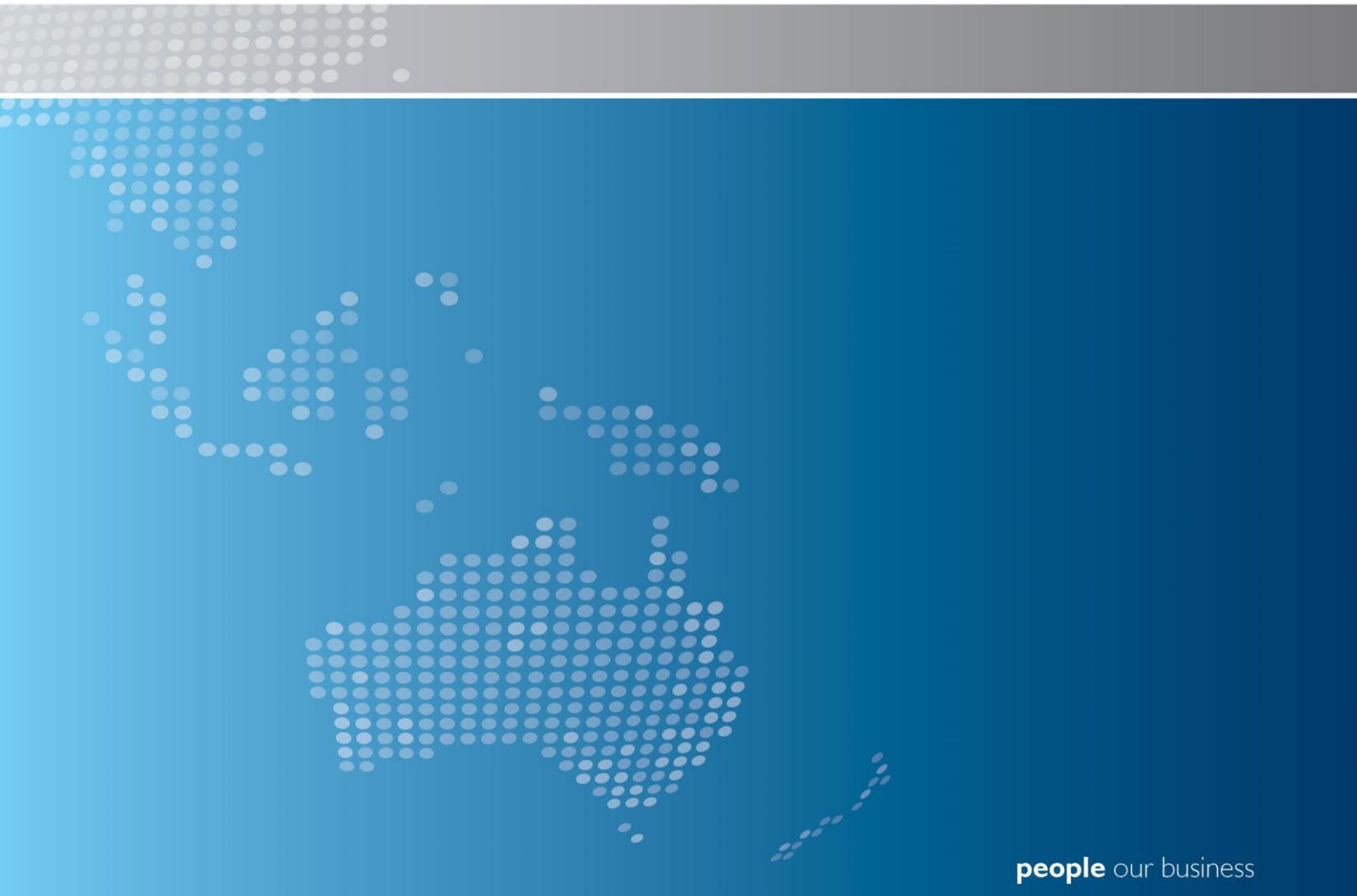
Australian Government
Department of Immigration and Citizenship

Ministerial Intervention Statistics - Australia

2012-13

July to December



people our business

Ministerial Intervention Statistics – Australia: 2012-13 (July to December) was prepared by Systems, Program Evidence and Knowledge Section in consultation with Ministerial Intervention Policy Section of the Department of Immigration and Citizenship (DIAC) in Australia.

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Background

This publication provides statistical information about requests for Ministerial intervention during the first half of the program year 2012-13.

The *Migration Act 1958* (the Migration Act) and the *Migration Regulations 1994* (the Migration Regulations) provide a structured and transparent statutory framework for the implementation and management of Australia's migration and humanitarian program. This framework includes detailed and specific criteria that must be satisfied before a non-citizen can be granted a visa, but it cannot address every situation where there may be compelling reasons for a person to enter or remain in Australia.

Departmental decision makers and review tribunals such as the Migration Review Tribunal (MRT) and the Refugee Review Tribunal (RRT) are bound by the Act and Regulations. They do not have discretion to grant a visa where a person does not meet the applicable visa criteria, no matter how compelling the person's situation may be.

The Act provides the Minister for Immigration and Citizenship (the Minister) with powers to intervene in individual cases if he thinks it is in the public interest to do so. These are commonly referred to as the Minister's public interest powers. For example:

- under section 48B of the Act, the Minister can intervene to allow a person who has had a Protection visa (PV) refused or cancelled to make a new PV application onshore
- under sections 351, 391, 417, 454 and 501J, the Minister can replace a decision of a review tribunal with one that is more favourable to the person concerned
- under section 345, the Minister can replace a decision made by a review officer prior to 1 June 1999 with another decision the terms of which were agreed to by the applicant
- under section 195A, the Minister can grant a visa to a person in immigration detention.

The Minister's public interest powers are:

- non-delegable – decisions must be made by the Minister personally or where appropriate by another Minister
- non-compellable – the Minister does not have a duty to consider whether to exercise the powers
- non-reviewable – ministerial decisions made under these powers are not reviewable by the tribunals and cannot be overturned by the courts
- subject to reporting to parliament – the Minister is required to table in parliament a statement of reasons when these powers are used.

Ministerial intervention is not an extension of the visa application or review process. It is intended to act as a 'safety net' and the Minister will generally only intervene in a relatively small number of cases where the circumstances are unique or exceptional.

