

Australian declaratory visas

PAM3: Act - Identity, biometrics and immigration status > Australian declaratory visas

About this instruction

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Related instructions

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- PAM3: Act - Passports, travel documents and visa evidencing - Travel documents
- Citizenship Policy - Chapter 10 - Evidence of Australian citizenship.

Latest changes

Legislative - 24 March 2016

Although not directly impacting on this instruction, the remaining migration law provisions relating to evidencing of visas were repealed by the Migration Legislation Amendment (Cessation of visa Labels) Act 2016 (Act no. 34 of 2016).

Policy

This instruction, which is part of the centralised departmental instructions system (CDIS), was reissued on 19 April 2016 to:

- reflect evidencing changes and
- update owner information.

owner

Temporary Specialist Visas Section.

email

[Specialist Entry](#).

Document ID

VM- 3175

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About Australian declaratory visas

What are ADVs

An Australian declaratory visa (ADV) is an administrative process that connects a person's status as an Australian citizen with a non-Australian travel document that the person holds.

An ADV is an entry authority, not a visa under the Migration Act. There is no power to grant visas to Australian citizens. However, the ADV process parallels that of visas issued under the Act so that an Australian citizen travelling on a foreign passport has their right to return to and enter Australia recorded in departmental systems in a manner accessible to border operations.

Duration of ADVs

ADVs are valid for five years from the date of issue, for multiple journeys, while the person remains an Australian citizen.

Who is eligible for an ADV

To be eligible for an ADV the applicant:

- must be an Australian citizen

and

- either:
 - must have a valid and current non-Australian travel document or
 - if under 18 years old and travelling with a parent or legal guardian, must be able to be included in their parent's valid and current non-Australian travel document)

and

- must have compelling reasons for not travelling on an Australian travel document.

Generally speaking, there are two groups of eligible persons:

- Persons under 18 years old:
 - This allows some flexibility with return documentation for children. For example, it allows an Australian citizen child to travel on the same foreign passport or travel document as a parent or legal guardian who is not an Australian citizen, or on the child's own travel document of other nationality.
 - Note: To guard against the possibility of child abduction, appropriate parental consent is required - refer to [Evidence of eligibility](#).
- Persons in a compelling situation:
 - Persons in an emergency, or who have other compelling reasons preventing their travelling on an Australian travel document, may be issued an ADV.

Issuing an ADV

Compelling reasons for the issue of an ADV

Overview

The use of **Australian** passports for travel by Australian citizens into and out of Australia should be encouraged in the first instance. There are, however, some compelling situations where travelling with an Australian travel document will present difficulties for an Australian citizen who is a dual national.

Following are three examples of what may be considered compelling reasons for the issue of an ADV. This list is not conclusive and there may be other situations that may require the issue of an ADV to be considered. For situations not covered below and for which further guidance is required, officers may email this instruction's [owner](#):

- Emergency situation in which processing of an Australian passport is not feasible
- Travel document and/or visa restrictions
- Compelling situation involving personal risk if travelling on Australian travel document.

Note also:

- [Considerations for persons under 18 years old](#)

- [Circumstances that are not "compelling"](#).

Emergency situation in which processing of an Australian passport is not feasible

An emergency could include, for example, a genuine and unforeseen need for urgent travel due to serious illness of a family member, business matters of a critical and exceptional nature or a life-threatening situation requiring immediate evacuation.

Responsibility for Australian citizens rests primarily with DFAT. If DFAT advises this department that the normal arrangements for the issue of an Australian travel document, or that the normal arrangements for the authorisation of uplift are either inappropriate or not feasible, an ADV may be issued.

Travel document and/or visa restrictions

There may be restrictive travel document or visa requirements that seriously disadvantage an Australian citizen with dual nationality. For example, there may be a situation in which an Australian:

- cannot enter a country on an Australian travel document

or

- cannot obtain the appropriate visa in their Australian travel document due to lack of time in an emergency. (Note: Applicants should be advised that DFAT's Australian Passport Office provides a [priority processing service](#) for those satisfying requirements of genuine need. Payment of the priority passport fee guarantees the processing of a passport application within two working days.)

or

- for some other insurmountable situation, must enter and leave a country on their travel document of other nationality, and require evidence of an exit visa or right to enter to another country.

