



Student Allowances Amendment Regulations (No 2) 2010

Anand Satyanand, Governor-General

Order in Council

At Wellington this 30th day of August 2010

Present:

His Excellency the Governor-General in Council

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

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Regulations

- 1 Title**
These regulations are the Student Allowances Amendment Regulations (No 2) 2010.
- 2 Commencement**
 - (1) Regulations 5 and 14 come into force immediately after the commencement, at 2 am on 29 November 2010, of section 406(2) and Schedule 4 of the Immigration Act 2009.
 - (2) The rest of these regulations come into force on 1 October 2010.
- 3 Principal regulations amended**
These regulations amend the Student Allowances Regulations 1998.

4 Eligibility for certain allowances: amendments on 1 October 2010

- (1) Regulation 12(1)(a)(iv) is amended by omitting “; and” and substituting “; or”.
- (2) Regulation 12(1)(a) is amended by adding the following subparagraph:
 - “(v) satisfies the chief executive that he or she is entitled under the Immigration Act 1987 to reside indefinitely in New Zealand and was sponsored into New Zealand by a family member who, at the time of the student’s entry into New Zealand,—
 - “(A) was recognised under the Immigration Act 1987 as a refugee; and
 - “(B) held a residence permit issued under that Act; and”.
- (3) Regulation 12 is amended by inserting the following subclause after subclause (1):

“(1A) Subclause (1)(a)(v) is subject to regulation 47A(a) (which relates to an application after 30 September 2010 for an allowance for a course commencing before 1 January 2011).”

5 Eligibility for certain allowances: amendments immediately after 2 am on 29 November 2010

- (1) Regulation 12(1)(a)(iii) (as substituted by section 406(2) and Schedule 4 of the Immigration Act 2009) is amended by omitting “; and” and substituting “; or”.
- (2) Regulation 12(1)(a) (as so substituted) is amended by adding the following subparagraph:
 - “(iv) satisfies the chief executive that he or she is entitled under the Immigration Act 2009 to reside indefinitely in New Zealand and was sponsored into New Zealand by a family member who, at the time of the student’s entry into New Zealand,—
 - “(A) was recognised under the Immigration Act 1987 or the Immigration Act 2009 as a refugee; and

“(B) held a residence permit issued under the Immigration Act 1987 or a residence class visa issued under the Immigration Act 2009; and”.

- (3) Regulation 12(1A) (as inserted by regulation 4(3) of these regulations) is amended by omitting “(1)(a)(v)” and substituting “(1)(a)(iv)”.

6 Student not eligible for certain allowances where student or spouse or partner receiving social security payments

- (1) The heading to regulation 13 is amended by adding “, **New Zealand superannuation, or veteran’s pension**”.

- (2) Regulation 13 is amended by adding the following subclauses as subclauses (2) and (3):

“(2) No student is eligible for an allowance continued by regulation 3 while that student or that student’s spouse or partner is receiving either or both of the following:

“(a) New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001:

“(b) a veteran’s pension under the War Pensions Act 1954.

- “(3) Subclause (2) is subject to regulation 47A(b) (which relates to an application after 30 September 2010 for an allowance for a course commencing before 1 January 2011).”

7 Amount of allowances to be paid to students

Regulation 18 is amended by inserting the following subclause after subclause (1):

- “(1A) The rates in Schedule 2 (as amended by regulation 15 and the Schedule of the Student Allowances Amendment Regulations (No 2) 2010) must be used for any payment on or after 1 October 2010 of an allowance continued by regulation 3 (regardless of whether the allowance is one awarded in respect of a course of study commencing before, on, or after 1 October 2010).”

8 New regulation 20 substituted

Regulation 20 is revoked and the following regulation substituted:

“20 Maximum periods of allowances

- “(1) No student is entitled (except in the circumstances described in this regulation and in regulations 21, 22, and 30(3)) to receive for more than the following period allowances continued by regulation 3:
- “(a) 92 weeks, if the allowances are for any recognised course or courses of study leading to the completion of any recognised programme or programmes that are a full-time course or courses of secondary instruction:
 - “(b) 200 weeks, if the allowances are for any other recognised course or courses of study.
- “(2) The period of 92 weeks specified in subclause (1)(a)—
- “(a) commences when a student first receives an allowance continued by regulation 3 in respect of the course or courses specified in subclause (1)(a); but
 - “(b) does not include any period when no allowance of that type is paid.
- “(3) The period of 200 weeks specified in subclause (1)(b)—
- “(a) commences when a student first receives an allowance continued by regulation 3 in respect of the course or courses specified in subclause (1)(b); but
 - “(b) does not include any period when no allowance of that type is paid.
- “(4) For the purposes of subclauses (1) to (3), the recipient of an allowance continued by regulation 3 is deemed not to have received any payments under it in respect of a course of study if that recipient withdraws from the course before the commencement of his or her final examination period and, with the chief executive’s consent, ensures all payments made to the recipient in respect of the course under the allowance are refunded to the chief executive before the following deadline:
- “(a) within 12 months of the commencement of the course, where it is a full academic year long; and
 - “(b) before the end of the course, in every other case.
- “(5) No recipient of an allowance continued by regulation 3 is entitled to receive, or may receive, despite anything in these regulations, any payments under that allowance in respect of any period during which he or she undertakes paid employment that is recognised as fulfilling part of the requirements of

the recognised course of study in respect of which the allowance was awarded.

