้องกับไวรัสตับอักเสบ ติดต่อเราได้ที่ www.halc.org.au สำหรับข้อมูลเพิ่มเติมเกี่ยวกับคู่มือนี้ โปรดดูที่ หมายเลขหน้า 35.

एचआईभी/एड्स कानूनी केन्द्र एक गैर-नाफामूलक, सामुदायिक विशेषज्ञ कानूनी केन्द्र, र अप्टरेलियामा रहेको यस प्रकारको एक मात्र केन्द्र हो । यसले एचआईभी वा हेपाटाइटिस सम्बन्धी कानूनी मुद्दाहरूमा नसिचुलक र वसितृत कानूनी सहायता प्रदान गर्दछ । तपाईं www.halc.org.au मा हामीलाई सम्पर्क गर्न सक्नुहुन्छ । यस गाइडका बारे थप जानकारीका लागि 35.

المركز القانوني لمرضى ضعف المناعة المكتسبة/الإيدز هو مركز قانوني مجتمعي غير هادف للربح، وهو الوحيد من نوعه في أستراليا. ويوفر المركز المساعدة القانونية الشاملة المجانية للأشخاص الذين يعانون من ضعف المناعة المكتسبة أو الشؤون القانونية المرتبطة بمرض التهاب الكبد. يمكنك التواصل معنا عبر الموقع الإلكتروني www.halc.org.au. للحصول على مزيد من المعلومات حول هذا الدليل، يُرجى قراءة الصفحة رقم 35.

愛滋病毒 / 愛滋病法律中心是一所非營利專業社區法律中心，亦是在澳洲唯一的此類法律中心。其為愛滋病毒感染者或肝炎患者提供免費和全面的相關法律援助。閣下可以透過 www.halc.org.au 與我們聯絡。有關本指南的更多資訊，請參閱 第35頁。

O Centro Jurídico HIV/SIDA é um centro jurídico comunitário especializado, sem fins lucrativos, e o único deste género na Austrália. Presta assistência jurídica gratuita e abrangente às pessoas com assuntos legais relacionados com HIV ou Hepatite. Pode entrar em contacto conosco em www.halc.org.au. Para obter mais informações sobre este guia, consulte número de página 35.

HIV/AIDS Legal Centre (Юридический центр ВИЧ/СПИД) — это некоммерческая профессиональная организация для оказания юридической помощи, которой нет аналогов в Австралии. Центр бесплатно оказывает полноценную юридическую помощь в вопросах, связанных с ВИЧ или гепатитом, нуждающимся в ней людям. Наши контакты указаны на странице www.halc.org.au. Подробнее об этом руководстве на стр. номер страницы 35.

Trung tâm Pháp lý HIV/AIDS là một trung tâm pháp lý cộng đồng chuyên biệt, phi lợi nhuận và là trung tâm duy nhất thuộc loại này ở Úc. Trung tâm hỗ trợ pháp lý miễn phí và toàn diện cho những người bị nhiễm HIV hoặc gặp các vấn đề pháp lý liên quan đến Viêm gan. Quý vị có thể liên hệ với chúng tôi tại địa chỉ www.halc.org.au. Để biết thêm thông tin về hướng dẫn này, hãy xem 35.

艾滋病毒/艾滋病法律中心是一个非盈利的专业社区法律中心，也是澳大利亚唯一的此类中心。它为艾滋病毒感染者或肝炎相关的法律事务提供免费、全面的法律援助。您可以通过 www.halc.org.au 联系我们。有关本指南的更多信息，请参阅 35。

HIV/AIDS Legal Centre merupakan pusat hukum komunitas spesialis nirlaba, dan satu-satunya di Australia. Lembaga ini memberikan bantuan hukum gratis dan komprehensif untuk pengidap HIV atau masalah hukum terkait Hepatitis. Anda dapat menghubungi kami di www.halc.org.au. Untuk informasi selengkapnya terkait panduan ini, lihat nomor halaman 35.

مرکز حقوقی HIV / ایدز یک مرکز حقوقی غیرانتفاعی متشکل از متخصصان حقوق است و تنها مرکز در استرالیا است که این خدمات را ارائه می‌دهد. این مرکز درباره موضوعات حقوقی مرتبط با هپاتیت یا HIV به افراد مبتلا به این بیماری‌ها به صورت رایگان و جامع کمک می‌کند. می‌توانید در سایت www.halc.org.au با ما تماس بگیرید. برای کسب اطلاعات بیشتر درباره این راهنما 35 را مطالعه کنید.

O HIV/AIDS Legal Centre é um centro jurídico comunitário especializado e sem fins lucrativos, o único desse tipo na Austrália. Oferecemos assistência jurídica gratuita e abrangente a pessoas portadoras de HIV ou em questões jurídicas relacionadas à hepatite. Para entrar em contato conosco, visite o site www.halc.org.au. Para mais informações sobre este guia, consulte 35.

Le HIV/AIDS Legal Centre est un centre juridique communautaire spécialisé à but non lucratif, le seul de ce genre en Australie. Il fournit une assistance juridique gratuite et complète aux personnes ayant des problèmes juridiques liés au VIH ou à l'hépatite. Vous pouvez nous contacter à l'adresse www.halc.org.au. Pour en savoir plus sur ce guide, reportez-vous à la 35.

Foreword

I am delighted to have been asked by the HIV/AIDS Legal Centre (HALC) to provide a foreword for their revised and updated advice booklet *Positive Migration Guide—Immigration for people living with HIV, their families and others*.

Medical advances mean that living with HIV/AIDS for most people is now a manageable if usually unwelcome prospect. It is not to be feared as a death sentence. However a HIV/AIDS diagnosis presents many unique challenges. Not the least of those challenges are those relating to the historic unjustified stigma and discrimination that has been associated with it. Few in the HIV/AIDS community will not have had some experiences of thoughtless, or worse, conduct. Responding to the challenge of ensuring those living with HIV/AIDS are accorded their full human dignity has been at the core of HALC's work for nearly three decades. It has involved the HALC undertaking community legal seminars, pursuing law and policy reforms and providing appropriate information for those who have had such a diagnosis.

In that regard I welcome the publication of this updated booklet. It is intended to provide useful information for those who have had a HIV/AIDS diagnosis, and their loved ones, who want to immigrate to Australia or who need a visa to permit them to reside in Australia for a lesser time, such as for employment or study. It also provides information about associated issues such as work rights and access to Medicare.

The Positive Migration Guide is not intended as legal advice. Its aim is more modest. It is to provide the reader with clear and concise information about the various pathways that are available to them while encouraging anyone who wants to take advantage of them to consult a migration agent or a lawyer in order to get specific advice as early as possible having regard to the strategic decisions that sometimes are required.

As a former President of the Administrative Appeals Tribunal (AAT) and soon to be retiring Judge of the Federal Court of Australia I know all too well that a false start in a migration matter, even if it does not doom a potentially successful application to failure, can result in delays, inconvenience and unnecessary expense.

Getting good information, and acting on sound advice from the outset, is far better than later having to sort out a problem that could and should have been foreseen and dealt with at the beginning.

I congratulate HALC and the funder of this project, UTS through its Social Impact Grant, for their important initiative.

The Hon. Justice Duncan Kerr Chev LH

On behalf of UTS, I am delighted to be able to support this important new resource for people living with HIV (PLHIV) and the legal practitioners who work with them.

People hoping to migrate to Australia can face enormous barriers as a consequence of deeply flawed government policies that fail to uphold the fundamental human rights we all share. People with disability or living with health conditions, and those seeking protection through asylum and refugee processes face particular challenges.

This is where the work of HALC is so important. As a not-for-profit, specialist community legal centre, and the only one of its kind in Australia, it provides free legal assistance to PLHIV.

While COVID-19 has brought migration to a virtual halt, it has also shone a light on the need for the international community to work together to support those seeking a safer, more economically secure life with their loved ones. International migration has grown strongly over recent decades, with 281 million people living outside their home countries by 2020 – about 3.6% of the global population – and such trends can only be expected to resume once borders re-open.

Fair and equitable migration policies are critical to achieving social justice globally. We must all work together to change the laws that prevent us welcoming some people from becoming part of our Australian community.

Verity Firth

Executive Director, Social Justice

University of Technology Sydney

Immigration and HIV

This guide provides information on immigration to Australia for those living with HIV and their family members. This guide may also be of assistance to other people with disabilities or health conditions seeking to migrate to Australia.

All Australian visas contain criteria regarding health and healthcare needs that must be satisfied. Meeting these health criteria depends on the applicant and their family member's condition or disability and the visa that they have applied for. Meeting the health criteria can affect or, at times, prevent those living with HIV or their family members from obtaining an Australian visa.

This guide also includes information for people seeking protection through asylum and refugee processes. A person's HIV condition or other health conditions may support and benefit an application for protection/asylum.

HALC also has factsheets available outlining the criteria for the grant of the relevant visa, which can be read in conjunction with this guide.

Immigration pathways often involve strategic choices. This guide provides an outline of the considerations and processes involved in overcoming migration challenges that are faced by people affected by HIV, it cannot be a substitute for migration advice tailored to a visa applicant's circumstances, migration history and needs. Before lodging an application, advice should be sought from a lawyer/registered migration agent – such as the HALC. A person with HIV will need to disclose their HIV condition and other personal information to their lawyer or agent so that they can provide accurate advice.

Important Things to Remember

- **Seek advice early and often** – Migration decisions are complex, and visa applicants need to make strategic decisions about a range of matters, sometimes years in advance (particularly when considering skilled migration). Advice should be sought from a registered migration agent or lawyer experienced in matters related to HIV and migration. An applicant and/or their family members need to disclose their HIV status to their migration agent/lawyer, as failure to do so means that the migration agent/lawyer cannot provide them accurate advice.
- **Be honest and truthful** – An important part of assessing eligibility for a visa is the character test and confirming that an applicant has not provided any false or misleading information in the application. This means that any instance where a visa applicant has been dishonest; provided fraudulent documents or left an important detail out of their application; or has a criminal history could result in the visa being refused or cancelled. Indeed, false or misleading information or failure to report one's legal history can result in an applicant being found to be not of good character and changes of successful receiving a visa.
- **Disclosure** – Although there is no legal obligation for an applicant to disclose their/their family's HIV condition to their migration agent/lawyer, because of the complications that may arise in a visa application, it is often important and in the applicant's best interest to disclose this information so that they receive accurate advice. Under Australian migration law, there are no obligations to disclose health conditions like HIV to an employer sponsor; disclosure is only required if otherwise required by law. See www.halc.org.au for guides on HIV and disclosure.
- **Dates and due dates** – Timeframes, dates and due dates for visa applications and requests for documents are very important. Very often, if a due date is missed, the law might not allow for the submission of late documents, applications or appeals to the Administrative Appeals Tribunal.

