



THE STUDENT ALLOWANCES REGULATIONS 1991

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 16th day of December 1991

Present:

THE HON. W. F. BIRCH PRESIDING IN COUNCIL

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

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Student Allowances Regulations 1991.

(2) These regulations shall come into force on the 1st day of January 1992.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Education Act 1989:

“Accommodation benefit” means an accommodation benefit established by regulation 18 (c) of these regulations:

“A-Bursary” means an A-Bursary established by regulation 18 (d) of these regulations:

“Appeal” means an appeal under section 305 of the Act:

“Authority” means the Student Allowance Appeal Authority established by section 304 of the Act:

“Basic grant”—

(a) Means a basic grant established by regulation 18 (a) of these regulations; and

(b) Includes a basic grant for—

- (i) A student aged of or over 16 years and under 25 years of age, whether living at home or away from home:
 - (ii) A student of or over 25 years of age, whether living at home or away from home:
 - (iii) A student with an earning spouse, whether living at home or away from home:
 - (iv) A student with a spouse, where the spouse is dependent on the student or where both are eligible for allowances or where only one of them is eligible for allowances and a couple allowance is paid:
 - (v) A student with a spouse where the spouse is dependent on the student or where both are eligible for allowances or where only one of them is eligible for allowances and they have one or more dependent children;
 - (vi) A single student with one or more dependent children:
- “B-Bursary” means a B-Bursary established by regulation 18 (e) of these regulations:
- “Council”, in relation to a tertiary institution, means the governing body of that institution:
- “Full-time course” means,—
- (a) In relation to a secondary school, a course determined by the Secretary to be a full-time course of secondary instruction:
 - (b) In relation to a tertiary institution or a private training establishment, a recognised course of study or any part of the work of a recognised course of study, declared to be a full-time programme under regulation 4 or regulation 7 of these regulations:
- “Grant” means a basic grant, an independent circumstances grant, or a merit grant:
- “Independent circumstances grant” means an independent circumstances grant established by regulation 18 (b) of these regulations:
- “Merit grant” means a University Junior Scholarship, an A-Bursary, or a B-Bursary; and includes any other award declared by the Secretary to be a merit grant:
- “Parent” includes a guardian and a step-parent, and any person acting in place of a parent of that student:
- “Parental home”, in relation to a single student, means the home where any parent of that student resides:
- “Private training establishment” means a private training establishment that is registered under section 236 of the Act and provides post secondary school education or vocational training:
- “Professorial Board”,—
- (a) In relation to a university that has a body of that name, means that body:
 - (b) In relation to a university that has no body of that name, but has a body referred to as the Senate, means that body:
 - (c) In relation to a university that has neither a body of that name nor a body referred to as the Senate, means the Academic Committee of that university:
 - (d) In relation to a college of education, community college, technical institute, or secondary school, means the Principal of that college, institute, or school:

(e) Subject to paragraph (f) of this definition, in relation to a person enrolled or intending to enrol at a tertiary institution, means the Professorial Board:

(f) In relation to a person enrolled or intending to enrol at 2 or more tertiary institutions, means the Professorial Board of each of those institutions acting jointly:

“Programme” means,—

(a) In relation to a secondary school, a full-time course:

(b) In relation to a tertiary institution, or a private training establishment, any aggregate of courses, classes, and work required for the completion of a degree, diploma, certificate, or other qualification awarded by that institution:

“Proprietor” means the proprietor of a private training establishment:

“Recognised course of study” means a course of study leading to the completion of a programme recognised by the Secretary for the purposes of these regulations:

“Registrar” means the senior administrative officer of a tertiary institution:

“Secondary school”—

(a) Means a secondary school established under Part III of the Education Act 1964 or Part XII of the Act or registered under section 185 of the Education Act 1964 or section 35A of the Act; and

(b) Includes a school that provides secondary instruction and is a correspondence school established under section 105 of the Education Act 1964 or is designated as a correspondence school under section 152 of the Act:

“Secretary” means the chief executive of the Ministry of Education:

“Spouse”, in relation to the holder of a basic grant, includes any person who is not legally married to that holder but is living as that holder’s husband or wife, where—

(a) Both of them are of or over 25 years of age; or

(b) One or both of them are under 25 years of age and at least one of them has a dependent child:

“Tertiary institution”—

(a) Means a university, technical institute, community college, college of education, or wananga, or an institution (being an institution offering tertiary education) approved by the Secretary for the purposes of this definition; but

(b) Does not include a private training establishment.

(2) For the purposes of these regulations, any secondary student who attains the age of 18 years during any year shall be deemed to be aged 17 years until the end of that year.

PART I

APPLICATION AND GENERAL ELIGIBILITY

Applications

3. Applications—(1) Any person who, in any year, is enrolled or proposes to apply for enrolment in a recognised course of study at a secondary school or a private training establishment or a tertiary institution may apply to the Secretary, on a form approved by the Secretary for the purpose, for grants and allowances, or any of them, to be awarded to him or her in respect of that course.

(2) Every application for a grant or an allowance shall be forwarded either—

- (a) To the Secretary or a person authorised for the purpose by the Secretary in writing, in the case of an application in relation to a secondary school or a private training establishment; or
 - (b) To the Registrar of the tertiary institution at which the applicant is enrolled or proposes to enrol, in any other case.
- (3) The Secretary may require any applicant for the award of a grant or an allowance, before being awarded that grant or allowance, to make a statutory declaration or to provide information in some other form as to any matters that, under these regulations, are conditions precedent to the award of that grant or allowance to that applicant.

(4) Where a declaration or information has been required under subclause (3) of this regulation, the applicant shall not be awarded that grant or allowance until he or she has made that declaration or has provided that information.

(5) No grant or allowance shall be awarded to a student who fails to provide any required declaration or information in support of his or her application before the completion of the academic year to which the application relates.

(6) Where a student becomes entitled to hold a grant or allowance during his or her course of study, his or her application shall be considered only if it is made within 60 days of the day on which he or she became so entitled.

