



2003B00116

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Student Assistance Regulations 2003

Statutory Rules 2003 No. 1

101

I, GUY STEPHEN MONTAGUE GREEN, Administrator 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 1 2003

28 May

 1 G. S. M. GREEN
Administrator

By His Excellency's Command

BRENDAN NELSON
Minister for Education, Science and Training

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Part 1 Preliminary

1 Name of Regulations

These Regulations are the *Student Assistance Regulations 2003*.

2 Commencement

These Regulations commence on gazettal.

3 Definitions

In these Regulations:

Act means the *Student Assistance Act 1973*.

Centrelink means the Commonwealth Services Delivery Agency established by subsection 6 (1) of the *Commonwealth Services Delivery Agency Act 1997*.

spouse has the same meaning as in Part 3.18 of the *Social Security Act 1991*.

student means a person to whom an amount under a current special educational assistance scheme relates.

4 Purpose of Regulations

For section 48 of the Act, these Regulations set out events which a person who is receiving, or entitled to receive, an amount under a financial supplement contract or a current special educational assistance scheme must notify to Centrelink within 14 days.

Note Centrelink acts on behalf of the Department for the purposes of section 48.

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Part 2 The ABSTUDY Scheme

5 Definitions for Part 2

In this Part:

ABSTUDY Policy Manual means the Departmental policy guideline for the ABSTUDY Scheme, approved by the Minister's delegate on 18 December 2002.

dependent child has the meaning given by the *Social Security Act 1991*.

dependent student means a student who is not an independent student.

designated parent has the same meaning as in Part 6.5.2.1 of the ABSTUDY Policy Manual.

Guide to Commonwealth Government Payments means the Commonwealth's guide booklet containing details of payment rates and eligibility criteria for all payments:

- (a) issued by Centrelink and the Family Assistance Office; and
- (b) dated 20 March 2003.

independent student means:

- (a) a student who is 25 years of age or older; or
- (b) a student who:
 - (i) is under 25 years of age; and
 - (ii) meets the criteria for independent status under the ABSTUDY Policy Manual.

parent, in relation to a student to whom an amount under the ABSTUDY Scheme relates, means any of the following:

- (a) a natural or adoptive parent with whom the student normally lives;
- (b) if the student normally lives with a spouse of the student's parent — that spouse;

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- (c) any other adult:
 - (i) on whom the student is wholly or substantially dependent; and
 - (ii) who is not a partner of the student.
- partner**, in relation to a student, means any of the following:
- (a) a person who is:
 - (i) married to the student; and
 - (ii) not separated from the student;
 - (b) a person who is:
 - (i) of the opposite sex to the student; and
 - (ii) living with the student in a de facto relationship which is of at least 6 months duration;
 - (c) a person who:
 - (i) is of the opposite sex to the student; and
 - (ii) is living with the student in a de facto relationship; and
 - (iii) has a dependent child, or a child with the student.

6 Prescribed events

- (1) For section 48 of the Act, each of the following is a prescribed event in relation to a person who is receiving, or entitled to receive, an amount under the ABSTUDY Scheme:
 - (a) the student to whom the amount relates:
 - (i) does not enrol in the course to which the amount relates by the end of the enrolment period; or
 - (ii) does not begin the course within the first 3 weeks of the first day it is offered; or
 - (iii) cancels his or her enrolment in the course to which the amount relates; or
 - (iv) has his or her enrolment cancelled by the education institution; or
 - (v) discontinues the course to which the amount relates; or
 - (vi) discontinues full-time study in the course to which the amount relates; or

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- (vii) reduces his or her approved 25%, or two-thirds, concessional study load mentioned in Part 4.4.2 of the ABSTUDY Policy Manual; or
 - (viii) begins to receive a benefit for education or vocational training from the Commonwealth or a Commonwealth authority, or a State or Territory Department or authority; or
 - (ix) begins to receive a pension or payment under the *Veterans' Entitlements Act 1986*; or
 - (x) begins a full-time apprenticeship or traineeship; or
 - (xi) ceases to receive an ABSTUDY Pensioner Education Supplement qualifying payment of the kind mentioned in Part 7.6 of the ABSTUDY Policy Manual; or
 - (xii) ceases to qualify for an independent or away from home living allowance, as mentioned in Part 5.2.3 of the ABSTUDY Policy Manual; or
 - (xiii) stops living permanently with his or her partner; or
 - (xiv) is taken into lawful custody; or
 - (xv) changes the address of his or her place of residence or permanent home; or
 - (xvi) earns an amount of income that exceeds the last estimate of income given to Centrelink; or
 - (xvii) becomes aware that his or her assets have increased in value beyond the maximum value mentioned in the Guide to Commonwealth Government Payments; or
 - (xviii) becomes aware of circumstances that may affect his or her entitlement to rent assistance under the *Social Security Act 1991*; or
 - (xix) ceases to be an Australian citizen; or
 - (xx) ceases to be recognised as an Australian Aboriginal or Torres Strait Islander following an investigation of his or her Aboriginality or Torres Strait Islander status;
- (b) a person:
- (i) becomes a partner, parent or spouse of the student to whom the amount relates; or

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- (ii) ceases to be the partner, parent or spouse of the student to whom the amount relates; or
 - (iii) becomes the partner of the parent of the student to whom the amount relates; or
 - (iv) ceases to be the partner of the parent of the student to whom the amount relates;
- (c) the partner of the student to whom the amount relates:
- (i) dies; or
 - (ii) earns an amount of income that exceeds the last estimate of income given to Centrelink; or
 - (iii) begins to receive ABSTUDY payments; or
 - (iv) begins to receive a pension or payment under the *Veterans' Entitlements Act 1986*; or
 - (v) becomes aware that the value of his or her assets for a period has increased in value above the maximum value, mentioned in the Guide to Commonwealth Government Payments, for that period;
- (d) the parent of a dependent student to whom the amount relates:
- (i) becomes aware the value of his or her assets for a period has increased above the maximum value, mentioned in the Guide to Commonwealth Government Payments, for that period; or
 - (ii) becomes a designated parent; or
 - (iii) has a reduction in the number of dependent children for which the parent is responsible since the ABSTUDY application form was lodged, or the last notification of the number of dependent children was given to Centrelink; or
 - (iv) earns income for the current tax year that is at least 25% greater than the estimate of income given to Centrelink in the ABSTUDY application form for the year of study.

