

# **AUSTUDY/ABSTUDY Supplement Regulations 1992 No. 454**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 1992 No. 454**

AUSTUDY/ABSTUDY Supplement Regulations

Issued by the authority of the Minister for Higher Education and Employment Services

#### **The Student Assistance Act**

The Student Assistance Act 1973 ("the Act") provides the legislative authority for the AUSTUDY scheme and for a debt management regime for the AUSTUDY, ABSTUDY and Assistance for Isolated Children schemes. These schemes provide assistance directly to students (or in some cases, to their parents).

The Student Assistance Amendment Act 1992 (No. 138 of 1992) amended the Act to provide for the provision of voluntary student loans by way of the AUSTUDY/ABSTUDY Supplement ("the Supplement") and to index the living allowance provided under the AUSTUDY scheme.

#### **The AUSTUDY/ABSTUDY Supplement**

The Supplement will be available to students who are entitled to AUSTUDY or ABSTUDY, known as Category 1 students. Students will be able to trade-in their grant for twice the amount of Supplement, up to a maximum Supplement of \$4,000 per year.

The Supplement will also be available to students who qualify for AUSTUDY or ABSTUDY, except for the parental income test, provided that the parents' income is less than \$50,000. These students are referred to as Category 2 students. They will be able to apply for a Supplement of up to \$2,000 per year.

Students need not make repayments of the Supplement for the first five years, although they will receive a 15% discount for repayments made during this period. Recovery of the Supplement amount starts after five years, provided that the student's income is of a sufficient level (about average weekly earnings). The recovery will be through the tax system, in a similar manner to the Higher Education Contribution Scheme (HECS).

Students will not be charged interest, although the amount to be repaid will be adjusted in line with changes in the Consumer Price Index.

The Supplement will be provided by a financial corporation, under an agreement between the Commonwealth and the corporation. The Commonwealth will pay a subsidy to the corporation for the first five years in lieu of interest. After the first five years, the Commonwealth will buy the remaining debt from the corporation.

The Commonwealth has entered into an agreement with the Commonwealth Bank of Australia for it to be the exclusive provider of the Supplement for five years.

#### **The present Regulations**

Section 56 of the Act authorises the Governor-General to make regulations.

The present Regulations relate to the AUSTUDY/ABSTUDY Supplement. They provide for the following matters:

- the expression "office" is defined as a branch office. This refers to the office of a participating financial corporation at which a student can lodge an application for the AUSTUDY/ABSTUDY Supplement (regulation 4)
- students will need to undertake a course approved for AUSTUDY or ABSTUDY to qualify for the Supplement (regulation 5)
- the types of allowance that can be traded-in for the Supplement are AUSTUDY and ABSTUDY living allowance, dependent spouse allowance, and pensioner education supplement (regulation 6)
- students can receive the Supplement if they would have qualified for a grant but for the parental income test, as long as their parents' income is less than a prescribed amount. The prescribed amount is set at \$50,000 (regulation 7)
- the minimum amount of Supplement that a student can apply for is \$500 (regulation 8)
- the maximum amount of Supplement that a student can apply for is \$4,000 for Category 1 students (who trade-in AUSTUDY/ABSTUDY), and proportionately less if the student is eligible for a grant for only part of the year (regulation 9)
- the maximum amount of Supplement that a student can apply for is \$2,000 for Category 2 students (who do not qualify for AUSTUDY/ABSTUDY because of the parental income test), and proportionately less if the student is a Category 2 student for only part of the year or lodges the Supplement application late in the year (regulations 10 to 14)
- a student who undertakes two courses at the same time cannot receive two amounts of Supplement (regulation 15)
- the minimum amount of Supplement that a student can repay at one time is \$500 (regulation 16). Details of the proposed Regulations are attached.

### **Commencement date**

The Regulations commence on 1 January 1993.

The amendments to the Student Assistance Act relating to the Supplement commenced on 19 November 1992. However, the agreement under section 12D of the Act between the Commonwealth and the Commonwealth Bank of Australia for the provision of the Supplement specifies that the Bank is to provide the Supplement for the calendar year 1993, ie from 1 January 1993.

### **Notes on the Regulations**

#### **1. Citation**

Regulation 1 provides that the short title of the Regulations is the AUSTUDY/ABSTUDY Supplement Regulations.

#### **2. Commencement**

Regulation 2 provides that the Regulations are to commence on 1 January 1993. This is the date when the Supplement is to be provided from.

(The amendments to the Student Assistance Act relating to the Supplement commenced on 19 November 1992. However, the agreement under section 12D of the Act between the Commonwealth and the Commonwealth Bank of Australia for the provision of the Supplement specifies that the Bank is to provide the Supplement for the calendar year 1993, ie from 1 January 1993.)

