

Student Loan Scheme Amendment Bill

Government Bill

Explanatory note

General policy statement

Full interest write-off

This Bill gives effect to the Government's intention not to charge interest on student loans for full-time, full-year students and low-income, part-time students while they are studying. This will be achieved by way of an interest write-off by Inland Revenue after the end of each income year in which a borrower qualifies. Entitlement to the interest write-off will be determined after current loans, and the amount of interest charged on those loans, are transferred to Inland Revenue. Loans are transferred to Inland Revenue as at 28 February of the year following that in which the course of study was completed.

To qualify for a full interest write-off a borrower must have undertaken an approved course of study and have been—

- (a) either—
 - (i) a full-time, full-year student; or
 - (ii) any other student whose income for the income year in which the write-off occurs is \$24,596 or less; and
- (b) a New Zealand resident for income tax purposes.

The interest that may be written off is that charged—

- on or after 1 January 2000 on money advanced under loan contracts entered into on or after that date;
- by Inland Revenue on or after 1 April 2000 in respect of loan contracts entered into before 1 January 2000.

A full-time, full-year student is one whose study is at least 80% of equivalent full-time study, as determined in accordance with the

formula used for the purposes of the Education Act 1989, and whose course or courses is at least 32 weeks long.

Amended base interest write-off

Borrowers who do not qualify for a full interest write-off will have 50% of their repayment obligation applied to the base interest charged and the other 50% applied to the interest adjustment interest (CPI) charged and the principal. If the base interest charged exceeds 50% of the repayment obligation, the excess will be written off.

Borrowers whose income is less than the repayment threshold, and who do not qualify for a full interest write-off, will continue to have any base interest charged written off in full.

To qualify for a base interest write-off a borrower must be—

- (a) a New Zealand resident for income tax purposes who has met his or her return filing obligations; or
- (b) a non-resident borrower who—
 - (i) has not had a loan transferred to Inland Revenue for collection; and
 - (ii) is engaged in full-time study outside New Zealand; and
 - (iii) would, in the Commissioner's view, suffer serious hardship if payment of the non-resident repayment obligation (which includes the full amount of interest charged on the loan balance) was required.

These amendments apply from the 2000/01 income year.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that *clauses 4 to 11* apply in respect of the 2000/01 income year, and subsequent income years. *Clause 12*, however, is a transitional provision that is relevant to the 2000/01 income year.

Clause 4 amends section 2 of the principal Act—

- by inserting a new definition of **collection**, to include administration of a zero loan balance transferred to the Commissioner for the purposes of determining whether the borrower is entitled to an interest write-off;
- by amending the definition of **IRD loan balance** as a consequence of the new definition of **collection**.

The effect of this clause is to enable the loan manager to transfer a zero loan balance (ie, the loan has already been paid in full) to the Commissioner, so that the Commissioner may determine whether the borrower is entitled to an interest refund.

Clause 5 amends section 35 of the principal Act, which relates to repayment obligations of borrowers who are non-resident for part of an income year. *New section 35(2)(b)* provides that interest may be written off under any of *new sections 38A to 40* only if the interest relates to the period when the borrower is or was a resident. *New section 35(2)(c)* contains a formula that proportionately reduces the maximum income that a part-time student may earn to be eligible for the new full interest write-off. The maximum annual figure of \$24,596 is reduced proportionately according to the number of days in the period that the borrower is or was a resident.

Clause 6 has 3 effects. It—

- inserts the new rules relating to the new full interest write-off for students (*new sections 38A to 38D*):
- replaces, without significant amendment, the existing provision relating to a base interest write-off for borrowers whose net income is less than the repayment threshold (currently \$14,768) (*new section 39*):
- replaces, with amendment, the provision relating to base interest reductions (*new section 40*). The existing provision gives borrowers a base interest reduction where the base interest exceeds the repayment obligation. The new provision gives borrowers a base interest reduction where the base interest exceeds 50% of the repayment obligation.

