

Points for English Language ability

There are a lot of rumours and stories which often get circulated among international students about how the English language component of the Skilled points system works.

DIMIA needs to assess the level of English proficiency for two reasons;

- To determine if the applicant meets the minimum English proficiency level, and
- To determine if a second instalment (for English language classes) is payable (\$2,840) if the applicant's spouse does not have functional English (IELTS - 4.5 overall)

The Immigration Department (DIMIA) awards the following points for English ability;

20-points

In order to receive **20-points, visa applicants must have competent English**. The most common proof is to provide an IELTS result of at least **6.0** (General Training module) for writing, reading, listening and speaking. The results would be normally **within 12 months** of the time of application.

15-points

This is awarded for **Vocational English**, which is the lowest threshold permitted. An application will be rejected if the applicant does not pass this level.

You must achieve a minimum IELTS score of **5.0** (General Training module) for all four components of writing, reading, listening and speaking. The IELTS result would normally be within 12 months of the time of application.

Procedural Advice Manual

In Australia, Parliament passes laws in Immigration, which is written in the Migration Act and Regulations. The Department of Immigration publish their own interpretation of what the Migration Act and Regulations is trying to say to assist officers make the right decision. The Department's interpretation is found in what is called the **Procedural Advice Manual 3 (PAM3)**. All immigration officers must refer to this manual when making decisions about applications

Use of Discretionary Power

PAM3 often permits case officers to have discretionary powers in certain matters. For instance, there is a discretionary power for case officers to grant 20 points for English without the need for an applicant to sit an IELTS examination. Case officers can exercise their discretionary powers to make their own assessment of the applicant's English proficiency based upon the information given to them in the application.

PAM3 States

"Officers should use the relevant discretionary power to decide that IELTS is **not necessary** only if the applicant has submitted evidence that they have the appropriate level of English, such that it would be unnecessary for the applicant to sit an English test.

The type of evidence that officers could take into account would include if the person:

- is a native English speaker;
- has sat an IELTS test more than 12 months before applying for their visa but officers are satisfied the applicant's English has not deteriorated since sitting this test;
- holds an award (being a degree, a higher degree, a diploma or trade certificate) from an institution where all instruction has been conducted in English (the duration of full-time study for this award would normally be at least two years); or
- has studied and/or worked in an English-speaking country for a considerable period; or
- holds NAATI accreditation, or

- has passed the Occupational English Test in relation to their nominated skilled occupation.

Officers who are not satisfied with the evidence presented to them should not award points (or decide that a person has vocational English) under the discretionary power. These applicants should be asked instead to sit an IELTS English test, if available."

This means that if your case officer is not satisfied about the evidence presented to them they must give applicants the opportunity to sit the IELTS examination. ASPC's current policy is they **will not reject your application because you have not submitted an IELTS**.

As an example, if you have only completed a 1.5 year Masters program in Australia and you have no other evidence about your English ability then you will need to sit the IELTS test. If you have a good IELTS score which you used to gain entrance to University, then you may submit this result even though it may be more than twelve months old. The logic behind the use of discretionary power is that your English would normally have improved while you have studied at University in Australia. This is not always the case, but hopefully so.

The case officer can still ask you to sit the next available IELTS test even though you may have given them plenty of evidence. If this occurs then you have no option but to sit the exam in the near future. Even if your friends were given 20 points without an IELTS test and you were not, there is nothing you can do about it. They will contact you and give you 28 days to show an IELTS booking receipt. They usually state that it must be the **next available so don't give them a receipt with a booking date three months ahead!**

If you are worried about your English ability please visit our office for further advice. There may be further options available to you.