



Student Allowances (Budget 2013 Initiatives) Amendment Regulations 2013

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 26th day of August 2013

Present:

His Excellency the Governor-General in Council

Pursuant to section 303 of the Education Act 1989, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Student Allowances (Budget 2013 Initiatives) Amendment Regulations 2013.

2 Commencement

These regulations come into force on 1 September 2013.

3 Principal regulations

These regulations amend the Student Allowances Regulations 1998 (the **principal regulations**).

4 Regulation 2 amended (Interpretation)

In regulation 2(1), definition of **spousal or partner's income**, paragraph (d), replace "1994" with "2007".

5 Regulation 12 amended (Eligibility for certain allowances)

- (1) In regulation 12(1)(a)(ii), replace "2 years" with "3 years" in each place.
- (2) In regulation 12(1)(a)(iii), after "she is", insert "recognised under the Immigration Act 2009 as".
- (3) After regulation 12(1)(a), insert:
“(ab) if the allowance is in respect of a course of study commencing on or after 1 January 2014, he or she is, when the course of study commences, under the age specified

in section 7(1) of the New Zealand Superannuation and Retirement Income Act 2001; and”.

- (4) After regulation 12(3), insert:
- “(4) Subclauses (1) to (3) are subject to—
- “(a) regulation 47B (which relates to the effect of the 1 September 2013 changes to residence-related eligibility periods); and
 - “(b) regulation 47C (which contains an exception to the ineligibility ground introduced on 1 September 2013).”

6 Regulation 20 amended (Maximum periods of allowances)

- (1) In regulation 20(1)(b), after “200 weeks, if the allowances are for any other recognised course or courses of study”, insert “, but that 200-week period is reduced to 120 weeks if, or insofar as, the other recognised course or courses of study are any course or courses commencing on or after 1 January 2014 and at the commencement of which the student is of or over the age of 40 years”.
- (2) In regulation 20(3), after “The period of 200 weeks”, insert “or, as the case requires, the period of 120 weeks,”.
- (3) In regulation 20(6), after “the period of 200 weeks”, insert “or, as the case requires, the period of 120 weeks,”.
- (4) Replace regulation 20(7) with:
- “(7) The chief executive may, where he or she considers that in any particular case special circumstances exist, grant a person eligibility for an allowance continued by regulation 3 for a period longer than whichever of the following maximum entitlement periods applies to the person (even if the person will or may, during that granted period of extended eligibility, achieve the age that is referred to in regulation 12(1)(ab)):
- “(a) the 92-week period specified in subclause (1)(a):
 - “(b) the 200-week period or, as the case requires, the 120-week period, specified in subclause (1)(b).”
- (5) Replace regulation 20(8) with:
- “(8) Subclauses (1) to (7) are subject to—
- “(a) regulation 47A(c) (which relates to an application after 30 September 2010 for an allowance for a course commencing before 1 January 2011); and

- “(b) regulation 47D (which contains an exception to the 120-week maximum entitlement period introduced on 1 September 2013); and
- “(c) regulation 47E (which relates to savings for grants of extended eligibility made, or sought but not determined, on 1 September 2013).”

7 Regulation 40 amended (Applications)

In regulation 40(1), replace “, in any year,” with “, in respect of any year.”.

8 New regulations 47B to 47E inserted

After regulation 47A, insert:

“47B Transitional provisions: 1 September 2013 changes to residence-related eligibility periods

“General: only 2014 and later courses affected

- “(1) An application is subject to regulation 12(1)(a)(ii) (as amended on 1 September 2013 by regulation 5(1) of the Student Allowances (Budget 2013 Initiatives) Amendment Regulations 2013) only if the application is for an allowance continued by regulation 3(a) to (c) in respect of a course of study commencing on or after 1 January 2014.
- “(2) An application made on or after 1 September 2013 for an allowance continued by regulation 3(a) to (c) in respect of a course of study commencing before 1 January 2014 is therefore subject to regulation 12(1)(a)(ii) (as in force immediately before 1 September 2013).

“Exception: compliance in 2013 with former requirements, and studying in or after 2014

- “(3) An application must be treated as if the applicant complies with regulation 12(1)(a)(ii) (as amended on 1 September 2013 by regulation 5(1) of the Student Allowances (Budget 2013 Initiatives) Amendment Regulations 2013) if—
 - “(a) the application is for an allowance continued by regulation 3(a) to (c) in respect of a course of study commencing on or after 1 January 2014; and
 - “(b) the chief executive is satisfied that the applicant, at any time or times before the close of 31 Decem-

ber 2014, complied with the requirements of regulation 12(1)(a)(ii) (as in force immediately before 1 September 2013).