Figures presented relate to the number of events (such as requests received or visas granted) in a given time period, and represent the number of persons rather than cases.

Section 1

Requests and Outcomes

Summary of Ministerial intervention requests

Table 1: Summary of Ministerial intervention requests and outcomes[1] during 2012-13 (July to December)

Event	Minister's public interest powers							
	2011-12				2012-13 (Jul – Dec)			
	s417	s351	s48B[2]	Other powers[3]	s417	s351	s48B	Other powers[4]
Requests received[5]	2024	1547	1694	2852	978	1055	760	76
Requests finalised by the Department[6]	610	407	1660	6	245	211	625	1
Requests finalised by Minister (total)	1318	1168	25	2804	813	594	24	75
• intervene to allow a further Protection visa (PV) application onshore	na	na	8	na	na	na	10	na
• visa granted	458	449	na	2803	209	264	na	59
• excluding visa grants[7] and decisions to intervene to allow a further PV application onshore	860	719	17	1	604	330	14	16
Events as percentages								
Ministerial decisions to allow a further PV application as a percentage of Minister's finalisations	na	na	32%	na	na	na	42%	Na
Visa grants as a percentage of Minister's finalisations	35%	38%	na	100%	26%	44%	na	79%

Source: DIAC Systems

[1] The number of outcomes does not equal the number of requests received. Some requests received in previous years may have been finalised in this period and some requests received in this period may not have been finalised at the time of publication.

[2] Includes a large number of departmentally initiated requests undertaken after the introduction of complementary protection provisions in the Migration Act in March 2012. These requests were initiated to ensure that active s417 requests raising complementary protection issues were assessed against s48B guidelines for possible direction to the statutory PV process.

[3] Other powers include s195A, s345, s391, s454 and s501J. The 2011-12 figures include the Minister's use of the s195A power to grant a Bridging visa E (BVE) to allow IMAs to live in the community while their claims for protection are being considered. At 30 June 2012, 2741 BVEs had been granted to eligible IMAs under s195A. This type of visa grant is no longer included in this publication.

[4] Other powers include s195A, s345, s391, s454 and s501J. The Minister's use of the s195A power to grant BVEs to IMAs (see footnote 2) is not included in this figure as it is more appropriate for it to be published with other IMA statistics.

[5] Requests for Ministerial intervention under s345, s351, s391, s417, s454, s501J and s48B are generally made by either the client or their authorised representative. A review tribunal may refer a case to the department for the Minister's consideration under his public interest powers and in some circumstances the department may also initiate requests under these powers. Requests for Ministerial intervention under s195A can only be initiated by the department.

[6] For Ministerial intervention under s345, s351, s391, s417, s454 and s501J, this category includes requests finalised as inappropriate to consider or no power available and repeat requests not referred to the Minister as they did not meet the guidelines. For Ministerial intervention under s48B, this category includes requests which did not meet the s48B guidelines and were not referred to the Minister. This outcome is not applicable for Ministerial intervention under s195A as these requests can only be initiated by the department.

[7] Includes decisions by the Minister to not consider a request, to consider a request but not intervene, and to intervene under another power.

na – not applicable

Figure 1: Requests finalised by Minister under various public interest powers

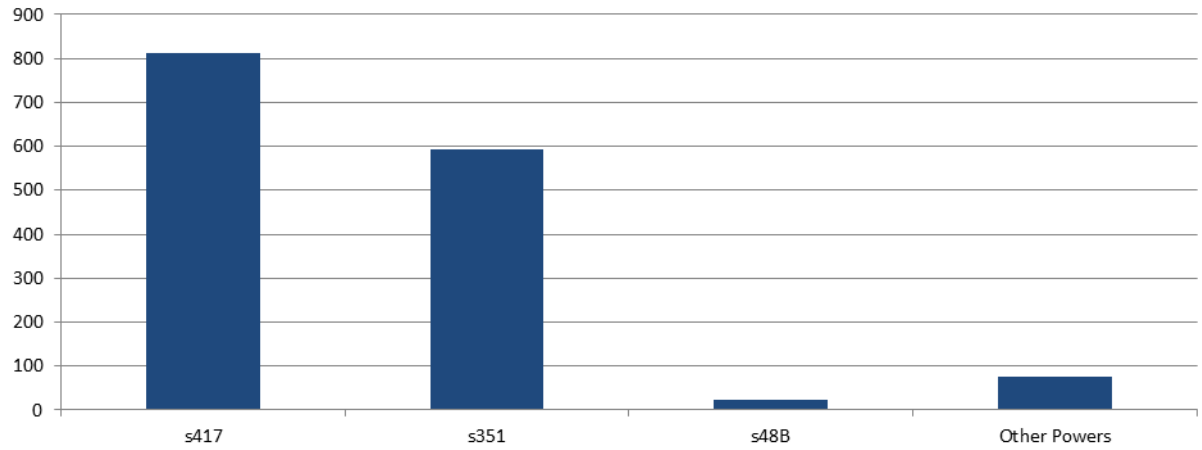


Table 1a: Summary of Ministerial intervention requests and outcomes[8] comparing July to December period in program years 2011-12 and 2012-13

Event	Minister's public interest powers							
	2011-12 (Jul – Dec)				2012-13 (Jul – Dec)			
	s417	s351	s48B	Other powers[9]	s417	s351	s48B	Other powers
Requests received[10]	999	679	308	140	978	1055	760	76
Requests finalised by the Department[11]	343	201	341	1	245	211	625	1
Requests finalised by Minister (Total)	745	571	15	139	813	594	24	75
• intervene to allow a further Protection visa (PV) application onshore	na	na	2	na	na	na	10	na
• visa granted	245	169	na	138	209	264	na	59
• excluding visa grants[12] and decisions to intervene to allow a for further PV application onshore	500	402	13	1	604	330	14	16
Events as percentages								
Ministerial decisions to allow a further PV application as a percentage of Minister's finalisations	na	na	13%	na	na	na	42%	na
Visa grants as a percentage of Minister's finalisations	33%	30%	na	99%	26%	44%	na	79%

[8] The number of outcomes does not equal the number of requests received. Some requests received in previous years may have been finalised in this period and some requests received in this period may not have been finalised at the time of publication.
[9] For both 2011-12 and 2012-13, other powers includes195A, s345, s391, s454 and s501J.