- “(6) The period of 92 weeks specified in subclause (1)(a) or, if applicable, the period of 200 weeks specified in subclause (1)(b) must be reduced, for a student who has been paid a basic grant, independent circumstances grant, or accommodation benefit before 1 January 1999, by the number of weeks calculated under regulation 48.
- “(7) The chief executive may, where he or she considers that in any particular case special circumstances exist, grant a person eligibility for an allowance continued by regulation 3 for a period longer than the period of 92 weeks specified in subclause (1)(a) or, if applicable, the period of 200 weeks specified in subclause (1)(b).
- “(8) Subclauses (1) to (7) are subject to regulation 47A(c) (which relates to an application after 30 September 2010 for an allowance for a course commencing before 1 January 2011).”

9 Payment of certain allowances for long programme of study

- (1) The heading to regulation 21 is amended by adding “**(other than secondary instruction)**”.
- (2) Regulation 21(1) is amended by inserting “(other than a full-time course of secondary instruction)” after “a recognised programme”.
- (3) Regulation 21 is amended by adding the following subclause:
- “(3) Subclauses (1) and (2) are subject to regulation 47A(d) (which relates to an application after 30 September 2010 for an allowance for a course commencing before 1 January 2011).”

10 Payment of certain allowances for further programmes of study permitted for retraining for employment, etc

- (1) Regulation 22(1)(a)(i) is amended by inserting “(other than 1 or more full-time courses of secondary instruction)” after “recognised programmes”.
- (2) Regulation 22(1)(a)(ii) is amended by omitting “regulation 20(8)” and substituting “regulation 20(6)”.

- (3) Regulation 22(1)(b)(i) is amended by inserting “a full-time course of secondary instruction, or” after “other than”.
- (4) Regulation 22 is amended by adding the following subclause:
“(3) Subclauses (1) and (2) are subject to regulation 47A(e) (which relates to an application after 30 September 2010 for an allowance for a course commencing before 1 January 2011).”

11 Suspension of certain allowances for failure of full-time course of study

- (1) The heading to regulation 30 is amended by adding “**(other than secondary instruction)**”.
- (2) Regulation 30(3) is amended by adding “(1)(b)”.

12 Postponement of course of study

- (1) Regulation 33(1) is amended by adding “(1)(a) or, if applicable, 20(1)(b)”.
- (2) Regulation 33 is amended by inserting the following subclause after subclause (1):
“(1A) Subclause (1) is subject to regulation 47A(f) (which relates to an application after 30 September 2010 for an allowance for a course commencing before 1 January 2011).”

13 New regulation 47A inserted on 1 October 2010

The following regulation is inserted after regulation 47:

“47A Applications on or after 1 October 2010 for allowances for courses commencing before 1 January 2011

An application made on or after 1 October 2010 for an allowance in respect of a course of study commencing before 1 January 2011, despite any other provision of these regulations to the contrary,—

- “(a) is not subject to regulation 12(1)(a)(v) but is subject to regulation 12(1)(a) as in force immediately before it was amended by regulation 4 of the Student Allowances Amendment Regulations (No 2) 2010:
- “(b) is not subject to regulation 13(2) but is subject to regulation 13 as in force immediately before it was amended by regulation 6 of the Student Allowances Amendment Regulations (No 2) 2010:

- “(c) is not subject to regulation 20(1) to (7) but is subject to the regulation 20 revoked on 1 October 2010 by regulation 8 of the Student Allowances Amendment Regulations (No 2) 2010:
- “(d) is not subject to regulation 21(1) and (2) but is subject to regulation 21 as in force immediately before it was amended by regulation 9 of the Student Allowances Amendment Regulations (No 2) 2010:
- “(e) is not subject to regulation 22(1) and (2) but is subject to regulation 22 as in force immediately before it was amended by regulation 10 of the Student Allowances Amendment Regulations (No 2) 2010:
- “(f) is not subject to regulation 33(1) but is subject to regulation 33(1) as in force immediately before it was amended by regulation 12 of the Student Allowances Amendment Regulations (No 2) 2010.”

14 Regulation 47A(a) amended immediately after 2 am on 29 November 2010

Regulation 47A(a) (as inserted by regulation 13 of these regulations) is amended by omitting “12(1)(a)(v)” and substituting “12(1)(a)(iv)”.

