



## Changes to Priority Processing

The Minister for Immigration and Citizenship, Senator Chris Evans, has set new priority processing arrangements for certain skilled migration visas. These arrangements are designed to address the needs of industry and state and territory governments. The current priority processing ministerial direction began on 8 February 2010.

The direction applies to applications in the pipeline that have not been finalised, and to applications lodged with the Department of Immigration and Citizenship on or after 8 February 2010.

### Frequently asked questions

#### Q 1 What is priority processing?

Section 51 of the *Migration Act 1958* gives the Minister for Immigration and Citizenship powers to consider and finalise visa applications in an order of priority that the minister considers appropriate. Departmental officers must follow this ministerial direction, which applies to both new applications and those applications awaiting a decision.

#### Q 2 What are the changes to the skilled migration visa processing priorities?

The minister has set new priority processing arrangements which apply to the following visas from 8 February 2010:

- Employer Nomination Scheme (ENS)
- Regional Sponsored Migration Scheme (RSMS)
- General Skilled Migration (GSM) visas listed in question three.

Under the ministerial direction, the following processing priorities (with highest priority listed first) apply:

1. Applications from people who are employer sponsored under the ENS and the RSMS.
2. Applications from people who are nominated by a state/territory government agency under a state migration plan agreed to by the minister.

3. Applications from people who are nominated by a state/territory government agency and whose nominated occupation is on the Critical Skills List (CSL).
4. Applications from people who are neither nominated nor sponsored in priority groups 1, 2 or 3, but whose nominated occupation is listed on the CSL.
5. Applications from people who are nominated by a state/territory government agency whose nominated occupation is not listed on the CSL.
6. (i) Applications from people whose occupations are listed on the Migration Occupations in Demand List (MODL).  
(ii) Applications from people who are sponsored by family and whose nominated occupation is not listed on the CSL.
7. All other applications are to be processed in the order in which they are received.

More information is available from the Critical Skills List information sheet.

#### Q 3 Which GSM visas are affected by priority processing?

The following GSM visas are affected by priority processing:

- Skill Matching (subclass 134)
- Skilled—Independent (subclass 136)
- Skilled—State/Territory-nominated Independent (subclass 137)
- Skilled—Australian-sponsored (subclass 138)
- Skilled—Designated Area-sponsored (subclass 139)
- Skilled—Independent (subclass 175)
- Skilled—Independent (subclass 176)
- Skilled—Regional Sponsored (subclass 475)
- Skilled—Regional Sponsored (subclass 487)
- Skilled—Independent Regional (subclass 495)

- Skilled—Designated Area-sponsored (Provisional) (subclass 496)
- Skilled—Graduate (subclass 497)
- Skilled—Onshore Independent New Zealand Citizen (subclass 861)
- Skilled—Onshore Australian-sponsored New Zealand Citizen (subclass 862)
- Skilled—Onshore Designated Area-sponsored New Zealand Citizen (subclass 863)
- Skilled—Independent Overseas Student (subclass 880)
- Skilled—Australian-sponsored (subclass 881)
- Skilled—Designated Area-sponsored Overseas Student (subclass 882)
- Skilled—Independent (subclass 885)
- Skilled—Sponsored (subclass 886).

#### **Q 4 Which GSM visa subclasses are exempt from new priority processing?**

The following visa subclasses are exempt from priority processing:

- Skilled—Recognised Graduate (subclass 476)
- Skilled—Graduate (subclass 485)
- Skilled—Designated Area—Sponsored (Residence) (subclass 883)
- Skilled—Regional (subclass 887).

Applications for these visa subclasses will be processed in the order in which they are received

#### **Q 5 Why have the processing priorities changed?**

The priority processing arrangements are designed to ensure that the Australian economy gets the skills it needs now, rather than those of visa applicants who applied first. It helps to better address the needs of industry by targeting skills in critical need across a number of sectors, and is one of the measures used to ensure that the skilled migration program is responsive to the current economic climate and the needs of the Australian economy.

#### **Q 6 When did the changes to priority processing come into effect?**

The changes took effect from 8 February 2010 and apply to applications lodged with the department on or after this date. The changes also apply to applications that had been lodged previously with the department and have not been finalised.

#### **Q 7 Is there any difference in the processing priorities between onshore and offshore visa subclasses?**

No, priority processing applies to onshore and offshore applications equally. However, processing times between the two can vary.

#### **Q8 What occupations or industries are affected?**

The highest five processing priorities are given to applicants who are sponsored by an employer under ENS or RSMS, nominated by a state/territory government in accordance with a state migration plan or applicants with an occupation on the CSL (as outlined in Question 2).

#### **Q 9 What is a state migration plan?**

State migration plans are developed by state/territory governments and include occupations that are in demand in each individual state and territory. Each state migration plan is approved by the Minister for Immigration and Citizenship. As at 8 February 2010, the minister has not approved any state migration plans.

