

Version
as at 1 August 2022



Education (Tertiary Education—Criteria Permanent Residents Studying Overseas must Satisfy to be Domestic Students) Regulations 2016
(LI 2016/212)

Hon Sir William Young, Administrator of the Government

Order in Council

At Wellington this 26th day of September 2016

Present:

His Excellency the Administrator of the Government in Council

These regulations are made under section 159(4) of the Education Act 1989 on the advice and with the consent of the Executive Council.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Ministry of Education.

Schedule 1 4
Transitional, savings, and related provisions

Regulations

1 Title

These regulations are the Education (Tertiary Education—Criteria Permanent Residents Studying Overseas must Satisfy to be Domestic Students) Regulations 2016.

2 Commencement

These regulations come into force on 1 January 2017.

Regulations: confirmed, on 5 December 2017, by section 9 of the Subordinate Legislation Confirmation Act 2017 (2017 No 47).

3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

Act means the Education and Training Act 2020

ordinarily resident in New Zealand, for a person at any time, means that the person at that time (even if not currently present in New Zealand)—

- (a) has the person’s usual place of residence in New Zealand; and
- (b) intends to reside indefinitely in New Zealand

organisation has the same meaning as **tertiary education organisation** in section 10(1) of the Act

permanent resident means a holder of a residence class visa granted under the Immigration Act 2009

studying overseas, for a person who is a permanent resident, means undertaking a course of study or training that will be or is done—

- (a) by the person outside New Zealand; and
- (b) while the person is enrolled as a student (but not as an extramural student) at an organisation; and
- (c) as part (but not all) of a programme or micro-credential provided by the organisation.

- (2) Terms used, but not defined, in these regulations, and defined in section 10(1) of the Act, have the meanings in that section.

Regulation 3(1) **Act**: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Regulation 3(1) **organisation**: replaced, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Regulation 3(1) **studying overseas** paragraph (c): amended, on 1 August 2022, by section 74 of the Education and Training Amendment Act 2022 (2022 No 38).

Regulation 3(2): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

5 Criteria permanent residents studying overseas must satisfy to be domestic students

- (1) Subclause (2) sets out the criteria that a person who is a permanent resident and who will be or is studying overseas must satisfy under paragraph (b) of the definition of domestic student in section 10(1) of the Act.
- (2) The criteria are—
 - (a) that the person is, at both of the following times, ordinarily resident in New Zealand:
 - (i) immediately before the person begins studying overseas; and
 - (ii) while the person will be or is studying overseas; and
 - (b) that the study that the person is or will be doing is or will be in a country with which the person is not familiar.
- (3) For the purposes of subclause (2)(b), a person is **not familiar** with a country if the person—
 - (a) has not previously been to that country; or
 - (b) has, in the 5 years before the date on which the overseas study begins, spent a total of less than 6 months in that country.

Regulation 5(1): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Schedule 1
Transitional, savings, and related provisions

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Part 1
Provisions relating to these regulations as made

- 1 Criteria apply only to enrolments effective on or after 1 January 2017**
- (1) The criteria apply to an enrolment only to the extent that the enrolment has effect on or after 1 January 2017.
 - (2) Subclause (1) applies even if the enrolment was applied for, or permitted, or both, before 1 January 2017.

Michael Webster,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 29 September 2016.

Notes

1 *General*

This is a consolidation of the Education (Tertiary Education—Criteria Permanent Residents Studying Overseas must Satisfy to be Domestic Students) Regulations 2016 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Education and Training Amendment Act 2022 (2022 No 38): section 74

Education and Training Act 2020 (2020 No 38): section 668

Subordinate Legislation Conformation Act 2017 (2017 No 47): section 9