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- (2) For subregulation (1), an event mentioned in subparagraph (1) (b) (iii), (1) (b) (iv), (1) (d) (i), (1) (d) (ii) or (1) (d) (iv) is a prescribed event in relation to a student who is receiving, or entitled to receive, an amount under the ABSTUDY Scheme only if the student:
- (a) knows that the event has occurred; or
 - (b) ought reasonably to know that the event has occurred.

Note Some of the events described in subregulation (1) may occur without the student's knowledge.

For example, the student may not know that a person has become the partner of the student's parent until after the person becomes the partner. The event would become a prescribed event under subparagraph (1) (b) (iii) only when the student knows, or ought reasonably to know, that the person has become the partner.

Part 3 The Assistance for Isolated Children Scheme

7 Definitions for Part 3

In this Part:

AIC Policy Manual means the Departmental policy guideline for the Assistance for Isolated Children Scheme, approved by the Minister's delegate on 16 February 2003.

parent, in relation to a student to whom an amount under the Assistance for Isolated Children Scheme relates, means any of the following:

- (a) a natural or adoptive parent with whom the student normally lives;
- (b) if the student normally lives with a spouse of the student's parent — that spouse;
- (c) a legal guardian; and
- (d) any other adult who:
 - (i) has a primary or joint responsibility for the student; and
 - (ii) is not a person who resides at a boarding institution.

partner, in relation to the parent of a student, means either of the following:

- (a) a person who is:
 - (i) married to the parent; and
 - (ii) not separated from the parent;
- (b) a person who is living with the parent in a de facto relationship.

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8 Prescribed events

For section 48 of the Act, each of the following is a prescribed event in relation to a parent who is receiving, or entitled to receive, an amount under the Assistance for Isolated Children Scheme:

- (a) the student to whom the amount relates:
 - (i) does not enrol at the school or distance education course to which the amount relates by the end of the enrolment period; or
 - (ii) does not begin school or the distance education course:
 - (A) within the first 2 weeks after the first day on which the course is offered; or
 - (B) on the day on which the student commences boarding; or
 - (iii) discontinues the education to which the amount relates; or
 - (iv) has his or her enrolment cancelled by the education institution; or
 - (v) begins to receive a benefit for education or vocational training from the Commonwealth or a Commonwealth authority; or
 - (vi) begins to receive ABSTUDY, Youth Allowance, sickness allowance or special benefit mentioned in Chapter 2 of the *Social Security Act 1991*; or
 - (vii) begins a full-time apprenticeship or traineeship; or
 - (viii) is taken into lawful custody; or
 - (ix) changes the address of his or her place of residence or permanent home; or
 - (x) is the subject of a change in foster care arrangements; or
 - (xi) moves from one parent's residence to the other parent's residence as a result of the parents' divorce or separation; or
 - (xii) is the subject of a change to the arrangements for travel to and from the principal family home to the school; or

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- (xiii) ceases to board away from home, or live in a second family home, while undertaking study; or
- (xiv) ceases to be an Australian citizen, or
- (xv) ceases to be an Australian permanent resident under the *Migration Regulations 1994*; or
- (xvi) ceases to be the holder of a special category visa under the *Migration Act 1958*; or
- (xvii) ceases to be the holder of a special purpose visa under the *Migration Act 1958*; or
- (xviii) is the subject of a variation of the amount of boarding costs for which an amount under the Assistance for Isolated Children Scheme is being claimed; or
- (xix) dies;
- (b) the geographic isolation reason, for which an amount under the Assistance for Isolated Children Scheme was granted, has ceased to apply;
- (c) a person:
 - (i) becomes a parent of the student to whom the amount relates; or
 - (ii) ceases to be the parent of the student to whom the amount relates; or
 - (iii) becomes the partner of the parent of the student to whom the amount relates; or
 - (iv) ceases to be the partner of the parent of the student to whom the amount relates;
- (d) the parent of the student to whom the amount relates:
 - (i) is taken into lawful custody; or
 - (ii) is admitted to a psychiatric institution; or
 - (iii) ceases to be an Australian citizen; or
 - (iv) ceases to be an Australian permanent resident under the *Migration Regulations 1994*; or
 - (v) ceases to be the holder of a special category visa under the *Migration Act 1958*; or
 - (vi) ceases to be the holder of a special purpose visa under the *Migration Act 1958*; or

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- (vii) begins to receive rent assistance under the *Social Security Act 1991* while receiving a second home allowance under the Assistance for Isolated Children Scheme; or
- (viii) earns income that exceeds the last estimate of income given to Centrelink; or
- (ix) becomes aware that his or her assets have increased in value beyond the maximum value specified in the AIC Policy Manual; or
- (x) has a reduction in the number of dependent children for which the parent is responsible since the AIC application form was lodged, or the last notification of the number of dependent children was given to Centrelink; or
- (xi) has a spouse whose income varies from the last assessment of income given to Centrelink.

Note

1. Notified in the *Commonwealth of Australia Gazette* on / 2003.

4 June