#### **Q 10 What will happen to applications in the final stages of processing where the department has requested applicants provide health and character clearances?**

The new arrangements apply to all visa applications, including those in the final stages of processing. Applications in lower priority groups cannot be processed further until those in higher priority groups are finalised in accordance with the priority processing direction.

**Q 11 My application does not fall into one of the priority categories. When can I expect to have my application finalised?**

If you are not nominated by a state or territory government in accordance with an approved state migration plan, or your nominated occupation is not on the CSL and you have applied for an offshore GSM visa or intend to apply for an offshore GSM visa, it is unlikely that your application will be finalised within three years of the date of the application.

If you are not nominated by a state or territory government in accordance with an approved state migration plan or your nominated occupation is not on the CSL and you applied for an onshore GSM visa or intend to apply for an onshore GSM visa, it is unlikely that your visa will be finalised within two years of the date of the application.

Your 'nominated occupation' is the occupation you nominated at the time you lodged your application and it cannot be changed.

More information is available from the *Visas for migrating to Australia as a skilled person—application processing times* information sheet.

**Q 12 If my nominated occupation is not on the CSL can I still receive priority processing?**

Yes, if you are employer sponsored under the ENS and the RSMS, or are nominated by a state/territory government under a state migration plan agreed to by the minister, your application will receive priority processing. Please do not contact the department to request your application be exempt from the priority processing direction. Case officers must adhere to the Minister for Immigration and Citizenship's priority processing direction.

**Q 13 What are my options if my application is unlikely to be finalised by the end of 2012 and I have applied for an onshore visa?**

The options available are:

- continue to live and work in Australia (if your visa permits) while you await a decision on your visa application
- consider your eligibility for an employer sponsored visa, or a nomination by a state/territory government under a state migration plan agreed to by the minister

- apply for another substantive visa
- withdraw your application and return to your home country.

Please note, if you choose to withdraw your application you will not be entitled to a refund of your Visa Application Charge (VAC).

**Q 14 What are my options if my application is unlikely to be finalised by 2013 and I applied for an offshore visa?**

The options available are:

- continue to await a decision on your visa application
- consider your eligibility for an employer sponsored visa, or nomination by a state/territory government under a state migration plan agreed to by the minister
- withdraw your application.

Please note, if you choose to withdraw your application you will not be entitled to a refund of your VAC.

Should you be in Australia after having applied for an offshore GSM visa, you will not be eligible for a bridging visa to remain in Australia while this application is being processed. You must apply for another visa to remain in Australia lawfully, otherwise you will need to depart Australia.

**Q 15 I am on a Bridging Visa C which does not allow me to work. What can I do?**

If you have been granted a Bridging Visa C which does not allow you to work you may apply for work rights at one of the department's offices. Contact details of departmental offices are available at [www.immi.gov.au/contacts/offices.htm](http://www.immi.gov.au/contacts/offices.htm)

**Q 16 I need to travel overseas but my visa application has not been finalised. What should I do?**

If you were granted a Bridging Visa A when you applied for your GSM visa you may be able to lodge an application for a Bridging Visa B to allow you to travel and return to Australia (within a specified period). A Bridging Visa B is generally not issued for longer than three months.

There is no need to contact the department upon your return to apply for another bridging visa unless you have further need to travel outside Australia. You must apply for a Bridging Visa B at one of the department's state or territory offices, not the skilled processing centre which is processing your GSM application. Contact details of departmental offices are available at [www.immi.gov.au/contacts/offices.htm](http://www.immi.gov.au/contacts/offices.htm)

**Q 17 I have been granted a provisional GSM visa and my spouse now wishes to join me, will they be able to do so?**

Yes, applications for subsequent entrants for provisional GSM visas are exempt from priority processing arrangements. The provisional GSM visas are:

- Skilled—Regional Sponsored (subclass 475)
- Skilled—Graduate (subclass 485)
- Skilled—Regional Sponsored (subclass 487)
- Skilled—Designated Area-sponsored (Provisional) (subclass 496)
- Skilled—Independent Regional (subclass 495).

**Q 18 I already have a state and territory nomination, how am I affected?**

All GSM applications, other than subclasses 476, 485, 883 and 887 are subject to the priority processing arrangements under the minister's direction. Applicants who are nominated by a state or territory government under a state migration plan agreed to by the minister receive the second highest priority under the direction. Applicants who are nominated by a state/territory government and have nominated an occupation on the CSL will now receive the third highest priority under the priority processing arrangements.

**Q 19 I am an accountant with a score of International English Language Testing System 7.0 in all four components of the test, am I eligible for priority processing?**

Accountants who have scored a minimum of 7.0 (Proficient English) in all four components of an International English Language Testing System (IELTS) test are eligible for priority processing under the CSL.