The interest that may be written off under all of the provisions is—

- interest calculated on the borrower's IRD loan balance in respect of the income year;
- if the borrower had a loan balance transferred to the Commissioner for collection during the income year, any interest

calculated on that loan balance in respect of a previous income year.

New section 38A provides for a full interest write-off (of base interest and interest adjustment interest) for full-time students whose course of study is, or whose courses of study are, at least 80% of equivalent full-time study and at least 32 weeks in duration in any 52-week period that ended during the income year.

New section 38B provides for a full interest write-off (of base interest and interest adjustment interest) for part-time students (either full-year or part-year) whose course is approved under section 258 of the Education Act 1989, and whose net income for the income year was \$24,596 or less.

The other conditions for an interest write-off for students are set out in *new section 38D*. To qualify for a write-off under either of the new provisions, the borrower must either complete his or her course of study, or withdraw from it without receiving a refund of his or her tuition fee.

In addition,—

- each write-off applies only while the borrower is or was a resident;
- the borrower must give the Commissioner such information as the Commissioner reasonably requires to determine the course of study undertaken by the borrower;
- to claim the full interest write-off for part-time students, the borrower must have filed a tax return or responded to an income statement as required.

New section 39 provides for a write-off of base interest for borrowers whose net income is less than the repayment threshold (currently \$14,768) and who are not entitled to a full interest write-off under *new sections 38A and 38B*.

New section 40 provides that, where the interest chargeable on a borrower's IRD loan balance at the base interest rate exceeds 50% of his or her repayment obligation and the borrower is not entitled to an interest write-off under *new sections 38A to 39*, the borrower's base interest must be reduced to the amount that is 50% of the borrower's repayment obligation.

All of the provisions are limited, in relation to the 2000–01 income year, by the transitional provision in *clause 12*.

New section 41 re-enacts the further technical requirements that apply to interest write-offs under *sections 39 and 40*. The requirements are—

- each write-off applies only while the borrower is or was a resident:
- the borrower must have filed a tax return or responded to an income statement as required.

Clause 7 replaces section 50 of the principal Act and provides that 50% of a borrower's repayment obligation is off-set first against interest adjustment interest and secondly against principal, while the other 50% is off-set first against base interest, secondly against interest adjustment interest, and thirdly against principal.

Clause 8 replaces section 55 of the principal Act (which enables the Commissioner to write-off interest payable by a non-resident). The changes are consequential on the amendments made by *clause 6*.

Clause 9 replaces section 59 of the principal Act to enable refunds to be made, without further appropriation, when a borrower has paid more interest or repayments than legally required.

Clause 10 amends section 61 of the principal Act, which relates to changes in borrowers' balance dates producing income years other than 12 months. The amendment provides for a formula that adjusts the maximum income that a part-time student may earn and still be able to claim a full interest write-off under *new section 38B*. The maximum annual figure of \$24,596 is adjusted proportionately according to the number of days in the income year.