- **Applicants should apply for a new visa before their current visa runs out** – If a person is in Australia on a visa that will soon expire, they will need to either depart Australia or apply for another visa before their current one expires. Failure to do so may severely limit future visa options and place the applicant at risk of detention and removal from Australia.
- **Read carefully and seek advice** – Every document and every letter or notice that a visa applicant receives is important. They should keep copies and make sure that they read every document as soon as they receive it.
- **Medicare** – If an applicant is awaiting a decision on a permanent visa (excluding a parent visa) and they either have permission to work or have an immediate family member who is an Australian citizen or permanent resident, or if they are an applicant for a temporary protection type visa, they may be entitled to Medicare access.
- **Work rights application** – If an applicant is on a bridging visa and awaiting a decision on a substantive visa application, they can apply for permission to work if it was not automatically granted. In most circumstances, they can obtain permission to work if they can demonstrate that they are suffering financial hardship or if they are awaiting the outcome of an employer sponsored visa. Additional criteria must be satisfied if they are on a bridging visa E and if they are awaiting a decision on a protection visa application.
- **Update the department** – Keep the immigration department and lawyer or registered migration agent updated at all times. If a visa applicant changes their address or contact details or if their circumstances change, they must be sure to update everyone as soon as they can. If circumstances change significantly, such as a change in relationship status or if they can no longer work for an employer sponsor, they should seek advice about how best to update the immigration department. If they are represented, they should inform their representative, who will update the visa applicant's details with the department on their behalf.



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1. Health Criteria

All applicants for both temporary and permanent Australian visas are required to satisfy the relevant health criteria.

There is no health criteria for citizenship applications; a person's HIV status will not have any impact on applying for Australian citizenship.

The health criteria is an assessment of public health risk, potential costs associated with treating and supporting a person with a health condition and whether the health condition will result in prejudice to access to services to current Australian citizens and permanent residents. The health criteria vary depending on the visa applied for.

The relevant part of the health criteria for people with HIV is the cost consideration. Conditions which may result in prejudice to access include need of an organ transplant or dialysis, as these resources are limited. HIV is not and never has been considered a threat to public health under migration laws. Conditions which are a threat to public health, such as tuberculosis (TB), need to be successfully treated before a visa can be granted.

Depending on the length of the visa, a person living with HIV may fail the health criteria. This is because HIV is viewed as a condition that will result in a 'significant cost to the Australian Community in terms of healthcare and community services'.¹ Costs are assessed over a specific period of time depending on the visa applied for, the applicant's health condition and their age:

- For temporary visas, costs should be calculated over the proposed period of stay.
- For permanent or provisional visas (e.g., temporary partner visas), costs are calculated over 5 years or 3 years if over 75 years of age, **unless** the applicant's health condition is permanent or ongoing with a reasonably predictable course (such as HIV). In this case, costs are calculated over 10 years or the applicant's remaining life expectancy if less than 10 years.

Should health care and community service costs be considered 'significant', in most cases this will result in failure to meet the health criteria. This does not include onshore refugee/protection visa applicants or people applying for medical treatment visas.

¹ s 11(c)(ii)(A) Sch4005/4007 Migration Regulations 1994 (Cth).

Any estimated health care and community service costs calculated at over \$51,000² are considered significant.

How is the health criteria assessed?

Step 1

All visa applicants, and in some cases non-migrating family members, can be required to undergo medical assessment. The applicants first complete an online **My Health Declaration** and then attend the assessment with either a **panel doctor** if they are outside Australia or **Bupa** if they are within Australia.

The **My Health Declaration** includes questions on whether an applicant has certain health conditions (including HIV) or requires medical treatment. The applicant **must** answer this question honestly. Providing false information on an immigration form could result in the visa being refused on character grounds.

The number and type of health tests required will depend on the visa applied for, the applicant's intentions in Australia, their age, country of nationality and/or residence, and their answers on the My Health Declaration. Even if the applicant already knows that they are HIV positive, they may still need to undergo an HIV test.

All permanent visa applicants over the age of 15 are required to undergo an HIV test. Some temporary visa applicants or permanent applicants under 15 may also be directed to undergo an HIV test – for example, if one of their parents is HIV positive or they are an adoption visa applicant.

The results of the medical assessment are then sent to the Medical Officer of the Commonwealth (MOC) for assessment.

Step 2

An applicant is next requested to provide a specialist report outlining their condition, such as a report from their HIV doctor containing:

1. CD4 count;
2. Viral load; and
3. What treatments they are receiving.

² The Australian government has made a commitment to review and revise the significant cost threshold annually; therefore, this figure may be subject to increase. At the time of writing, the last revision took place in 2021.

It is also useful to indicate if there is any reason why the applicant's treatment must remain the same, if there have been adverse side effects to other treatments or if the applicant is a woman of childbearing age.

Step 3

The MOC uses the information obtained from the medical assessment and any reports or information received from the applicant to form an opinion of whether the applicant meets the health criteria.

The majority of the estimated costs associated with treating people living with HIV relate to pharmaceutical costs. The cost of ARVs range from approximately \$4,000 to \$18,000 per year. As newer treatments are more costly, most people with HIV will only receive a visa valid for just over 3 years, as the estimated cost of their treatment exceeds the threshold of 'significant' community service and health care costs at that point in time. This means that a person with HIV will likely fail the health criteria when seeking permanent residency or visas with longer stays in Australia.

The estimated cost of health care and community services for people living with HIV for permanent visas is assessed over a 10-year period, or their remaining life expectancy if less than 10 years, and usually falls between \$52,000 and \$200,000

depending on the severity of their condition – including prescribed treatments, drug resistance and other factors (e.g., if the person is a woman of childbearing age). Costs include those of pharmaceuticals, which are calculated based on the costs listed under the **Pharmaceuticals Benefits Scheme** (PBS). For permanent visas, costs also include health care costs ranging from approximately \$5,000 to \$10,000 over 10 years, depending on the complexities of the applicant's condition and their required care arrangements.

Step 4

If the MOC has formed the view that the applicant **meets** the health criteria, then the remaining visa criteria are assessed. If they are met, the visa will likely be granted.

If the MOC has formed the view that the applicant **does not meet** the health criteria, the applicant will receive a 'natural justice' letter from the immigration department, a copy of the MOC's final opinion (where a health waiver is available, they will also provide the estimated cost) and be asked for their comments.

Although there is little that an applicant can say to change the MOC's opinion, they can provide comments on the following aspects:

- Check that the MOC has assessed the correct period of stay (for a temporary visa, this should be how long the visa would be in effect) – if the incorrect period of stay is cited, this should be brought to the attention of the decision maker.
- Check that the MOC has referred to any medical reports provided – if any previously supplied reports are not listed, this should be brought to the attention of the decision maker.
- If the applicant did not provide the MOC any medical reports or the report(s) provided did not contain certain information, such as the applicant’s prescribed treatment, they may wish to bring this to the attention of the decision maker.
- If the applicant has changed treatments or there has been a change in their health, they may wish to bring this to the attention of the decision maker.
- If applying for certain temporary visas, at this stage, the applicant may be able to request to reduce the term of the visa so that the estimated costs fall below \$49,000. For example, a person applying for a 4-year student visa whose health care costs are assessed at \$60,000 could reduce their visa to 3 years so that they meet the health criteria.

They may then need to apply for another student visa in the future to complete their education. If reducing the term of the visa, the applicant will have to specify the proposed reduction and ask for a new MOV opinion based on the new proposed period of stay. This is not an option for all permanent visas. If the applicant did not receive a copy of the cost estimate, they may wish to request a copy so they can consider reducing the term of the visa as an option.

An applicant should seek advice from a lawyer/migration agent on whether any or all of the above considerations should be brought to the attention of the decision maker in their particular circumstances.

After providing comments to the decision maker, they and any supporting information will be returned to the MOC for reassessment.

If the applicant has appealed the decision to the Administrative Appeals Tribunal (AAT), the applicant **must** response to any invitation from the AAT to provide comments within the specified deadline; failure to do so will result in the applicant’s right to a hearing being waived.

Step 5

If the MOC does not change their opinion and the applicant still does not meet the health criteria, then the visa will be refused, unless the visa applied for has a provision for the waiving of the health criteria (the health waiver). In this case, the decision maker will invite the applicant to provide information in support of waiving the health criteria.

Everyone living with HIV will fail the health criteria for a permanent (or provisional) visa unless they have applied for a visa with a health waiver or if they are an applicant for an onshore refugee/protection visa.

For permanent (or provisional) visas where one member of the family unit fails the health criteria, all members of the family unit will fail the health criteria. This cannot be solved by removing an applicant with a disability or health condition from the visa, as the health of all members of the family unit is considered, regardless of whether they are included in the visa application as secondary applicants, unless it is deemed unreasonable to require they undergo a medical examination.

Note that under policy, non-migrating family members are not usually required to undergo a health examination; however, despite that policy, if the primary applicant has a member of their family unit who has HIV or another health condition which may result in failure to meet the health criteria, they should not take the risk of applying for a visa without provision for a health waiver, as a medical examination could be requested.

2. Visa Options for People Living with HIV

HIV is not a complete barrier to migration. However it does pose some challenges.

Temporary Visas

Generally, people living with HIV can obtain most temporary visas, but applicants may have to reduce the term of the visa to meet the health criteria (reducing the term of a temporary visa is not an option for all visa subclasses).

Permanent Visas

Permanent residency visa options are limited and often require strategic choices.

Refer to the factsheets available from HALC for details about the criteria and requirements for specific visas and/or seeking migration advice.

Seeking Asylum/ Protection

HIV is not a barrier to obtaining onshore protection/refugee visas.

Offshore refugee/humanitarian visas have a health waiver available.

Depending on an applicant's circumstances and country of origin, they may be able to successfully seek protection/asylum on the basis of being a person living with HIV.