“Exception: when allowance reliant on it commences

- “(4) No allowance granted in reliance on subclause (3) can commence before the date on which the applicant first complies with the requirements of regulation 12(1)(a)(ii) (as in force immediately before 1 September 2013).

“47C Transitional provisions: exception to ineligibility ground introduced on 1 September 2013

“Allowance application approved for study in 2013, and studying in 2014

- “(1) An application is not subject to regulation 12(1)(ab) (as inserted on 1 September 2013 by regulation 5(3) of the Student Allowances (Budget 2013 Initiatives) Amendment Regulations 2013) if—
- “(a) the application is for an allowance continued by regulation 3(a) to (c) in respect of a course of study commencing on or after 1 January 2014; and
 - “(b) the chief executive is satisfied that the applicant,—
 - “(i) is or will be, when that course of study commences, of or over the age specified in section 7(1) of the New Zealand Superannuation and Retirement Income Act 2001; and
 - “(ii) either—
 - “(A) before the close of 31 December 2013 had approved by the chief executive an application for (whether or not the applicant received) an allowance of that kind for any earlier course or courses of study commencing on or after 1 January 2013; or
 - “(B) on or after 1 January 2013 and before the close of 31 December 2013 received an allowance of that kind for any earlier course or courses of study commencing on or after 1 January 2012.

“Exception ends with close of 31 December 2014

- “(2) The exception in subclause (1) ends at, and so is unavailable to the applicant after, the close of 31 December 2014.

“47D Transitional provisions: exception to 120-week maximum entitlement period introduced on 1 September 2013

“Allowance application approved for study in 2013, and studying in 2014

- “(1) An application is not subject to regulation 20(1)(b) and (3) (as amended on 1 September 2013 by regulation 6 of the Student Allowances (Budget 2013 Initiatives) Amendment Regulations 2013), and is instead subject to the 200-week maximum entitlement under regulation 20(1)(b) and (3) (as in force immediately before 1 September 2013), if—

“(a) the application is for an allowance continued by regulation 3(a) to (c) in respect of a course of study commencing on or after 1 January 2014; and

“(b) the chief executive is satisfied that the applicant,—

“(i) is or will be, when that course of study commences, of or over the age of 40 years; and

“(ii) either—

“(A) before the close of 31 December 2013 had approved by the chief executive an application for (whether or not the applicant received) an allowance of that kind for any earlier course or courses of study commencing on or after 1 January 2013; or

“(B) on or after 1 January 2013 and before the close of 31 December 2013 received an allowance of that kind for any earlier course or courses of study commencing on or after 1 January 2012.

“Exception ends with close of 31 December 2014

- “(2) The exception in subclause (1) ends at, and so is unavailable to the applicant after, the close of 31 December 2014.

“47E Savings provisions: extended eligibility granted, or sought but not determined, on 1 September 2013

“Extended eligibility sought and granted

- “(1) Extended eligibility sought and granted under regulation 20(7) before 1 September 2013 continues on and after that date as if the Student Allowances (Budget 2013 Initiatives) Amendment Regulations 2013 had not been made.

“Extended eligibility sought but not determined

- “(2) Extended eligibility sought under regulation 20(7), but not determined (declined or granted), before 1 September 2013 must be determined on or after that date as if the Student Allowances (Budget 2013 Initiatives) Amendment Regulations 2013 had not been made.”

Rebecca Kitteridge,
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 September 2013, amend the Student Allowances Regulations 1998. The amendments are, in general, to support or give effect to Budget 2013 student allowance initiatives. In particular, the amendments—

- ensure that eligibility for certain allowances for study commencing in or after 2014 depends on having—
 - lived in New Zealand for (not 2 but) 3 years; and
 - been for (not 2 but) 3 years entitled under the Immigration Act 2009 to reside in New Zealand indefinitely;
- make students aged 65 years or over ineligible for certain allowances for study commencing in or after 2014;
- introduce, for a student of or over the age of 40 years, a new 120-week maximum entitlement period for certain allowances for study commencing in or after 2014:

- update or refine references (to family tax credits under the Income Tax Act 1994, to refugees or protected persons, and to years in respect of which applications are made).

The eligibility and entitlement changes are subject to exceptions for applicants who in 2013 met former requirements, had allowance applications approved, or received allowances. Some of those exceptions end at, and are unavailable to those applicants after, the close of 31 December 2014.

Issued under the authority of the Legislation Act 2012.
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These regulations are administered by the Ministry of Social Development.