[10] Requests for Ministerial intervention under s345, s351, s391, s417, s454, s501J and s48B are generally made by either the client or their authorised representative. A review tribunal may refer a case to the department for the Minister's consideration under his public interest powers and in some circumstances the department may also initiate requests under these powers. Requests for Ministerial intervention under s195A can only be initiated by the department.

[11] For Ministerial intervention under s345, s351, s391, s417, s454 and s501J, this category includes requests finalised as inappropriate to consider or no power available and repeat requests not referred to the Minister as they did not meet the guidelines. For Ministerial intervention under s48B, this category includes requests which did not meet the s48B guidelines and were not referred to the Minister. This outcome is not applicable for Ministerial intervention under s195A as these requests can only be initiated by the department.

[12] Includes decisions by the Minister to not consider a request, to consider a request but not intervene, and to intervene under another power.

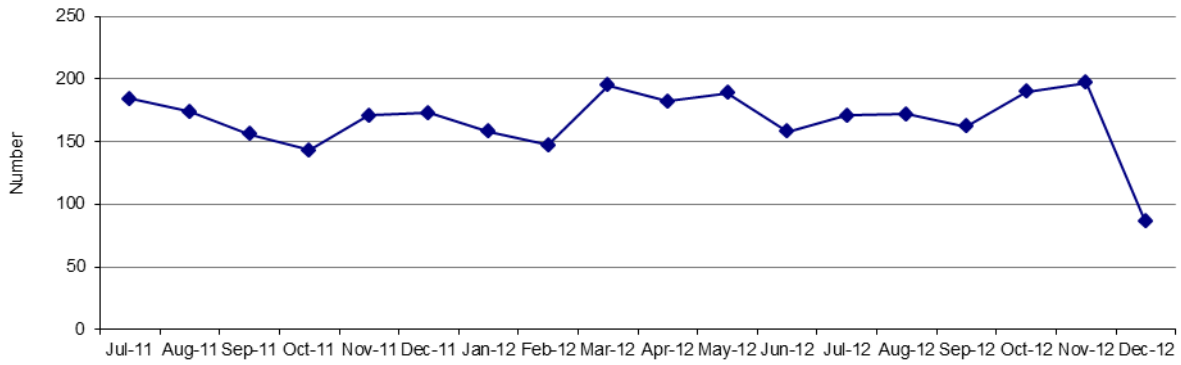
na – Not applicable

Table 2: Ministerial intervention requests and outcomes under s417

Event	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012	July to December 2012
Requests received[13]	2024	999	1025	978
Requests finalised by the Department[14]	610	343	267	245
Requests finalised by Minister (visa granted)	458	245	213	209
Requests finalised by Minister (excluding visa grants)[15]	860	500	360	604

Source: DIAC Systems

Figure 2: Ministerial intervention under s417: requests received by month



[13] Requests for Ministerial intervention under s417 are generally made by either the client or their authorised representative. A review tribunal may refer a case to the department for the Minister's consideration under his public interest powers and in some circumstances the department may also initiate requests under this power.

[14] For Ministerial intervention under s417, this category includes requests finalised as inappropriate to consider, or no power available, and repeat requests not referred to the Minister as they did not meet the guidelines.

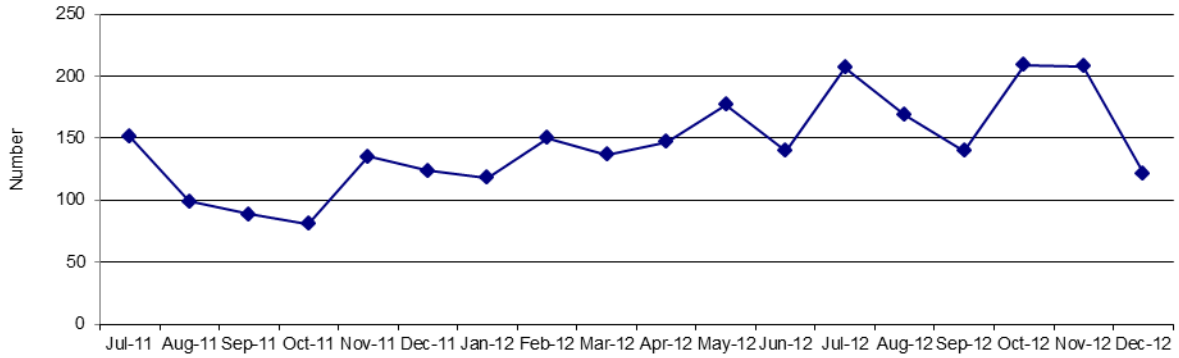
[15] Includes decisions by the Minister to not consider a request, to consider the request but not to intervene, and to intervene under another power.

Table 3: Ministerial intervention requests and outcomes under s351

Event	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012	July to December 2012
Requests received[16]	1547	679	868	1055
Requests finalised by the Department[17]	407	201	206	211
Requests finalised by Minister (visa granted)	449	169	280	264
Requests finalised by Minister (excluding visa grants)[18]	719	402	317	330

Source: DIAC Systems

Figure 3: Ministerial intervention under s351: requests received by month



[16] Requests for Ministerial intervention under s351 are generally made by either the client or their authorised representative. A review tribunal may refer a case to the department for the Minister's consideration under his public interest powers and in some circumstances the department may also initiate requests under this power.

[17] For Ministerial intervention under s351, this category includes requests finalised as inappropriate to consider, or no power available, and repeat requests not referred to the Minister as they did not meet the guidelines.

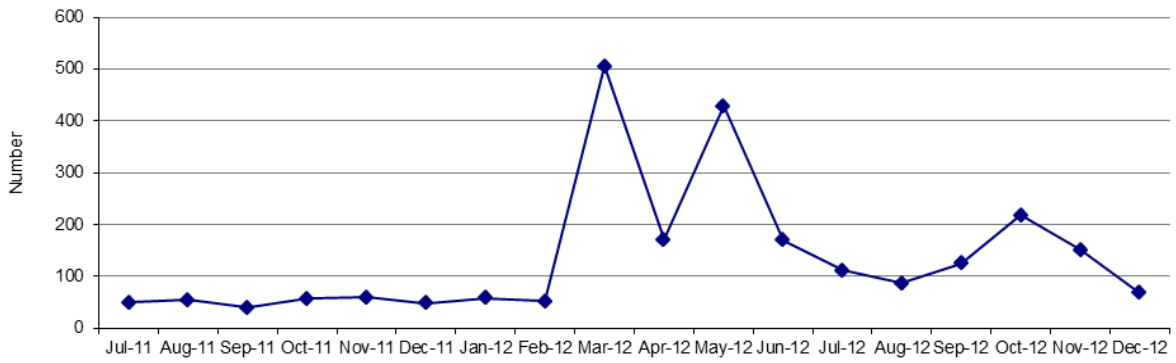
[18] Includes decisions by the Minister to not consider a request, to consider the request but not intervene, and to intervene under another power.

