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Statutory Rules 1995 No. ^L1

394/

AUSTUDY/ABSTUDY Supplement Regulations² (Amendment)

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 and Youth Assistance Act 1973*.

Dated

^L 1995.

12 December/

Governor-General

^L BILL HAYDEN/

By His Excellency's Command,

^L Minister for Schools, Vocational Education and Training

ROSS FREE/

1. Amendment

1.1 The AUSTUDY/ABSTUDY Supplement Regulations are amended as set out in these Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

2. Application

2.1 The amendments of the AUSTUDY/ABSTUDY Supplement Regulations made by subregulations 3.3, 3.4, 3.5, 3.6, 3.7 and 3.8 and regulations 4 and 5 of these Regulations apply only in relation to financial supplement for a year, or a part of a year, commencing on or after 1 January 1996.

3. Regulation 3 (Interpretation)

3.1 Definition of "Act":

After "*Student*", insert "*and Youth*".

3.2 Definition of "AUSTUDY":

Omit "*the Student Assistance Act 1973*";, substitute "*the Act*";.

3.3 Definition of "category 1 student":

Omit the definition, substitute:

"**'category 1 student'** means a student who, in a year, qualifies, or apart from Part 4A of the Act would qualify, for a prescribed benefit under the AUSTUDY scheme or the ABSTUDY scheme for the year or a part of the year;"

3.4 Definition of "category 2 student":

Omit the definition, substitute:

"**'category 2 student'** means a student:

- (a) in relation to whom, in a year, adjusted parental income is less than the amount prescribed by regulation 7; and
- (b) who would, except for the parental income test applicable under the AUSTUDY scheme or the ABSTUDY scheme, qualify for a prescribed benefit under the AUSTUDY scheme or the ABSTUDY scheme for the year, or a part of the year;"

3.5 Definition of "dependent spouse allowance":

Omit the definition.

3.6 Definition of "grant eligibility period":

Omit "*, dependent spouse allowance*" (twice occurring).

3.7 Definition of “living allowance”:

Paragraph (a):

Omit “scheme but does not include the dependent spouse allowance;”, substitute “scheme;”.

3.8 Definition of “living allowance”:

Paragraph (b):

Omit “Regulations but does not include the dependent spouse allowance under regulation 64 of the AUSTUDY”.

4. Regulation 6 (Prescribed benefits)

4.1 Omit the regulation, substitute:

Prescribed benefits

“6. For the purposes of Part 4A of the Act, each of the following benefits under the AUSTUDY scheme or the ABSTUDY scheme is declared to be a prescribed benefit:

- (a) living allowance;
- (b) pensioner education supplement.”

5. Regulation 7 (Prescribed parental income)

5.1 Omit “\$50,850”, substitute “\$53,138”.

6. Regulation 9 (Maximum amount of financial supplement for category 1 students)

6.1 Paragraph 9 (1) (a):

Omit “or”, substitute “and”.

6.2 Subregulations 9 (2) and (3):

Omit the subregulations, substitute:

“(2) For the purposes of subparagraph 12F (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:

- (a) the amount worked out using the formula in subregulation (3); and

(b) the amount worked out using the formula in subregulation (4).

“(3) For the purposes of paragraphs (1) (b) and (2) (a), the formula is:

2 x (annual benefit – overpayment – actual benefit)

where:

‘**annual benefit**’ is the amount of a prescribed benefit to which the student would be entitled in relation to the grant eligibility period if no financial supplement were obtained by the student; and

‘**overpayment**’ is the amount (if any):

(a) that is:

(i) a student assistance overpayment; or

(ii) a special educational assistance scheme overpayment; or

(iii) a prescribed educational scheme overpayment; or

(iv) a Social Security or Veterans’ legislation overpayment; and

(b) that has been paid, at any time, to, or in relation to, the student; and

(c) in relation to which there is an unsatisfied liability to the Commonwealth; and

(d) that the Secretary has determined is to be recovered from the student in the grant eligibility period; and

‘**actual benefit**’ is the amount (if any) of a prescribed benefit that has been paid to the student in relation to the grant eligibility period (except any amount that is, under subsection 7 (8) of the Act, taken never to have been paid to the student).”

6.3 Subregulation 9 (4):

Omit “subregulation (2),”, substitute “paragraph (2) (b),”.

NOTES

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

L 1995.

12 December

2. Statutory Rules 1992 No. 454 as amended by 1993 No. 365.