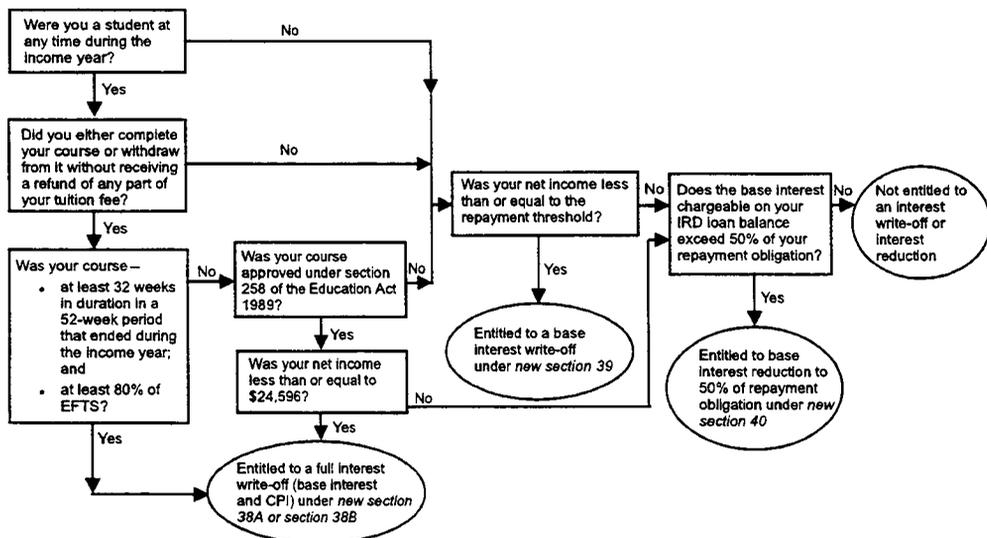
Clause 11 enables the Governor-General, by Order in Council, to amend the income amount of \$24,596 used for calculating the new full interest write-off for part-time students. If the amount is so amended, the Commissioner is required (by the amendment made in *clause 11(2)*), to notify affected borrowers in accordance with the loan contract, either by notice in writing to the borrower or by advertisement in the public notices section of the major New Zealand metropolitan newspapers.

Clause 12 is a transitional provision that relates to the write-off of interest under *new sections 38A to 40* in the 2000/01 income year. The interest that may be written-off under any of those sections is limited, in that income year, to—

- interest chargeable on or after 1 January 2000 on money advanced to a borrower under a student loan contract entered into on or after that date:
- interest chargeable on or after 1 April 2000 on money advanced to a borrower under a student loan contract entered into before 1 January 2000.

The steps to be taken to determine whether a borrower is entitled to an interest write-off or reduction under *new sections 38A to 41* are illustrated in the following flowchart:

Are you entitled to an interest write-off or reduction?



Note: A borrower is entitled to an interest write-off or reduction under *new sections 38A to 40* only—
(a) while the borrower is or was a resident; and
(b) if any applicable obligation specified in *new sections 38D or 41* has been satisfied.

Hon Dr Michael Cullen

Student Loan Scheme Amendment Bill

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Student Loan Scheme Amendment Act **2000**.
- (2) In this Act, the Student Loan Scheme Act 1992¹ is called “the principal Act”.

¹ 1992 No 141

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

- 3 Sections 4 to 11 apply on and from 2000/01 income year**
Sections 4 to 11 apply in respect of the income year commencing on 1 April 2000, and subsequent income years.
- 4 Interpretation**
- (1) Section 2 of the principal Act is amended by inserting, in its appropriate alphabetical order, the following definition:
 “**collection** includes administration of a zero loan balance by the Commissioner for the purposes of determining whether the borrower is entitled to an interest write-off or interest reduction or refund under this Act”.
- (2) Section 2 of the principal Act is amended by omitting from paragraph (b) of the definition of the term **IRD loan balance** the word “administration”, and substituting the word “collection”.
- 5 Repayment obligation for borrowers who are non-resident for part of income year**
 Section 35(2) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraphs:
 “(b) interest may be written off under **sections 38A to 40** only if the interest is chargeable for a period when the borrower is or was a resident; and
 “(c) for the purpose of calculating an interest write-off under **section 38B**, the reference in **section 38B(1)(b)** to \$24,596 must be read as a reference to the following amount:

$$\$24,596 \times \frac{d}{365}$$
 where d is the number of days in the period that the borrower is or was a resident.”
- 6 New headings and sections 38A to 41 substituted**
 The principal Act is amended by repealing sections 39 to 41, and the heading immediately above section 39, and substituting the following headings and sections:

