

Two Year Study Rule- Update

In Volume 2 of Immigration News released earlier this year (you can find it on our web site), we provided some information regarding the two-year study requirement for students to gain an exemption of the recent work experience and for the allocation of 5 points.

Recently DIMIA has issued new guidelines in relation to this issue. The principle of being able to stretch a 1.5yr course to meet the 2 years of full time study remains, but now DIMIA has been more flexible in their approach regarding the number of subjects a student must study during this period.

Two Academic years of study?

Two years of full time study is defined as two academic years. Traditionally one academic year must be at least 36 weeks of duration which may include any number of breaks. However the new catch is that you cannot do two 36 week courses back to back without breaks for this would mean that you would only study about 1.5 years in Australia.

So on one hand you have to meet the two academic year requirements, and you also have to meet the requirement of being physically present for two years, whilst completing your course/ courses.

Combining two courses?

The new rules have been designed so that it is not necessary that you study a course of two years duration. You are able to do two courses to meet the two-year study requirement. If you are doing this then you must complete each course at the place you begin it.

The most obvious example of this is if you do two Diploma's, Trade Certificates', Graduate Diploma's or Master courses. In the law there is nothing that says you have to do these courses consecutively. This means you could have completed a one-

year Diploma five years ago, returned home to work for a while and then come back to Australia and complete another one-year diploma. Remember though in our previous newsletter about the issue of relevancy between joining two courses together (Volume 2).

Stretching a 1.5yr course?

The ability of being able to stretch a 1.5yr course to meet the two-year requirement is probably the most talked about aspect of these new rules. In Volume 2 we talked about how this is possible if you maintain at least a 75% full-time study load. For example at least three subjects a semester at University which uses a two semester system.

Recently DIMIA has softened its original approach that in each of the four semesters required you must have maintained these 3 subjects, 75% study load. Now they are saying that they will allow students who have in some cases only one subject to complete their course in the final semester to be regarded as full time students.

This change has come about because if an educational institution considers you to be a full time student then DIMIA must accept this

Completing Final Subjects?

It is not uncommon for students to complete a three-semester course in four semesters. This could be due to a number of different reasons. However whatever the cause of this, as long as the educational institution has permitted (meaning you have still met their definition a satisfactory performance), this part-time study is treated as the equivalent of full-time study!

Now DIMIA says this is acceptable in limited circumstances only. For example if you were to fail a subject and then had to repeat only one unit in the final semester then you would be treated as a full time student.

In the future if the ASPC find too many students seeming to be failing one unit and are completing it in the final semester, they may change their policy on this issue.

If you have trimmed a subject off your study load because you found studying the four subjects in one semester too difficult to handle and the university has allowed you to do this, then you should not have any trouble with the ASPC accepting this also.

Of course, most students should have to extend their student visa's to finish a final semester that was not planned for in their original COE. If DIMIA has given you another student visa to finish a subject when you are in fact a part-time student, then this should be accepted. In these cases even though you are studying part-time you will be considered a full-time student for the purposes of granting a student visa, because it is impossible to do this if DIMIA considers you part-time.

Substantial Benefits from Credits?

The intention of the two academic years of full time study requirement is that you complete it without substantial credits or recognition of prior learning or recognition of work experience that would allow a reduction in contact hours below that of the study load undertaken and approved by the institution as maintaining full-time study status.

For example, if your course would normally consist of four semesters of full time study, but you have completed it in three semesters (18 months) due to substantial credits given to you. This would not be acceptable because you have not been physically present in Australia for the actual two years as a full-time student.

In the next Immigration News issue we will be giving examples of the types of study programs that are acceptable and the ones which are not in relation to meeting this new 2yr requirement.