Table 4: Ministerial intervention requests and outcomes under s48B

Event	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012[19]	July to December 2012
Requests received[20]	1694	308	1386	760
Requests finalised by the Department[21]	1660	341	1319	625
Requests finalised by Minister (decision not to intervene)	17	13	4	14
Requests finalised by Minister (intervene to allow client to apply for a further PV)	8	2	6	10

Source: DIAC Systems

Figure 4: Ministerial intervention under s48B: requests received by month



[19] Includes a large number of departmentally initiated requests undertaken after the introduction of complementary protection in March 2012. These were done to ensure that active s417 requests raising complementary protection issues were assessed against s48B guidelines for possible direction to the statutory PV process

[20] Requests for Ministerial intervention under s48B are generally made by either the client or their authorised representative. In some circumstances the department may also initiate requests under this power.

[21] Requests which did not meet the s48B guidelines and were not referred to the Minister.

Table 5: Ministerial intervention requests and outcomes under sections 195A, 345, 391, 454 and 501J

Event	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012	July to December 2012
Requests received[22]	2852	140	2712	76
Requests finalised by the Department[23]	6	1	5	1
Requests finalised by Minister (visa granted)	2803	138	2665	59
Requests finalised by Minister (excluding visa grants)[24]	1	1	0	16

Source: DIAC Systems

[22] Requests for Ministerial intervention under s345, s391, s454 and s501J are generally made by either the client or their authorised representative. A review tribunal may refer a case to the department for the Minister's consideration under his public interest powers and in some circumstances the department may also initiate requests under these powers. Requests for Ministerial intervention under s195A can only be initiated by the department.

[23] For Ministerial intervention under s345, s391, s454 and s501J, this category includes requests finalised as inappropriate to consider, or no power available, and repeat requests not referred to the Minister as they did not meet the guidelines. This outcome is not applicable for Ministerial intervention under s195A as these requests can only be initiated by the department.

[24] Includes decisions by the Minister to not consider a request, to consider the request but not intervene, and to intervene under another power.

Section 2

Citizenship and Visa subclass

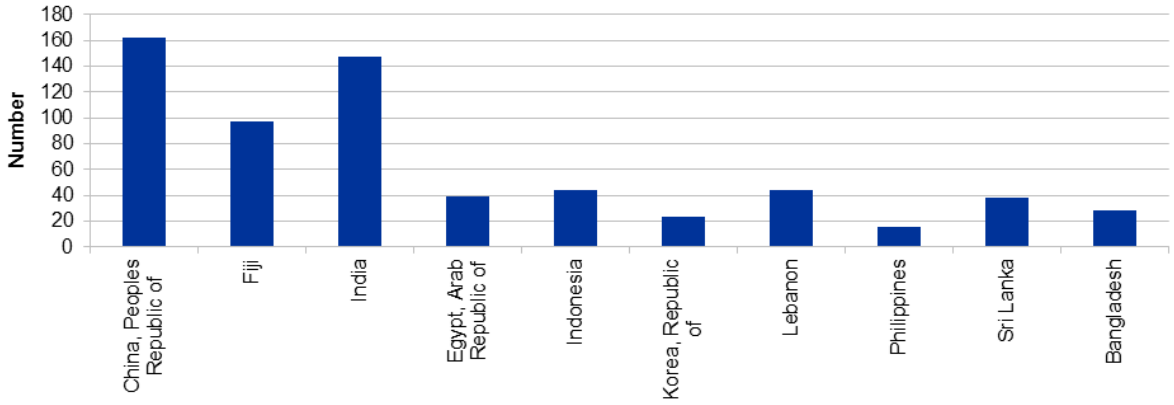
Section 417 of the Migration Act

Table 6: Ministerial intervention requests received under s417 by top 10 countries of citizenship[25]

Citizenship	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012	July to December 2012
China, Peoples Republic of	405	204	201	162
Fiji	270	173	97	97
India	232	88	144	147
Egypt, Arab Republic of	112	55	57	39
Indonesia	84	54	30	44
Korea, Republic of	82	40	42	23
Lebanon	72	19	53	44
Philippines	61	32	29	16
Sri Lanka	61	38	23	38
Bangladesh	55	27	28	26
Other	590	269	321	342[26]
Total	**2024**	**999**	**1025**	**978**

Source: DIAC Systems

Figure 5: Ministerial intervention requests received under s417 by top 10 countries of citizenship[25]



[25] Top 10 countries of citizenship are based on the 2011-12 program year requests received.

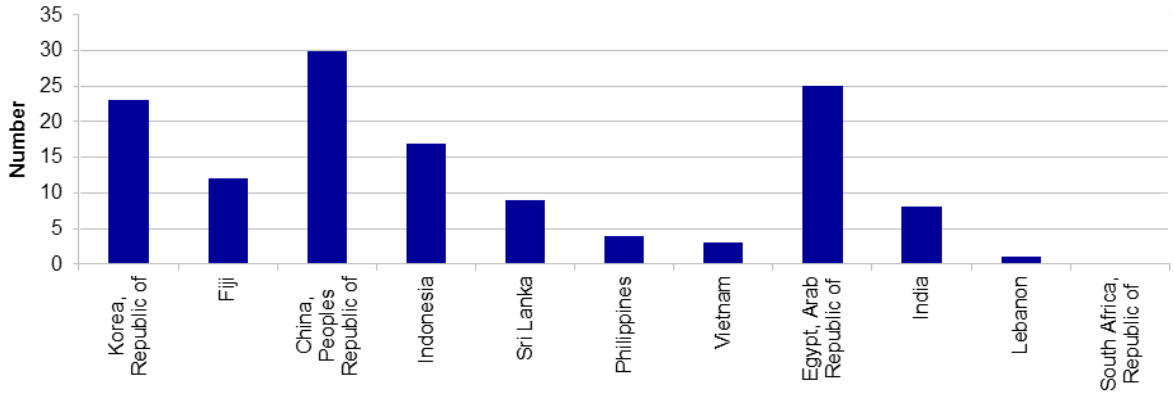
[26] 'Other' includes an additional 56 countries of citizenship.

