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An important message for international students

Congratulations to the international students who have finished their studies this year! With your studies complete it is now time to think about your future in Australia and whether you are looking to stay short term or long term.

To remain in Australia most students will require a Temporary Graduate subclass 485 visa.

This visa is useful in offering full work rights for up to 4 years, or providing additional time for students to complete steps that will help gain relevant work experience or increase their points score when pursuing permanent residence.

What is a Temporary Graduate subclass 485 visa?

The 485 visa is for international students who complete 2 years of study in Australia. Depending on the criteria being met the visa will be granted for either 18 months, 2 years, 3 years or 4 years.

The 485 visa is a great option as it offers full work and study rights. You can lie on the beach if you choose but, it is most likely you will be working on steps to help kick start your career or gain permanent residence.

The common perception is that 485 visas are *easy* to get approved which can be far from the truth. Many highly qualified and intelligent professionals have made mistakes in lodging their own 485 visa application and when it has been refused they have lost the opportunity to remain in Australia long term.

What could go wrong?

1. Applying for the wrong 485 visa subclass

To start, there are **two streams** within the 485 visa subclass:

- **485 Graduate Work:** If you studied in Australia before 5 November 2011, or you studied at a level below a Bachelor degree and have an occupation on the relevant occupation

list, then you may be eligible to apply for the **Graduate Work stream**. This visa is granted for a period of 18 months.

- **485 Post Study Work:** If you studied at degree level or higher then you may qualify for the **Post Study Work stream**. This visa is granted for 2-4 years depending on the level of study.

If an application is made in the wrong stream, the 485 visa can be refused. If it is granted, it is likely to have the shorter validity period of 18 months instead of 2 to 4 years, which typically cannot be reversed.

2. Not meeting the Time Of Application criteria

There are a number of requirements that need to be met at the time you submit the 485 visa application including the provision of specific supporting evidence.

If you do not provide these documents when the visa is lodged the application will be **refused**. That decision may be challenged at the Administrative Appeals Tribunal (AAT), however, in this instance the appeal is unlikely to be successful and you may need to leave Australia.

3. Australian Study Requirement - Period of study and time spent outside Australia during your study

Many students understand they must meet following as part of the Australian Study Requirement:

- complete at least one CRICOS registered course over a minimum period of 2 academic years or 92 weeks, and

- ensure the total period of study took no less than 16 months to complete from course commencement to completion date

However, if there has been time spent outside Australian, for any reason such as returning home to complete an internship at a university outside Australia, or to go on holiday etc., then students may be at risk of not meeting the 16 month study requirement and the application can result in immediate refusal.

Furthermore, the 5 points awarded for meeting the Australian Study Requirement can be lost when applying for a visa in the general skilled migration program

4. 485 visas can only be lodged in Australia. The risk of travelling before you lodge

It is an exciting time when you finish your studies and many students use this time to visit their families overseas.

As a student visa holder, you should understand that when the course has been completed the university or education provider is required to notify the Department of Home Affairs that you have completed your studies.

If you leave Australia at end of your course the Department of Home Affairs may cancel your Student visa without notice. If your student visa is cancelled you will have no right to re-enter Australia unless you obtain another type of Australian visa.

Where possible, we recommend lodging the 485 visa application before you leave Australia as it will show your intention to return.

5. Common eligibility criteria

Unlike the general skilled migration program the 485 visa is not points-tested.

The following criteria is common to both the Post Study Work and Graduate Work streams. It is important to ensure that at the time of lodgement:

- under 50 years of age
- meet the English language requirement
- meet the 2 year study requirement
- no more than 6 months have passed between course completion and 485 lodgement
- a substantive visa is held. If this is not a student visa, no more than 6 months can pass following the expiration of the last student visa held

Specifics within some of the criteria is subtle but, strict and can be the catalyst for the application being refused. Understanding when the course has been completed is one of the critical factors that will determine whether the application is successful or not.