(7) Except—

- (a) In circumstances that are, in the opinion of the Secretary or such an authorised person or the Registrar (as the case may be), exceptional; or
 - (b) Where a student becomes entitled to hold a grant or allowance during his or her course of study; or
 - (c) Where a student has failed to provide a declaration or any other information in support of his or her application before the completion of the academic year and the Secretary considers that special circumstances exist,—
- no application for a grant or an allowance made more than 60 days after the commencement of the course of study concerned shall be considered.

Full-time Programmes at Tertiary Institutions

4. Council may declare course or work to be full-time programme—(1) The Council of a tertiary institution may, with the consent of the Secretary, declare any recognised course of study or any specified part of the work of any recognised course of study, offered by that institution, to be a full-time programme.

(2) Where the Secretary or a person authorised for the purpose by the Secretary in writing or Council of any tertiary institution is, in respect of any student enrolled at that institution, satisfied that subjects in which that student is enrolled at some other tertiary institution or private training establishment are capable of forming part of the course of study in which that student is enrolled at that first-mentioned institution, the Secretary or that person or Council may, with the consent of the Secretary, declare the subjects in which that student is enrolled at those institutions together to be a full-time programme.

(3) For the purposes of subclause (1) of this regulation, “specified part”, in relation to a recognised course of study requiring a minimum period of more than 1 year for completion, means a part of the academic work of that course that bears approximately the same proportion to the total academic work of that course as 1 year bears to the minimum period that the course requires for its completion.

5. Enrolment at college of education, other tertiary institution, or private training establishment—Where a student enrolled at a college of education is also enrolled in a full-time programme at a tertiary institution of another class or at a private training establishment, these regulations shall apply to that student as if he or she were enrolled in that programme at that college of education.

6. Payments may be made where work undertaken outside New Zealand—(1) Where the Secretary is satisfied that it is desirable for the holder of a grant to undertake any work outside New Zealand, the Secretary may declare specified work intended to be done by that person outside New Zealand to be a full-time course in respect of that person only; and, subject to these regulations, payments may be made to that person under any grant notwithstanding that he or she is carrying out that work outside New Zealand.

(2) Where the Secretary is satisfied that it is necessary or desirable for the holder of a grant to undertake a short course of study overseas to augment—

(a) A full-time course that that holder is undertaking in New Zealand; or

(b) A full-time course that—

(i) Does not constitute the completion of the programme of which it forms part; but

(ii) Has been satisfactorily completed by the holder in New Zealand,—

the Secretary may, for the purposes of this subclause, declare that course to be associated with that programme; and in that case, subject to these regulations, that holder may be paid under that grant to the same extent as would be appropriate if that course, and all travel reasonably necessary to enable that holder to undertake that course, were part of that programme, and being undertaken at the tertiary institution or private training establishment at which that holder is enrolled in that programme.

7. Secretary may declare work to be full-time programme—The Secretary may declare to be a full-time programme any specified part of the work of a recognised course of study requiring a minimum period of more than 1 year for its completion.

General Provisions

8. Courses for disabled persons—(1) Any physically or mentally disabled person may request the Secretary to approve any course of study at a secondary school or a private training establishment or a tertiary institution as a special course appropriate for that person.

(2) Every such application shall be required to be accompanied by—

(a) Such medical certificates as are, in the opinion of the Secretary, sufficient to demonstrate the nature and extent of that person’s physical or mental disablement; and

(b) The consent to that approval of the Principal of that secondary school or the proprietor of that private training establishment or the Principal or Council of that tertiary institution, as the case may require.

(3) Where the Secretary is satisfied that a person making such an application suffers from physical or mental disablement to such a degree as to be seriously limited in the extent to which that person can engage in the normal activities, pursuits, and processes of everyday life, the Secretary may approve the course of study concerned as a special course appropriate to that person; and, in that case, the Secretary shall also specify—

(a) The length of the time within which that student should complete that course; and

(b) The parts of that course that, in the opinion of the Secretary, should constitute a full-time programme for that student.

(4) For the purposes of these regulations, where, under subclause (3) of this regulation, the Secretary approves a course of study as a special course for any person, then, with respect to that person only,—

(a) That course shall be deemed to be a recognised course of study; and

(b) The length of time specified under paragraph (a) of that subclause shall be deemed to be the minimum time that that course requires for its completion; and

(c) Every part of that course specified under paragraph (b) of that subclause shall be deemed to be a full-time programme.

9. Eligibility by citizenship or permanent residence—(1) No person shall be awarded a grant unless—

(a) He or she is a New Zealand citizen; or

(b) He or she satisfies the Secretary that he or she intends to reside indefinitely in New Zealand and is entitled under the Immigration Act 1987 to do so.

(2) No person shall be awarded a grant who—

(a) Either—

(i) Has been granted a temporary permit to enter New Zealand for the purposes of study, training, or paid employment, which permit requires that person to leave New Zealand after completing that study, training, or paid employment; or

(ii) Is the spouse of such a person and is not a New Zealand citizen; and

(b) Has not thereafter become a person referred to in paragraph (a) or paragraph (b) of subclause (1) of this regulation applies.

(3) Subject to regulation 6 of these regulations, no person shall be awarded any grant unless—

(a) He or she resides in New Zealand; or

(b) Being a person to whom paragraph (a) or paragraph (b) of subclause (1) of this regulation refers, he or she applies for a grant in respect of extramural study in New Zealand at a secondary school or a private training establishment or a tertiary institution.

10. Applicants to give undertakings—Every applicant for a grant or allowance shall give the Secretary a written undertaking that if the amount of any payment made to the applicant or on his or her behalf under these regulations is greater than the amount to which he or she is under these regulations entitled, he or she will, if called upon to do so by the Secretary,

refund to the Secretary the difference between those amounts, or such lesser amount as the Secretary specifies.

11. Extension of usual term of grant for long course of study—

(1) Subject to subclause (2) of this regulation, where, in the opinion of the Minister, the minimum period for the completion of a recognised course of study is greater than 5 academic years, the Minister may approve the holding of grants in respect of that course for a specified period (expressed in academic years) that is, in the Minister's opinion, that minimum period; and, in that case, regulation 30 (1) of these regulations shall apply to grants awarded in respect of that course of study as if the reference in it to 5 academic years were a reference to the period specified.

