



TRIPPLICATE COPY
Administering Department: ...
document F.R.L.I.
Title: ...
No. of ...
Edition: ...
1996B00632
for: ...
Department of ...

Statutory Rules 1992 No. 1

454

AUSTUDY/ABSTUDY Supplement Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Student Assistance Act 1973*.

Dated 22 December 1992.

BILL HAYDEN
Governor-General

By His Excellency's Command,

Minister of State for Higher Education
and Employment Services

Citation

1. These Regulations may be cited as the AUSTUDY/ABSTUDY Supplement Regulations.

Commencement

2. These Regulations commence on 1 January 1993.

Interpretation

3. In these Regulations, unless the contrary intention appears:
 “**ABSTUDY**” means benefits under the ABSTUDY scheme (also known as the Aboriginal Study Assistance Scheme);

“**Act**” means the *Student Assistance Act 1973*;

“**adjusted parental income**” means:

- (a) in relation to AUSTUDY — the parental income worked out in accordance with the parental income test in Part 5 of Chapter 4 of the AUSTUDY Regulations; and
- (b) in relation to ABSTUDY — the parental income worked out in accordance with the parental income test under the ABSTUDY scheme;

“**AUSTUDY**” means benefits under the AUSTUDY scheme established by Part 2 of the *Student Assistance Act 1973*;

“**category 1 student**” means a student who qualifies, or but for Part 4A of the *Student Assistance Act 1973* would qualify, to receive a living allowance, dependent spouse allowance or pensioner education allowance under the AUSTUDY or ABSTUDY scheme;

“**category 2 student**” means a student:

- (a) whose parents’ adjusted parental income is too high to allow the student to qualify for a living allowance, dependent spouse allowance or pensioner education supplement; and
- (b) who would, but for the fact that his or her parents’ adjusted parental income is too high, qualify to receive a living allowance, dependent spouse allowance or a pensioner education supplement; and
- (c) whose parents’ adjusted parental income is lower than the amount prescribed under regulation 7;

“**dependent spouse allowance**” means:

- (a) in relation to ABSTUDY—dependent spouse allowance under the ABSTUDY scheme;
- (b) in relation to AUSTUDY—dependent spouse allowance under regulation 64 of the AUSTUDY regulations;

“grant eligibility period” means:

- (a) in relation to a category 1 student—the period in a year during which a living allowance, dependent spouse allowance or pensioner education supplement is payable;
- (b) in relation to a category 2 student—the period in a year during which:
 - (i) a living allowance, dependent spouse allowance or pensioner education supplement would be payable if the student were not disqualified from receiving the benefit only because of his or her parents’ adjusted parental income; and
 - (ii) his or her parents’ adjusted parental income is lower than the amount prescribed under regulation 7;

“living allowance” means:

- (a) in relation to ABSTUDY—living allowance under the ABSTUDY scheme but does not include the dependent spouse allowance; and
- (b) in relation to AUSTUDY—living allowance under Part 1 of Chapter 4 of the AUSTUDY Regulations but does not include the dependent spouse allowance under regulation 64 of the AUSTUDY Regulations;

“pensioner education supplement” means:

- (a) in relation to ABSTUDY—pensioner education supplement under the ABSTUDY scheme; and
- (b) in relation to AUSTUDY—pensioner education supplement under subregulation 98 (2) of the AUSTUDY Regulations;

“short course” means a course that lasts for 30 weeks (including vacations) or less ;

“supplement eligibility period” means:

- (a) in relation to a category 2 student who is not undertaking or proposing to undertake a short course—the period worked out in accordance with regulations 12 and 14; or
- (b) in relation to a category 2 student undertaking or proposing to undertake a short course—the period worked out in accordance with regulations 13 and 14.

Definition of “office”

4. For the purposes of section 3 (1) of the Act, “office” means a branch office and does not include an agency or administrative office.

Prescribed courses

5. (1) For the purposes of paragraph 12C (1) (a) of the Act, a course or a part of a course that has been approved as a tertiary course for the ABSTUDY scheme is prescribed in relation to ABSTUDY .

(2) For the purposes of paragraph 12C (1) (a) of the Act, a course or a part of a course that has been determined to be a tertiary course under subparagraph 7 (1) (c) (ii) of the Act is prescribed in relation to AUSTUDY.

[NOTE: Section 12C of the Act sets out the circumstances in which a person is eligible for financial supplement.]

Prescribed benefits

6. For the purposes of paragraph 12C (1) (b) of the Act, living allowance, dependent spouse allowance and pensioner education supplement are each prescribed benefits.

Prescribed parental income

7. For the purposes of subparagraph 12C (1) (b) (ii) of the Act, the amount of \$50,000 is prescribed.

Minimum amount of financial supplement

8. For the purposes of subparagraph 12F (1) (b) (i) of the Act, \$500 is prescribed as the minimum amount of financial supplement that a student is eligible to obtain.