Table 7: Visas granted through Ministerial intervention under s417 by top 10 countries of citizenship[27]

Citizenship	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012	July to December 2012
Korea, Republic of	74	51	23	23
Fiji	47	23	24	12
China, Peoples Republic of	39	19	20	30
Indonesia	34	16	18	17
Sri Lanka	32	15	17	9
Philippines	28	19	9	4
Vietnam	17	13	4	3
Egypt, Arab Republic of	16	5	11	25
India	12	5	7	8
Lebanon	12	3	9	1
South Africa, Republic of	12	3	9	0
Other	135	73	62	77[28]
Total	**458**	**245**	**213**	**209**

Source: DIAC Systems

Figure 6: Visas granted through Ministerial Intervention under s417 by top 10 countries of citizenship in July to December 2012[27]



[27] Top 10 countries of citizenship are based on the 2011-12 program year visas granted.

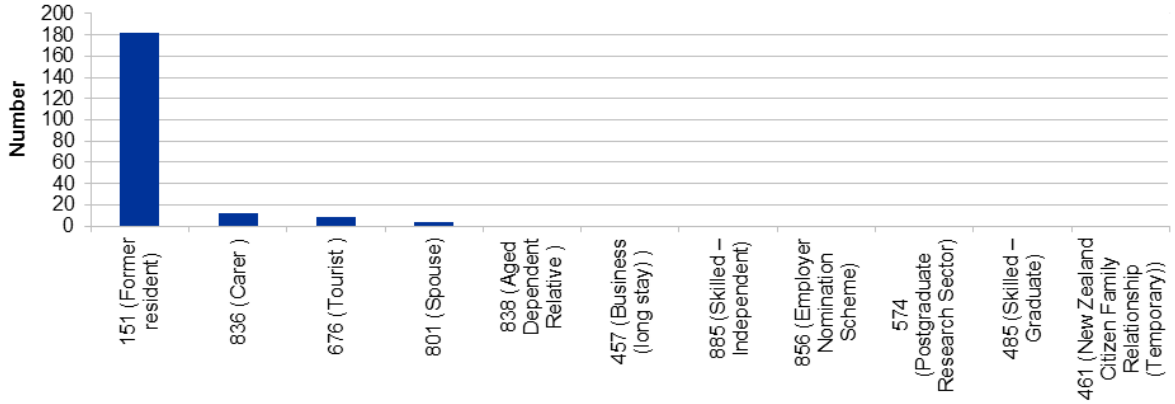
[28] 'Other' includes an additional 22 countries of citizenship.

Table 8: Visas granted through Ministerial intervention under s417 by top 10 visa subclasses[29]

Visa subclasses	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012	July to December 2012
151 (Former Resident)	324	152	172	182
836 (Carer)	77	61	16	12
676 (Tourist)	25	16	9	9
801 (Spouse)	12	6	6	4
838 (Aged Dependent Relative)	10	7	3	0
457 (Business (long stay))	5	1	4	0
461 (New Zealand Citizen Family Relationship (Temporary))	1	0	1	0
485 (Skilled - Graduate)	1	0	1	0
574 (Postgraduate Research Sector)	1	0	1	0
856 (Employer Nominated Scheme)	1	1	0	0
885 (Skilled - Independent)	1	1	0	0
Other	0	0	0	2
Total	**458**	**245**	**213**	**209**

Source: DIAC Systems

Figure 7: Visas granted through Ministerial intervention under s417 by top 10 visa subclasses in July to December 2012[29]



[29] Top 10 visa subclasses are based on the 2011-12 program year visas granted.

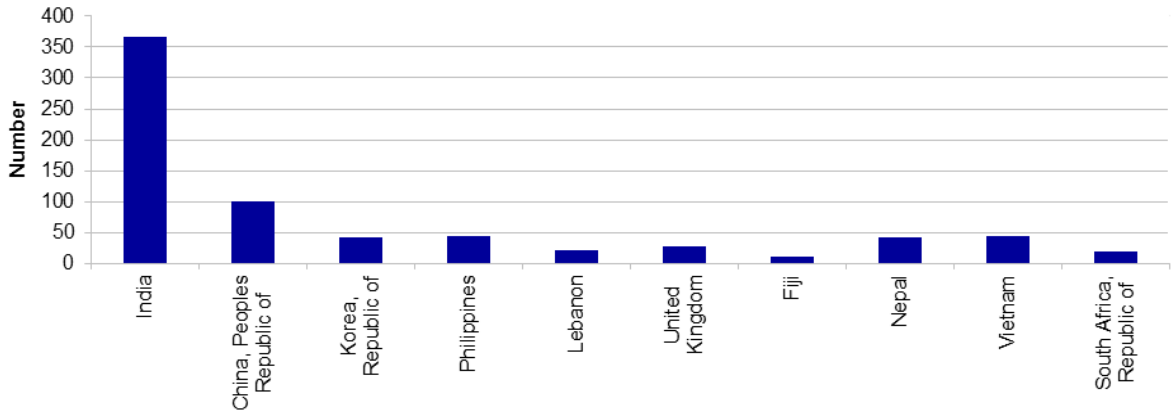
Section 351 of the Migration Act

Table 9: Ministerial intervention requests received under s351 by top 10 countries of citizenship[30]

Citizenship	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012	July to December 2012
India	498	180	318	366
China, Peoples Republic of	152	92	60	101
Korea, Republic of	66	24	42	41
Philippines	63	32	31	45
Lebanon	62	28	34	21
United Kingdom	55	30	25	28
Fiji	48	19	29	10
Nepal	41	19	22	41
Vietnam	40	19	21	45
South Africa, Republic of	38	16	22	19
Other	484	220	264	338[31]
Total	**1547**	**679**	**868**	**1055**

Source: DIAC Systems

Figure 8: Ministerial intervention requests received under s351 by top 10 countries of citizenship in July to December 2012[30]



[30] Top 10 countries of citizenship are based on the 2011-12 program year requests received.