(2) Subclause (1) of this regulation applies only to grants held by persons who have not previously been awarded a basic grant or an independent circumstances grant.

12. Second chance provision—(1) This regulation applies to every student who fails to pass the amount of work required to retain a grant under these regulations.

(2) Subject to subclause (3) of this regulation, the Secretary may authorise the payment of any grant to any student to whom this regulation applies if—

- (a) No grant previously held by that student under the Tertiary Assistance Grants Regulations 1982* was extended under regulation 18 or regulation 31 of those regulations; and
- (b) The student has not at any time before the commencement of these regulations abandoned a course of study (within the meaning of regulation 52 of the Tertiary Assistance Grants Regulations 1982*) at a tertiary institution; and
- (c) The appropriate Principal or proprietor or Head of Department or Head of Faculty certifies that the student is capable of passing the course of study in which the student is enrolled or is intending to enrol; and
- (d) The student has not previously received any payment under this regulation; and
- (e) The student is in all other respects eligible to receive the grant.

(3) Subject to regulation 30 (1) of these regulations, any payment of a grant under this regulation may be made for such period as the Secretary thinks fit.

13. Change of course—(1) Where any student at a secondary school or a private training establishment or a tertiary institution commences a second or further course at that school or at another school, or at that establishment or institution or at another establishment or institution, before completing any other course at that place or at another place, that student shall not cease to be entitled to any grant by reason of that change of course, if—

- (a) The grant is not suspended; and
- (b) The appropriate Principal or proprietor or Head of Department or Head of Faculty certifies that the student is capable of passing the course of study in which the student is enrolled or is intending to enrol; and
- (c) The student is in all other respects eligible for the grant.

(2) Nothing in this regulation shall prevent any extension of the term of any grant under regulation 11 or any payment of any grant under regulation 12 of these regulations.

(3) Regulation 33 of these regulations applies where any person who makes such a course change postpones his or her course of study.

14. Courses of national importance—(1) The Minister may from time to time declare any recognised course of study to be a course of national importance.

(2) Notwithstanding anything in these regulations, the Secretary may—

(a) Award any grant or allowance under these regulations in respect of a course of national importance to a person whose period of assistance is equal to or exceeds 5 academic years;

(b) Authorise the continuation of payments under any grant or allowance under these regulations in any year on behalf of or to a holder enrolled in a course of national importance in that year whose period of assistance has reached 5 academic years;—

and in that case, but subject to regulations 25 to 28 of these regulations, payment may continue accordingly.

15. Assessment of parental income—Where any provision of these regulations or a notice under section 303 (2) (b) of the Act requires the income of the parent of a student to be assessed, the following provisions shall apply:

(a) If a student has more than 2 parents, the student shall nominate the 2 parents who are the major contributors to the student's support, and the combined taxable incomes of those 2 contributors shall be deemed to be the income of the parents of that student:

(b) The Secretary may require any student who applies for the income-tested portion of a basic grant to furnish such evidence of the taxable income of the parents of that student as the Secretary specifies:

(c) If a student wishes to have the income tested portion of a basic grant assessed on one parent's taxable income and makes an application to the Secretary accompanied by a statutory declaration from that parent establishing the student's independence from the non-custodial parent, together with such other declarations and information from independent persons specified by the Secretary as the Secretary may require to establish that fact, the Secretary may make such an assessment:

(d) Where one or both of the parents of any student has or have more than one child of or over 16 years of age but under 25 years of age who is enrolled in a full-time programme at a secondary school or a private training establishment or a tertiary institution, the combined taxable annual income of the parents of that student shall be deemed to be reduced by \$2,200 for each such additional child.

16. Reassessment of parental income—(1) The Secretary may reassess the taxable annual income of the parents of any student if, in any year during that student's course of study, that income decreases by at least the percentage or amount specified in relation to that income in the second column of the following table:

	<i>Annual Income Before Decrease</i>			<i>Minimum Decrease Required</i>
Over \$40,000	25 percent
\$40,000	\$10,000
\$37,000–\$39,999	\$9,000
\$34,000–\$36,999	\$8,000
\$31,000–\$33,999	\$7,000
\$29,000–\$30,999	\$6,000
\$27,000–\$28,999	\$5,000
\$25,000–\$26,999	\$4,000
\$23,000–\$24,999	\$3,000
\$21,000–\$22,999	\$2,000
Under \$21,000	\$1,500

(2) No decrease in the taxable annual income of the parents of any student shall be taken into account unless it is of an amount or percentage to which subclause (1) of this regulation applies.

17. Reassessment of spouse's income—(1) In the case of a student with an earning spouse, the Secretary may reassess the taxable income of the earning spouse if in any year during the student's course of study the taxable annual income of the earning spouse decreases by at least the percentage or amount specified in relation to that income in the second column of the table set out in regulation 16 (1) of these regulations; and regulation 16 (2) of these regulations shall apply with the necessary modifications.

(2) If the taxable annual income of the earning spouse is reassessed at a reduced level, the student shall be paid at the new rate of the allowance on and from the date of the change in the circumstances of the earning spouse as reassessed by the Secretary.

PART II ALLOWANCES

18. Allowances established—The following allowances are hereby established:

- (a) Basic grants:
- (b) Independent circumstances grants:
- (c) Accommodation benefits:
- (d) A-Bursaries:
- (e) B-Bursaries.

Basic Grants and Independent Circumstances Grants

19. Basic grant not payable where student or spouse receiving social security payments—No person shall be paid a basic grant while that person or that person's spouse is receiving any payment under a widow's benefit, a domestic purposes benefit, a sickness benefit, an invalid's benefit, an unemployment benefit, or a training benefit, under Part I of the Social Security Act 1964.

20. Independent circumstances grant may be awarded instead of basic grant—(1) Subject to these regulations, an independent circumstances grant may be paid to any single student instead of a basic grant if—

- (a) Either—

- (i) The student is aged at least 16 years but not more than 24 years, and is undertaking a course of study at a private training establishment or a tertiary institution; or
 - (ii) Is of or over 18 years of age and under 25 years of age, and is undertaking a full-time course at a secondary school; and
- (b) The student is neither living at a parental home nor receiving financial assistance from any parent of that student; and
- (c) The Secretary considers that it would, by reason of exceptional circumstances, be unreasonable for the student to live at a parental home and receive financial assistance from any parent of that student.