Compelling situation involving personal risk if travelling on Australian travel document

A compelling situation could include a situation where the applicant would be genuinely at risk of either physical harm, intimidation or loss of personal rights or possessions if travelling with an Australian travel document. An example of a compelling situation includes that where an Australian citizen, and/or their relatives, may lose inheritance rights, property or access to services if travelling to their country of other nationality with an Australian travel document. Another example is that where an applicant provides a strong case indicating that significant intimidation, discrimination or threat to personal safety would occur on entering or leaving a country with an Australian travel document.

Considerations for persons under 18 years old

Travelling with a non-Australian parent or legal guardian

Australian citizens under 18 years old who are travelling with a non-Australian parent or legal guardian may be issued an ADV linked either to the parent/guardian's travel

document (if the minor's details are included in that travel document) or to their own travel document of other nationality.

Travelling with an Australian parent or legal guardian who has an ADV

Australian citizens under 18 years old who are travelling with an Australian parent or legal guardian who has an ADV may also be issued an ADV, linked either to the parent/guardian's travel document (if their details are included in that travel document) or to their own travel document of other nationality.

If the ADV is linked to the parent/guardian's travel document and that travel document has an ADV label in it, the label should be rendered inoperative, and a new ADV issued for both the parent/guardian and the child. Refer also to:

- [Processing an application for an ADV](#)
- [Replacement ADVs](#) and
- [Rendering ADV labels inoperative](#).

Travelling with a parent or legal guardian who is using an Australian travel document

Australian citizens under 18 years old who are travelling with a parent or legal guardian who is using an Australian travel document would normally be expected to use their own Australian travel document to travel to and from Australia.

Travelling without a parent or legal guardian on a travel document of other nationality

Australian citizens under 18 years old who are travelling without a parent or legal guardian on a travel document of other nationality may be issued an ADV if appropriate parental consent is given - refer to [Evidence of eligibility](#).

Circumstances that are not "compelling"

Five examples of circumstances that generally would **not** constitute compelling reasons for the issue of an ADV are:

- Persons under 18 wanting to travel on a parent or legal guardian's Australian travel document
- Forgotten to carry Australian travel document
- Convenience of time or money
- Loss or theft of Australian travel document
- Loss of other citizenship.

Persons under 18 wanting to travel on a parent or legal guardian's Australian travel document

An ADV cannot be electronically linked to an Australian travel document. Each Australian citizen child should normally use their own Australian travel document for travel, except for instances described in [Compelling reasons for the issue of an ADV](#).

Forgotten to carry Australian travel document

An Australian citizen with dual nationality, who has travelled on their travel document of other nationality and forgotten to take their Australian travel document for re-entry to Australia, should redress the situation by making their own arrangements through DFAT.

Convenience of time or money

An Australian citizen with dual nationality who, either before leaving Australia or once overseas, applies for an ADV rather than apply for an Australian travel document and has no compelling reason other than convenience of time or money, should not be issued an ADV. This person should be directed to DFAT.

Loss or theft of Australian travel document

An Australian citizen with dual nationality travelling overseas who has lost, or had stolen, their Australian travel document should be directed to DFAT officers regarding reissue of Australian travel documents.

Loss of other citizenship

Some countries do not recognise dual citizenship. ADVs cannot be issued to Australian citizens who lose their citizenship or other nationality because of dual citizenship. Individuals are free to choose their preferred citizenship if dual citizenship is not recognised.

Advice to those ineligible for an ADV

Australian citizens who are ineligible for an ADV should be advised as follows:

- All persons who seek to enter Australia must provide evidence of their identity and any other information required to be given by Australian migration legislation.
- For Australian citizens, evidence of Australian citizenship is required and the preferred evidence is an Australian passport.
- Applications for passports are available from any post office or passport office in Australia, Australian mission overseas or online.
- DFAT has a [priority processing service](#) to guarantee (for a fee) passport processing within two working days for those meeting the necessary requirements.
- Bordernet's [Return documents page](#) explains the documents required by Australian citizens on entering Australia.
- Although several other official documents contain information concerning the holder's identity and Australian citizenship, their issue is not subject to the same strict checking procedures as those which apply to Australian passports and they do not contain the same security features.
- Acquisition of Australian citizenship ceases the validity of any Australian visa held, even if the visa - for example, a Return (Residence) visa - has not yet ceased; therefore, an Australian passport should be sought.
- Inadequately documented persons will face difficulties in getting an airline to carry them to Australia, because airlines can incur penalties for bringing inadequately documented passengers to Australia.
- Australian citizens using other than an Australian passport would, even if carried by an airline, face extensive delays on arrival in Australia while their claims to Australian citizenship are verified.
-

Processing an application for an ADV

Form and fee

An ADV application must be made on form 931 (Application for an Australian Declaratory visa) and accompanied by the appropriate fee. Current fees are on the Border [Fees and charges for visas webpage](#) (under Current visa pricing table – Live – Returning residents).