All accountants, including those who hold a current British, American, Canadian, New Zealand or Republic of Ireland passport must present an IELTS test result of at least 7.0 in each test component if they wish to receive priority processing.

If you have already met the time of application criteria (by holding an eligible passport or you have IELTS 6.0) and now wish to submit an IELTS test to access priority processing, you may submit the results from an IELTS test undertaken after you lodged your application.

You will only be eligible for priority processing under the CSL once you provide evidence of your 'proficient English' IELTS results to the department.

**Q 20 I am a computing professional with a specialisation on the Migration Occupation in Demand List, how am I affected?**

Only computing professionals who have a specialisation listed on the Migration Occupation in Demand List are eligible for priority processing in the order outlined at question two, that is, they receive the fourth highest priority.

More information is available from the *Migration Occupations in Demand List* information sheet.

**Q 21 Why are medical and police clearances still required for applicants applying for an onshore GSM visa who do not have an occupation on the CSL or state or territory government nomination?**

Under the migration regulations, you must provide evidence that you have made arrangements to undergo a medical examination and applied for an Australian Federal Police check when you lodge an onshore GSM visa application.

Visa applicants are required to undergo medical examinations in order to protect the Australian community from high health risks, costs, and overuse of scarce health resources. Similarly, to ensure that all visa applicants are of good character, an Australian Federal Police check is required.

Once you have lodged your application, you should not initiate any further medical or police clearances to update any clearances that have expired until you are requested to do so by your case officer.

**Q 22 My application is currently with the Migration Review Tribunal (MRT). If my application is remitted to the department will I be subject to the priority processing requirements?**

No, applications remitted by the MRT to the department are exempt from the new priority processing direction. This means your application will continue to be processed by the department.

**Q 23 I have applied for a Skilled—Graduate (subclass 485) visa. How will I be affected by the priority processing direction?**

Priority processing arrangements do not apply to Skilled—Graduate (subclass 485) visa applicants from 8 February 2010. These applications will be processed in the order in which they are received. This includes applications that have been partially assessed and those in the final stages of processing.

**Q 24 I do not wish to wait for my application to be processed. Can I withdraw my application and get a refund?**

If you wish to withdraw your application, you may do so. All requests for withdrawals must be made in writing and signed by each applicant aged 18 years and over.

It is open to you to seek a refund, however legislation provides only limited circumstances in which refunds may be given. A Visa Application Charge (VAC) is usually only refunded when an application is deemed unnecessary at the time it was made or was made as a result of a mistake by either the applicant or the department.

A refund will not be given in circumstances where an applicant considers a 'mistake' was made because they:

- changed their mind
- do not satisfy a criterion for visa grant, or
- do not wish to proceed with their application because it will take longer to process than expected.

**Q 25 Am I entitled to compensation if my visa application is taking longer to process than expected due to the new priority processing direction?**

Compensation is not available for delays in processing.

**Q 26 Why do the rules keep changing?**

The Australian Government is aware that the priority processing direction impacts on many applicants who will now have to wait longer for their visas to be processed. However, the government must also take into account the effect of the difficult labour market conditions which migrants, Australian permanent residents and Australian citizens currently face. The priority processing direction has been designed to ensure that the economy gets the skills it needs now, rather than those of visa applicants who applied first.

**Q 27 I was in the final stages of my application and have already made arrangements to move to Australia. Why is my application now being affected by the new priority processing direction?**

The new ministerial direction on priority processing applies to all GSM applications including those in the final stages of processing. Case officers must adhere to this direction.

The Australian Government appreciates that migration is a major life decision and can be emotionally and financially stressful for applicants. Applicants are advised when they apply for a visa that there is no guarantee of a visa being granted. For this reason, the department consistently provides information to applicants recommending they do not make any irreversible arrangements before being advised formally that their visa applications have been approved. This includes selling property, resigning from employment or purchasing travel tickets, particularly in circumstances where it is a visa requirement that the applicant be offshore at the time of approval.

**Q 28 Isn't priority processing retrospective legislation?**

Priority processing is an administrative arrangement, and impacts on the order in which applications are considered. It is not retrospective legislation as it does not change the criteria for the grant of a GSM visa.

## Useful documents

More information on the changes announced by the minister on 8 February 2010 is available on the following information sheets:

- [Revoking the Critical Skills List](#)
- [Changes to the General Skilled Migration Program](#)
- [Changes to the current Skilled Occupation List](#)
- [Changes to offshore General Skilled Migration visa applications received before 1 September 2007](#)
- [Outcomes of the Migration Occupation in Demand List review—frequently asked questions](#)
- [General Skilled Migration Points Test Review](#)
- [Onshore international students—frequently asked questions](#)