(2) No person shall be paid an independent circumstances grant while that person is receiving any payment under a widow's benefit, a domestic purposes benefit, a sickness benefit, an invalid's benefit, an unemployment benefit, or a training benefit, under Part I of the Social Security Act 1964.

21. Period for which basic grant and independent circumstances grant payable—(1) Subject to subclauses (2) and (3) of this regulation, in any year, payments under a basic grant or an independent circumstances grant shall be made for a period commencing with the beginning of the week during which, in the opinion of the Secretary, the portion of the recognised course of study in respect of which the grant was awarded commences, and ending at the end of the week during which, in the opinion of the Secretary, that portion ends.

(2) In any year, payments under a basic grant or an independent circumstances grant shall be made to a person enrolled at a college of education for a period commencing with the beginning of the week during which the first term of study at that college commences and ending at the end of the week during which the final term of study at that college ends.

(3) Where, in any year, examinations in respect of any portion of a recognised course of study in respect of which a basic grant or an independent circumstances grant has been awarded commence within 6 weeks of the end of the period specified in subclause (1) of this regulation for that year, payments under that grant shall be made for a further period commencing upon the expiration of that first-mentioned period and ending at the end of the week during which the last such examination is held.

(4) Notwithstanding subclauses (1) and (2) of this regulation, the Secretary may extend or reduce by such number of weeks as the Secretary thinks fit the period in any year for which payments under a basic grant or an independent circumstances grant are made, in any particular case or class or classes of case, to provide for any variation in the annual programme prescribed by the Principal of any secondary school or the proprietor of any private training establishment or the Professorial Board of any tertiary institution.

22. Award of basic grant and independent circumstances grant—(1) Subject to these regulations, a basic grant or an independent circumstances grant shall, in any year, be awarded to every applicant of or over 16 years of age who—

- (a) Either—
 - (i) Is enrolled, or intending to enrol, in a recognised course of study at a private training establishment or a tertiary institution;
 - or

(ii) Is of or over 18 years of age and is attending a secondary school; and

(b) In that year is enrolled, or intending to enrol, in a full-time programme or course of study.

(2) The Secretary may, in his or her discretion, award a basic grant or an independent circumstances grant to any tertiary student under 16 years of age who otherwise satisfies the relevant requirements of these regulations.

(3) Subject to regulations 3 (7), 9, and 28 of these regulations and to subclause (1) of this regulation, a basic grant or an independent circumstances grant shall in any year be awarded to every applicant enrolled, or intending to enrol, in a recognised course of study who in that year is enrolled, or is intending to enrol, in a course that is less than a full-time programme, if—

(a) The Secretary or a person authorised for the purpose by the Secretary in writing or the Professorial Board of the tertiary institution concerned has prescribed a course of study that is less than a full-time programme for that applicant for that year—

(i) Because of that applicant's illness; or

(ii) For any cause that is, in the opinion of the Secretary or such an authorised person or that Professorial Board, a sufficient cause that is outside that applicant's control; or

(iii) Where the Secretary or such an authorised person or that Professorial Board considers such a course to be in that applicant's best interests; or

(b) In the opinion of the Secretary or such an authorised person or that Professorial Board of the tertiary institution concerned, the applicant—

(i) Will complete that course; and

(ii) Is taking a course, or combination of courses, that constitutes more than half of a full-time programme.

23. Basic grant and independent circumstances grant payable in respect of full-time programmes only—Where, in any year, the holder of a basic grant or an independent circumstances grant enrolls at a secondary school or a private training establishment or a tertiary institution for a course of study that would not, if the holder were an applicant for a basic grant or an independent circumstances grant, entitle the holder to the award of a basic grant or an independent circumstances grant, he or she shall not be entitled to any payment under that grant during that year.

24. Reduction of course—Where in any year, after having undertaken the academic work of a full-time programme for at least 1 term, the holder of a basic grant or an independent circumstances grant has, on the advice of the Secretary or a person authorised for the purpose by the Secretary in writing or the Professorial Board of the tertiary institution concerned, undertaken a reduced amount of work,—

(a) The holder shall not, by reason only of that reduction, cease to be entitled to that grant; and

(b) Regulation 26 of these regulations shall apply to the holder as if every reference in that regulation to his or her course of study were a reference to the residue of that full-time programme.

25. Restrictions on employment—(1) In any year, this regulation shall apply to every holder of a basic grant or an independent circumstances grant who in that year—

- (a) Is enrolled, or intending to enrol, in a course of study that is less than a full-time programme; or
- (b) Is enrolled, or intending to enrol, for a Master's Degree; or
- (c) Is an extramural student.

(2) Where, in any year, a person to whom this regulation applies has, on days during the term of the secondary school or private training establishment or tertiary institution at which that person is enrolled (other than Saturdays, Sundays, and public holidays), undertaken paid employment for a number of hours greater than 10 times the number of weeks for which that person's basic grant or independent circumstances grant would otherwise be payable, he or she shall thereafter during that year not be entitled to any payment under that grant.

26. Failure to attend or perform work—(1) Subject to regulation 24 of these regulations and subclause (2) of this regulation, if in any year the holder of a basic grant or an independent circumstances grant—

- (a) Fails to attend regularly for classes appropriate to his or her course of study; or
- (b) Fails to submit the work required by the teachers of that course or any part of it,—

the Secretary may order the suspension of that grant for that year; and, in that case, the holder shall thereupon cease to be entitled to that grant during that year, and it shall be suspended at the end of the week during which the Secretary so orders.

(2) Where a grant is suspended under this regulation, the Secretary may reinstate the grant in the year of its suspension if, in that year, the holder either resumes regular attendance at classes or submits the required work, as the case may be.

27. Change in holder's circumstances affecting entitlement—If there occurs in the circumstances of the holder of a basic grant or an independent circumstances grant any change of such a nature that it affects the holder's entitlement to that grant, or any allowance, or any portion or payment of it, he or she shall forthwith give written notification of that change to—

- (a) The Secretary or a person authorised for the purpose by the Secretary in writing, if the holder is attending a secondary school or a private training establishment; or
- (b) The Registrar of the tertiary institution concerned, in any other case.

