

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 in financial year 2022/2023) Instrument (LIN 23/016) 2023

- 1 The instrument, Departmental reference LIN 23/016, is made under paragraph 85(1)(b) of the *Migration Act 1958* (the Migration Act).
- 2 The instrument repeals *Migration (Granting of contributory parent visas, parent visas and other family visas in the 2021/2022 financial year) Instrument (LIN 22/006) 2022* 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 day after it is registered and is a legislative instrument for the *Legislation Act 2003* (Legislation Act).

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 this instrument is to determine the maximum number of visas that may be granted for certain classes of visas in the 2022-2023 financial year between 1 July 2022 and 30 June 2023 (inclusive). The instrument covers the following visa classes (with item numbers referring to items in Schedule 1 to the *Migration Regulations 1994* (Migration Regulations)).

Contributory Parent classes of visas

- 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 visas

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

Other Family classes of visas

- Other Family (Migrant) (Class BO) visa (item 1123A)
 - Other Family (Residence) (Class BU) visa (item 1123B).
- 6 None of the abovementioned classes of visas are temporary protection visas or safe haven enterprise visas (see subsection 35B(3) and section 37A of the Migration Act).
- 7 The 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 program numbers each year in 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 visas under the Pathway to Permanent Residence for Retirees that was introduced under the *Migration Amendment (Pathway to Permanent Residence for Retirees) Regulations 2018*);
 - Parent visas: 1,700 (which includes 13 visas under the Pathway to Permanent Residence for Retirees that was introduced under the *Migration Amendment (Pathway to Permanent Residence for Retirees) Regulations 2018*);
 - Other Family visas: 500.

Consultation

- 9 Consultation is undertaken through the Budget and Migration Program planning process each year by the Department of Home Affairs to determine the numbers for the Migration Program. The consultation included formal discussions with stakeholders, 52 public submissions and 11 submissions from Government agencies. Varied feedback from the consultations was taken into consideration by Government when considering the Migration Program planning levels.
- 10 The Office of Impact Analysis was consulted and considered that the instrument dealt with matters of a minor or machinery nature and no regulatory impact statement was required.
- The OIA reference number is 25331.

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.
- 13 Section 3 provides definitions for terms used in the instrument.
- 14 Section 4 provides that a maximum of 6,800 Contributory Parent visas may be granted in the 2022/2023 financial year. Of this maximum, up to 112 visas under the Pathway to Permanent Residence for

Retirees may be granted (as governed by clauses 143.214 and 143.313 of Schedule 2 to the Migration Regulations).

- 15 Section 5 provides that a maximum of 1,700 Parent visas may be granted in the 2022/2023 financial year. Of this maximum, up to 13 visas under the Pathway to Permanent Residence for Retirees may be granted (as governed by clauses 143.214 and 143.313 of Schedule 2 to the Migration Regulations).
- 16 Section 6 provides that a maximum of 500 Other Family visas may be granted in the 2022/2023 financial year.
- 17 Section 7 repeals the previous instrument *Migration (Granting of contributory parent visas, parent visas and other family visas in the 2021/2022 financial year) Instrument (LIN 22/006) 2022*.
- 18 Section 8 provides the instrument self-repeals on 1 July 2023 because it is only required for the 2022/2023 financial year.

Parliamentary scrutiny etc.

- 19 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 under section 10, item 20(a), of the *Legislation (Exemptions and Other Matters) Regulation 2015* as an instrument not subject to disallowance.
- 20 As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.
- 21 The instrument was made by the Minister for Immigration, Citizenship and Multicultural Affairs, in accordance with paragraph 85(1)(b) of the Migration Act.