

EXPLANATORY STATEMENT

Issued by authority of the Minister for Immigration, Citizenship and Multicultural Affairs

Migration Act 1958

Migration (Granting of Contributory Parent Visas, Parent Visas and Other Family Visas During Financial Year 2023-2024) Instrument (LIN 24/004) 2024

- 1 The instrument, departmental reference LIN 24/004, is made under paragraph 85(1)(b) of the *Migration Act 1958* (the Migration Act).
- 2 The instrument repeals itself in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act). That subsection provides that a power to make a legislative instrument includes a power to amend or repeal that instrument in the same manner, and subject to the same conditions, as the power to make the instrument.
- 3 The instrument commences on the day after it is registered on the Federal Register of Legislation (FRL). It is a legislative instrument for the *Legislation Act 2003* (the Legislation Act). It is repealed on 1 July 2024.

Purpose

- 4 Section 85 of the Migration Act provides that the Minister may, by legislative instrument, determine the maximum number of visas of a specified class, or specified classes, (excluding temporary protection visas or safe haven enterprise visas) that may be granted in a specified financial year.
- 5 The purpose of the instrument is to determine the maximum number of visas that may be granted for certain classes of visas during the 2023-2024 financial year between 1 July 2023 and 30 June 2024 (inclusive). The instrument covers the following visa classes (with item numbers referring to items in Schedule 1 to the *Migration Regulations 1994* (the Migration Regulations)):
 - Contributory Parent classes of visa
 - Contributory Parent (Migrant) (Class CA) visa (item 1130).
 - Contributory Aged Parent (Residence) (Class DG) visa (item 1130A).
 - Contributory Parent (Temporary) (Class UT) visa (item 1221).
 - Contributory Aged Parent (Temporary) (Class UU) visa (item 1221A).
 - Parent classes of visa
 - Parent (Migrant) (Class AX) visa (item 1124).
 - Aged Parent (Residence) (Class BP) visa (item 1124A).

- Other Family classes of visa
 - Other Family (Migrant) (Class BO) visa (item 1123A).
 - Other Family (Residence) (Class BU) visa (item 1123B).

6 As required by subsection 85(2) of the Migration Act, none of the above mentioned classes of visas are temporary protection visas or safe haven enterprise visas.

7 The Australian Government's annual migration program allocates a limited number of visa places to Contributory Parent, Parent and Other Family classes of visas. The Government announces the migration program numbers each year during the Budget. Capping of the visas through a legislative instrument is an annual process which has been in place since 2011. The aim is to facilitate the orderly and equitable processing of visa applications in these visa categories, given that demand significantly outweighs the supply of available places.

8 The instrument determines the maximum number of visas for these classes as follows:

- Contributory Parent visas: 6,800 (which includes 112 Subclass 143 (Contributory Parent) visas under the Pathway to Permanent Residence for Retirees (Retiree Pathway) that was introduced under the *Migration Amendment (Pathway to Permanent Residence for Retirees) Regulations 2018*);
- Parent visas: 1,700 (which includes 13 Subclass 103 (Parent) visas under the Retiree Pathway); and
- Other Family visas: 500.

Consultation

9 Consultation is undertaken through the Budget and the Migration Program planning process each year by the Department of Home Affairs (the Department) to determine the numbers for the migration program. This consultation included formal discussions with internal and external stakeholders, consideration of submissions from the public, economic forecasts, international research, demand for permanent visa programs, net overseas migration and economic and fiscal modelling. Varied feedback from these consultations was taken into consideration by the Government when considering the Migration Program planning levels.

10 The Office of Impact Analysis (OIA) was consulted and considered that the measures in this instrument are unlikely to have more than a minor or machinery nature and therefore an Impact Analysis is not required. The OIA reference is OIA23-06285.

Details of the instrument

11 Section 1 provides the name of the instrument.

12 Section 2 provides that the instrument commences on the day after registration on the FRL.

13 Section 3 provides for the instrument being made under paragraph 85(1)(b) of the Migration Act.

14 Section 4 provides definitions for terms used in the instrument.

- 15 Section 5 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in each Schedule of this instrument and any other item in a Schedule to this instrument has effect according to its terms.
- 16 Section 6 provides that a maximum of 6,800 Contributory Parent visas may be granted during the 2023-2024 financial year. (Between 1 July 2023 and 30 June 2024 (inclusive)). Of this maximum, up to 112 Subclass 143 (Contributory Parent) visas under the Retiree Pathway may be granted (as governed by clauses 143.214 and 143.313 of Schedule 2 to the Migration Regulations).
- 17 Section 7 provides that a maximum of 1,700 Parent visas may be granted during the 2023/2024 financial year. (Between 1 July 2023 and 30 June 2024 (inclusive)). Of this maximum, up to 13 Subclass 103 (Parent) visas under the Retiree Pathway may be granted (as governed by clauses 103.214 and 103.313 of Schedule 2 to the Migration Regulations).
- 18 Section 8 provides that a maximum of 500 Other Family visas may be granted during the 2023/2024 financial year (between 1 July 2023 to 30 June 2024 (inclusive)).
- 19 Schedule 1 to the instrument provides the instrument self-repeals on 1 July 2024, because it is only required for the 2023-2024 financial year (between 1 July 2023 and 30 June 2024 inclusive).

Parliamentary scrutiny etc.

- 20 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because the instrument is made under Part 2 of the Migration Act, which is prescribed in sub-item 20(a) of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.
- 21 As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.
- 22 The instrument was made by the Minister for Immigration, Citizenship and Multicultural Affairs in accordance with paragraph 85(1)(b) of the Migration Act.