28. Withholding of payments under grant in certain circumstances—(1) No payment shall be made in any year to the holder of a basic grant or an independent circumstances grant, if in that year the holder's gross income exceeds or is expected to exceed the sum of \$135.13 multiplied by the number of weeks of the holder's course of study.

(2) For the purposes of subclause (1) of this regulation, the following amounts shall not be taken into account in the assessment of the holder's gross income in any year:

- (a) Financial assistance received by the holder from any parent of the holder or the holder's caregiver, if the holder is aged under 25 years:

- (b) Any accident compensation payment received by the holder as a result of the death of a parent of the holder, if the holder is aged under 25 years:
 - (c) Lump sum payments of any kind received by the holder (excluding any interest received from the investment of such sums):
 - (d) Any payment received by the holder in respect of tuition fees payable for a course of study for which a grant or allowance may be awarded under these regulations:
 - (e) Amounts received by the holder under any grant other than a merit grant:
 - (f) The lesser of the following amounts:
 - (i) The total of all amounts received by the holder under merit grants:
 - (ii) \$750:
 - (g) Any amount received by, or on behalf of, the holder by way of any benefit under the Social Security Act 1964 in respect of any period during vacations or outside that person's course of study:
 - (h) Any amount received by way of family support under the Social Security Act 1964:
 - (i) Amounts earned by that person from employment during vacations or outside that person's course of study:
 - (j) In the case of a person enrolled or intending to enrol in a course of study approved by the Secretary for the purpose, income derived by that person at any time during that year from work that is a prerequisite for or a requirement of that course.
- (3) The holder of a basic grant or an independent circumstances grant who, in any year or period during a year in which the holder is enrolled in a course of study, either receives or expects to receive an income that exceeds the sum of \$135.13 multiplied by the number of weeks of that holder's course of study, shall forthwith give details in writing of that income to—
- (a) The Secretary or a person authorised for the purpose by the Secretary in writing, if the holder is attending a secondary school or a private training establishment; or
 - (b) The Registrar of the tertiary institution concerned, in any other case,—

and thereafter during that year or period that person shall furnish to the Secretary or such authorised person or the Registrar, as the case may require, details in writing of any additional income he or she receives or expects to receive during that year.

29. Effect of reduction of gross income of full-time student—

(1) This regulation applies where—

- (a) The payment of a grant to a student enrolled in a full-time course at a secondary school or in a full-time programme at a private training establishment or a tertiary institution has been withheld under regulation 28 (1) of these regulations; and
- (b) During the course of that programme, in any year, his or her gross income is reduced by such an amount that it no longer exceeds or is no longer expected to exceed the sum of \$135.13 multiplied by the number of weeks of his or her course of study.

(2) Where this regulation applies, the student's reduced gross income shall, for the purposes of regulation 28 (1) of these regulations, be regarded as his or her gross income until,—

- (a) In the case of a student whose income is earned from employment by a student at any time or is payable by way of any benefit under the Social Security Act 1964 during vacations, the end of the student's full-time programme in the calendar year concerned; and
 - (b) In any other case, the end of that calendar year.
- (3) Where a student's course extends over 2 calendar years,—
- (a) Any change in the income earned from employment by a student at any time or payable by way of any benefit under the Social Security Act 1964 during vacations shall have effect in respect of the period commencing on the date of the change and ending with the close of that student's course:
 - (b) Any change in any other income received by the student during that period shall have effect in respect of the period commencing on the date on which the student's course commences and ending with the close of the period of 52 weeks after the commencement of the student's course.

(4) Where a student becomes entitled to receive an allowance at a new rate by virtue of subclause (2) or subclause (3) of this regulation, the new rate shall be paid in respect of the period that commences on the date of the change in his or her circumstances.

30. Maximum tenure of basic grant and independent circumstances grant—(1) Subject to these regulations, where the period of assistance of any holder of a basic grant or an independent circumstances grant (other than a secondary student) reaches 5 academic years, that grant shall thereupon cease.

(2) For the purposes of subclause (1) of this regulation, the holder of a basic grant or an independent circumstances grant shall be deemed not to have received any payments under it in respect of any course of study if that holder withdraws from the course before the commencement of his or her final examination period, and, with the consent of the Secretary,—

- (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,—
- refunds to the Secretary all payments made to him or her in respect of the course under the grant.

(3) Notwithstanding subclause (1) of this regulation, any period during which a person is paid a basic grant or an independent circumstances grant in respect of a course declared by the Minister to be a transition course shall be disregarded for the purposes of subclause (1) of this regulation.

(4) Notwithstanding anything in these regulations, no holder of a basic grant or an independent circumstances grant shall receive, or be entitled to receive, any payments under that grant 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 grant was awarded.

(5) Notwithstanding subclause (1) of this regulation, the Secretary may extend the period for which a person may be paid a basic grant, if—

- (a) That person is of or over 20 years; and

- (b) That person is enrolled or is intending to enrol in a recognised course of study and has exhausted his or her entitlement to such a grant; and
- (c) The Secretary is satisfied—
 - (i) That, having regard to the student's financial resources, the student could not undertake that course of study without such assistance; and
 - (ii) That it is in the national interest that the student undertake the course of study for the purposes of retraining for employment.

31. Suspension of basic grant and independent circumstances grant—(1) Subject to subclause (2) of this regulation, a basic grant or an independent circumstances grant shall be suspended if in any year during which that holder received any payment under it, the amount of work (if any) passed by the holder was, in the opinion of the Secretary or a person authorised for the purpose by the Secretary in writing or the Professorial Board of the tertiary institution concerned, equivalent to half of or less than half of a full-time programme.

(2) Where—

- (a) The Secretary is satisfied that the failure of the holder of a basic grant or an independent circumstances grant to pass the required proportion of a full-time programme is due to reasons beyond the holder's control; or
- (b) The holder of a basic grant or an independent circumstances grant awarded in respect of a Masters degree has not completed the degree due to reasons beyond the holder's control,—

the Secretary may direct that that grant should not be suspended despite the amount of work the holder has passed in that year; and in that case that grant shall not be suspended by reason only of the work passed by that holder in that year.