If a person with HIV cannot access necessary treatment or support for their condition, which would then result in the deterioration of their health, and where familial support is withdrawn due to stigma and discrimination, they may be able to demonstrate that they are at risk of serious or significant harm.³

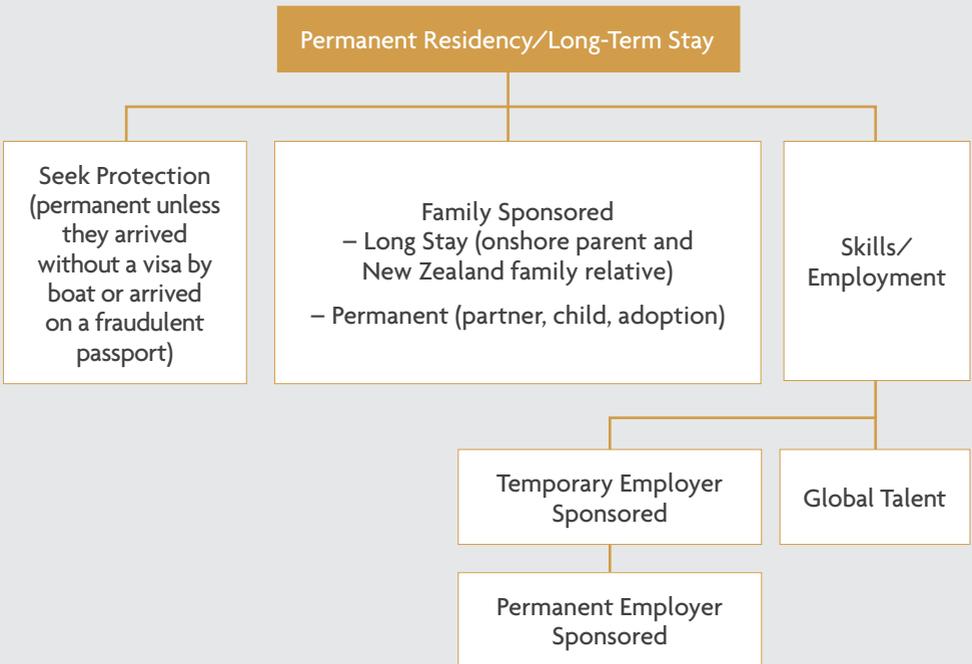
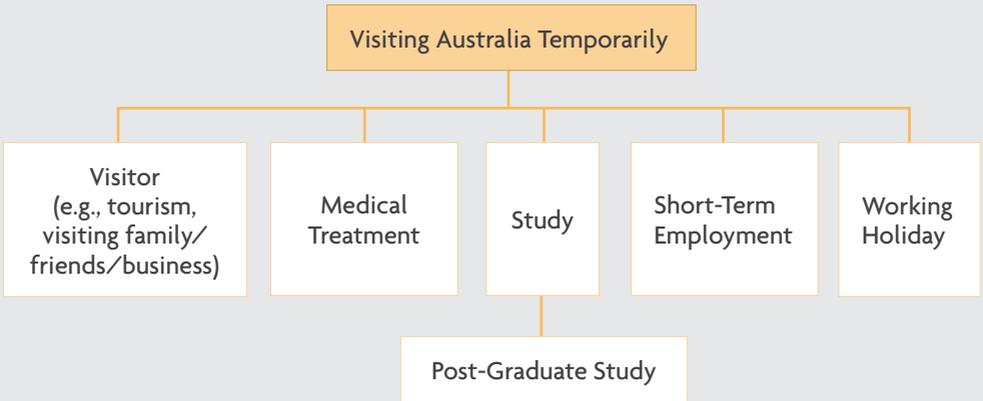
There are other arguments that a person with HIV may be able to make in support of an asylum claim, including heightened risk of harm for people on a complex treatment regime due to drug resistance which is not available in their country of origin; if they have a mental illness or cognitive impairment; if they formerly used drugs; if they are a sex worker; or if they belong to the LGBTIQ+ community.

Visas Based on Family Relationship

For people migrating based on family relationships, a health waiver is available for partner, child and adoption visas, but not for most parent visas, a last remaining relative visa, orphan relative visa or carer visa.

³ MZXKX v Minister for Immigration [2008] FMCA 567

Types of Migration



Seeking Medical Treatment in Australia

If a person is in need of medical treatment in Australia, HIV is not a barrier to obtaining a medical treatment visa.

People may apply for medical treatment visas for temporary medical treatment needs. One example of the reasons people have sought a medical treatment visa where they are also living with HIV include where they are pregnant and their country of origin does not have suitable care to prevent HIV transmission from the mother to the baby.

Visas Based on Education, Skills or Employment

A person's HIV condition should not be a complete barrier to obtaining a visa to study or work in Australia temporarily. However, there are only a limited number of permanent skilled visa options available to people who fail the health criteria. Almost all permanent skilled visa options require employer sponsorship and that the applicant hold a qualifying visa before seeking permanent residency. The other option is the Global Talent Visa (858).

For those living with HIV, the main skilled pathway available involves obtaining a Temporary Skills Shortage Visa (482) with a skill on the Medium and Long Term Strategic Skills List (MLTSS/MLTSSL) and then obtaining a visa in the Temporary Residents Transition stream as part of the Employer Nomination Scheme

Visa (186). An alternative skilled pathway is the Skilled Employer Sponsored Regional (provisional) Visa (494), followed by applying for the Permanent Residence (Skilled Regional) Visa (191). The 494 has a health waiver, and it is anticipated that the 191 visa will have one as well. However, at the time of writing this guide, the criteria and regulations for the 191 visa have not yet been written, so there is no guarantee that this will come to pass.

The skilled option that doesn't require employer sponsorship is the Global Talent Visa (858).

There is also an independent skilled visa option with a health waiver available to New Zealand citizens who have been in Australia.

Pathway from Student Visa to Permanent Residency

Visa pathway	Duration	Important considerations
Step 1: Student Visa (Subclass 500)	Up to 5 years per student visa while engaged in full-time study	Undertake at least 2 calendar years of eligible study in a course to qualify for an occupation on the MLTSSL of the Skilled Occupation List. If intending to live regionally, undertake at least 2 calendar years of eligible study in a course to qualify for an occupation on the Regional Sponsored Migration Scheme Occupation List (RSMS ROL). Consider enrolling in studies in a regional area.
Step 2: Temporary Graduate Visa (Subclass 485)	Graduate Work Stream: Usually up to 18 months Post-study Work Stream: Up to 2–4 years	Generally, an applicant can only be granted one 485 visa. A second 485 visa may be possible if the visa holder has been living in and studying at a regional area/institution. The applicant should use the duration of this visa to obtain at least 2 years of work experience in an MLTSSL occupation eligible for the 482 visa. For RSMS ROL–only occupations, to be eligible for the 494 visa, an applicant will need at least 3 years of work experience.
Step 3: Temporary Work Visa: 482 (Temporary Skill Shortage) Visa in the medium-term stream OR 494 (Skilled Employer Sponsored Regional) Visa	482 visa: up to 4 years 494 visa: up to 5 years At least 3 years to be eligible to apply for the permanent visa (next step)	For the 482 visa (Medium Steam only), once the applicant has the requisite skills and work experience, arrange for an employee sponsor to nominate the candidate for an MLTSSL position. For the 494 (regional) visa, once the applicant has the requisite skills and work experience, arrange for an employee sponsor to nominate the candidate for an RSMS ROL position. Once the visa is granted, continue working in the nominated occupation, for the sponsoring employer, for the duration of the visa.
Step 4: Permanent Work Visa: 186 (Employer Nomination Scheme) Visa in the temporary residence transition stream OR 191 (Permanent Residence Skilled Regional) Visa	Indefinite	Once the applicant has held a 482 medium-term stream visa with the same employer in the same position for 3 years, the employer can sponsor them for the 186 TRT visa stream. A health waiver is required for this visa. (The 191 visa details are not yet available, including if this application offers the possibility of a health waiver.)

When a Health Waiver Is Available and When One Isn't

A health waiver is not available for every visa class or subclass. The following table lists some of the more common visa classes and notes whether a health waiver is available or if there are certain circumstances when one may become available. This information may change, and visa applicants should seek advice about their specific circumstances from either a lawyer/migration agent who is familiar with the health criteria and assisting PLHIV.

Visa (Subclass)	Is there a waiver available/Can people with HIV obtain this visa?
Visitor Visa (600), eVisitor (651) and Electronic Travel Authority Visa (601)	<p>✘ No, there is no health waiver available for these visas. However, due to their short duration of stay, a person's HIV status is unlikely to be a barrier to obtaining these visas.</p>
Medical Treatment Visa (602)	<p>✘ No, there is no health waiver available for this visa subclass. However, only conditions which pose a threat to public health may prevent the person needing medical care from obtaining this visa. If applying as a support person, there is no health waiver, but due to the short duration of the visa, a person with HIV is likely to meet the health criteria for this visa.</p>
Working Holiday Visa (417), and Work and Holiday Visa (462)	<p>✘ No, there is no health waiver available for this visa subclass. However, due to the short length of stay the visa allows, the estimated cost of HIV treatment is not considered a significant cost and, therefore, is not a barrier to entry.</p>
Student Visa (500) and Student Guardian Visa (590)	<p>✘ No, there is no health waiver available for these visas. However, due to the short duration of stay they permit, a person's HIV status is unlikely to be a barrier to obtaining these visas.</p>
Temporary Graduate Visa (485) and Skilled – Recognised Graduate Visa (476)	<p>✘ No, there is no health waiver available for these visas. However, due to the short duration of stay they permit, a person's HIV status is unlikely to be a barrier to obtaining these visas.</p>
Partner Visa (Permanent and Provisional; 309, 100, 801, 820) and Prospective Marriage Visa (300)	<p>✔ Yes, a health waiver is available.</p>
Child Visa (101/801) and Dependent Child Visa (445)	<p>✔ Yes, a health waiver is available.</p>

Visa (Subclass)	Is there a waiver available/Can people with HIV obtain this visa?
Adoption Visa (102)	✔ Yes, a health waiver is available.
Parent Visas (Permanent and Provisional; 143/804/864/884)	✘ No, there is no health waiver available for these visas, unless holding a Minister-issued tourist visa.
Sponsored Parent (Temporary) Visa (870)	✘ A health waiver is available for onshore applicants only.
Carer Visa (836, 116)	✘ No, there is no health waiver available for this visa subclass.
Orphan Relative Visa (117, 837)	✘ No, there is no health waiver available for this visa.
Remaining Relative Visa (115, 835)	✘ No, there is no health waiver available for this visa.
New Zealand Citizen Family Relationship Visa (461)	✔ Yes, a health waiver is available.
Protection Visa (866), Temporary Protection Visa (785) and Safe Haven Enterprise Visa (790)	✔ HIV is not a barrier to obtaining these visas. The applicant must only meet public health risk requirements (e.g., not have tuberculosis).
Refugee Visa (200), In-Country Special Humanitarian Visa (201), Global Special Humanitarian Visa (202), Emergency Rescue Visa (203) and Woman at risk Visa (204).	✔ Yes, a health waiver is available. Under policy a health waiver is automatically approved under policy where significant cost is the only factor. If prejudice to access is identified, the health waiver process is still required.
Temporary Skill Shortage Visa (482)	✔ Yes, a health waiver is available. It is not possible to reduce the visa's term after the nomination has been approved.
Employer Nomination Scheme Visa (186) and Regional Sponsored Migration Scheme Visa (187)	✔ Yes, a health waiver is available if applying under the Temporary Residents Transition Stream only. There is no health waiver for any other stream.

