



Children and parental consent

- **A child's passport application should include the written consent of each person who has parental responsibility for the child, or an Australian court order permitting the child to have an Australian travel document, travel internationally or live or spend time with a person outside Australia.**
- **Alternatively, you can request that your child's application be considered under the special circumstances provisions in passports legislation. Even when considered under the special circumstances provisions, there is no guarantee that a child passport application without full consent will be approved.**
- **You should not make firm travel bookings until you know whether a passport will be issued to your child.**

Who needs to give consent?

For the purpose of obtaining a passport, parental responsibility is defined in subsection 11(5) of the *Australian Passports Act 2005*. See www.comlaw.gov.au/Series/C2005A00005 for full details.

Generally, people with parental responsibility are the parents named on the child's full birth certificate; their parental responsibility can only be removed by an Australian court. If only one parent is named on the child's birth certificate but another person has parental responsibility, that person must also provide consent before a passport can be issued. In some cases, other people or entities (such as welfare agencies) have parental responsibility under Australian law.

If persons with parental responsibility are in different locations when the child's passport application is lodged, the non-lodging parent can provide consent through any passport office or agency in Australia or an Australian diplomatic or consular mission overseas.

What happens if consent cannot be obtained?

The only way to guarantee the issue of a passport to a child without full consent is with an Australian court order permitting the child to have an Australian travel document, travel internationally or live or spend time with a person outside Australia.

If Australian court orders exist relating to your child, you must provide all original court orders with the child's passport application and complete Form B7* (*No further court orders*).

Without full consent or a court order, you may ask for your child's application to be considered under the special

circumstances set out in subsection 11(2) of the *Australian Passports Act 2005* and section 10 of the *Australian Passports Determination 2015*. See <https://www.comlaw.gov.au/Series/C2005A00005> for full details. The passport application must be accompanied by a completed Form B8* (*One parent's name only on child's birth certificate*) or Form B9* (*Child without full parental consent or an Australian court order permitting international travel*) to explain why consent has not been and cannot be obtained.

If legal proceedings are underway that may affect parental responsibility for the child or the child's right to travel internationally, there are limits to the special circumstances we can consider. You may wish to seek the court's direction on passport issue before lodging the child's passport application.

Special circumstances

Special circumstances can include, but are not limited to, the existence of child welfare orders, inability to contact a non-consenting parent for a reasonable period of time, and the absence of contact with a non-consenting parent for a substantial period.

You should explain the circumstances on the B8 or B9 form you complete and provide any relevant evidence. Depending on the circumstances, examples of evidence could include court orders (child welfare or family violence), medical or police reports, and/or statements from government agencies.

In assessing the case, we may seek to contact the non-consenting parent or other persons for further information.

Even when considered under the special circumstances provisions, there is no guarantee that a child passport

application without full consent will be approved. The delegate assessing the case can decide to issue a passport; to not issue a passport as special circumstances do not exist; or to refuse to exercise discretion because the matter should be dealt with by a court. Of these possible outcomes, only one – a decision to refuse to issue a passport because special circumstances do not exist – is a reviewable decision.

If a passport is not issued to a child, the application fee is generally not refunded. A decision not to refund the fee is a reviewable decision.

Foreign court orders

Certain foreign court orders make it unnecessary to provide the consent of a person with parental responsibility. These are:

- foreign court orders removing parental responsibility that have been registered under the *Australian Family Law Act 1975*, and
- orders from a court of a country that has signed the Hague Convention on the Civil Aspects of International Child Abduction permitting a child to travel internationally (see <http://bit.ly/intchildabduction>). However, you must still complete Form B9* (*Child without full parental consent*) to request that the child's passport application be considered under the special circumstances provisions.

In all other cases, even if foreign court orders remove parental rights, the consent of a person with parental responsibility is still required.

If you choose to provide foreign court orders to support your child's passport application, you must have them translated into English by an approved translation service (see www.passports.gov.au for more information).

Processing times

Child passport applications without full consent take longer to process (generally six to eight weeks) so normal turnaround times do not apply.

Priority service cannot be provided until the application has been assessed and approved for passport issue. As there is no guarantee the application will be successful, you should not make firm overseas travel plans until you know whether a passport will be issued.

Preventing the issue of a passport to your child

If you have concerns about a child for whom you have parental responsibility being issued with a passport, you can request a Child Alert*. See our website for details.

A Child Alert will not stop a child from travelling if they already have, or are legally entitled to, a travel document issued by Australia or another country. However, you can seek to have your child's name placed on the Family Law Watch List by the Australian Federal Police which can prevent a child from leaving Australia even if they have a valid passport. See www.afp.gov.au/policing/family-law/family-law-kit

International child abduction

Taking your child overseas without the consent of the other parent may be a criminal offence. If you wish to travel or relocate outside Australia without the child's other parent's consent, you should seek legal advice.

For further information on child abduction, see the Attorney-General's Department website on International family law and children at <http://www.ag.gov.au/childabduction>.

*Forms B7, B8 and B9 and the Child Alert Request form are available at Australian passport offices, or you can request them from the Australian Passport Information Service (APIS) on 131 232. Overseas, they are available from Australian diplomatic missions and consulates. Forms B7, B8 and B9 are also available online at www.passports.gov.au

More information and contact us

 www.passports.gov.au

 APIS 131 232

If you are outside Australia and require assistance contact the nearest Australian mission or consulate.

For advice and practical information on safe overseas travel go to www.smartraveller.gov.au

Accessibility

If you need assistance with English, contact APIS through the Translating and Interpreting Service (TIS) on 131 450

If you are deaf or have a hearing or speech impairment, contact APIS through the National Relay Service:

TTY 133 677

Speak and Listen 1300 555 727

SMS relay 0423 677 767



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