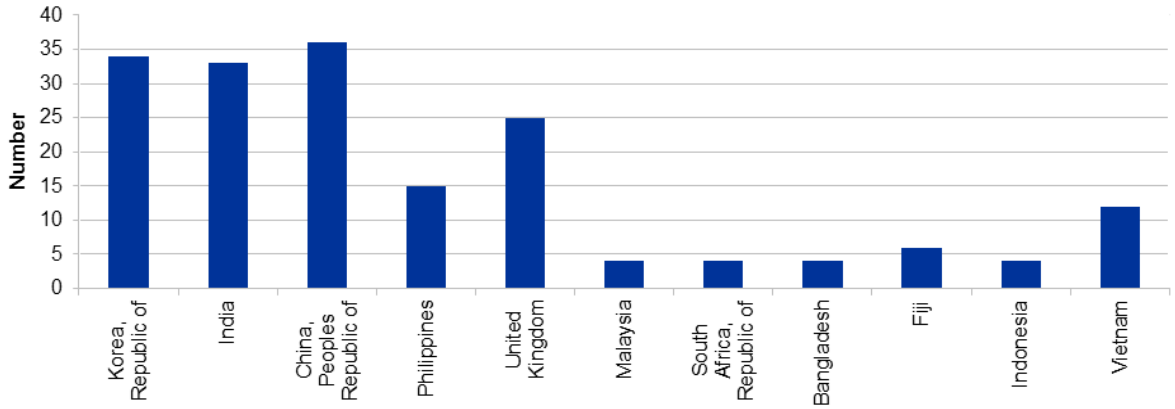
[31] 'Other' includes an additional 57 countries of citizenship.

Table 10: Visas granted through Ministerial intervention under s351 by top 10 countries of citizenship[32]

Citizenship	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012	July to December 2012
Korea, Republic of	85	32	53	34
India	48	9	39	33
China, Peoples Republic of	38	8	30	36
Philippines	26	2	24	15
United Kingdom	20	12	8	25
Malaysia	16	2	14	4
South Africa, Republic of	13	10	3	4
Bangladesh	11	4	7	4
Fiji	11	5	6	6
Indonesia	10	8	2	4
Vietnam	10	4	6	12
Other	161	73	88	87[33]
Total	**449**	**169**	**280**	**264**

Source: DIAC Systems

Figure 9: Visas granted through Ministerial intervention under s351 by top 10 countries of citizenship in July to December 2012[32]



[32] Top 10 countries of citizenship are based on the 2011-12 program year visas granted.

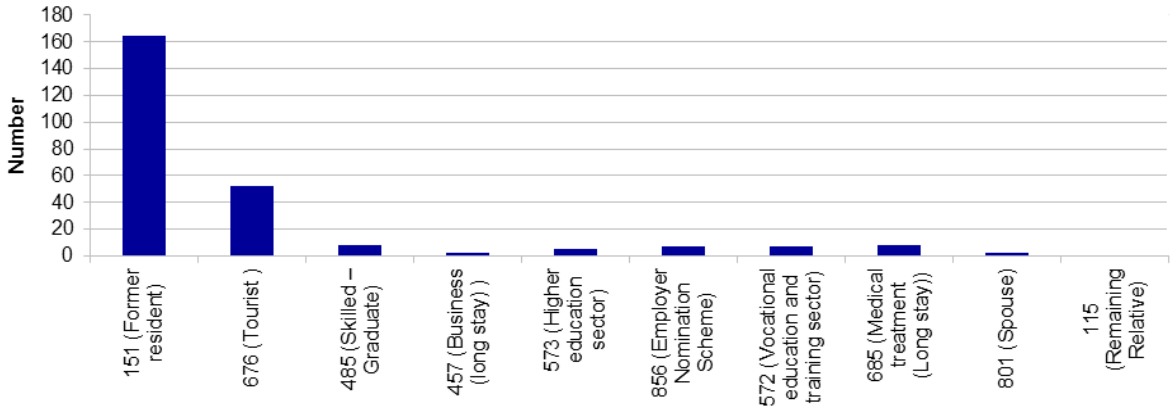
[33] 'Other' includes an additional 31 countries of citizenship.

Table 11: Visas granted through Ministerial intervention under s351 by top 10 visa subclasses[34]

Visa subclasses	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012	July to December 2012
151 (Former Resident)	202	58	144	165
676 (Tourist)	58	27	31	52
485 (Skilled – Graduate)	34	13	21	8
457 (Business (Long Stay))	33	15	18	2
573 (Higher Education Sector)	23	9	14	5
856 (Employer Nomination Scheme)	21	2	19	7
572 (Vocational Education and Training Sector)	20	2	18	7
685 (Medical Treatment (Long Stay))	8	8	0	8
801 (Spouse)	7	4	3	2
115 (Remaining Relative)	5	4	1	0
835 (Remaining Relative)	5	5	0	0
885 (Skilled Independent)	5	4	1	0
Other	28	18	10	8
Total	**449**	**169**	**280**	**264**

Source: DIAC Systems

Figure 10: Visas granted through Ministerial intervention under s351 by top 10 visa subclasses in July to December 2012[34]



[34] Top 10 visa subclass are based on the 2011-12 program year visas granted.