### **3. Interpretation**

Regulation 3 defines expressions to be used in the proposed Regulations.

"ABSTUDY" is defined to refer to benefits under the ABSTUDY scheme. This scheme is established by Ministerial authority, rather than by legislation, although it is referred to in the Act and in the annual Appropriation legislation.

"Act" is defined as the Student Assistance Act 1973. This Act establishes the AUSTUDY scheme and gives legislative authority for the AUSTUDY/ABSTUDY Supplement.

"Adjusted parental income" is defined to mean parental income as measured under the parental income tests for AUSTUDY and ABSTUDY; the relevant scheme depends on which scheme enables the student to qualify for the Supplement.

"AUSTUDY" is defined to refer to benefits under the AUSTUDY scheme. As the definition notes, the AUSTUDY scheme is established by Part 2 of the Act.

"Category 1 student" is defined as a student who qualifies for a grant under the ABSTUDY or AUSTUDY scheme.

- The definition also includes students who would otherwise have qualified for a grant but who do not do so because they trade-in all of the grant to obtain a Supplement (see section 12H of the Act).
- Category 1 students correspond to students referred to in section 12C(1)(b)(i) of the Act.

"Category 2 student" is defined as a student who does not qualify for a grant under the ABSTUDY or AUSTUDY scheme merely because of the parental income test, provided that the parents' income is less than the prescribed limit.

- This category of student corresponds to students described in section 12C(1)(b)(ii) of the Act as eligible to apply for the Supplement.
- Regulation 5 sets the prescribed limit at \$50,000.

"Dependent spouse allowance" is defined to refer to the dependent spouse allowance provided under the ABSTUDY and AUSTUDY schemes.

"Grant eligibility period" is defined to mean the period in the year for which the student qualifies for a grant, or would qualify for a grant if the student comes within Category 2. This expression is used in regulations 9, 12, 13 and 14 to calculate what is the maximum Supplement that a student can apply for.

"Living allowance" is defined as meaning living allowance under the ABSTUDY or AUSTUDY scheme.

"Pensioner education supplement" is defined as meaning an allowance of this kind under the ABSTUDY or AUSTUDY scheme.

"Short course" is defined as a course which is less than 30 weeks long. (This repeats the definition in regulation 6(2)(a) of the AUSTUDY Regulations.)

"Supplement eligibility period" is defined as the period worked out in regulations 12 and 13. This concept is used in calculating the maximum Supplement that Category 2 students can apply for.

#### **4. Definition of "office"**

Under section 12G of the Act, a student can lodge an application for the Supplement at any "office" of a participating corporation. Section 3(1) of the Act provides that, for the purposes of the Act, "office" is to be defined in the regulations.

Regulation 4 defines "office" as meaning branches of the corporation, and excludes agencies and administrative offices.

#### **5. Prescribed courses**

As the note to regulation 5 states, section 12C of the Act sets out the circumstances in which a person is eligible for the Supplement. Section 12C(1)(a) provides that the Supplement is payable only to students who undertake, or propose to undertake, "a prescribed course".

Regulation 5 provides that a prescribed course is a course approved for ABSTUDY or AUSTUDY.

#### **6. Prescribed benefits**

Under section 12C(1)(b) of the Act, eligibility for the Supplement is linked to qualifying for "a prescribed benefit" under ABSTUDY or AUSTUDY.

To qualify for the Supplement, a student must:

- qualify for a prescribed benefit, or qualify but for trading-in the benefit (Category 1 students); or
- would qualify for a prescribed benefit but for the parental income test, if the parents' income is less than \$50,000 (Category 2 students).

Regulation 6 defines "prescribed benefit" as being living allowance, dependent spouse allowance and pensioner education supplement. (These expressions are defined in regulation 3 as the relevant allowances under the ABSTUDY and AUSTUDY schemes.)

#### **7. Prescribed parental income**

Section 12C(1)(b)(i) of the Act refers to students who qualify for the Supplement because:

- they would have qualified for a grant under ABSTUDY or AUSTUDY except for the operation of the parental income test; and
- their parents' income is less than the "prescribed amount".

(Regulation 3 defines these students as "Category 2 students".)

Regulation 7 sets the "prescribed amount" of parental income at \$50,000.

#### **8. Minimum amount of financial supplement**

Section 12F(1)(b)(i) of the Act refers to the minimum amount of Supplement that a student may apply for, and provides that the minimum is to be determined under the regulations. Regulation 8 provides that the minimum amount of Supplement that may be applied for is \$500.

This amount applies to all students, irrespective of the length of the period during which they are eligible to apply for the Supplement. However, the validity of a loan is not affected should a student cease to qualify for the Supplement before receiving the full \$500.

## **9. maximum amount of financial supplement for category 1 students**

Section 12F(1)(b)(i) of the Act refers to the maximum amount of Supplement that a student may apply for, and provides that the maximum is to be determined under the regulations.