(3) Where the Secretary makes a direction under subclause (2) of this regulation, the Secretary may also direct that the holder of the grant concerned may receive payments under that grant for such further period as the Secretary specifies, notwithstanding that that period and the period for which the holder has already received payment under a basic grant or an independent circumstances grant may together exceed 5 years.

(4) Nothing in this regulation applies to secondary students.

32. Reinstatement of basic grant and independent circumstances grant—(1) A basic grant or an independent circumstances grant suspended under either regulation 26 or regulation 31 of these regulations shall be reinstated if that holder satisfies the Secretary or a person authorised in writing by the Secretary for the purpose or the Professorial Board of the tertiary institution concerned that he or she has in any year since the suspension passed work (being work that is or forms part of a single course of study) that is, in the opinion of the Secretary or such an authorised person or that Board, equivalent to more than half of the work of a full-time course.

(2) Nothing in this regulation applies to secondary students.

33. Postponement of course of study—(1) Where—

- (a) The holder of a basic grant or an independent circumstances grant has, with the consent of the Secretary or a person authorised in

writing by the Secretary for the purpose or the Professorial Board of the tertiary institution concerned, postponed his or her course of study during any academic year; and

- (b) Before postponing that course he or she had during that year successfully completed work that is, in the opinion of the Secretary or such an authorised person or the Professorial Board concerned, equivalent to at least more than half of that part of the work of the course of study that was offered before that postponement and in respect of which the grant concerned was awarded; and

- (c) That holder resumes the course of study concerned at approximately the same point in some subsequent year as that at which he or she postponed it,—

then, subject to subclause (2) of this regulation, these regulations shall apply to that holder, that course of study, and that grant, as if the 2 years concerned were a single year.

(2) Nothing in subclause (1) of this regulation entitles the holder of a grant awarded in respect of a course of study postponed under that subclause to be paid under that grant for any period between the postponement of that course and its resumption.

Accommodation Benefits

34. Award of accommodation benefit—(1) An accommodation benefit shall be payable to every student who holds a basic grant or an independent circumstances grant, and who—

- (a) Is a secondary student of or over 18 years of age and lives away from a parental home or lives away from his or her spouse;
- (b) Is a private training establishment student or a tertiary student, and is of or over 16 years of age and for any reason lives away from a parental home or lives away from his or her spouse;
- (c) Is a secondary student or a private training establishment student or a tertiary student, and—

(i) Has a dependent spouse; or

(ii) Is single and has any dependent children; or

(iii) Is married to a person who is not entitled to hold a basic grant and is not an earning spouse; or

(iv) Is married to a person who is entitled to hold a basic grant.

(2) The Secretary may, in his or her discretion, award an accommodation benefit to any tertiary student aged under 16 years who otherwise satisfies the relevant requirement of these regulations.

35. Period for which accommodation benefit payable—In any year, payments under an accommodation benefit shall be made for a period commencing,—

- (a) Where a date is specified in that behalf, on that date; or

- (b) In all other cases, at the commencement of the period for which amounts are payable under the holder's basic grant or independent circumstances grant,—

and, subject to regulation 36 (1) of these regulations, ending at the end of the last week in that year in respect of which a payment is made under that basic grant or independent circumstances grant.

36. Student beginning to live in parental home or with spouse—

- (1) Except in the case of an award under regulation 34 (c) of these

regulations and as provided in subclause (2) of this regulation, where the holder of an accommodation benefit begins living at a parental home or with his or her spouse,—

- (a) His or her beginning so to live shall cancel that benefit; and
- (b) He or she shall not be entitled to any payment made (or purporting to be made) under that grant in respect of any period after his or her beginning so to live.

(2) The action of the holder of an accommodation benefit in beginning to live at a parental home or with his or her spouse does not cancel that benefit if, at the time when that holder begins so to live,—

- (a) No parent of that holder lives in that home; and
- (b) In the opinion of the Secretary, that holder—
 - (i) Is paying a market rent for living in that home; or
 - (ii) Has responsibility for the payment of the outgoings payable in respect of that home.

(3) A person, who immediately before beginning to live at a parental home or with his or her spouse was the holder of an accommodation benefit, shall, before so beginning or as soon as is practicable thereafter, give notice in writing that he or she is to begin or has begun so to live to—

- (a) The Secretary or a person authorised for the purpose by the Secretary in writing, if the holder is attending a secondary school or a private training establishment; or

- (b) The Registrar of the tertiary institution concerned, in any other case.

(4) Subclause (3) of this regulation applies whether or not the action of the holder of the accommodation benefit in beginning to live at a parental home will have or has had the effect of cancelling that grant.

A-Bursaries and B-Bursaries

37. Award of A-Bursaries and B-Bursaries—(1) No holder of a University Junior Scholarship shall be awarded an A-Bursary or a B-Bursary unless he or she is neither enrolled nor intending to enrol at a university.

(2) No person who holds or is eligible to be awarded an A-Bursary shall be awarded a B-Bursary.

(3) No person who holds or is eligible to be awarded a B-Bursary shall be awarded an A-Bursary.

(4) No person shall be awarded an A-Bursary or a B-Bursary in respect of any year unless, in that year, that person is or, but for regulation 25 or regulation 28 of these regulations, would be entitled to hold a basic grant or an independent circumstances grant.

(5) For the purposes of ascertaining the entitlement of any person to hold a basic grant or an independent circumstances grant, the fact that the person received payments under an A-Bursary or a B-Bursary shall be disregarded.

(6) No person who has, in any year, ceased to be entitled to receive payments under an A-Bursary or a B-Bursary shall be entitled to receive any such payment in any subsequent year.

38. Award of A-Bursary—Subject to regulation 37 of these regulations, a person shall become qualified to be awarded an A-Bursary if—

- (a) He or she is aged less than 20 years on the day on which, in the opinion of the Secretary, that person's course of study commences; and
- (b) He or she has, at any time, obtained any of the following:

- (i) An A-award in the University Bursaries Examination:
- (ii) A credit pass or better in the Entrance Scholarship Examination.

