

DIRECTION NO. 117

Migration Act 1958

Direction under section 499

**Order for considering and disposing of Family visa applications under sections 47
and 51 of the *Migration Act 1958***

I, Tony Burke, Minister for Home Affairs and Minister for Immigration and Citizenship,
give this Direction under section [499](#) of the [Migration Act 1958](#).

Dated: 24.7.26



Tony Burke

Minister for Home Affairs

Minister for Immigration and Citizenship

Part 1 Preliminary

1. Name of Direction

This Direction is the *Direction 117—Order for considering and disposing of Family visa applications under sections 47 and 51 of the Migration Act 1958* and may be cited as *Direction 117*.

2. Commencement

This Direction commences on the day after it is signed.

3. Revocation

Direction 102, given under section [499](#) of the Act and dated 9 February 2023, is revoked.

4. Application

(1) This Direction applies to delegates of the Minister who consider applications for Family visas under section [47](#) of the Act, and consider and dispose of Family visa applications for the purposes of subsection [51\(1\)](#) of the Act, including applications in respect of matters remitted from the ART (or a predecessor of the ART).

(2) This Direction does not apply to applications where it is readily apparent that the criteria for the grant of the visa would not be satisfied.

(3) This Direction does not apply to the ART.

(4) To avoid doubt, this Direction applies to Family visa applications made, but not finally determined, before the commencement of this Direction, and to Family visa applications made on or after commencement.

5. Preamble

(1) High levels of demand for Family visas have created a need to manage the consideration and disposal of applications for these visas in an orderly fashion.

(2) The order of priorities for considering and disposing of Family visa applications that is specified in this Direction gives effect to the Government's policy decisions as to the appropriate allocation of resources in considering and disposing of such applications, requires delegates to have due regard to the Government's policy intentions concerning the size and composition of the Migration Program as a whole, and advances the national interest by facilitating the integrity of the program and management of Australia's borders.

(3) This Direction directs delegates with respect to the performance of functions and exercise of powers under section [47](#) of the Act and section [51](#) of the Act, when determining the order for considering and disposing of Family visa applications.

Notes:

Subsection [47\(1\)](#) requires the Minister to consider a valid application for a visa.

Under subsection [47\(2\)](#), the requirement continues until the application is withdrawn, the Minister grants or refuses to grant the visa, or the further consideration is prevented by section 39 (limiting number of visas) or 84 (suspension of consideration).

Subsection [51\(1\)](#) of the Act empowers the Minister to consider and dispose of applications for visas in such order as he or she considers appropriate.

Subsection [499\(1\)](#) of the Act empowers the Minister to give to a person or body having functions or powers under the Act written directions not inconsistent with the Act or the Regulations, in accordance with which the person or body shall perform those functions and exercise those powers. The person or body must comply with the direction.

(4) There is a separate Direction under section [499](#) of the Act, for the purposes of section [91](#) of the Act, that directs delegates in relation to the order for considering and disposing of applications that are or have been affected by annual limits imposed on specified visa classes by section [85](#) of the Act (see [Direction 103 - Order for considering and disposing of visa applications under s91 of the Migration Act](#)) (or its succeeding Directions). For the purpose of processing Family visa applications, the two Directions are intended to work together, with this Direction setting out the overall priorities for Family visa processing, and [Direction 103](#) (or its succeeding Directions) providing more specific directions in relation to the finalisation of applications that are affected by the annual capping arrangements under section [85](#). To the extent that there is any conflict between the Directions, [Direction 103 - Order for considering and disposing of visa applications under s91 of the Migration Act](#) (or its succeeding Directions) will take precedence over this Direction.

6. Interpretation

(1) Unless otherwise specified, terms used in this Direction have the same meaning as in the Act. This includes the following terms:

ART

de facto partner

parent

spouse

(2) In this Direction:

Act means the [Migration Act 1958](#).

