



Australian Government
**Department of Immigration
 and Border Protection**

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Direction No. 80



DIRECTION NUMBER 80—order for considering and disposing of Family visa applications

INSTRUMENT KEY DATES AND REFERENCES	
Commenced	21/12/2018
Signed	21/12/2018
Status	Current
Revoked	Direction 72

**Direction 80—order for considering and disposing of Family visa applications
 under s47 and 51 of the Migration Act 1958**

I, DAVID COLEMAN, Minister for Immigration, Citizenship and Multicultural Affairs, give this Direction under section 499 of the *Migration Act 1958*.

Dated:

DAVID COLEMAN

Minister for Immigration, Citizenship and Multicultural Affairs

Part 1 Preliminary

1. Name of Direction

This Direction is the *Direction 80—order for considering and disposing of Family visa applications* and may be cited as *Direction 80*.

2. Commencement

This Direction has effect from the date of signature.

3. Revocation

Direction 72, given under section 499 of the Act and dated 13 September 2016 is revoked.

4. Application

(1) This Direction applies to delegates who consider applications for Family visas under [section 47](#) of the Act, and perform functions or exercise powers under [subsection 51\(1\)](#) of the Act to consider and dispose of applications for Family visas, including in respect of matters remitted from the Administrative Appeals Tribunal.

(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 Administrative Appeals Tribunal.

(4) To avoid doubt, this Direction applies to an application for a Family visa made, but not finally determined, before commencement, and to an application for a Family visa 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, takes into account 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](#) the Act (see [Direction 83](#) (or its succeeding Directions) - *Order for considering and disposing of visa applications under s91 of the Migration Act*). For the purpose of processing Family visa applications, the two Directions are intended to work together, with Direction 80 setting out the overall priorities for Family visa processing, and Direction 83 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 83 - *Order for considering and disposing of visa applications under s91 of the Migration Act* will take precedence over this Direction.

6. Interpretation

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

de facto partner

parent

spouse

(2) In this Direction:

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

Family Visas means classes of visa provided for by the Regulations, including repealed classes, that cater for primary applicants in any of the following categories: spouses, de facto partners, prospective spouses, dependent children, parents, aged parents, aged dependent relatives, carers, orphan relatives, and remaining relatives.

Illegal Maritime Arrival has the same meaning as 'unauthorised maritime arrival' in section [5AA](#) of the Act.

Minister means the Minister who administers the Act.

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 Family visa applications under section 47 of the Act, delegates are to follow the order set out in section 8.

8. Order for considering and disposing of Family visa applications

(1) Subject to section 9, paragraphs (a) to (g) set out the order of priority for considering and disposing of Family visa applications, with paragraph (a) being the highest priority and paragraph (g) being the lowest priority.

- (a) Applications where the Minister has exercised powers of intervention under sections 351 and 417 of the Act, in the order that those powers have been exercised.
- (b) Except where paragraph (g) applies to the application, applications (including combined 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).
- (c) Except where paragraph (g) applies to the application, applications (including combined applications) made on the basis of the primary applicant being the orphan relative of the sponsor (or proposed sponsor).
- (d) Except where paragraph (g) applies to the application, applications for Contributory Parent (Class CA and UT) visas and Contributory Aged Parent (Class DG and UU) visas.
- (e) Except where paragraph (g) applies to the application, applications (including combined applications) made on the basis of the primary applicant being a carer.
- (f) Except where paragraph (g) applies to the application, applications for Parent (Class AX) visas; Aged Parent (Class BP) visas; and applications (including combined applications) made on the basis of the primary applicant being a remaining relative or an aged dependent relative.
- (g) Applications in which the applicant's sponsor (or proposed sponsor) is a person who entered Australia as an Illegal Maritime Arrival and holds a permanent visa.

Notes:

Section 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 paragraph 9(a)(i) and to any other matters that the delegate considers relevant.

