



Student Allowances Amendment Regulations (No 2) 2004

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 6th day of September 2004

Present:

Her Excellency the Governor-General in Council

Pursuant to sections 303, 306, and 307 of the Education Act 1989, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Schedule
New table 7 substituted in Schedule 2 of principal regulations

Regulations

1 Title

- (1) These regulations are the Student Allowances Amendment Regulations (No 2) 2004.
- (2) In these regulations, the Student Allowances Regulations 1998¹ are called “the principal regulations”.

¹ SR 1998/277

2 Commencement

- (1) These regulations, except regulation 11 and the Schedule, come into force on the 28th day after the date of their notification in the *Gazette*.
- (2) Regulation 11 and the Schedule come into force on 1 January 2005.

3 Interpretation

- (1) The definition of **personal income** in regulation 2(1) of the principal regulations is amended:
 - (a) by omitting the word “but”, and substituting the word “and”;
 - (b) by inserting, before paragraph (a), the following paragraph:

“(aa) includes, on and after 1 January 2005, and for the purposes of any assessment of eligibility undertaken before that date for an allowance that is to be paid in respect of the undertaking of a portion of a recognised course of study commencing on or after 1 January 2005, and to the extent (if any) determined by the chief executive, any lump sum or periodical payment of any kind received by the student from any bursary, grant, or scholarship; but”
 - (c) by inserting in paragraph (c)(iii), before the word “lump”, the words “except as provided in paragraph (aa),”;
 - (d) by inserting in paragraph (c)(v), before the word “amounts”, the words “except as provided in paragraph (aa),”.
- (2) Regulation 2(1) of the principal regulations is amended by revoking the definition of **married**, and substituting the following definition:

“married—

“(a) means having a spouse; and

“(b) for the avoidance of doubt, does not include a person who is legally married but who does not have a spouse (as that term is defined in this subclause)”.

- (3) Regulation 2(1) of the principal regulations is amended by revoking the definition of **single**, and substituting the following definition:

“single—

“(a) means not having a spouse; and

“(b) for the avoidance of doubt, includes a person who is legally married but who does not have a spouse (as that term is defined in this subclause)”.

- (4) Regulation 2(1) of the principal regulations is amended by revoking the definition of **spouse**, and substituting the following definition:

“spouse, in relation to an applicant for or the recipient of an allowance,—

“(a) in respect of an allowance applied for to undertake a portion of a recognised course of study commencing on or after 1 January 2005, means a person who is legally married to, or who is living in a relationship in the nature of marriage with, that applicant or recipient, if—

“(i) both of them are of or over 25; or

“(ii) one or both of them are younger than 25 and at least 1 of them has a supported child:

“(b) in respect of an allowance (other than an independent circumstances grant) applied for to undertake a portion of a recognised course of study commencing before 1 January 2005,—

“(i) means a person who is legally married to that applicant or recipient; and

“(ii) includes a person who is living in a relationship in the nature of marriage with that applicant or recipient if—

“(A) both of them are of or over 25; or

“(B) one or both of them are younger than 25 and at least 1 of them has a supported child”.

- (5) Regulation 2(1) of the principal regulations is amended by inserting, in their appropriate alphabetical order, the following definitions:
- “**standard tax** means the amount of income tax calculated on a weekly basis that is deductible in accordance with tax code ‘M’ stated in section NC 8 of the Income Tax Act 1994
- “**weekly parental income**, in relation to any person, means the amount of parental income in relation to that person divided by 52”.
- (6) The definition of **spousal income** in regulation 2(1) of the principal regulations is amended:
- (a) by omitting the word “but”, and substituting the word “and”:
- (b) by inserting before paragraph (a), the following paragraph:
- “(aa) includes on and after 1 January 2005, and for the purposes of any assessment of eligibility undertaken before 1 January 2005 for an allowance that is to be paid in respect of the undertaking of a portion of a recognised course of study commencing on or after 1 January 2005, and to the extent (if any) determined by the chief executive, any lump sum or periodical payment of any kind received by the spouse from any bursary, grant, or scholarship; but”
- (c) by inserting in paragraph (c)(i), before the word “lump”, the words “except as provided in paragraph (aa),”:
- (d) by inserting in paragraph (c)(iii), before the word “amounts”, the words “except as provided in paragraph (aa),”.
- (7) Paragraph (c)(iii) of the definition of **supported child** in regulation 2(1) of the principal regulations is amended by omitting the words “or a transitional retirement benefit under the Social Welfare (Transitional Provisions) Act 1990”.
- (8) Despite subclauses (2) to (4), any person who was **married** within the meaning of regulation 2(1) of the principal regulations (as it read immediately before the commencement of this regulation) must continue to be treated after the commencement of this regulation as married for the purposes of these

regulations in respect of any portion of a course of study undertaken by the person that—

- (a) commences before 1 January 2005; and
- (b) ends at any time after the commencement of this regulation.