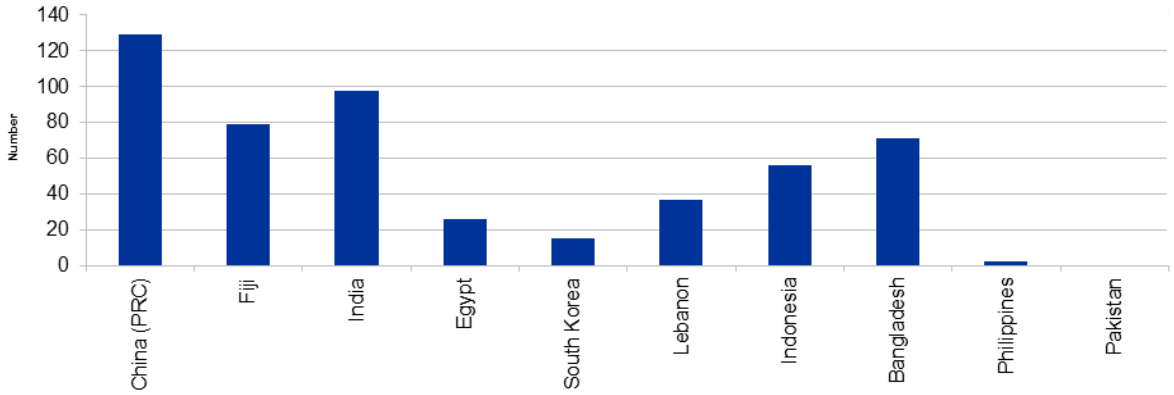
Section 48B of the Migration Act

Table 12: Ministerial intervention requests received under s48B by top 10 countries of citizenship[35]

Citizenship	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012	July to December 2012
China, Peoples Republic of	353	83	270	129
Fiji	200	39	161	79
India	153	29	124	98
Egypt	110	27	83	26
South Korea	83	5	78	15
Lebanon	72	10	62	37
Indonesia	66	7	59	56
Bangladesh	63	13	50	71
Philippines	55	0	55	2
Pakistan	46	14	32	0
Other	493	81	412	247[36]
Total	**1694**	**308**	**1386**[37]	**760**

Source: DIAC Systems

Figure 11: Ministerial intervention requests received under s48B by top 10 countries of citizenship in July to December 2012[35]



[35] Top 10 countries of citizenship are based on the 2011-12 program year requests received.

[36] 'Other' includes an additional 73 countries of citizenship.

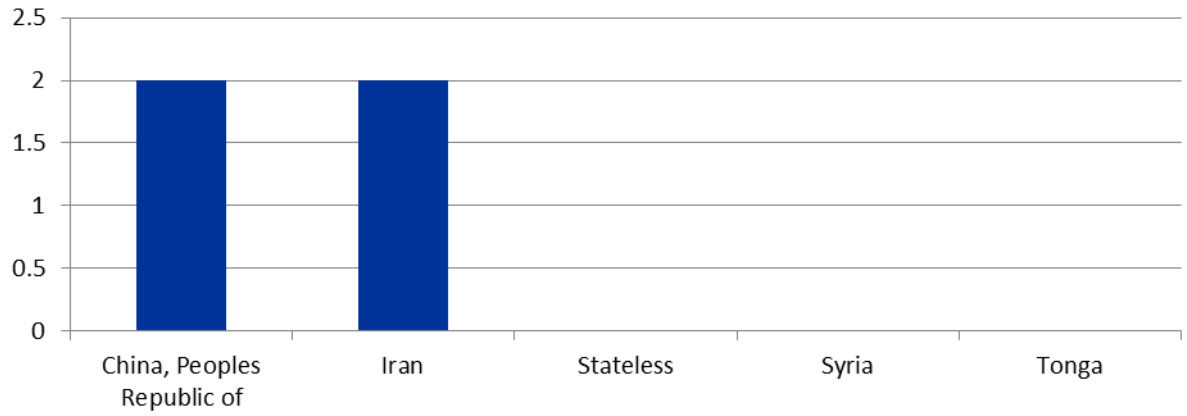
[37] Includes a large number of departmentally initiated requests undertaken after the introduction of complementary protection in March 2012. These were done to ensure that active s417 requests raising complementary protection issues were assessed against s48B guidelines for possible direction to the statutory PV process

Table 13: Requests finalised by Minister under s48B to allow a further Protection visa application by countries of citizenship

Citizenship	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012	July to December 2012
China, Peoples Republic of	2	0	2	2
Iran	2	0	2	2
Stateless	2	1	1	0
Syria	1	0	1	0
Tonga	1	1	0	0
Other	0	0	0	6
Total	**8**	**2**	**6**	**10**

Source: DIAC Systems

Figure 12: Requests finalised by Minister under s48B to allow a further Protection visa application by countries of citizenship in July to December 2012



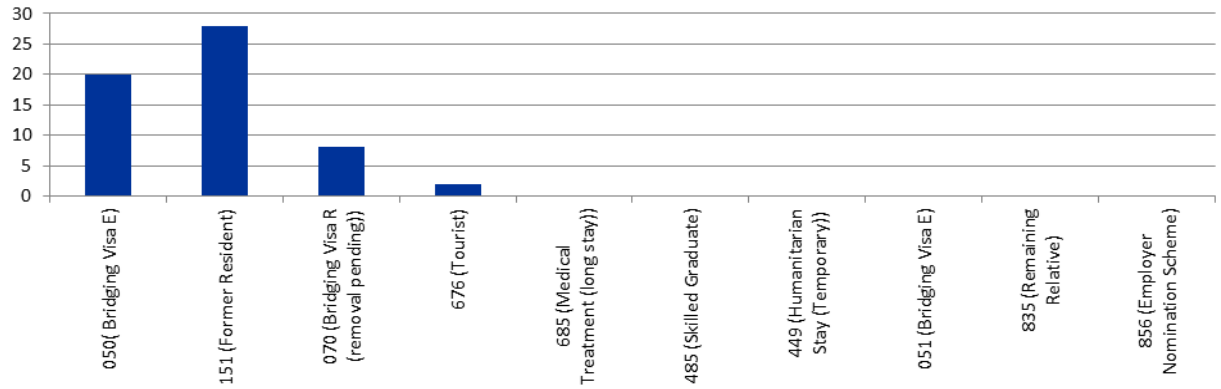
Sections 195A, 345, 391, 454 and 501J[38] of the Migration Act

Table 14: Visas granted through Ministerial intervention under sections 195A, 345, 391, 454 and 501J by visa subclasses

Visa subclasses	2011-12	2011-12		2012-13
		July to December 2011	January to June 2012	July to December 2012
676 (Tourist)	4	3	1	2
151 (Former Resident)	37	11	26	28
070 (Bridging Visa R (Removal Pending))	18	10	8	8
685 (Medical Treatment (Long Stay))	4	3	1	0
050 (Bridging Visa E)	2486	111	2375	20
835 (Remaining Relative)	2	2	0	0
485 (Skilled Graduate)	4	1	3	0
449 (Humanitarian Stay (Temporary))	3	0	3	0
051 (Bridging Visa E)	3	0	3	0
856 (Employer Nomination Scheme)	1	0	1	0
Other	0	0	0	1
Total	**2562**	**141**	**2421**	**59**

Source: DIAC Systems

Figure 13: Visas granted through Ministerial intervention under sections 195A, 345, 391, 454 and 501J by visa subclasses in July to December 2012



[38] The countries of citizenship of individuals granted visas through Ministerial intervention under these sections of the Migration Act cannot be published for privacy reasons.

