



Student Visa Program Integrity Measures 2009–10

From August 2009, there have been continuous changes to improve the integrity of the student visa program. These changes are designed to strengthen the integrity of the student visa program as well as to help streamline visa application procedures for some clients. The changes are summarised as follows:

- upgrading the interview program to confirm the genuineness of a student visa applicant and to check the applicant's financial capacity
- removing or restricting eVisa access for some student visa agents where there is evidence of fraud or inactivity
- restricting access to eVisa for some segments of the case load if analysis demonstrates restricted access would allow for better control
- increasing the basic rate of living costs for student visas from \$12 000 to \$18 000 a year
- introducing new migration regulations which allow officers of the Department of Immigration and Citizenship (DIAC) to require student visa applicants to demonstrate the funds they are relying upon to meet the costs of studying/living in Australia will be genuinely accessible to them during their stay in Australia
- clarifying discretionary student visa cancellation provisions, which allow DIAC officers to consider cancellation of a student visa if a student's education provider defers or suspends their studies for other than compelling or compassionate reasons
- new migration regulations which require student visa applicants who wish to study two or more courses as a package on their student visa, to meet the highest Assessment Level (AL) which applies to any of the courses in their package of study (with the exception of ELICOS courses)
- visa application charge (VAC) exemptions for students who are affected by an education provider default who need to apply for a further student visa to continue their studies
- reducing the Assessment Level for postgraduate research (subclass 574) student visas.

Student visa checks strengthened

As one of the measures to strengthen integrity, DIAC upgraded the interview program in India, Mauritius, Nepal, Brazil, Zimbabwe and Pakistan to confirm the genuineness of student visa applicants and to check financial capacity.

Australia's student visa program supports the entry of genuine international students, for whom DIAC provides a convenient, efficient service. The targeted measures address concerns around some elements within the student caseload relating to document fraud, financial capacity and student bona fides.

Student visa living costs and evidence of access to funds

The Migration Regulations require international students to show evidence of funds to contribute to the cost of living and studying in Australia. This helps to ensure students are better able to make the most of their studies and have a safe and enjoyable experience in Australia.

While international students are able to supplement their income with money earned through part-time work in Australia, the 'living costs' requirement helps to support the success of students in their studies by ensuring they do not need to rely on such work to meet all their expenses.

Under new migration regulations, the basic rate of living costs were increased from the previous rate of \$12 000 a year to \$18 000 a year for the main student, \$6300 a year for the student's partner, \$3600 a year for the student's first child and \$2700 a year for every other child.

Student visa applicants may also be asked to demonstrate the funds they are relying upon to meet the costs of studying in Australia will be genuinely available to them during their stay in Australia.

DIAC officers assessing student visa applications have the discretion to consider a student visa applicant's circumstances to determine if the student genuinely holds the funds to which they claim to have access. This includes checking:

- a prospective student's previous financial and immigration history
- the employment history of the student or the person providing the student with financial support and
- the source of the income used (for example, cash assets or a bank loan).

Where there is doubt about the student's ability to access their claimed funds in Australia, the prospective student may be requested to provide further information in support of their application. For example, students relying upon a bank loan may need to show that these funds have been deposited into a bank account to which they have unrestricted access, and that they have the financial capacity to service the loan both before they depart for Australia and once they arrive.

Cancellation provisions for Student visas

New migration regulations have been introduced in response to growing concerns that the integrity of the Student visa program was at risk due to an increase in the number of students deferring or suspending their studies, in order to engage in conduct not contemplated by their student visa. These regulations give DIAC officers, student visa holders and education providers clearer guidelines in relation to when consideration may be given to cancelling a student's visa. The regulations specify that where an education provider defers or suspends the course of study of a student visa holder, consideration to cancelling the visa may be made if the following circumstances apply:

- the deferral or suspension was because of the student's conduct
- the deferral or suspension was on the basis of fraudulent or misleading evidence
- the deferral or suspension was for reasons other than compelling or compassionate circumstances
- the student visa holder has deferred or suspended their studies for compelling or compassionate reasons and those reasons have ceased to exist.

The government appreciates that students experiencing difficult circumstances may need to temporarily take leave from their studies. Genuine students have nothing to fear from this change as they do not affect genuine students who may need to defer or suspend their studies. Student visa holders will still be entitled to request a temporary deferment or suspension from their education provider where they have compassionate or compelling reasons to do so.

