

EXPLANATORY STATEMENT

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

Migration Act 1958

Migration (Granting of contributory parent visas, parent visas and other family visas in the 2020/2021 financial year) Instrument (LIN 21/025) 2021

- 1 The instrument, Departmental reference LIN 21/025, is made under paragraph 85(1)(b) of the *Migration Act 1958* (the Migration Act).
- 2 The instrument repeals *Migration (LIN 19/131: Granting of Contributory Parent Visas, Parent Visas and Other Family Visas in the 2019/2020 Financial Year) Instrument 2019* (F2019L01496) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act). That subsection provides that where an Act confers a power to make a legislative instrument, the power includes a power to amend or repeal that instrument, subject to any conditions that apply to the initial instrument-making power. This means that paragraph 85(1)(b) of the Migration Act also includes a power to amend or repeal an instrument made under that provision.
- 3 The instrument commences on the day after registration on the Federal Register of Legislation and is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

Purpose

- 4 The purpose of the instrument is to determine the maximum number of visas that may be granted for certain classes of visas in the financial year from 1 July 2020 to 30 June 2021. The instrument covers the following visa classes (with item numbers referring to items in Schedule 1 of the *Migration Regulations 1994* (the Migration Regulations)):

Contributory Parent classes of visas

- a. Contributory Parent (Migrant) (Class CA) visa (item 1130)
- b. Contributory Aged Parent (Residence) (Class DG) visa (item 1130A)
- c. Contributory Parent (Temporary) (Class UT) visa (item 1221)
- d. Contributory Aged Parent (Temporary) (Class UU) visa (item 1221A).

Parent classes of visas

- a. Parent (Migrant) (Class AX) visa (item 1124)
- b. Aged Parent (Residence) (Class BP) visa (item 1124A).

Other Family classes of visas

- a. Other Family (Migrant) (Class BO) visa (item 1123A)
- b. Other Family (Residence) (Class BU) visas (item 1123B).

- 5 The instrument determines the maximum number of visas for these visa classes as follows:
- a. Contributory Parent visas: 3,600 (which includes 125 visas under the Pathway to Permanent Residence for Retirees that was introduced under the *Migration Amendment (Pathway to Permanent Residence for Retirees) Regulations 2018*)
 - b. Parent visas: 900
 - c. Other Family visas: 500.

Consultation

- 6 Extensive consultation was undertaken through the Budget and Migration Program planning process, which is undertaken each year by the Department of Home Affairs. The maximum numbers of visas that may be granted as determined in the instrument are consistent with migration planning levels for 2020/2021.
- 7 The Office of Best Practice Regulation (OBPR) was also consulted and considered that the instrument dealt with matters of a minor or machinery nature and no regulatory impact statement was required. The OBPR reference number is 25331.

Details of the instrument

- 8 Section 1 sets out the name of the instrument.
- 9 Section 2 provides for the commencement of the instrument on the day after registration on the Federal Register of Legislation.
- 10 Section 3 defines terms used in this instrument.
- 11 Section 4 of the instrument determines that a maximum of 3,600 Contributory Parent visas may be granted in the 2020/21 financial year. This includes 125 visas under the Pathway to Permanent Residence for Retirees (see Part 143 of Schedule 2 to the Migration Regulations).
- 12 Section 5 of the instrument determines that a maximum of 900 Parent Visas may be granted in the 2020/21 financial year.
- 13 Section 6 of the instrument determines that a maximum of 500 Other Family Visas may be granted in the 2020/21 financial year.
- 14 Section 7 of the instrument repeals the previous instrument, *Migration (LIN 19/131: Granting of Contributory Parent Visas, Parent Visas and Other Family Visas in the 2019/2020 Financial Year) Instrument 2019* (F2019L01496).

Parliamentary scrutiny etc.

- 15 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 paragraph (a) of item 20 of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.
- 16 The instrument was made by the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs in accordance with paragraph 85(1)(b) of the Migration Act.