If several persons are travelling on one family travel document, only one fee is to be charged.

If asked to add an additional family member to an ADV, a fresh application fee is to be charged and if relevant, the original ADV label stamped “label inoperative” - refer to:

- [Replacement ADVs](#) and
- [Rendering ADV labels inoperative](#).

Note: Before being issued an ADV, a child born **outside Australia** to an Australian citizen will first need to have completed registration for citizenship by descent. This is because only Australian citizens are eligible for an ADV.

Fee refunds

The processing fee is not refundable if the application is refused.

In certain circumstances, the processing fee may be refunded if a written request for refund is received and:

- the application is for any reason unnecessary
- the application is made because of a mistake made by the department
- the application is withdrawn by the applicant in writing because of a mistake made by the applicant or
- the applicant dies before a decision is made on the application.

For more information on refunds, refer to Bordernet's [Financial management page](#).

A decision to refund the processing fee:

- should be taken only by the most senior migration officer available at the overseas post or, in a regional office, by the Client Services Manager or their deputy and
- is to be recorded with the reasons for the decision.

Making the application

ADV applications for persons in Australia must be lodged by post or by courier direct to the ADV Centre (NSW) for processing.

An ADV application should be either

- mailed to:
- ADV Centre (NSW)
Department of Immigration and Border Protection
GPO Box 9984
Sydney NSW 2001

or

- couriered to:

- ADV Centre (NSW)
Department of Immigration and Border Protection
Level 3, 26 Lee Street
Sydney NSW 2000.

For applications mailed to offices other than the ADV Centre (NSW), payment must be receipted in accordance with Bordernet's [Financial management guidelines](#). The application, the receipt and any supporting documents must be sent to the ADV Centre (NSW) for acknowledgment and processing.

Applications for an ADV for persons outside Australia should be lodged at the nearest overseas post.

Evidence of Australian citizenship

Required

As an ADV is available only to Australian citizens, evidence of their Australian citizenship must be provided with their application. See [Acceptable evidence of citizenship](#).

Loss of Australian citizenship prior to 4 April 2002

Prior to 4 April 2002, an adult Australian citizen who applied for and acquired the citizenship of another country lost their Australian citizenship.

On 4 April 2002, the Australian Citizenship Act 1948 was amended so that:

- Australian citizens who acquire the citizenship of another country from 4 April 2002 no longer lost their Australian citizenship and
- adult Australian citizens who applied for the citizenship of another country before 4 April 2002, but did not acquire that citizenship until 4 April 2002 or later, did not lose their Australian citizenship.

Acceptable evidence of citizenship

Acceptable evidence of Australian citizenship would be any one of the following:

- An original Australian citizenship certificate, certificate of evidence of Australian citizenship or extract from the Register of Australian citizenship by descent.
- Advice regarding amendments to certificates of Australian Citizenship can be found in Citizenship Policy - Chapter 10 - Evidence of Australian citizenship or by emailing the [Citizenship Helpdesk](#).
- An Australian passport issued after 22 November 1984.
- For persons born in Australia prior to 20 August 1986, an original full birth certificate.
- For persons born in Australia after 20 August 1986, an original full birth certificate, together with original documentation evidencing that at least one parent was:
 - an Australian citizen or
 - an Australian permanent resident or
 - if born on or between 1 September 1994 and 26 February 2001, a New Zealand citizen who was in Australia as the holder of a TY-444 Special Category visa

(SCV), but not as a foreign diplomat. (For policy and procedure on SCVs, refer to [PAM3: Sch2Visa444 - Special Category](#).)