Family Visas means the following classes of visa prescribed by the Regulations:

- (a) Child (Migrant) (Class AH)
- (b) Child (Residence) (Class BT)
- (c) Other Family (Migrant) (Class BO)
- (d) Other Family (Residence) (Class BU)
- (e) Parent (Migrant) (Class AX)
- (f) Aged Parent (Residence) (Class BP)
- (g) Partner (Residence) (Class BS)
- (h) Partner (Migrant) (Class BC)
- (i) Contributory Parent (Migrant) (Class CA)
- (j) Contributory Aged Parent (Residence) (Class DG)
- (k) Extended Eligibility (Temporary) (Class TK)
- (l) Partner (Temporary) (Class UK)
- (m) Prospective Marriage (Temporary) (Class TO)

- (n) Partner (Provisional) (Class UF)
- (o) Contributory Parent (Temporary) (Class UT)
- (p) Contributory Aged Parent (Temporary) (Class UU).

Minister means the Minister who administers the Act.

predecessor of the ART includes, but is not limited to, the Administrative Appeals Tribunal, the Migration Review Tribunal and the Refugee Review Tribunal.

primary applicant means an applicant who seeks to satisfy the primary criteria for the grant of a visa.

Regulations means the [Migration Regulations 1994](#).

(3) The following terms have the same meaning as in the Regulations:

[aged dependent relative](#)

[aged parent](#)

[carer](#)

[dependent child](#)

[orphan relative](#)

[prospective spouse](#)

[remaining relative](#)

[sponsor](#)

Part 2 Directions

7. Considering and disposing of applications

In determining the order for considering and disposing of Family visa applications under section [51](#) of the Act, and in complying with the obligation to consider valid visa applications under section [47](#) of the Act, delegates are to follow the order set out in section 8, having due regard to the Government's policy intentions concerning the size and composition of the Migration Program and also to Australia's international legal obligations.

8. Order for considering and disposing of Family visa applications

(1) Subject to section 9, subsections 8(2) and (4) set out the order of priority for considering and disposing of Family visa applications, with applications covered by paragraph (2)(a) having higher priority than applications covered by paragraph (2)(b).

(2) The order of priority is as follows:

- (a) Family visa applications where:
 - (i) the applicant is a primary applicant who is in Australia at the time of application; and
 - (ii) the visa can be granted when the applicant is in Australia; are to be considered and disposed of in accordance with the Visa Processing Order; and
- (b) Family visa applications where the applicant is a primary applicant who either is outside Australia at the time of application or must be outside Australia at the time of grant are to be considered and disposed of in accordance with the Visa Processing Order.

(3) In this section, *Visa Processing Order* means the following order of priority for considering and disposing of Family visa applications, with paragraph (a) being the highest priority and paragraph (f) being the lowest priority:

- (a) applications made by an applicant in respect of whom the Minister has substituted a decision of the ART or a predecessor of the ART under sections [351](#) and [417](#) of the Act (as in effect at the relevant time), in the order that those powers have been exercised; and
- (b) applications made on the basis of the primary applicant being the spouse, de facto partner, prospective spouse or dependent child of a sponsor (or proposed sponsor); and
- (c) applications made on the basis of the primary applicant being the orphan relative of the sponsor (or proposed sponsor); and
- (d) applications for Contributory Parent (Migrant) (Class [CA](#)), Contributory Aged Parent (Residence) (Class DG), Contributory Parent (Temporary) (Class [UT](#)) and Contributory Aged Parent (Temporary) (Class [UU](#)) visas; and
- (e) applications made on the basis of the primary applicant being a carer; and
- (f) applications for Parent (Class [AX](#)) visas; Aged Parent (Class [BP](#)) visas; and applications made on the basis of the primary applicant being a remaining relative or an aged dependent relative.

(4) Visa applications made by an applicant seeking to satisfy the secondary criteria for the grant of a Family visa (whether or not the application is combined with a primary applicant's application in a way permitted by the Regulations) are given the same priority as the primary applicant's application under subsection 8(2).

Note:

Subsection [51\(2\)](#) of the Act provides that the fact that an application has not been considered or finalised when an application made at a later date has been considered or finalised, does not mean that the earlier application is unreasonably delayed.

9. Exceptions

Notwithstanding sections [7](#) and [8](#), when deciding the order for considering and disposing of Family visa applications, a delegate is to depart from the order of priority set out in section [8](#) in the case of a particular application if:

- (a) the applicant has satisfied the delegate that:
 - (i) the application involves special circumstances of a compassionate nature; and
 - (ii) there are compelling reasons to depart from the order of priority set out in section 8, having regard to the special circumstances identified in subparagraph 9(a)(i) and to any other matters that the delegate considers relevant.