15 Schedule 2 amended

Schedule 2 of the principal regulations is amended in the manner set out in the Schedule of these regulations.

16 Consequential amendments to Student Allowances Amendment Regulations 2010

- (1) This regulation amends the Student Allowances Amendment Regulations 2010.
- (2) The Schedule is amended by revoking the items relating to the following provisions of Schedule 2 of the principal regulations:
 - (a) clause 1: table in subclause (1):
 - (b) clause 2: table in subclause (1):
 - (c) clause 3: table in subclause (1):

(d) clause 4: subclause (1).

Schedule
Amendments to Schedule 2 of
principal regulations

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Clause 1

Table in subclause (1): omit and substitute:

Item	Circumstances	Value (\$)
1	The student's spouse or partner is not enrolled in more than half of a full-time course	369.30
2	The student's spouse or partner is enrolled in more than half of a full-time course but does not receive, and is not eligible for, a grant; and the student has 1 or more supported children	314.17
3	The student's spouse or partner is enrolled in more than half of a full-time course but does not receive, and is not eligible for, a grant; and the student is childless	216.89
4	The student's spouse or partner is enrolled in more than half of a full-time course and receives, or is eligible for, a grant	180.74

Clause 2

Table in subclause (1): omit and substitute:

Item	Circumstances	Value (\$)
1	The student is not living with his or her spouse or partner	116.73
2	The student is living with his or her spouse or partner	78.36

Clause 3

Table in subclause (1): omit and substitute:

Item	Circumstances	Value (\$)
1	The student has 1 or more supported children	314.17
2	The student is 24 or older, childless, and not living in a parental home	216.89
3	The student is 24 or older, childless, and living in a parental home	173.51

Clause 3—*continued*

Item	Circumstances	Value (\$)
4	The student is under 24, childless, and not living in a parental home	180.74
5	The student is under 24, childless, and living in a parental home	144.59

Clause 4

Subclause (1): revoke and substitute:

“(1) The value of an independent circumstances grant payable for a week to a student is \$180.74.”

Rebecca Kitteridge,
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 1 October 2010, amend the Student Allowances Regulations 1998.

Most of the amendments arise from Budget 2010 Student Support Changes, and apply only in respect of an application for an allowance made on or after 1 October 2010 in respect of a course of study commencing on or after 1 January 2011. In particular,—

- *regulation 12(1)(a)* is amended so that a student who is not a New Zealand citizen, a refugee, or a protected person can be eligible for an allowance without having resided lawfully in New Zealand for at least 2 years if he or she is entitled under the Immigration Act 1987 or, as the case requires, the Immigration Act 2009 to reside indefinitely in New Zealand and was sponsored into New Zealand by a family member who, at the time of the student’s entry into New Zealand,—
 - was recognised under the Immigration Act 1987 or the Immigration Act 2009 as a refugee; and

- held a residence permit issued under the Immigration Act 1987 or a residence class visa issued under the Immigration Act 2009 (*regulations 4 and 5*):
- a *new regulation 13(2)* is added to ensure that no student is eligible for an allowance while that student or that student's spouse or partner is receiving New Zealand superannuation or a veteran's pension (*regulation 6(2)*):
- a new 92-week lifetime limit is introduced for allowances in respect of recognised courses that lead to completion of a recognised programme of secondary instruction, and the existing 200-week lifetime limit is confined to other recognised courses (*new regulation 20(1)(a) and (b)* substituted by *regulation 8*):
- allowances paid before 1 January 2011 are required to be taken into account in calculating the continuing entitlement (if any) of a student for an allowance in respect of a course of study commencing on or after 1 January 2011 (*new regulation 20(5)* substituted by *regulation 8*):
- *regulation 20(4)*, which enabled the Minister of Education to exempt courses of study undertaken at a secondary school, and transition courses, from the 200-week lifetime limit on certain allowances, is revoked (*regulation 8*):
- *regulation 20(5)*, which enabled the chief executive of the Ministry of Social Development to exempt any courses from the 200-week lifetime limit on certain allowances, is revoked (*regulation 8*):
- a *new regulation 20(6)* is substituted, replacing *regulation 20(8)* and enabling the chief executive of the Ministry of Social Development, where special circumstances exist, to grant a person eligibility for an allowance for longer than the 92-week lifetime limit for recognised programmes of secondary instruction and the 200-week lifetime limit for other recognised programmes (*regulations 8 and 10(2)*).

Schedule 2 is amended (*regulations 7, 15, and 16 and the Schedule*) to reduce gross rates of basic grants, and the gross rate of the independent circumstances grant, so that new tax rules operating on and

after 1 October 2010 do not result in changes to net (after-tax) rates of payments of student allowances.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 2 September 2010.
These regulations are administered by the Ministry of Social Development.