Children born in Australia to New Zealand citizen parents

A child born in Australia after 26 February 2001 to a New Zealand citizen present in Australia as the holder of an SCV is not an Australian citizen by birth unless the New Zealand citizen parent:

- was in Australia on 26 February 2001 as an SCV holder
- or
- was outside Australia on 26 February 2001, but was in Australia as an SCV holder for a total of 12 months in the 2 years prior to that date
- or
- has a certificate, issued under the Social Security Act 1991, stating that they were residing in Australia on a particular date (Centrelink should be contacted for more details on this)
- or
- holds an Australian permanent visa or Australian citizenship.

Further advice on this can be sought by emailing the [Citizenship Helpdesk](#).

Other considerations

Name changes

If a person applies for an ADV but there are differences in detail between the person's evidence of Australian citizenship and the person's passport of other nationality, the ADV should not be issued unless the person can produce documentary evidence to verify the variation.

Six examples of suitable documentary evidence are:

- Change of name certificate showing change of details by deed poll or other legal instruments.
- Full marriage certificate.
- Adoption court orders for the custody of a child.
- Notation in the passport of other nationality, or letter from consulate, explaining the change in details.
- Full birth certificate showing correct spelling (if there has been an error in spelling in citizenship documentation).
- Two documents of evidence of the use of name with one that must include full name and residential address and be no older than 6 months, for example, bank/credit card statement, electricity/phone bill, tenancy agreement.

If there is any doubt whether to issue an ADV, officers should seek advice from Traveller Initiatives Air Section - refer to PAM3: Act - Passports, travel documents and visa evidencing - Travel documents.

Citizenship Policy - Chapter 10 - Evidence of Australian citizenship provides information on citizenship records held in ICSE. To ensure that complete information is recorded on ICSE, the full details, as they appear in the travel document or birth certificate, should be recorded in the "other names used" (alias names) field of the ICSE record.

Appropriate checks must be made to ensure that the person is still an Australian citizen - for example, that the person has not renounced Australian citizenship or lost Australian citizenship, for instance by acquiring another citizenship before 4 April 2002:

- check ICSE to establish whether a loss of citizenship has been recorded (overseas posts without access can do this through the EOC) or
- if the person has indicated that they acquired another citizenship after becoming an Australian citizen and before 4 April 2002, overseas posts should always email the [Citizenship Helpdesk](#). If urgent, out of hours advice is required, the EOC may be contacted.

If a person applying overseas indicates that they have (or have had) an Australian travel document but they do not provide the travel document at the time of ADV application, checks should be made to find out the travel document number. This can be done through the Australian Passport Office (or relevant officer at an overseas mission) or the EOC. This information will be entered into the visa-issuing system.

Evidence of eligibility

The assessing officer must establish the eligibility of the applicant by checking that the applicant falls within one of the groups outlined in [Who is eligible for an ADV](#)

If the applicant is under 18 years old, appropriate parental consent is required, to guard against the possibility of child abduction. This will require evidence of family relationship or legal guardianship and the consent of both parents/legal guardians, unless there is acceptable evidence that this is not appropriate, three examples being:

- A death certificate if one parent is dead.
- An overseas court order affecting the custody, guardianship or access of a person to the child (the consent of each person with custody, guardianship or access to the child must be given).
- An Australian child order made under the Family Law Act 1975.

If the applicant is claiming to be in a compelling, emergency situation, evidence should be provided with their application and the claims considered against the guidelines on eligibility in [Compelling reasons for the issue of an ADV](#).

In assessing the genuineness of an emergency, consideration should be given to factors such as:

- **why** the applicant has not previously obtained an Australian passport (particularly if the person has previously been given an ADV in an emergency situation) and
- what **steps** the applicant is able to reasonably take to secure an Australian passport in time for the emergency travel and
- the **extent** of hardship which would result if travel was delayed while the applicant obtained the passport.

How to get advice to confirm the applicant's claims for an ADV

In the first instance, the applicant will need to provide evidence to substantiate their claims for an ADV.

If the applicant cannot provide sufficient evidence, advice from the following four resources should be sought to substantiate the claims:

- This department's Country of Origin Information Services Section (email [Country Info Service DIMA](#)) can provide some background on human rights issues in various countries.
- The overseas post located in the country of other nationality may be able to provide assistance.
- DFAT's [Smartraveller – Dual nationals webpage](#) has information regarding the implications for dual nationals travelling in their country of other nationality.
- This instruction's [owner](#) can be contacted for advice if there is uncertainty regarding eligibility for issue of an ADV.