39. Award of B-Bursary—Subject to regulation 37 of these regulations, a person shall become qualified to be awarded a B-Bursary if—

- (a) He or she is aged less than 20 years on the day on which, in the opinion of the Secretary, that person's course of study commences; and
- (b) He or she has, at any time, obtained or has been deemed to have obtained any of the following:
 - (i) A B-Award in the University Bursaries Examination:
 - (ii) A B-Award under the provisions governing the Entrance Scholarship Examination.

PART III

APPEALS

40. Lodging of appeals—(1) Every appeal shall be by notice in writing lodged with the Secretary of the Authority within 21 days of the decision appealed against, or such longer period as the Authority in any case allows.

(2) Every such notice shall—

- (a) Be signed by the appellant or a person authorised by the appellant to act on his or her behalf; and
- (b) Specify the decision appealed against; and
- (c) Provide an address for the sending of communications in connection with the appeal.

41. Secretary to be given copies of notices of appeal—(1) Forthwith after the lodgment of a notice of appeal, the Authority shall send a copy of that notice to the Secretary.

(2) As soon as possible after receiving a copy of any notice of appeal, the Secretary shall send to the Authority,—

- (a) All applications, documents, written submissions, statements, reports, and other papers relating to the decision appealed against, that are in the possession or under the control of the Secretary; and
 - (b) A copy of the decision appealed against; and
 - (c) A report setting out the matters to which the Secretary had regard in making the decision appealed against; and
 - (d) A statement of any other matters that the Secretary wishes to draw to the attention of the Authority.
- (3) Forthwith after receiving a report under subclause (2) (c) of this regulation, the Authority shall send a copy of it, and of any statement under subclause (2) (d) of this regulation, to the appellant concerned.
- (4) An appellant may send to the Authority—
- (a) Any comments the appellant has on the report, and on any statement a copy of which has been sent to the appellant under subclause (3) of this regulation; or
 - (b) Notice that the appellant wishes to discontinue the appeal; and, in that case, the appeal shall be discontinued.
- (5) The Authority shall not determine any appeal until the expiration of 14 days from the date on which a copy of the report under subclause (2) (c) of this regulation was sent to the appellant.

(6) Where, before an appeal is decided, the Authority receives from the appellant comments sent to the Authority under subclause (4) (a) of this regulation,—

- (a) The Authority shall forthwith send a copy to the Secretary who shall as soon as possible send to the Authority either any comments the Secretary wishes to make on those comments or a new decision; and
- (b) The Authority shall not determine the appeal concerned until the expiration of 14 days from the date on which the copy was sent to the Secretary.

(7) Where, under subclause (6) (a) of this regulation, the Secretary sends the Authority a new decision,—

- (a) The Secretary shall also send a copy to the appellant; and
- (b) Without prejudice to the appellant's right to appeal against the new decision, the appeal against the old decision shall be deemed to have been discontinued.

42. Evidence—(1) The Authority shall have full discretionary power to request further written evidence from any appellant on questions of fact; and may require any such evidence to be verified by statutory declaration.

(2) In the exercise of its powers the Authority may receive as evidence any statement, document, information, or matter, that, in its opinion, may assist it to deal with any matter before it, whether or not the same would be admissible in a Court of law.

43. Matters to which Authority to have regard—(1) In reaching any decision, the Authority shall have regard to—

- (a) The notice of appeal concerned; and
- (b) All documents sent to the authority under subclause (2) or subclause (4) or subclause (6) of regulation 41 of these regulations; and
- (c) All evidence received by it—

whether or not that notice, those documents, or that evidence, or any part of it or them, would be admissible in a Court of law.

(2) On the determination of an appeal, the Authority shall notify the Secretary and the appellant, in writing, of the Authority's decision and the reasons for it.

PART IV

GENERAL

44. Exercise of Secretary's powers by Councils of tertiary institutions—(1) Subject to subclauses (3) and (6) of this regulation, except where a person authorised by the Secretary for the purpose in respect of a private training establishment or the Secretary by notice in writing to the Professorial Board of that tertiary institution otherwise directs, any power conferred on the Secretary by any provision of these regulations relating to—

- (a) Private training establishments or tertiary institutions or any class of tertiary institution; or
- (b) The recognition of courses of study for the purposes of these regulations; or
- (c) The award of independent circumstances grants; or
- (d) The assessment of parental income, whether earned in or outside New Zealand; or

- (e) Students enrolled or proposed to be enrolled at private training establishments or at tertiary institutions or any class of tertiary institution—

in relation to any private training establishment or tertiary institution, any tertiary institution or private training establishment of that class, the students enrolled or proposed to be enrolled at any private training establishment or tertiary institution, or the students enrolled or proposed to be enrolled at any tertiary institution or private training establishment of that class (as the case may be) may be exercised, at his or her or its discretion, by such an authorised person or by the Council of that tertiary institution, or by any committee or person authorised by that Council in that behalf.

(2) The authorisation of any committee or person under subclause (1) of this regulation may be revoked at will by the Council concerned; and no such authorisation prevents the exercise by that Council of any power under this regulation.

(3) Every Council, committee, or person, exercising any power under this regulation, shall do so in accordance with guidelines (if any) as the Secretary from time to time, by notice in writing to the Council concerned, prescribes.

(4) Any student may request the Secretary to review the exercise by any Council, committee, or person, or any power under this regulation where that exercise affects that student.

(5) Nothing in this regulation prevents the exercise of any power, or the performance of any duty, by the Secretary.

(6) No Council, or committee, or person (other than the Secretary, or officer or employee of the Ministry to whom the power has been duly delegated), shall be capable of exercising any power conferred on the Secretary by any of regulations 2, 6, 8, 11, 14, and 30(5) of these regulations.

45. Other government assistance—(1) This regulation applies to every person who has at any time held, or holds, any bursary, scholarship, or award, however described (not being a grant or an allowance), awarded or made, out of money appropriated by Parliament for the purpose, for the purpose of study at a secondary school or a private training establishment or a tertiary institution.

(2) Notwithstanding anything to the contrary in these regulations, no person to whom this regulation applies shall be awarded a grant or an allowance without the consent of the Secretary, and subject to such conditions (if any) as the Secretary may determine in any particular case or class of case.