Regulation 9 determines the maximum amount for Category 1 students. ("Category 1 student" is defined in regulation 3 as a student who qualifies for a grant under ABSTUDY or AUSTUDY, or would have except that he or she trades-in all the grant.)

Under regulation 9, there are to be two limits on the maximum Supplement that Category 1 students can apply for:

- they can apply for a Supplement of up to \$4,000 if they qualify for a prescribed benefit for the full year, or a proportional amount if they only qualify for a grant for only part of the year;
- but in any case, they can only apply for twice the amount of grant that they have available to trade-in for the Supplement.

Regulation 9(1) sets out the rule for students who qualify for a grant of ABSTUDY or AUSTUDY for the whole year, and regulation 9(2) sets out the rule for students who qualify for only part of the year.

Regulation 9(3) refers to twice the grant that the student has available to trade-in for the Supplement. The available grant is the student's annual benefit less the grant that the student has already received and cannot trade-in under section 7(8) of the Act. (The regulation refers to benefits in the grant eligibility period, rather than in the year, as students can have several grant eligibility periods in the one year if they undertake successive short courses.)

Regulation 9(4) provides that the cut-off amount of \$4,000 is reduced proportionately if the student's grant eligibility period is less than the full year.

## **10. Maximum amount of financial supplement for category 2 students not in short courses**

Section 12F(1)(b)(i) of the Act refers to the maximum amount of Supplement that a student may apply for, and provides that the maximum is to be determined under the regulations. Regulation 10 determines the maximum amount for Category 2 students who are not in short courses. ("Category 2 student" and "short course" are defined in regulation 3.)

Under regulation 10, Category 2 students are able to apply for a Supplement of up to:

- \$2,000 if the "supplement eligibility period" extends over the full year (paragraph 10(a));
- a proportionately lesser amount if the "supplement eligibility period" is less than the full year (paragraph 10(b)).

"Supplement eligibility period" is defined in regulation 12 in relation to Category 2 students who are not in short courses.

#### **11. Maximum amount of financial supplement for category 2 students in short courses**

Section 12F(1)(b)(i) of the Act refers to the maximum amount of Supplement that a student may apply for, and provides that the maximum is to be determined under the regulations. Regulation 11 determines the maximum amount for Category 2 students who are in short courses. ("Category 2 student" and "short course" are to be defined in regulation 3.)

Under regulation 11, Category 2 students can apply for an amount of Supplement proportional to the length of the "supplement eligibility period" (regulation 13 defines this expression for Category 2 students in short courses).

The amount is calculated on the basis that a period extending over the full year would involve a maximum allowance of \$2,000. As short courses are 30 weeks or less, the "supplement eligibility period" will always be less than one year in duration.

#### **12. Supplement eligibility period - category 2 students not in short courses**

#### **13. Supplement eligibility period - category 2 students in short courses**

Regulations 12 and 13 define the "supplement eligibility period" for Category 2 students. Regulation 12 relates to students who are not in short courses and regulation 13 to students who are in short courses ("Category 2 student" and "short course" are defined in regulation 3).

The concept of "supplement eligibility period" is used in defining the maximum amount of Supplement that students can apply for. The supplement eligibility period is based on the "grant eligibility period", which is defined in regulation 3 and reflects the period during which the student qualifies as a Category 2 student.

The "grant eligibility period" can, however, be modified where the student delays lodging his or her application for the Supplement. This parallels the restrictions on Category 1 students who are restricted in the amount of Supplement that they can seek because of restrictions on the amount of grant that they can trade-in because of delays in lodging their Supplement applications.

#### **14. Supplement eligibility period and late lodgement of applications for financial supplement**

Regulation 14 provides a concession to regulations 12 and 13 for students who are late in lodging their Supplement applications because of circumstances beyond their control. In such cases, the delay in lodging the application is disregarded in calculating the amount of Supplement that the student can apply for.

#### **15. Maximum financial supplement - simultaneous courses**

Regulation 14 provides an additional restriction on the maximum amount of Supplement that a student can apply for. It provides that a student can only apply for one amount of Supplement even if he or she is undertaking more than one course at the same time. In this situation, the student's Supplement application is based on the course that would give the student the greatest maximum amount of Supplement.

#### **16. Minimum amount of repayments that can be made**

Section 12ZA(4) of the Act provides that a student can make repayments during the first five years of the Supplement loan (the "contract period"). It is optional for the student to do so, and such early repayments will attract a discount of 15%.

Section 12ZA(4) provides that the regulations are to specify the minimum amount of repayments that students can make. Regulation 16 specifies that the minimum repayment is \$500.

Under section 12ZA, however, a student can repay a lesser amount if this would fully acquit the Supplement debt.