

IMMIGRATION NEWS

(Volume 55)

*English Requirements and
Current GSM Applications*



Dear Students

Welcome to the new subscribers and we hope you find this latest edition interesting. This service is brought to you by Australian Immigration Law Services.

English Requirements and Current GSM Applications

Now that the academic year for many students is coming to an end and the results are about to come out we thought it timely to remind you about the new English requirements for the new onshore GSM permanent residency applications.

It has come to my attention over the last few months that many students are confusing the IELTS test requirements for the old GSM visa's before the 1st of September and the new 485 Graduate temporary residency visa (18 months) and the new 885 or 886 permanent residency visa's.

Pre 1st September 2007

Under the previous system it was ok to lodge your PR application without the IELTS result or even a booking receipt and DIAC would ask later to book in for an IELTS test later during the processing. This was particularly handy for those students who were struggling to obtain the score they needed.

Under this old system even if you were (or will be) rejected due to failure to reach the IELTS score you needed you can appeal the rejection to the Migration Review Tribunal (MRT) and during this process you will be able to substitute another IELTS test result in order to gain your residency. Currently the MRT is full of students appealing their PR rejection on the basis of their English abilities. Fortunately for most, the motivation to study English harder is somewhat boosted by the reality that at the MRT it will be their last chance to obtain a higher test score. Most students seem to do well and reach the level they need.

Post 1st September 2007

Nearly all of you should now realise about the new points system and how 5.0 on each of the IELTS test sections (Vocational) is the minimum for trade occupations (Cooks, Hairdressers etc) but for the rest of you it is 6.0 on each (Competent).

IELTS and the new 485 Graduate Visa

Since there is no pass mark for this visa subclass you just need to reach the minimum level you need (as mentioned above). It is not a requirement when you apply for this visa that you have an IELTS result in your hand. It is however a requirement that you present evidence that you have booked in for a test date.

Interestingly, and probably as an oversight, the law does not specify when that booked future test date needs to be. The regulations are shown below so you can see what I am referring to;

485.215(c): the application is accompanied by evidence that the applicant has made arrangements to undergo a language test specified by the Minister in an instrument of writing for this paragraph.

After your IELTS test date has passed and you have that result in your hand then you will have to give it to DIAC otherwise they will reject you. If it is not high enough, well we are yet to see if they will give you another chance but the way the law is written, it seems that they do not have to.

885 or 886 Visa's and IELTS tests

Now this is where you need to be very careful.

When you lodge a GSM permanent residence application such as the 885 or 886 visa's you must provide evidence that you have reached the Competent English level and defined by Regulation 1.15C (below) or if you are doing a trade course, Vocational English as defined by regulation 1.15B (below). These two levels are the minimum requirement you must demonstrate at the time you apply otherwise your application will be rejected.

You will not be allowed to provide an IELTS booking receipt like you can for the 485 visa and the old pre 1st of September GSM applications and as I mentioned earlier. **It seems so many students don't realise this and they are planning to lodge their PR applications without a valid IELTS test result and they are going to provide just a booking receipt!**

Competent and Vocational English are defined as;

Reg 1.15C [Competent English](#)

If a person applies for a [General Skilled Migration visa](#), the person has competent English if the person satisfies the Minister that the person:

- (a) has achieved, in a test conducted not more than 2 years before the day on which the application was lodged:

- (i) an [IELTS test](#) score of at least 6 for each of the 4 test components of speaking, reading, writing and listening; or
- (ii) a score:
 - (A) specified by the Minister in an [instrument](#) in writing for this sub-subparagraph; and
 - (B) in a language test specified by the Minister in the [instrument](#); or
- (b) holds a passport of a type specified by the Minister in an [instrument](#) in writing for this paragraph

You can provide other evidence as mentioned above do demonstrate Competent without sitting the IELTS such as;

1. SPECIFY a score of at least 'B' in each of the four components of an Occupational English Language test is a score of [competent English](#) for the purposes of sub-subparagraphs [1.15C\(a\)\(ii\)\(A\)](#) and [\(B\)](#); AND
2. SPECIFY a passport issued by the United Kingdom, the United States of America, Canada, New Zealand or Ireland as a passport for the purposes of paragraph [1.15C\(b\)](#).

So all you lucky people with the passports above do not need to sit the test if you are seeking just the Competent level of English.

For Vocational English for the purposes of the new GSM visa's it is defined as;

Reg 1.15B [Vocational English](#)

(5) If a person applies for a [General Skilled Migration visa](#), the person has [vocational English](#) if the person satisfies the Minister that the person has achieved, in a test conducted not more than 2 years before the day on which the application was lodged:

- (a) an [IELTS test](#) score of at least 5 for each of the 4 test components of speaking, reading, writing and listening; or
- (b) a score:
 - (i) specified by the Minister in an instrument in writing for this subparagraph; and
 - (ii) in a language test specified by the Minister in the instrument.

The language test specified by the Minister is the OET.

The 485 visa will give you time

The whole reason the 485 visa was developed in the first place was to give students plenty of time to organise their applications before they lodged for the PR visa's. If you need time to improve your IELTS score then apply for the 485 visa first and then later when you have obtained the IELTS result you need lodge your PR visa.

To skip the 485 visa just to save yourself money would be a crazy idea considering how much you have spent to be in a position to apply for permanent residency in the first place.

Next Seminar?

Our next Seminar is on the Friday the 7th December at UTS at 2.00 pm (as usual), Lecture Theatre CB02.04.11. The room is marked 04.11. You can find this easily by entering the Tower building at street level and then it is to the left near the IT student support section. Level 4 is actually street level.

I am sorry that we do not have time to respond to general e-mail questions but we do appreciate the feed back that many of you provide. You may ask as many questions as you like during the seminar.

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Kind regards

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