Visa (Subclass)

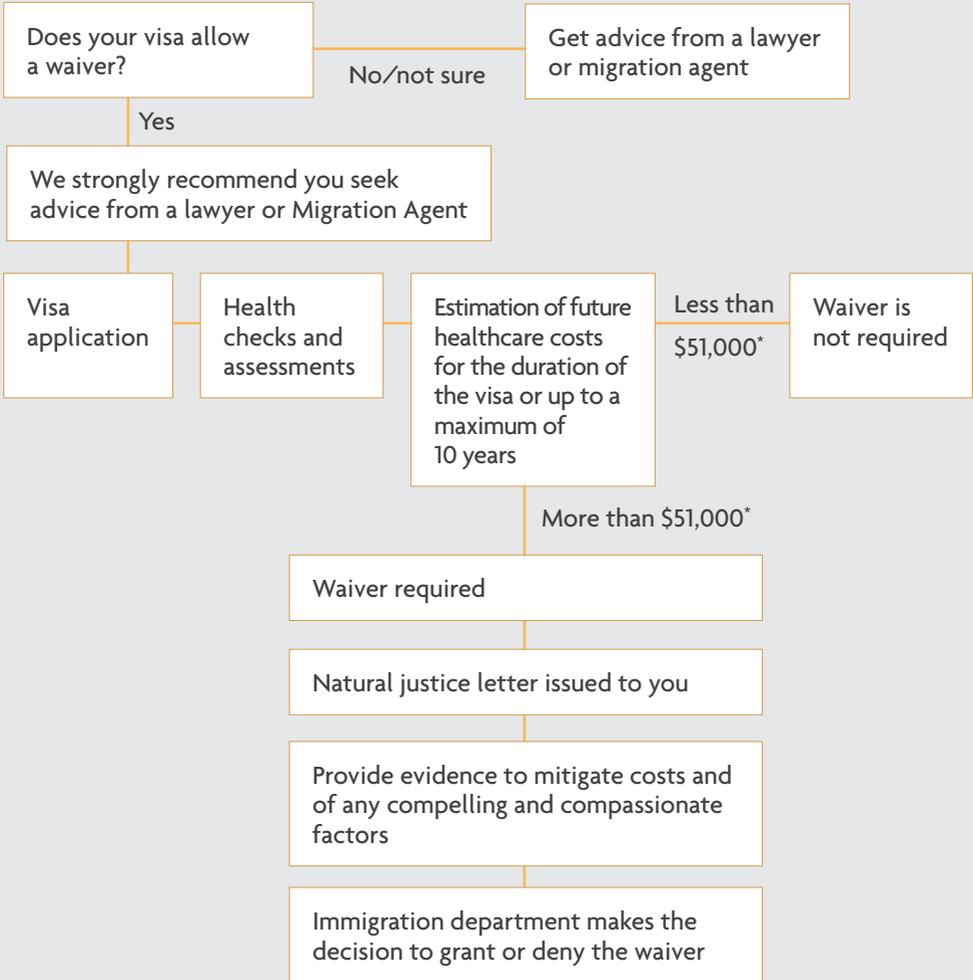
Is there a waiver available/Can people with HIV obtain this visa?

Skilled Employer Sponsored Regional (Provisional) Visa (494)	✔ Yes, a health waiver is available if applying under the Employer Sponsored stream. This visa leads to a permanent visa 191. At the time of writing, the criteria and regulations for this visa have not been made available, though it is anticipated that the 191 visa will have a health waiver available as well.
Global Talent Visa (858)	✔ Yes, a health waiver is available.
Business Talent (Permanent) Visa (subclass 132)	✘ No, there is no health waiver available for this visa.
Skilled – Independent (189)	– A health waiver is not available unless applying under the New Zealand stream.
Skilled – Regional (887)	– No, a health waiver is only available if the applicant holds or previously held a qualifying visa.
Skilled – Nominated (190)	✘ No, there is no health waiver available for this visa.
Business Innovation and Investment (Provisional) (188)	– The Business Innovation Extension stream and the Significant Investor Extension stream both have a health waiver.
Business Innovation and Investment (Permanent) (888)	– No, a health waiver is only available if the applicant holds or previously held a qualifying visa.
Business Owner (subclass 890), Investor (891) and State/Territory Sponsored Investor (893)	– A health waiver is available for the primary applicant. Whether or not a waiver is available for secondary applicants depends on what visa they held when making the application. If any members of the family unit did not hold a qualifying visa, then no health waiver is available.
State/Territory Sponsored Business Owner (892)	– A health waiver is available if the applicant and members of their family unit hold or previously held a qualifying visa.
Special Category (444)	✔ HIV is not a barrier to obtaining this visa. No health criteria is assessed.
Resident Return (155/157)	✔ HIV is not a barrier to obtaining these visas. No health criteria is assessed.

3. Health Waiver Process

Not all visas allow for a health waiver. Applicants should ensure that they seek advice about their specific circumstances from a lawyer or migration agent who has experience assisting applicants with health waivers.

Applying for a Waiver and the Health Requirements



* This is the current 'significant cost' threshold set by the government and may be subject to change. The cost of anti-retroviral treatments are approximately \$5,000 to \$18,000 per year.

As health considerations take some time for the immigration department to address, applicants should start to develop a portfolio of evidence that can be used to support their claim for a waiver.



To prepare:

Review the considerations and criteria that the decision maker may use to assess the request for a waiver (see page 19);

Critically assess how to meet those criteria or considerations – what are the strongest claims in support of the application? Are there any weak areas?;

Write a list of what evidence is available and what evidence is needed to support the claims and arguments;

Start to compile the evidence at hand. Acquire any new evidence and add it to the collection of existing evidence; and

Think carefully about what activities could be undertaken in the meantime to improve the health waiver claim (e.g., community engagement, obtaining employment or further education).

What Factors are Considered for a Health Waiver?

For people living with HIV, the cost of healthcare and community services is considered to represent a *significant* cost to the Australian community. The question then becomes whether the estimated significant cost is unlikely to result in undue cost to the community.

What Does ‘Undue’ Mean?

‘Undue’ is not defined in Australian migration law. However, the usual meaning is ‘unwarranted; excessive; too great’. Australian courts have indicated that this means that there is a broad range of considerations when determining if costs or prejudice to access are ‘undue’. For visa applicants, this includes consideration of compelling and compassionate circumstances, as well as cost mitigations.

Consideration of whether a cost is likely to be undue requires the balancing of a defined monetary cost and intangible emotional and social considerations, or compelling and compassionate factors.⁴

The *natural justice letter* may also indicate a list of issues the applicant may wish to cover in their response.

General Factors – All Applicants, All Visas

There is no limit to the factors that a decision maker can consider when assessing a health waiver. However, broadly speaking, the factors that will be considered are:

- The benefits that the applicant and/or sponsor bring to the Australian community and economy;
- The applicant and/or sponsor’s ability to mitigate any potential cost from receiving or providing healthcare or community services support;
- The disadvantages that visa refusal would bring to the applicant and/or sponsor, the Australian community and the economy, such as a sponsor for a partner visa being unable to migrate to the applicant’s home country; and
- Any relevant humanitarian considerations.

⁴ Bui v Minister for Immigration & Multicultural Affairs [1999] FCA 118

4. Preparing for a Health Waiver Request

As health considerations take some time for the immigration department to address, all visa applicants and their sponsors (such as in the case of a partner or other family-sponsored visa) should develop a portfolio of evidence to support their claim for a waiver.

The Australian government can consider any factor that they wish to when undertaking their assessment. However, applicants and their families

should think carefully about the factors listed below when preparing for any potential application. All visa applicants and their sponsors (where applicable) should provide the following evidence/information in support of a health waiver. Even if evidence has already been provided as part of other criteria for the visa, it is important to again supply this evidence or refer to it so that everything is considered in support of the health waiver.

Factors

Evidence in support of a health waiver

Past, Current and Future Employment

Applicants’/sponsors’ employment and work history, current employment, any offer or potential for future employment are important considerations for a health waiver. Evidence of current employment, offers of employment or good prospects of future employment in Australia support claims that the applicants/sponsors can mitigate costs associated with their/their family member’s health.

Applicants/sponsors should think about how their past and current employment might support for a health waiver claim. For example, does their past employment enhance the prospects of seeking and maintaining successful employment in Australia?

A letter from the current employer showing the name of the employee, their position, the date of commencement and their annual salary.

Provide documentary evidence of employment history; earnings history and capacity; and savings records. This can include entries in a resume or curriculum vitae, letters of reference from former or current employers confirming earning history or bank statements that demonstrate a consistent earning history.

If applying offshore, prepare a list of jobs listed on Australian job advertising websites (e.g., seek.com.au) demonstrating eligibility for the position.

If applying onshore, seek sustainable and long-term employment that includes the ability to show a record of tax payments to the Australian government.

Factors

Past, Current and Future Employment cont.

Does any past employment support a claim that the applicant might bring unique, valuable or otherwise important skills to Australia?

Future employment is an important consideration. Applicants/sponsors should provide any evidence of legitimate offers of work made by employers in Australia. They should also consider how their past and current employment relates to areas of employment that are in demand in Australia.

Adult applicants and sponsors should both provide this information.

Evidence in support of a health waiver

Information from a treating health practitioner regarding the applicant's current health status, treatment and prognosis as it relates especially to fitness to work in the future (see below for more detail).

For employment-related visas, the employment history and particular job skills of the primary applicant will have already been supplied, but any additional information showing added skills or exceptional qualifications which go beyond those required for the visa being applied for and the value they bring to the employer sponsor should be highlighted.

For all visa types, critical skills or those 'in demand' by the Australian government, an employer or in the particular region that an applicant plans to relocate to are particularly important to highlight. Provide clear evidence that these skills are in demand. This might include letters from potential employers, listings of multiple job advertisements that match the applicant's specific skills, information relating to the listing of a job skill or qualification on Australian government lists for priority or critical skills (refer to the Medium and Long-Term Strategic Skills List (MLTSSL) of the Skilled Occupation List)

Any evidence from current or prospective employers that by not granting the applicant a visa, Australia would lose a significant benefit to its business, economic, cultural or other development due to the applicant possessing a special skill that is highly sought after.