(3) Without limiting the generality of subclause (2) of this regulation, it may be a condition of the award of a grant or an allowance to a person to whom this regulation applies that the amount of that grant or allowance and the terms for which it is payable, or either of them, be less than those to which that person would be entitled if he or she were not a person to whom this regulation applies.

46. Excess payments to be refunded—(1) The holder of a grant or an allowance who—

- (a) Receives any payment under that grant or allowance in respect of a period during any year when he or she was not entitled to that grant or allowance; or

- (b) Receives any payment in respect of that grant or allowance the amount of which exceeds the amount to which he or she is entitled under these regulations—

shall, upon demand by the Secretary, refund to the Secretary the amount of that payment or, as the case may be, the amount by which that payment exceeded the amount to which the holder was so entitled; and any amount not repaid may be recovered by the Secretary as a debt due in any Court of competent jurisdiction, or may be deducted from any amount payable to the holder under any bursary, scholarship, grant, award, or allowance awarded to the holder at any time under the Act; and where the holder is not of full age, shall be recoverable as if he or she is of full age.

(2) Notwithstanding anything in subclause (1) of this regulation, where a debt is recoverable from the holder of a grant or an allowance under that subclause, the Secretary may direct that no payment shall be made to the holder under that grant or allowance until the debt is repaid in full or the holder enters into an agreement with the Secretary to repay the debt on terms acceptable to the Secretary.

(3) No payment shall be made to the holder of any grant or allowance if a direction in respect of the holder is for the time being in force under subclause (2) of this regulation and the debt has not been repaid in full or such an agreement has not been entered into.

47. Forfeiture of allowances during detention in penal institution—(1) Notwithstanding any other provision in these regulations, but subject to subclause (2) of this regulation, a person who is imprisoned or detained in a penal institution, as defined in the Penal Institutions Act 1954, pursuant to a sentence of imprisonment, preventive detention, or corrective training shall not be entitled to receive any payment under these regulations in respect of any period of any such imprisonment or detention.

(2) Nothing in subclause (1) of this regulation applies to payments under any A-Bursary or B-Bursary.

48. Progress reports—The Principal of a secondary school or the proprietor of a private training establishment or the Registrar of a tertiary institution shall, when so requested, supply to the Secretary or a person authorised for the purpose by the Secretary in writing as soon as practicable, a report in writing as to the progress of any holder of an award in his or her course of study at that institution, and the extent of the holder's compliance with the conditions subject to which he or she holds that award.

49. Payments—(1) Subject to subclauses (2) and (3) of this regulation, payments under any grant or award shall be made to the holder at such place, and by such instalments, and in such manner, as may be agreed by the Professorial Board of the tertiary institution at which he or she is enrolled, or by the Secretary in any other case.

(2) The Secretary may determine the arrangements under which secondary students and private training establishment students are to be paid allowances under these regulations.

(3) The Secretary may direct a tertiary institution to use a particular payroll system for the purposes of these regulations.

(4) Every change in the rate of any payment under these regulations shall have effect no later than the commencement of the pay week

following the week in which the new rate becomes payable, and the new rate shall be paid as soon as practicable after that date.

50. Secretary to be provided with particulars of payments—(1) As soon as is practicable in each year, every person appointed in writing by the Secretary to make payments to secondary students and private training establishment students under these regulations and every Registrar shall provide the Secretary with particulars of payments made under these regulations in that year to or in respect of persons enrolled at the secondary school or private training establishment or tertiary institution concerned.

(2) Every person so appointed and every Registrar shall, when so requested in writing, provide the Secretary with any specified statistical or other information relating to such payments or to any student who is or students who are entitled to hold a grant or allowance, in such form as the Secretary may specify.

51. Transitional provision—Notwithstanding anything in these regulations, in the case of students enrolled in a course of study ending with the close of the 5th day of January 1992, the Student Allowances Regulations 1988 (S.R. 1988/308) shall continue in force and apply to such students until the close of that day, and nothing in these regulations shall apply to such students during that period.

52. Revocations—The regulations specified in the first column of the Schedule to these regulations are hereby revoked.

SCHEDULE
REGULATIONS REVOKED

Reg. 52

Title	Statutory Regulations Serial Number
The Student Allowances Regulations 1988 ..	1988/308
The Student Allowances Regulations 1988, Amendment No. 1	1989/86
The Student Allowances Regulations 1988, Amendment No. 2	1989/404
The Student Allowances Regulations 1988, Amendment No. 3	1990/113
The Student Allowances Regulations 1988, Amendment No. 4	1990/317
The Student Allowances Regulations 1988, Amendment No. 5	1990/360
The Student Allowances Regulations 1988, Amendment No. 6	1991/39

MARIE SHROFF,
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, which come into force on 1 January 1992, consolidate and amend the Student Allowances Regulations 1988.

The principal changes made by the regulations are as follows:

- (a) The term "spouse" is redefined in a way that recognises de facto relationships only where both parties are aged at least 25 years or where one or both are aged under 25 years and at least one of them has a dependent child:
- (b) Allowances for secondary students aged 18 years or over are reinstated:
- (c) The regulations apply to students attending private training establishments:
- (d) The Secretary can award grants to tertiary students aged less than 16 years:
- (e) An independent circumstances grant can be awarded to a student aged not more than 24 years:
- (f) The following are added to the list of payments not to be regarded as income:
 - (i) Financial assistance to a student aged under 25 years, given by a parent or caregiver:
 - (ii) Accident compensation payments to a student aged under 25 years, where the payment is made in respect of the death of a parent of the student:
 - (iii) All lump sum payments received by students (except interest received on the investment of such sums):
 - (iv) Payments in respect of tuition fees:
- (g) The receipt of an A-bursary or B-bursary is to be disregarded for the purposes of determining the period for which a grant has been paid:
- (h) The regulations no longer prescribe the value of student allowances. This is done by the Student Allowances Notice 1991.

Students enrolled in courses ending with the close of 5 January 1992 will be subject to the former regulations until the end of that period.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 19 December 1991.

These regulations are administered in the Ministry of Education.