Explanatory Notes

1. Minister's public interest powers

1.1 Sections 351, 391, 417, 454 and 501J

Under sections 351, 391, 417, 454 and 501J of the *Migration Act 1958* (the Migration Act), the Minister has the power to replace a decision of a review tribunal with one more favourable to the person concerned if he thinks it is in the public interest to do so.

The relevant review tribunals are:

- s351 – the Migration Review Tribunal (MRT) and the former Immigration Review Tribunal (IRT)
- s417 – the Refugee Review Tribunal (RRT)
- s391 – the Administrative Appeals Tribunal (AAT) on referral from the MRT
- s454 – the AAT on referral from the RRT
- s501J – the AAT for PV refusals or cancellations on character grounds

The Minister's public interest powers are not available if:

- there is no review decision from a relevant tribunal
- the relevant review tribunal has remitted the case to the department and a departmental decision maker has made a subsequent decision
- the review tribunal has made a decision to set aside a cancellation decision
- the Minister has already intervened in the case (the Minister's power is exhausted unless enlivened by another review tribunal decision).

1.2 Section 345

Section 345 allows the Minister to replace the decision of a review officer from the former Migration Internal Review Office (MIRO) with another decision the terms of which were agreed to by the applicant. The MIRO ceased operation in 1999 and these cases are uncommon. Section 345 of the Migration Act has been repealed, but the Minister is still able to exercise the power.

1.3 Section 48B

Section 48A of the Migration Act bars a person who has had a PV refused or cancelled from applying again for a PV while in Australia.

Under section 48B, if the Minister thinks it is in the public interest to do so, he can lift the s48A bar and allow the person to make another PV application onshore.

The Minister will generally only intervene where the person has substantial and credible new claims or new information and/or there is a change of circumstances in their country of nationality.

1.4 Section 195A

Section 195A enables the Minister to grant a visa to a person who is in detention under section 189 of the Act, if he thinks that it is in the public interest to do so. Under the current guidelines, the Minister will not intervene under section 195A where there is an existing visa pathway and he will not consider intervening unless the request is put to him by the department.

2. Requests received/initiated

Requests for Ministerial intervention under sections 48B, 351, 391, 417, 454 and 501J can be made in writing to the Minister by the client or their authorised representative. Requests for MI under section 195A can only be initiated by the department.

The department can initiate a request on behalf of a client under any of these powers at any time it is considered appropriate, particularly where the Minister has not previously considered the case.

A review tribunal may refer a case to the department under sections 351, 391, 417, 454 and 501J where they consider that information provided in the course of a review should be brought to the Minister's attention. In this case, the department would initiate a request and write to the client or their authorised representative asking them to provide any further information and supporting documents.

Under sections 351, 391, 417, 454 and 501J, all first requests for Ministerial intervention are referred to the Minister, whether or not they meet his guidelines for referral. Requests which meet the guidelines are referred on a detailed submission, while those which do not meet the guidelines are referred on a summary schedule. The Minister can request a submission for a case referred on a schedule at any time.

Repeat requests under these powers are only referred to the Minister if new information or a significant change of circumstances brings the request within the Minister's guidelines. Repeat requests that do not meet the guidelines are finalised in the department.

Requests for Ministerial intervention under s48B are assessed against the Minister's guidelines and those that meet the guidelines are referred to the Minister on a submission. Requests that do not meet the guidelines are finalised in the department.

A section 48B guidelines assessment does not require the departmental officer to be satisfied that the person meets the criteria for a protection visa, only that there is an enhanced chance of a successful claim for protection. Departmental officers are not required to interview clients, or make a full assessment of their claims.

If the person also has access to a s417 power through an RRT decision and the circumstances of the request warrant consideration under both s48B and s417, the case can be presented to the Minister as a joint submission.

3. Requests finalised by Department

In line with the Minister's guidelines, these include

- requests under s48B which do not meet the s48B guidelines and were not referred to the Minister
- requests under sections 345, 351, 391, 417, 454 and 501J:
  - where there was no power available
  - which were inappropriate to consider because:
    - it was open to the person to make a valid application for a Partner visa onshore
    - an application for a Partner visa onshore was made and subsequently refused
    - the person had another active visa application with the department or an active review application with a tribunal
    - the person had an active MI request under a different public interest power
    - there was a remittal or a set aside from a tribunal or a court and a subsequent decision had not yet been made by the department or review tribunal
    - the person's application had been decided by the MIRO and was now at the MRT
    - the request was made by a person other than the subject of the request or their authorised representative.

- repeat requests which did not meet the guidelines for referral to the Minister because there was no significant change in circumstances, or new and substantive claims involving unique or exceptional circumstances.

This category does not apply to s195A as these requests can only be initiated by the department.

4. Requests finalised by Minister

A request is finalised by the Minister when the Minister decides to:

- not consider a request
- consider a request but not intervene
- intervene under another power
- intervene to grant a visa or allow a client to apply for a further PV onshore.

In exercising his powers to grant a visa under sections 345, 351, 391, 417, 454 and 501J the Minister is not bound by the provisions of the Migration Act and Regulations which govern application and grant requirements (subdivisions AA and AC of Division 3 of Part 2 of the Migration Act and the associated Migration Regulations). This gives the Minister flexibility to grant a wide range of visas appropriate to the person's circumstances.

When exercising the s195A power, the Minister is not bound by subdivisions AA, AC and AF of Division 3 of Part 2 of the Migration Act or the associated Migration Regulations. Subdivision AF relates to Bridging visas.

When the Minister has intervened under sections 345, 351, 391, 417, 454 or 501J to replace a review tribunal decision with the grant of a visa, his public interest power related to that review tribunal decision is exhausted. He cannot revisit the decision, regardless of whether a subsequent decision would be even more favourable to the person. The person would only be able to request Ministerial intervention again under one of these powers if they had another review tribunal decision.