Information relating to any aspirations for further study.

Factors

Education/Qualifications/Studies

Educational background, qualifications and any other studies undertaken may be considered by the immigration department in assessing a health waiver request.

Education, qualifications and studies include those undertaken both in Australia and offshore. They include primary, high school and post-compulsory education, such as trade training, university or college.

Professional development and ongoing education in applicants' or sponsors' area(s) of employment may also be relevant.

All visa applicants and sponsors (regardless of age) should provide such evidence.

Evidence in support of a health waiver

A copy of any qualification certificates, degrees and diplomas showing the name of the applicants/sponsors, the institution and the name of the qualification or course.

If currently studying, provide evidence of enrolment/ongoing completion.

Certificates or evidence of having completed professional development courses.

Details relating to schooling, including certificates, awards and results.

Copies of any post-school training, including certificates or licences/registration for trades or other training that resulted in a licence or certificate.

Documents or certificates that show academic or training awards, and transcripts of results and training.

Professional registrations or other qualifications recognised by an Australian or offshore professional body, association or regulatory body.

Australian skills assessments – documentation demonstrating a completed or planned assessment of skills by an Australian assessing authority to have overseas qualifications recognised in Australia. Plans to seek recognition can include evidence of preliminary assessments, advice or other correspondence that outlines what further study or education an applicant must undertake to have their skills recognised in Australia.

Factors**Evidence in support of a health waiver**

English Fluency

English fluency, skills and experience are important considerations, as they can demonstrate employability.

All visa applicants and sponsors (regardless of age) should provide such evidence.

Provide evidence that any courses which have been completed took place in English.

Provide copies of certificates and results for any courses, trainings or assessments (e.g., IELTS) which demonstrate English language abilities.

If not fluent in English, applicants should consider English language training and education to improve their language skills and increase their employability.

Income

Evidence of income or prospective income is important to demonstrate the ability to mitigate the costs associated with the applicant's health status.

Adult applicants and sponsors should provide this information.

A copy of tax assessment notices from the past 3 years.

Three most recent payslips or a letter on employer letterhead confirming income, accompanied by bank statements that demonstrate deposits of pay into that account.

For offshore applicants, a future employment contract or conditional offer of employment.

For offshore applicants, evidence of potential earning capacity, such as print-outs of job advertisements from job search sites that the applicant qualifies for.

Skills Shortage

If there is a shortage of the applicants'/sponsors' skills in the area they intend to reside, this should support the application for a health waiver.

Adult applicants and sponsors should provide this information.

A successful skills assessment.

Reports, correspondence or other documents from an employer, or a local industry group, chamber of commerce, local council or regional economic development organisation showing that there is a shortage of the applicant's skills in their geographic area.

Collect a list of job advertisements on Australian websites (e.g., seek.com.au) listing advertisements for positions in the applicant's skill area.

Evidence of any special skills that the applicant possesses that are in high demand or that few people possess.

Factors**Evidence in support of a health waiver****Financial Assets/Liabilities**

Evidence of financial capacity, such as income, assets and savings, is crucial to the applicant demonstrating their ability to offset/mitigate the potential cost of their healthcare.

This evidence should come from all members of the family, including any visa sponsors.

Bank statements showing savings and funds for the previous 3 months.

Copies of the last 3 months' financial statements that show any shares or superannuation.

Statements or other evidence that demonstrate ownership of any other assets or liabilities. This might include insurance (e.g., life insurance, total and permanent disability cover), property assets (title deed, car ownership, etc.) or other investments that the applicant can draw upon in case of need.

Residential Property

If renting, evidence of rent receipts showing the tenants and the address of the property.

If the applicants or sponsor own property, a copy of the title deed; land and water rate notices; and a mortgage statement showing the owner's name and the address of the property, the amount owed, equity held and the current mortgage payment.

Health Status, Healthcare Needs and Health Insurance

The applicant's health status and assessment of healthcare needs are important considerations in relation to a health waiver request.

These documents need to provide a particular level of detail and address specific aspects of health status and healthcare, all within a certain length of time. For this reason, they need to be written with the purpose of a health waiver in mind, so it is recommended to seek advice from a registered migration agent or lawyer before having these documents prepared by a health practitioner.

Evidence of any private health insurance maintained in Australia.

Evidence of a healthy lifestyle, such as proof of a gym membership or confirmation from a doctor of adherence to treatment and consistent follow-up/engagement.

Informed opinions from a healthcare provider on:

- Current health and prognosis (especially relating to fitness to work);
- The level of specialist care necessary;
- Lifestyle information; and
- Importance of continuing the prescribed treatment regime and/or the applicant's inability to access this treatment regime in their country of origin.

Factors

Existing Care Arrangements and Impact of the Health Condition

A letter from the treating doctor. This letter must summarise a range of matters. Seek advice from a registered migration agent or lawyer before having this document prepared by a health practitioner.

Evidence in support of a health waiver

This letter may include any of the following evidence:

Any current use of community services and the impact that the waiver applicant's condition has on their daily tasks.

Existing care arrangements (e.g., the ARVs prescribed and the follow-up required).

History of care arrangements.

Current and past therapies.

Current viral load – particularly if maintaining an undetectable viral load.

History of good attendance at clinics or other healthcare appointments over time and good adherence to treatment.

Details of any proposed care arrangements.

Proof that the applicant's health condition does not affect their ability to engage in gainful employment, meet existing care arrangements and otherwise function in the Australian community.

Commentary on any significant support received from or supplied to family or community groups.

Offshore applicants with no treatment team should take steps to obtain a treating doctor who they would begin to see upon settling in Australia. The proposed treating doctor can then provide comments on some of the above mentioned points. They could also comment on whether the applicant is, in their opinion, receiving suboptimal treatment or care due to barriers to accessing care or treatment in their country of origin.

Factors

Community Links

Having strong community links is an important factor in a health waiver consideration.

Strong community links include a consistent and long-term contribution or participation in the community – including professional bodies, community organisations and volunteer groups.

It is for this reason that wherever possible, applicants should make onshore as opposed to offshore applications so they have this time to develop community ties.

All family members (sponsors and applicants) of any age should provide this information.

Effect of Visa Refusal on Australian Citizens or Permanent Residents

Some applicants or visa sponsors (such as partners) have care responsibilities for Australian children or adults. In those cases, if a health waiver is not granted, this would negatively affect the Australian children or adults who need this care.

Any potential impact on the care and health of Australian children or adults that will result from the refusal to grant an applicant a health waiver should be clearly explained in the applicant's submitted documents.

If a visa refusal would psychologically or financially impact an Australian citizen or permanent resident, this should also be explained in the applicant's documents.

Evidence in support of a health waiver

Evidence of past and current community contributions or participation, such as professional memberships, community organisation memberships, involvement with a place of worship, volunteer work, etc.

- If not currently involved in community groups, professional organisations or volunteering, consider finding ways to establish volunteering or other community links prior to being invited to comment on the health waiver.
- Evidence may include letters from friends, family, community members, photos from events, newspaper clippings and social media posts.

Copies of court documents, child support payments or other documents that demonstrate responsibility for the care of Australian citizen children or adults who are in need of care.

Court document or correspondence from a co-parent of the applicant/sponsor that states their unwillingness to allow a dependant child to depart Australia – which would show that a child would be separated from their parent in the event of visa refusal.

Any evidence that granting the visa will benefit the sponsor or their family will carry weight, particularly where it can be shown to relieve the government of the burden of care for elderly or disabled family members. For example, an Australian sponsor might provide considerable assistance to their elderly parents. If this person's partner's visa is not granted, they intend to move overseas to live in their partner's country of origin, thus increasing the level of assistance that their parents would require from government services.

Factors

Effect of Visa Refusal on Australia Citizens or Permanent Residents cont.

If the applicant and/or their sponsor faces considerable jeopardy in returning to the applicant's country of origin, the dangers need to be evidenced and made clear.

This disadvantage to the applicant and/or sponsor carries considerable weight. Humanitarian and compassionate concerns may include access to treatment and healthcare for the applicant and/or sponsor, human rights considerations in the country of origin, and stigma and discrimination that may arise in the country of origin.

For partner visas, information about any possible detriment to the relationship due to separation and/or visa refusal should be noted.

Evidence in support of a health waiver

Evidence of broader social and familial links are of benefit, as they show a level of integration and involvement in the community. While the waiver will not be granted on the strength of the applicant–sponsor relationship alone, the strength of that relationship will bear considerable weight.

If the visa sponsor is a person with HIV or has any other health conditions (mental or physical) which may be affected if the visa is refused, this should also be evidenced through a report from their treating doctor.

In the case of partner visas other evidence should also be provided about the sponsor's inability to relocate to the applicant's country of origin. This evidence may include lack of language skills, inability to obtain employment, health conditions or endangerment that same-sex couples may face.

Information and evidence that demonstrates what significant hardship or persecution may be faced due to returning or remaining in the applicant's country of origin. This can include:

- Difficulties obtaining employment
- Difficulties enrolling in studies
- Problems due to HIV status and general healthcare
- Difficulties with family or community because of HIV and/or sexual stigma and discrimination

Written accounts from when the applicant faced difficulties, discrimination or persecution in their country of origin due to their HIV status. This includes information about physical harm, whether assistance was sought and given and laws and policies.

Any information that will help the Australian government assess whether relocation to a third country is possible.

5. Appeals

Applicants have the right to seek a merits review for certain migration decisions made by the immigration department. A merits review is an opportunity for an applicant to have their case redetermined. The same law will apply, but the applicant will be able to provide any new evidence to support their case. Typically they are given a hearing to discuss their case with a tribunal member.

What visas or immigration decisions can be appealed, the process for the appeal and the timeframe in which to lodge the appeal are often specified in letters or other correspondence from the department. These might, for example, notify the applicant that their visa has either been refused or cancelled. Due to the strict unmovable timeframes to lodge an appeal, it is very important that the applicant always provides the immigration department up-to-date contact details.

Given the complexity and potential issues that an appeal can raise, applicants/visa holders should seek specific advice from a lawyer or migration agent in relation to any appeal as soon as possible.

The following items should always be considered in an appeal:

1. If a merits review appeal is available to the Administrative Appeals Tribunal, **the appeal must be lodged within the strict time limit (the timeframe should be written in the visa refusal or cancellation letter from the immigration department) – no extensions can be granted;**
2. Always seek advice from a lawyer or migration agent to assist in preparing for an appeal; and
3. If the appeal relates to an ‘offshore visa,’ the applicant for an appeal is the sponsor and not the visa applicant.