Maximum amount of financial supplement for category 1 students

9. (1) For the purposes of subparagraph 12 F (1) (b) (i) of the Act, the maximum amount of financial supplement that a category 1 student is eligible to obtain in relation to a grant eligibility period of 1 year is the lesser of:

- (a) \$4,000; or
- (b) the amount worked out using the formula in subregulation (3).

(2) For the purposes of subparagraph 12 F (1) (b) (i) of the Act, the maximum amount of financial supplement that a category 1 student is eligible to obtain in relation to a grant eligibility period of less than 1 year is the lesser of the amount worked out using the formula in subregulation (3) and the amount worked out using the formula in subregulation (4).

(3) For the purposes of subregulations (1) and (2), the formula is:

$$2(\text{annual benefit} - \text{actual benefit})$$

where:

“annual benefit” is the sum of the living allowance, dependent spouse allowance and pensioner education supplement to which the student would be entitled for the grant eligibility period if no financial supplement were obtained;

“actual benefit” is the sum of:

- (a) the amount of living allowance which the student has been paid excluding any amount that is, under subsection 7 (8) of the Act, taken never to have been paid; and
- (b) the amount of dependent spouse allowance which the student has been paid excluding any amount that is, under subsection 7 (8) of the Act, taken never to have been paid; and
- (c) the amount of pensioner education supplement which the student has been paid excluding any amount that is, under subsection 7 (8) of the Act, taken never to have been paid.

- (4) For the purposes of subregulation (2), the formula is:

$$\$4,000 \times \frac{\text{number of days in the grant eligibility period}}{\text{number of days in the year}}$$

Maximum amount of financial supplement for category 2 students not in short courses

10. For the purposes of subparagraph 12 F (1) (b) (i) of the Act, the maximum amount of financial supplement that a category 2 student who is not undertaking or proposing to undertake a short course is eligible to obtain in a year is prescribed as:

- (a) if the supplement eligibility period is one year—\$2,000; or
 (b) if the supplement eligibility period is less than one year—the amount worked out using the formula:

$$\$2,000 \times \frac{\text{number of days in the supplement eligibility period}}{\text{number of days in the year}}$$

Maximum amount of financial supplement for category 2 students in short courses

11. For the purposes of subparagraph 12 F (1) (b) (i) of the Act the maximum amount of financial supplement that a category 2 student who is undertaking or proposing to undertake a short course is eligible to obtain in a year is prescribed as the amount worked out using the formula:

$$\$2,000 \times \frac{\text{number of days in the supplement eligibility period}}{\text{number of days in the year}}$$

Supplement eligibility period - category 2 students not in short courses

12. (1) This regulation applies to a category 2 student who is not undertaking, or proposing to undertake, a short course.

(2) If the student lodges his or her application for financial supplement on or before 31 May the supplement eligibility period is the same as the grant eligibility period.

(3) If the student lodges his or her application for financial supplement after 31 May but before 1 October the supplement eligibility

period begins on 1 July or the day on which the grant eligibility period begins (whichever is later) and ends when the grant eligibility period ends.

(4) If the student lodges his or her application for financial supplement on or after 1 October the supplement eligibility period begins on the day that the application is lodged or the day on which the grant eligibility period begins (whichever is later) and ends when the grant eligibility period ends.

Supplement eligibility period - category 2 students in short courses

13. (1) This regulation applies to a category 2 student who is undertaking, or proposing to undertake, a short course.

(2) If the student lodges his or her application for financial supplement within 4 weeks of being sent a notice referred to in paragraph 12 F (1) (b) of the Act, the supplement eligibility period is the same as the grant eligibility period.

(3) If the student lodges his or her application for financial supplement after 4 weeks of being sent a notice referred to in paragraph 12 F (1) (b) of the Act, the supplement eligibility period begins on the day that the application is lodged or the day on which the grant eligibility period begins (whichever is later) and ends when the grant eligibility period ends.

Supplement eligibility period and late lodgement of applications for financial supplement

14. If the supplement eligibility period is not the same as the grant eligibility period because the student has lodged the application for financial supplement after a particular date, then if:

- (a) the student has taken all reasonable steps to ensure that the application would be lodged by that date; and
- (b) the student is prevented from lodging the application by that date because of circumstances beyond his or her control; and
- (c) the student lodges the application as soon as practicable after that date;

the supplement eligibility period is taken to be the same as the grant eligibility period.

Maximum financial supplement— simultaneous courses

15. If a student undertakes or proposes to undertake more than 1 course during a period in a year, the maximum amount of financial supplement which the student can obtain for that period is the maximum amount calculated under regulation 9, 10 or 11 in relation to any one of those courses.

Minimum amount of repayment that can be made

16. For the purposes of subsection 12ZA (4) of the Act, \$500 is prescribed as the minimum repayment of financial supplement that a student is entitled to make.

[NOTE: If the amount outstanding under the financial supplement contract is less than \$500, see subsection 12ZA (4) of the Act.]

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

1992. 24 December