4 Eligibility for basic grant

- (1) Regulation 7(1) of the principal regulations is amended by revoking paragraph (b), and substituting the following paragraph:

“(b) a tertiary student of or over 16 but younger than 18 who has a supported child or children; or”.

- (2) Regulation 7(1A) of the principal regulations is amended by omitting from paragraph (b)(ii) the words “Qualifications Framework”, and substituting the words “Certificate of Educational Achievement”.
- (3) Nothing in subclause (2) affects the eligibility of a student who is younger than 18 from receiving a basic grant on the ground in regulation 7(1A)(b)(ii) of the principal regulations as it read before the commencement of that subclause if the student had previously received a basic grant on that ground.

5 Eligibility for independent circumstances grant

- (1) Regulation 8 of the principal regulations is amended:
 - (a) by revoking subclause (2); and
 - (b) by omitting from subclause (3) the words “subclauses (1) and (2)”, and substituting the expression “subclause (1)”.
- (2) Nothing in subclause (1) affects the entitlement of a student to continue to receive an independent circumstances grant that was granted under regulation 8(2) of the principal regulations before the commencement of this regulation in respect of a portion of a recognised course of study ending after that commencement, and payment of that grant ends in accordance with regulation 23 of the principal regulations.

6 Student not eligible for certain allowances if eligible for other government study assistance

The heading to regulation 14 of the principal regulations is amended by omitting the word “not”, and substituting the words “may not be”.

7 Period for which certain allowances payable

Regulation 23 of the principal regulations is amended by inserting, after subclause (1), the following subclauses:

“(1A) Despite subclause (1), if the application for the basic grant or independent circumstances grant was received more than 7 days after the commencement of the portion of the recognised course of study (being a portion that commences on or after 1 January 2005), a basic grant or independent circumstances grant must not be paid for any period before the beginning of the week in which the application was received unless the application has been brought within any extended time for the application to be made given under regulation 40(7).

“(1B) The period for which a basic grant or independent circumstances grant to which subclause (1A) applies must be paid commences with—

“(a) the beginning of the week in which the application for it is received; or

“(b) if the application for it is brought within any extended time allowed under regulation 40(7), on the same day on which payment would have commenced under subclause (1).”

8 No payment if income limit exceeded

Regulation 27 of the principal regulations is amended:

(a) by inserting, after the words “No payment”, the words “in respect of any week”:

(b) by inserting, after the words “combined income”, the words “in that week”.

9 Applications

(1) Regulation 40 of the principal regulations is amended by revoking subclause (4), and substituting the following subclause:

- “(4) Where a statement or information has been required under subclause (3), unless the chief executive is satisfied that there are special circumstances justifying a delay in the provision of that statement or information beyond the applicable date specified in paragraph (a) or paragraph (b), the applicant must provide that statement or information to the chief executive—
- “(a) on or before 31 December, in the year in which the application is made; or
 - “(b) if the portion of the recognised course of study for which the student applied for the allowance commences on or after 1 January 2005, before that portion of the course ends.”
- (2) Regulation 40 of the principal regulations is amended by inserting, after subclause (6), the following subclause:
- “(6A) Subclause (6) applies only in respect of an application made by a student in respect of a portion of a course of study that commences before 1 January 2005.”

10 Calculation of personal income

Regulation 43 of the principal regulations is amended by inserting, after the word “regulations”, the words “, and the weekly amount of the personal income or, as the case requires, the combined income cannot be readily ascertained (for example, because the person or spouse is self-employed)”.

11 Table 7 of Schedule 2 substituted

Schedule 2 of the principal regulations is amended by revoking table 7, and substituting the table 7 set out in the Schedule of these regulations.

Schedule

New table 7 substituted in Schedule 2 of principal regulations

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Table 7

*Weekly value of basic grant for single students under 25
without a supported child on and after 1 January 2005*

Groups	Weekly value of allowance
A student living at home	\$128.74, which amount is, after the deduction of standard tax, to be reduced by 25 cents for each \$1 of weekly parental income in excess of \$648 a week.
A student living away from home	\$160.93, which amount is, after the deduction of standard tax, to be reduced by 25 cents for each \$1 of weekly parental income in excess of \$648 a week.

Martin Bell,
Acting for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, most of which come into force on the 28th day after the date of their notification in the *Gazette*,—

- adjust the lower student parental income threshold to \$33,696 and the abatement rate of student allowance payable to 25% of parental weekly income payable in excess of the threshold:
 - remove, subject to savings provisions, the entitlement of previously married students, and students in paid employment for 96 weeks, to an independent circumstances grant:
 - subject to savings provisions, require married students who are under 25 and without dependents to be parentally income tested and not subject to the spousal income test:
 - make a number of other changes designed to simplify the administration of the student allowances scheme.
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**Student Allowances Amendment
Regulations (No 2) 2004**

2004/299

Issued under the authority of the Acts and Regulations Publication Act 1989.
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These regulations are administered in the Ministry of Social Development.