There is a fee for lodging an appeal with the Administrative Appeals Tribunal. If applying for an onshore protection visa, the fee is not paid in advance and only if the appeal is refused. If suffering financial hardship, an applicant can seek a 50% fee reduction. Seek advice from a lawyer or migration agent on whether seeking a fee reduction is advisable in the applicant’s circumstances; for example, if a student visa is refused due to insufficient funds, the evidence in support of a fee reduction may oppose the point under review.

There are no financial risks in lodging an appeal (other than paying the application fee upfront or after the appeal has concluded for protection visa applicants). If successful, 50% of the fee will be refunded.

If the AAT upholds (or affirms) a decision of the department then an applicant may be able to seek judicial review of the AAT's decision where the AAT has made a jurisdictional error. Depending on the type of decision, judicial review proceedings may commence in the Federal Circuit Court or the Federal Court. It is vital to seek legal advice prior to commencing proceedings in the courts, as an unsuccessful court application can have serious financial consequences.

If unsuccessful with the AAT, an applicant may also be able to seek Ministerial Intervention. This process involves writing to the Minister for Immigration and asking them to intervene personally. These requests are only successful in very limited and rare circumstances. Refer to the **Ministerial Intervention Guidelines** to assess if the case might be one where the Minister may consider intervening. This power is entirely discretionary, which means applicants must provide as much information as possible to support the case, as the Minister will not necessarily request additional material before deciding to intervene or not.

6. Bridging Visas, Work Rights, Medicare and Other Important Information

When applying for a visa that can be granted from within Australia, a bridging visa will be granted where an application has been validly lodged. This visa allows the applicant to remain lawfully in Australia until a decision is reached. If an applicant is seeking merits review before the AAT within the correct timeframe, their bridging visa will allow them to remain lawfully in Australia while waiting for the AAT to make a decision.

If seeking judicial review of an application, a separate application for a bridging visa is necessary, as it is not automatically granted. This should happen prior to expiry of the previous bridging visa. Sometimes applications for bridging visas may need to be submitted by post or courier, so it is important to do so with enough time for the application to arrive before the previous bridging visa expires.

What bridging visa is granted and what conditions are attached to it depend on the visa held at the time of making the application and any conditions attached

to the previous visa. A bridging visa may be subject to certain conditions, including a 'no work' or 'no study' condition. Applicants can then apply for permission to study or work. In most circumstances, permission to work is granted if the applicant demonstrates that they are suffering financial hardship, or if they are awaiting the outcome of an employer sponsored visa.

Additional criteria must be satisfied if on a bridging visa E and awaiting a decision for a protection visa application.

Applicants cannot depart and re-enter Australia on most bridging visas. If an applicant has a bridging visa A and has a substantial reason to travel, they can apply for a bridging visa B. The applicant must not travel unless and until confirmation has been received that the bridging visa B has been granted; the applicant must also return to Australia within the time specified on the bridging visa B grant notification.

Medicare and Financial Support

If the applicant is awaiting a decision on a permanent visa (excluding a parent visa); has permission to work or has an immediate family member who is an Australian citizen or permanent resident; or is awaiting a decision for a temporary protection visa, they may be entitled to access Medicare.

While awaiting a visa decision, an applicant is not entitled to any benefits from Centrelink. In limited circumstances, people who do not hold permanent residency or citizenship can access **Status Resolution Support Services**. The main recipients of this support are people who have sought asylum in Australia.

Temporary Visa Conditions – ‘No Further Stay’

Conditions, such as limitations on work or length of study, may be attached to temporary visas. One such condition is ‘No Further Stay’.

If this condition is placed on the visa, the applicant cannot make a further migration application onshore (except a protection visa application or a limited number of other visas as specified by the ‘No Further Stay’ condition), unless the condition is waived. The waiving of a ‘No Further Stay’ condition is discretionary and difficult to obtain.

Applicants can seek a waiver of the condition if there has been an exceptional change in circumstances beyond their control, and which has arisen after the granting of their previous visa. One example of such changes in circumstance is a recent HIV diagnosis. Finding a partner or becoming pregnant are not usually considered factors beyond an applicant’s control. It is important to present a strong case for a waiver on the first attempt, as an applicant can only make one request based on the same circumstances. Additionally, a decision against a waiver cannot be appealed to the AAT.

If an applicant has sought a waiver of a ‘No Further Stay’ condition, this does not give the applicant the right to remain in Australia until a decision has been made. Accordingly, should the substantive visa expire before a decision is made, the applicant will become an ‘unlawful non-citizen’ unless a Bridging Visa E is obtained on ‘departure grounds’ This may have negative implications for the applicant and can limit their ability to apply for a subsequent visa, even if the condition is removed.

The only visas that can be lodged when the applicant currently holds a visa with a ‘No Further Stay’ condition is an application for an onshore protection visa or a limited number of other visas as specified in the specific ‘No Further Stay’ condition.

7. Getting Help

The HIV/AIDS Legal Centre (HALC) is a not-for-profit, specialist community legal centre, and the only one of its kind in Australia. We provide free and comprehensive legal assistance with migration matters (within operational guidelines) and a range of other services to people with HIV or hepatitis.

We recommend seeking advice from HALC or another lawyer or migration agent for anyone who is living with HIV and considering a visa application.

When seeking advice, it is very important that any person living with HIV disclose their HIV status to their lawyer or migration agent so that the advice they receive is correct. Lawyers and migration agents must keep personal information strictly confidential.

A person who chooses not to disclose their HIV status to their lawyer or registered migration agent at the earliest stage of their application may have their visa application refused or not follow the appropriate visa pathway. Without this information, a lawyer or migration agent will not be able to provide specific and accurate legal or migration advice and support.

เอกสารนี้ให้ข้อมูลเกี่ยวกับการย้ายถิ่นฐานไปยังประเทศออสเตรเลียสำหรับผู้ติดเชื้อเอชไอวีและสมาชิกในครอบครัวของพวกเขา เอกสารนี้อาจมีประโยชน์ต่อผู้ทุพพลภาพหรือผู้มีภาวะสุขภาพอื่น ๆ ที่อาจต้องการย้ายถิ่นฐานไปยังประเทศออสเตรเลีย

วีซ่าออสเตรเลียทั้งหมดมีเกณฑ์เกี่ยวกับความต้องการด้านการรักษาสุขภาพและการรักษาพยาบาลที่ผู้สมัครต้องตรงตามเกณฑ์ ปัจจัยที่ระบุว่าคุณจะตรงตามเกณฑ์ด้านสุขภาพเหล่านี้หรือไม่นั้นขึ้นอยู่กับสภาพหรือความทุพพลภาพของผู้สมัครและสมาชิกในครอบครัว รวมทั้งวีซ่าที่สมัคร เกณฑ์ด้านสุขภาพอาจส่งผลกระทบต่อหรือบางครั้งอาจทำให้ผู้ที่ติดเชื้อเอชไอวีหรือสมาชิกในครอบครัวไม่สามารถขอวีซ่าเข้าประเทศออสเตรเลียได้

เอกสารนี้ยังรวมถึงข้อมูลสำหรับผู้ที่ต้องการขอความคุ้มครองผ่านกระบวนการสงเคราะห์และผู้ลี้ภัย หากผู้สมัครมีเอชไอวีหรือภาวะทางสุขภาพอื่น ๆ สิ่งนี้อาจช่วยและเป็นประโยชน์ต่อการสมัครขอความคุ้มครอง/ลี้ภัย

ควรอ่านเอกสารนี้ร่วมกับเอกสารข้อเท็จจริงที่สรุปหลักเกณฑ์ในการออกวีซ่าที่เกี่ยวข้อง

เส้นทางในการย้ายถิ่นฐานมักเกี่ยวข้องกับทางเลือกเชิงกลยุทธ์ คุณมีมุมมองโครงสร้างสำหรับการพิจารณาและกระบวนการที่เกี่ยวข้องเพื่อก้าวผ่านความท้าทายด้านการย้ายถิ่นซึ่งผู้ติดเชื้อเอชไอวีต้องเผชิญ แต่คุณมีเงินจะไม่สามารถทดแทนคำแนะนำการย้ายถิ่นที่เหมาะสมกับสถานการณ์ของผู้ยื่นคำร้องขอวีซ่า ประวัติการย้ายถิ่น และความต้องการของพวกเขาได้ ก่อนยื่นคำร้อง คุณควรขอคำแนะนำจากทนายความ/ตัวแทนการย้ายถิ่นที่จดทะเบียน เช่น HIV/AIDS Legal Centre ผู้ติดเชื้อเอชไอวีจะต้องเปิดเผยสภาพการติดเชื้อเอชไอวีและข้อมูลส่วนบุคคลอื่น ๆ ต่อทนายความหรือตัวแทนของคุณเพื่อที่พวกเขาจะให้คำแนะนำที่แม่นยำได้

यस गाइडले एचआईभी सङ्क्रमति र तनिका परवारिका सदस्यहरूका लागि अप्टरेलिया बसाइ सराइ सम्बन्धी जानकारी प्रदान गर्दछ । यो गाइड अप्टरेलिया बसाइ सर्न चाहने अन्य अपाङ्गता वा स्वास्थ्य समस्या भएका मानसिहरूका लागि पनि उपयोगी हुन सक्छ ।

सबै अप्टरेलियाली भसिाहरूमा स्वास्थ्य तथा स्वास्थ्यसेवा सम्बन्धी आवश्यकता मापदण्डहरू समावेश गरएका छन् जुन पूरा हुनै पर्दछ । यी स्वास्थ्य मापदण्डहरू पूरा गर्ने-नगर्ने कुरा आवेदक र तनिका परवारिका सदस्यको अवस्था वा अपाङ्गता र

उनीहरूले आवेदन गरेको भसिामा निर्भर गर्दछ । स्वास्थ्य मापदण्ड पूरा गर्ने कुराले एचआईभी सङ्क्रमति वा तनिका परवारिका सदस्यहरूले अप्टरेलियाको भसिा प्राप्त गर्ने कुरामा असर गर्न वा कहलिकाहाँ रोक्न सक्छ ।

यस गाइडमा राजनैतिक शरण र शरणार्थी प्रक्रियाहरूको माध्यमबाट संरक्षण चाहनेहरूका लागि पनि जानकारी समावेश गरिएको छ । कुनै व्यक्तिको एचआईभीसँग सम्बन्धति स्थिति वा अन्य स्वास्थ्य अवस्थाहरूले संरक्षण/शरणका लागि गरिएको आवेदनमा टेवा पुर्‍याउन र लाभ पुग्न सक्छ ।