Education providers will continue to be able to defer an international student's studies for compassionate or compelling reasons under Standard 13 of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007.

Compassionate or compelling circumstances are generally those that are beyond the control of the student, and which may affect their well-being or their progress such as a serious injury, illness, traumatic experience or the death of a close family member. In these situations, the student is generally allowed to remain on a student visa, provided they are still enrolled in their course of study and intend to resume their studies.

DIAC officers may verify the circumstances of an international student's deferral or suspension of their studies with an education provider. Where the deferral or suspension is for reasons other than those which are compelling or compassionate or where they have ceased to exist, the student visa may be subject to cancellation.

Course packaging Assessment Levels

In response to concerns applicants were enrolling in courses they may not intend to undertake, in order for their student visa application to be assessed in accordance with a lower assessment level, new migration regulations require student visa applicants who wish to study two or more courses as a package on their student visa, to meet the highest Assessment Level (AL) which applies to any of the courses in their package of study.

This change aligns the student visa assessment criteria to the highest risk course that the applicant will undertake and encourages students to make enrolment choices based on their desired field of study rather than migration requirements.

The Assessment Level for student visa applicants only studying one course continues to be based on the country of the passport they hold and the subclass of visa which corresponds to that course of study.

The Assessment Level for student visa applicants studying two or more courses is now based on the country of the passport they hold as well as the Assessment Levels of the student visa applicant's preliminary course(s) and

the student's principal/main course. Where the Assessment Level of a preliminary course is higher than the Assessment Level for the main course (with the exception of English language courses), students are assessed against the evidentiary requirements of the highest Assessment Level in their package of courses.

Example: A student from Vietnam has received offers from Australian education providers to study the following courses in Australia:

- a preliminary English language course in the independent ELICOS sector (subclass 570) subject to assessment level three
- a bachelor degree in the higher education sector (subclass 573) subject to assessment level two and
- a masters by research in the postgraduate research sector (subclass 574) subject to assessment level one.

This student can package all three courses and apply for a postgraduate research (subclass 574) student visa. Under the new arrangements, the student will be subject to Assessment Level two requirements against the main course (masters by research). This is because the Assessment Level for the bachelor degree attracts the highest Assessment Level in the package as the Assessment Level for the English course is excluded from the Assessment Level calculation.

Visa application charge exemptions for students affected by an education provider default

Where an education provider closes or ceases to offer a course to international students, this is known as education provider default. If a provider defaults but the student wants to continue their studies in Australia, in most circumstances the student can continue studying on their existing student visa. Students who are affected by a provider default, who need to apply for a further student visa to continue their studies, may be exempt from paying the visa application charge (VAC) for this application.

More information on the entitlements for students affected by provider defaults is available on the Department of Education, Employment and Workplace Relations (DEEWR) website.

See: <http://aei.gov.au/AEI/ESOS/Default.htm>

Streamlining postgraduate research sector student visas

In recognition of the overall lower risk of postgraduate research students, the Assessment Levels for international students seeking to apply for a postgraduate research (subclass 574) student visa to obtain a doctoral or masters by research degree were reduced as follows:

- countries previously listed at Assessment Level three or four move to assessment level two
- countries previously listed at Assessment Level one remain at this level
- countries previously listed at Assessment Level two, which are not mentioned below, remain at this level
- the following passport countries currently listed at Assessment Level two move to Assessment Level one:
 - Bulgaria
 - Costa Rica
 - East Timor
 - Guam
 - Israel
 - Jordan
 - Laos
 - Maldives
 - Northern Mariana Islands
 - Solomon Islands
 - Tonga
 - Turkey
 - Uruguay
 - Vanuatu

Assessment Level one countries (including those countries listed above) will be eligible to make their initial and subsequent student visa applications using eVisa.

Useful information

Specific information on applying for a student visa for students in Australia is available by phoning **131 881**.

For students located outside Australia, contact details for DIAC offices are available on the DIAC website.

See: <http://www.immi.gov.au/contacts/overseas/>

Further information on applying for a student visa is available on the department's website.

See: <http://www.immi.gov.au/students/>