Decision making

Decisions on ADV applications should be made by officers with delegation to decide RRV applications.

If the decision maker is satisfied that the applicant is eligible for an ADV, it should be issued valid for five years from date of issue, for multiple journeys, while the person is an Australian citizen.

The period of validity of an ADV is not affected by the validity of the applicant's passport. A person can travel on a valid ADV in an expired passport, provided they also carry another current and valid travel document.

Refusal decisions

Applicants must be advised in writing if their application for an ADV is refused, and notified of their review rights.

Decision makers should provide applicants with understandable reasons as to why the applicant's claims were not sufficient and why the application has been refused.

In giving reasons, decision makers should include:

- identification of the evidence on which their decision relied and
- the eligibility requirement that was not satisfied.

If it is necessary to cite policy, it should be copied and pasted from this and any other relevant PAM3 instructions.

Because the policy for ADVs is under administrative, non-legislative authority, there is no right of review of the refusal by the AAT. Under policy, however, applicants who are refused an ADV may request a departmental review of the refusal if they do not agree with the decision. They may apply in writing to the office where the application was lodged, stating the reasons why they do not agree with the decision.

If an applicant seeks information on judicial review rights, they should be advised to seek independent legal advice.

Evidence of an ADV

Visa labels have not been issued since 1 September 2015. Consistent with this procedure, ADVs are to be issued label-free. The ADV is electronically recorded against the applicant's valid and current foreign travel document. A new ADV will be electronically linked to their foreign passport. If they are concerned about not having a visa label, they can travel with the decision letter.

If one person included in a family passport is eligible for an ADV but others are not, the ADV should be issued only to the person who is eligible. Those ineligible for an ADV should be advised they will require alternative return documentation, such as Australian passports or Return (Residence) visas.

Replacement ADVs

A person seeking a replacement ADV label if, as three examples:

- they have lost or had stolen travel documents containing their previous ADV label or
- the ADV (or travel document to which it has been affixed) has been spoiled or defaced or
- they want the ADV to be 'transferred' from an expired passport to a new passport

should be advised that labels are no longer issued.

The person may apply for a new five year ADV, which will be electronically linked to their current non-Australian travel document. A fresh application fee should be charged in all cases except in exceptional circumstances where a decision maker believes that it would be unreasonable to request a fresh fee, for example, if a person has had a passport stolen that included a recently-issued ADV. A decision to "transfer" the original fee:

- should be taken only by the most senior migration officer available at the overseas post or, in a regional office, by the Client Services Manager or their deputy and
- is to be recorded with the reasons for the decision.

A fresh application fee should be charged if a person seeks to have their ADV "transferred" to another travel document. The new ADV would have validity of five years from the date of issue.

Each time an applicant seeks a new ADV, the decision maker should ensure that the eligibility requirements are satisfied. A new ADV will be electronically linked to the applicant's foreign passport. If they are concerned about not having a visa label, they can travel with the decision letter.

Note: The original ADV label may need to be rendered inoperative - refer to [Rendering ADV labels inoperative](#).

Rendering ADV labels inoperative

ADV labels must be rendered inoperative in certain circumstances, three examples being when:

- an ADV is spoiled or defaced
- the passport containing the ADV has been spoiled, defaced, lost or stolen or
- the holder has lost/renounced Australian citizenship.

Because an ADV is not a visa under the Migration Act (it is an administrative document only), visa cancellation procedures do not apply. Instead:

- If the original label is available, stamp it with the “label inoperative” stamp, endorsed with reasons as appropriate, such as:
 - “label inoperative from dd/mm/yy when holder lost/renounced Australian citizenship” or
 - “label inoperative from dd/mm/yy as ADV label is defaced”.
- Advise BOC of the following details:
 - ADV number
 - date of issue
 - place of issue
 - validity
 - full name of holder
 - travel document number and country of citizenship
 - reason for rendering inoperative and
 - name, designation and location of officer who has rendered label inoperative.
- If the person has lost/renounced Australian citizenship, they should be counselled that they will need to resume Australian citizenship or obtain a visa to be able travel to and enter Australia. The person may be eligible (on application) to be granted a Return (Residence) visa.
- If the person is still an Australian citizen, they should be counselled that, in order to travel to Australia, they will need to obtain an Australian passport or a new ADV.