यो गाइड सान्दर्भिक भसिा प्राप्त गर्न दडिपका मापदण्डहरूको रूपरेखा सम्बन्धी तथ्यपत्रसँगै पढनु पर्दछ ।

आप्रवासन मार्गमा प्रायः रणनीतिक छनौटहरू सामेल हुन्छन् । यस गाइडमा एचआईभीबाट प्रभावति मानसिहरूले सामना गरिरहेका आप्रवासन सम्बन्धी चुनौतीहरूलाई सामना गर्न ध्यान दिनु पर्ने कुराहरू र प्रक्रियाहरूको एक रूपरेखा प्रदान गरिएको छ, यो एक भसिा आवेदकको परस्थिति, आप्रवासन इतहास र आवश्यकताहरू अनुरूप अनुकूलति आप्रवासन परामर्शको वकिलप हुन सक्दैन । आवेदन दर्ता गर्नु अर्घा, एचआईभी/एड्स कानूनी केन्द्र जस्ता वकील/पञ्जीकृत आप्रवासन एजेन्टबाट परामर्श लनु पर्दछ । एचआईभी सङ्क्रमति व्यक्तिलि आफ्ना वकील वा एजेन्टलाई आफ्नो एचआईभी स्थिति र अन्य व्यक्तगति जानकारी खुलासा गर्नु पर्दछ ताक उनीहरूले सही परामर्श प्रदान गर्न सक्नु ।

يوفر هذا المستند معلومات حول الهجرة إلى أستراليا للذين يعانون من ضعف المناعة المكتسبة وذوهم. ويقدم كذلك معلومات تساعد الأشخاص من ذوي الاحتياجات الخاصة أو الحالات الصحية الساعين نحو الهجرة إلى أستراليا.

تحتوي جميع التأشيرات الأسترالية على معايير تتعلق بالاحتياجات الصحية والرعاية الصحية التي يجب تلبيتها. ويعتمد استيفاء تلك المعايير الصحية على حالة مقدم الطلب وذو به أو إعاقتهم والتأشيرة التي قدموا طلبًا للحصول عليها. ويمكن أن يؤثر استيفاء المعايير الصحية أو يمنع، في بعض الأحيان، مرضى ضعف المناعة المكتسبة أو ذوهم من الحصول على تأشيرات إلى أستراليا.

يضم هذا المستند أيضًا معلومات حول الأشخاص الذين يسعون للحصول على الحماية من خلال إجراءات طلب اللجوء وقد تدعم حالة المريض بنقص المناعة المكتسبة أو المرضى الذين يعانون من ظروف صحية أخرى طلب الحماية/اللجوء والاستفادة منه. يجب قراءة هذا المستند بالاقتران مع صحائف الوقائع التي تحدد معايير منح التأشيرة ذات الصلة.

غالبًا ما تتضمن مسارات الهجرة اختيارات استراتيجية. ويوضح هذا الدليل الاعتبارات والعمليات التي من خلالها يمكن التغلب على تحديات الهجرة التي يواجهها مرضى نقص المناعة المكتسبة والتي يمكن أن يكون بديلاً عن مشورة الهجرة المصممة خصيصًا لظروف طالب التأشيرة وتاريخ الهجرة واحتياجاته. قبل تقديم الطلب، يجب طلب المشورة من محام/وكيل هجرة مسجل - مثل المركز القانوني لمرضى ضعف المناعة المكتسبة. وستعتمد على مرضى نقص المناعة المكتسبة الكشف عن حالة مرضه وغيرها من المعلومات الشخصية للمحامي أو الوكيل حتى يتمكنوا من تقديم مشورة دقيقة.

本文件提供愛滋病毒感染者及其家庭成員移民澳洲的資訊。本文件亦可能對其他希望尋求移民到澳洲的殘疾或健康狀況不佳人士有所幫助。

所有澳洲簽證均包含必須達到的健康和醫療保健需求標準。符合這些健康標準將會根據申請人及其家庭成員的狀況或殘疾情況以及他們所申請的簽證而定。符合健康標準可能會影響到（ 或有時會拒絕 ）愛滋病毒感染者或其家人獲得澳洲簽證。

本文件亦包括有關透過庇護和難民程序尋求保護的人士的資料。申請人的愛滋病毒狀況或其他健康狀況可能會有助其保護 / 庇護申請。

請一併詳閱本文件以及概述相關簽證授予標準的資料概覽。

移民途徑往往涉及策略選擇。本指南概述克服愛滋病毒感染者面對移民挑戰所牽涉到的考慮因素與過程，其並不能替代根據簽證申請人的情況、移民歷史和需求而量身訂制的移民建議。在提交申請前，應先徵詢律師 / 註冊移民代理人的意見，例如愛滋病毒 / 愛滋病法律中心。愛滋病毒感染者需要向其律師或代理人揭露其愛滋病毒狀況以及其他個人資料，以便他們能夠提供準確的建議。

Este documento fornece informações sobre a emigração para a Austrália de pessoas infetadas com HIV e dos seus familiares. Pode também prestar ajuda a outras pessoas com deficiências ou problemas de saúde que pretendam migrar para a Austrália.

Todos os vistos para a Austrália contêm critérios relacionados com a saúde e necessidades de cuidados de saúde que devem ser cumpridos. O cumprimento destes critérios de saúde dependerá do estado de saúde ou incapacidade do requerente e do seu familiar, além do tipo de visto que requereu. A obtenção dos vistos para a Austrália vai depender do cumprimento dos critérios de saúde pelas pessoas infetadas com HIV ou pelos seus familiares.

Neste documento também estão incluídas informações sobre pessoas que procuram proteção através de processos de asilo e de refugiados. O estado do HIV ou outros problemas de saúde de uma pessoa podem apoiar e beneficiar um pedido de proteção/asilo.

Este documento deve ser lido em conjunto com as fichas de informação que definem os critérios para a concessão do visto relevante.

Os mecanismos da emigração envolvem frequentemente escolhas estratégicas. Este guia fornece um resumo das considerações e dos processos envolvidos para ultrapassar os desafios de migração, enfrentados por pessoas afetadas pelo HIV. Não pode substituir um aconselhamento em matéria de migração adaptado às circunstâncias, histórico de migrações e necessidades de um requerente de visto. Antes de apresentar um pedido, deve procurar aconselhamento de um advogado/agente de migração registado – tal como o Centro Jurídico HIV/SIDA. Uma pessoa infetada com HIV terá de fornecer, ao seu advogado ou agente, informações relativas ao seu estado de HIV e outras informações pessoais, para que este possa prestar-lhe um aconselhamento preciso.

В этом документе содержится информация об иммиграции в Австралию для людей с ВИЧ и их семей. Также он может помочь людям с ограниченными возможностями и заболеваниями, которые хотели бы переехать в Австралию.

При подаче заявления на все виды австралийских виз применяются обязательные критерии относительно потребностей в медицинской сфере. Соответствие этим критериям будет зависеть от диагноза соискателя и членов его семьи и типа запрашиваемой визы.

Соответствие этим критериям в сфере здравоохранения может повлиять на получение визы в Австралию людьми с ВИЧ или членами их семей, а иногда и ограничить эту возможность.

Также в этом документе содержится информация для тех, кто ищет защиты как беженец или претендент на получение убежища. Положительный ВИЧ-статус или другие диагнозы могут стать преимуществом для ходатайствующих об убежище или статусе беженца.

Этот документ нужно изучать вместе с информационными бюллетенями о критериях выдачи нужного типа визы.

На пути иммиграции нередко нужно делать стратегический выбор. В этом руководстве приводится список факторов и процедур, которые важны для преодоления трудностей в процессе переезда для людей с ВИЧ. Однако руководство не может заменить индивидуальную консультацию, учитывающую уникальные обстоятельства, потребности и миграционную историю соискателя. Перед подачей

заявления на визу рекомендуется проконсультироваться с адвокатом или квалифицированным агентом по вопросам миграции, таким

как HIV/AIDS Legal Centre. Чтобы получить полезную консультацию, соискателю с ВИЧ будет необходимо рассказать о своем ВИЧ-статусе и сообщить другую личную информацию адвокату или агенту.

Hướng dẫn này cung cấp thông tin về việc nhập cư vào nước Úc cho những người bị nhiễm HIV và các thành viên trong gia đình của họ. Hướng dẫn này cũng có thể hỗ trợ những người bị khuyết tật hoặc có tình trạng sức khỏe khác đang tìm cách nhập cư vào Úc.

Tất cả các loại thị thực Úc đều có những tiêu chí về sức khỏe và nhu cầu chăm sóc sức khỏe cần phải được đáp ứng. Việc đáp ứng các tiêu chí sức khỏe này sẽ phụ thuộc vào điều kiện hoặc tình trạng khuyết tật của người nộp đơn và thành viên trong gia đình của họ, cũng như tùy thuộc vào loại thị thực mà họ đã nộp đơn đăng ký. Việc đáp ứng các tiêu chí về sức khỏe có thể ảnh hưởng hoặc đôi khi làm cản trở những người bị nhiễm HIV hoặc các thành viên trong gia đình của họ được cấp thị thực đến Úc.

Hướng dẫn này cũng bao gồm thông tin dành cho những người đang tìm kiếm sự bảo vệ thông qua các quy trình tị nạn và tìm nơi trú ẩn an toàn. Tình trạng nhiễm HIV hoặc các tình trạng sức khỏe khác của một người có thể hỗ trợ và mang lại lợi ích cho việc nộp đơn xin bảo vệ/tị nạn.

Nên đọc hướng dẫn này cùng với bảng thông tin trình bày những tiêu chí cấp thị thực có liên quan.

Thường phải có những lựa chọn mang tính chiến lược trong quá trình xin nhập cư. Hướng dẫn này trình bày sơ bộ về những cân nhắc và quy trình liên quan nhằm giải quyết những khó khăn khi nhập cư mà người bị nhiễm HIV phải đối mặt, hướng dẫn này không thể thay thế cho lời tư vấn di trú phù hợp với hoàn cảnh, lịch sử di trú và nhu cầu của người xin thị thực. Trước khi nộp đơn, quý vị nên tham khảo ý kiến tư vấn từ luật sư/đại diện di trú đã đăng ký - chẳng hạn như Trung tâm Pháp lý HIV/AIDS. Người bị nhiễm HIV sẽ cần cung cấp tình trạng nhiễm HIV và các thông tin cá nhân khác cho luật sư hoặc người đại diện để họ có thể đưa ra lời tư vấn chính xác.

