

**“Honour Thy Father and Thy Mother: Parent Visas,”  
by David Bitel, Managing Partner, Parish Patience Immigration**

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Honour thy father and thy mother, one of the Ten Commandments in the Old Testament and a fundamental principle not only of Judaism but of all religions. Respect for the elderly is a central tenet of any civilised society. Not only this but also the primacy of the family as the building block of society. Successive Governments in Australia have proclaimed their support for this concept as a cornerstone of our immigration program. So stated John Howard before the election of his government in 1996.

But it seems honour and respect come at a price and are available differently to the rich and the poor. As you read this also remember that another central feature of our immigration system is that it is nondiscriminatory, or so we are told repeatedly!

Over the last 18 years, the ability of Australians to exhibit their respect for their parents and to ensure the unity of the family has been gradually attacked. Most of us would consider the family to include spouses, children and parents, and some would even generously extend this to include siblings. Let's not get too enthusiastic though and also include aunts, uncles or cousins, as some cultures would expect. Immigration bureaucrats and politicians have for a long time defined family in its narrowest sense to refer to spouses and dependent children. Somehow, the bond between children and parents is though devalued and has become increasingly seen in economic terms, as will become evident from what follows.

Traditionally there have been 3 ways by which Australian children can secure the migration entry of parents to Australia.

Firstly, parents of course could be sponsored under the Skilled Migration programme, if they passed the applicable points test and met the other relevant criteria. However since the introduction of the new programme in July 1999 this process was effectively removed as applicants aged over 45 are ineligible to apply for skilled migration and there are not too many "children" in Australia with parents under 45.

Secondly, single parents who are aged and dependent can apply under the Aged Dependent Relative category. To be eligible, the applicant must be never married (and of course not in a continuing de facto relationship), widowed or permanently separated if still married; old enough to be able to access the aged pension in Australia. For men over 65 and for women a sliding test of age applies, and must also meet the strict test of financial dependence. Applicants can lodge the application onshore, provided of course they are legal or do so within 12 months of their last substantive visa expiring, and they are not prevented from applying due to Section 48 of the Migration Act or due to the existence of a Regulation 8503 restriction. If they can't apply onshore they can apply offshore.

Of course they must not die or become ill such that they are disqualified on health grounds during the period of processing. If the applicant is able to access the onshore programme he or she will have a bridging visa entitling him or her to temporary stay while the application is processed. Not so lucky is the offshore applicant, usually a person from a country effected by the limitations of the risk factor which prevents the easy grant of a tourist visa.

Thirdly we have the specific parent programme, and this is where the controls brought on by financial constraints are the greatest. In the mid 1980s, the first significant assault on parents took place with the introduction of the quaintly named "balance of family" test. Under this test which still applies, only parents who pass the test can apply. To meet the test in general terms an applicant must have at least 50% of his or her children living permanently in Australia, or more living here than in any one country overseas .

In 1996, shortly after its first election, the present Government attempted by law to limit the right to sponsor parents to Australian citizens only, and to exclude permanent residents from being able to do so. This law was defeated in Parliament. Then in November 1998, substantial changes were introduced after the Government's reelection with the restriction on the right to apply onshore limited to aged parents, and the newly introduced visa regime was subject to dramatically introduced charges, with parents not able or willing to pay these imposts forced to join a lengthy queue. Again Parliament rejected these changes to the anger of the Government, which responded by reducing the size of the parent program to only 55 places.

By way of comparison, in 1995-6, 8890 migrants had come to Australia under the parent programme; in 1996-7 this fell to 7580 places and in the 1997-8 year, the first after the election of the Howard government only 1000 places were allocated. Since it was reduced to 500 places, the queue has grown to the ridiculous length of 15000 places, with a further 7400 applicants in the system waiting to be allocated queue dates as at 31 January 2003. At this rate an applicant could have expected to wait over 10 years to get a visa. The assumption is that most would have died waiting!

The rationale for the attempts to impose a heavy financial levy on parent visa applicants has been the concern that they place a heavy burden on an already stretched social welfare, health and aged care budget. Financial projections were published in September 2001 which explained the amounts involved. What was notable was that the figures noted the cost of parents to the health care system without taking into consideration the revenue pluses from for example the increased tax revenue from a working second parent, enabled to do this because the presence of the grandparents as child minders and thereby freed of the obligation to care for infant preschool children.

Of course the intangible benefits of allowing grandchildren to know their grandparents in a loving family unit and of enabling newly arrived migrants to feel more comfortable in their new country with their parents were ignored completely. Such pleasures are deemed a luxury which is only available to those born in the country. Significantly, no consideration is given to the issue which burns highly for most intending migrants, namely the ability to be able to share their new found joy at resettlement with their parents and thus ease the pain of the migrant experience.

This brings us to the present. The impasse about parent visas has finally been resolved with the passing of legislation in Parliament on 5 March 2003 which will come into effect on 1 July 2003. The program size for parent visas will be increased by 3500 places to permit those parents willing AND able to pay a health charge of \$25000.00 per adult to apply directly for a permanent visa. There will also be the option for applicants to spread payments by paying a \$15000.00 as a first instalment with the second payment of \$10000.00 payable within a further period of 2 years.

This is a minor refinement of the proposal rejected by Parliament some years ago. In addition applicants need to lodge a \$10000.00 Assurance of Support bond (\$14000.00 for a couple). The bond will be refunded after 10 years if no claim is made on social security.

The new visa will be called the contributory parent visa. It will not fully replace the existing parent visa class which will continue capped with the programme size increased from 500 to 1000 places a year, with applicants in it still queued. For those applicants for parent visas

who are in the queue, it will be possible to transfer to the new program and receive priority processing. It is anticipated that this will result in a large number of those able to do so transferring to the new visa class thereby reducing the size of the queue for those in it.

Certainly for some, especially for applicants from countries like the UK where the exchange rates are favorable, the new rules come as a welcome development.

For others, especially newly arrived applicants from the traditional Third World countries who make up a large part of the migration program and who have already expended large amounts in their own migration process, the new category may only represent the unattainable dream, with the only consolation being that the length of the queue will fall. But then I suppose many are used to their third world inferior status with its consequential inequities. The pity is that they should be entrenched in Australian law! It will only confirm the views of many that there is one law for the rich and another for the poor.

### **Disclaimer**

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### **Parish Patience Immigration**

Lawyers

Level 1, State Street Centre

338 Pitt Street

SYDNEY NSW 2000

AUSTRALIA

Tel: +612 9286 8700

Fax: +612 9283 3323

Email: [ppmail@ppilaw.com.au](mailto:ppmail@ppilaw.com.au)

[www.ppilaw.com.au/](http://www.ppilaw.com.au/)

Registered Migration Agents 9255523, 9359088, 9370721,  
9800540, 9802999, 0004435, 0106541

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