本文件可为艾滋病病毒携带者及其家属提供有关移民澳大利亚的信息。对其他希望移民澳大利亚的残障人士或存在健康状况的人士，本文件也可能有所帮助。

所有澳大利亚签证均包含相应的标准，规定了必须满足的健康和医疗保健要求。申请者是否符合这些健康标准取决于申请者及其家属的身体或残疾状况以及他们申请的签证类型。是否符合健康标准可能会影响、或有时甚至阻止艾滋病病毒携带者或其家属获得澳大利亚签证。

本文件还包含针对希望通过庇护和难民程序寻求保护的人士的相关信息。个人的艾滋病病毒状况或其他健康状况可能会支持并有利于保护/庇护申请。

本文件应与简述相关签证授予标准的情况说明书一起配合阅读。

移民途径往往涉及策略选择。本指南概述了艾滋病病毒感染者在克服其所面临的移民挑战中涉及的因素和流程；但是，本指南不能替代针对签证申请人具体情况、移民史和需求而量身定制的移民建议。在提出申请之前，应征求律师/注册移民代理的意见，例如艾滋病病毒/艾滋病法律中心。艾滋病病毒携带者需向其律师或代理披露其艾滋病病毒状况及其他个人信息，以便他们提供准确的建议。

Dokumen ini memberikan informasi tentang imigrasi ke Australia bagi pengidap HIV & anggota keluarganya. Dokumen ini juga dapat membantu penyandang disabilitas atau kondisi kesehatan lain yang mungkin ingin bermigrasi ke Australia.

Semua visa Australia berisi kriteria mengenai kebutuhan kesehatan dan layanan kesehatan yang harus dipenuhi. Pemenuhan kriteria kesehatan ini akan bergantung pada kondisi atau disabilitas pemohon dan anggota keluarganya serta visa yang diajukan. Pemenuhan kriteria kesehatan dapat memengaruhi atau, terkadang, mencegah pengidap HIV atau anggota keluarganya untuk mendapatkan visa ke Australia.

Dokumen ini juga mencakup informasi terkait orang-orang yang mencari perlindungan melalui proses suaka dan pengungsian. Kondisi HIV seseorang atau kondisi kesehatan lainnya dapat mendukung dan menguntungkan permohonan perlindungan/suaka.

Dokumen ini harus dibaca bersamaan dengan lembar fakta yang menjelaskan kriteria untuk pemberian visa yang relevan.

Jalur imigrasi kerap kali melibatkan pilihan strategis. Dokumen ini memberikan garis besar pertimbangan dan proses yang terlibat dalam mengatasi tantangan migrasi yang dihadapi oleh pengidap HIV, dokumen ini tidak dapat menggantikan saran migrasi yang disesuaikan dengan keadaan, riwayat migrasi, dan kebutuhan pemohon visa. Sebelum mengajukan permohonan, Anda harus meminta nasihat dari pengacara/agen migrasi yang terdaftar – seperti HIV/AIDS Legal Centre. Seorang pengidap HIV perlu mengungkapkan kondisi HIV-nya dan informasi pribadi lainnya kepada pengacara atau agennya sehingga saran yang tepat dapat diberikan.

این راهنما، اطلاعاتی درباره مهاجرت به استرالیا را به افراد مبتلا به HIV و اعضای خانوادشان ارائه می‌کند. ضمناً این راهنما می‌تواند به سایر افراد دارای معلولیت و شرایط سلامتی ویژه که به دنبال مهاجرت به استرالیا هستند نیز کمک کند.

همه ویزاهای استرالیا حاوی معیارهایی درباره الزامات سلامت و مراقبت بهداشتی هستند که باید آنها را رعایت کرد. رعایت این معیارهای سلامت، به بیماری یا معلولیت متقاضی و اعضای خانواده‌اش و ویزای مورد تقاضای آنها بستگی دارد. رعایت این معیارهای سلامت می‌تواند بر گرفتن ویزای استرالیا از سوی افراد مبتلا به HIV یا اعضای خانواده آنها تأثیر داشته باشد، یا گاهی اوقات، مانع از اخذ ویزا توسط آنها شود. ضمناً این راهنما حاوی اطلاعاتی برای افرادی است که از طریق پناهمجویی و پناهنده‌گی به دنبال دستیابی به حفاظت هستند. بیماری HIV فرد یا سایر بیماری‌های مرتبط با سلامت ممکن است از درخواست حفاظت/پناهمجویی حمایت کند و حتی برای آن شخص یک مزیت باشد.

این راهنما باید همراه با برگه حقایقی مطالعه شود که معیارهای اهدای ویزای متناسب را تشریح می‌کنند.

مسیرهای مهاجرت اغلب شامل انتخاب‌های استراتژیک می‌شوند. این راهنما خلاصه‌ای از ملاحظات و فرایندهایی را ارائه می‌کند که در غلبه بر چالش‌های مهاجرت نقش دارند و افراد مبتلا به HIV با آنها مواجه می‌شوند، این راهنما نمی‌تواند جایگزین مشاوره مهاجرتی متناسب با شرایط متقاضی ویزا، سابقه مهاجرت و نیازهای او شود. قبل از ارسال تقاضای ویزا، باید از یک وکیل/کارگزار مهاجرت ثبت‌شده - مثلاً مرکز قانونی HIV/اینز - مشاوره بگیرید. فرد مبتلا به HIV باید بیماری HIV و سایر اطلاعات شخصی‌اش را برای وکیل یا کارگزار افشا کند تا آنها بتوانند مشاوره دقیقی به او ارائه کنند.

Este guia fornece informações sobre a imigração para a Austrália de pessoas infectadas com HIV e dos seus familiares. Esse guia também pode ajudar outras pessoas com deficiências ou problemas de saúde que pretendam migrar para a Austrália.

Todos os vistos para a Austrália contêm critérios relacionados com a saúde e necessidades de cuidados de saúde que devem ser cumpridos. O cumprimento destes critérios de saúde

dependerá do estado de saúde ou incapacidade do solicitante e do seu familiar, além do tipo de visto que solicitou. A obtenção dos vistos para a Austrália vai depender do cumprimento dos critérios de saúde pelas pessoas infectadas com HIV ou pelos seus familiares.

Neste documento também estão incluídas informações sobre pessoas que procuram proteção através de processos de asilo e de refugiados. O estado do HIV ou outros problemas de saúde de uma pessoa podem apoiar e beneficiar um pedido de proteção/asilo.

Este documento deve ser lido em conjunto com as fichas de informação que definem os critérios para a concessão do visto relevante.

Os mecanismos da imigração envolvem frequentemente escolhas estratégicas. Este guia fornece um resumo das considerações e dos processos envolvidos para ultrapassar os desafios de migração, enfrentados por pessoas afetadas pelo HIV. Não pode substituir um aconselhamento em matéria de migração adaptado às circunstâncias, histórico de

migrações e necessidades de um requerente de visto. Antes de apresentar um pedido, deve-se procurar aconselhamento de um advogado/agente de migração registado – tal como o Centro Jurídico HIV/SIDA. Uma pessoa infectada com HIV terá de fornecer ao seu advogado ou agente, informações relativas ao seu estado de HIV e outras informações pessoais, para que este possa prestar-lhe um aconselhamento preciso.

Ce guide fournit des informations sur l'immigration vers l'Australie pour les personnes vivant avec le VIH et les membres de leur famille. Il peut également être utile à d'autres personnes ayant un handicap ou de problèmes de santé et qui cherchent à émigrer en Australie.

Les conditions de délivrance de tous les types de visa australiens prévoient des clauses relatives à la santé et aux besoins en soins de santé qui doivent être satisfaits. La satisfaction de ces critères de santé dépend de l'état de santé ou du handicap du demandeur et des membres de sa famille, mais aussi du type de visa demandé. Dans certains cas, la non-satisfaction des exigences en matière de santé peut empêcher les personnes vivant avec le VIH ou les membres de leur famille d'obtenir un visa Australien.

Ce document fournit également des informations pour les personnes qui souhaitent obtenir une protection par le biais d'une demande d'asile et le statut de réfugié. La séropositivité d'une personne ou d'autres problèmes de santé peuvent constituer un atout dans le cadre d'une demande d'asile.

Ce document doit être lu en même temps que les fiches d'information exposant les conditions de délivrance du visa concerné.

Le parcours d'immigration implique souvent des choix stratégiques. Ce guide donne un aperçu des facteurs à prendre en compte et des stratégies à appliquer pour surmonter les difficultés auxquelles sont confrontées les personnes séropositives lors de la procédure d'immigration. Toutefois, ce document ne saurait remplacer les conseils relatifs aux questions d'immigration fournis en fonction des circonstances, des antécédents migratoires et des besoins du demandeur de visa. Avant de déposer une demande, il convient de solliciter les conseils d'un avocat ou d'un conseiller en immigration agréé comme le HIV/AIDS Legal Centre. Une personne séropositive devra divulguer sa séropositivité et d'autres informations personnelles à son avocat ou son conseiller en immigration pour bénéficier de conseils fiables.

8. Useful Contacts

Administrative Appeals Tribunal

Submit an application for a merits review appeal and get information about the appeals process

Phone 1800 228 333 from anywhere in Australia or Norfolk Island. From overseas, call (+61) 02 9276 5000.

www.aat.gov.au/apply-for-a-review/migration-and-refugee

Australasian Society for HIV, Viral Hepatitis and Sexual Health Medicine (ASHM)

Find an HIV S100 prescriber

Level 3, 160 Clarence Street, Sydney, NSW 2000

Tel: (+61) 02 8204 0700

Fax: (+61) 02 8204 0782

Email: ashm@ashm.org.au

www.ashm.org.au

Department of Home Affairs

Submit a visa application or get general information about visa options and processes

www.homeaffairs.gov.au

halc

414 Elizabeth Street, Surry Hills, NSW 2010

Tel: (+61) 02 9206 2060

Fax: (+61) 02 9206 2053

Email: halc@halc.org.au

www.halc.org.au

Law Society of NSW

Find a lawyer who practises migration law

170 Phillip Street, Sydney, NSW 2000

DX 362 SYDNEY

Tel: (+61) 02 9926 0333

Fax: (+61) 02 9231 5809

Email: lawsociety@lawsociety.com.au

Office Hours: 9am to 5pm
Monday to Friday

www.lawsociety.com.au

Office of the Migration Agent Registration Authority (MARA)

Find migration agents

www.mara.gov.au

Multicultural HIV and Hepatitis Support

A support service for people from culturally and linguistically diverse backgrounds who have HIV or hepatitis

Level 1, 300 Bridge Road Forest Lodge, NSW 2037

Sydney Tel: (+61) 02 9515 1234

Freecall: 1800 108 098 (NSW Country)

Email: info@mhahs.org.au

www.mhahs.org.au

9. Notes

halc

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