“Full interest write-off

- “38A **Full interest write-off for full-time, full-year students**
- “(1) A borrower is entitled to the full interest write-off in **section 38C** in respect of an income year in which the borrower undertook a course of study that was, or courses of study that in total were,— 5
- “(a) of at least 32 weeks in duration in any 52-week period that ended during the income year; and
- “(b) at least 80% of equivalent full-time study, as determined in accordance with the formula used for the purposes of the Education Act 1989. 10
- “(2) The conditions in **section 38D** apply.
- “(3) This section is subject to **section 12** of the **Student Loan Scheme Amendment Act 2000**.
- “38B **Full interest write-off for part-time or part-year students** 15
- “(1) A borrower is entitled to the full interest write-off in **section 38C** in respect of an income year in which the borrower—
- “(a) undertook a course of study approved under section 258 of the Education Act 1989, other than a course of study described in **section 38A**; and 20
- “(b) had net income of \$24,596 or less.
- “(2) The conditions in **section 38D** apply.
- “(3) This section is subject to **section 12** of the **Student Loan Scheme Amendment Act 2000**. 25
- “38C **Amount of full interest write-off**
- When **section 38A** or **section 38B** applies, the following amounts of interest must be reduced to zero:
- “(a) the amount of interest calculated on the borrower’s IRD loan balance at the total interest rate in respect of the income year; and 30
- “(b) if the borrower had, under section 4, a loan balance transferred to the Commissioner for collection during the income year, any amount of interest calculated on that loan balance at the total interest rate in respect of a previous income year. 35

“38D Conditions for full-interest write-off

- “(1) The full interest write-off in **section 38C** applies only—
- “(a) if the borrower either completed the course, or did not complete the course but did not receive a refund of all or part of his or her tuition fee; and 5
 - “(b) in respect of a period for which the borrower is or was a resident; and
 - “(c) in respect of an income year in respect of which the borrower has given to the Commissioner such information as the Commissioner may reasonably require to determine the course of study undertaken by the borrower in that income year. 10
- “(2) In addition, the full interest write-off applies to part-time or part-year students referred to in **section 38B** only in respect of an income year in respect of which the borrower has given to the Commissioner a return of taxable income, or has responded to an income statement or other return prescribed by the Commissioner for the purpose of this section. 15

“Base interest write-off

- “39 **Base interest write-off where income below repayment threshold** 20
- “(1) This section applies in respect of an income year in which—
- “(a) the net income of a borrower is less than or equal to the repayment threshold; and
 - “(b) the borrower is not entitled to an interest write-off under **section 38A or section 38B**. 25
- “(2) When this section applies, the following amounts of interest must be reduced to zero:
- “(a) the amount of interest calculated on the borrower’s IRD loan balance at the base interest rate in respect of the income year; and 30
 - “(b) if the borrower had, under section 4, a loan balance transferred to the Commissioner for collection during the income year, any amount of interest calculated on that loan balance at the base interest rate in respect of a previous income year. 35
- “(3) This section is subject to **section 41**.
- “(4) **Subsection (2)** is subject to **section 12 of the Student Loan Scheme Amendment Act 2000**.

“Interest reduction

- “40 **Interest reduction where base interest exceeds 50% of repayment obligation**
- “(1) This section applies in respect of an income year in which—
- “(a) the interest chargeable on a borrower’s IRD loan balance at the base interest rate exceeds the amount that is 50% of the borrower’s repayment obligation; and
 - “(b) the borrower is not entitled to an interest write-off under any of **sections 38A to 39**.
- “(2) When this section applies,—
- “(a) if the borrower did not have, under section 4, a loan balance transferred to the Commissioner for collection during the income year, the amount of interest calculated on the borrower’s IRD loan balance at the base interest rate in respect of the income year must be reduced to the amount that is 50% of the borrower’s repayment obligation:
 - “(b) if the borrower had, under section 4, a loan balance transferred to the Commissioner for collection during the income year, the sum of the following amounts of interest must be reduced to the amount that is 50% of the borrower’s repayment obligation:
 - “(i) the amount of interest calculated on the borrower’s IRD loan balance at the base interest rate in respect of the income year; and
 - “(ii) any amount of interest calculated on that loan balance at the base interest rate in respect of a previous income year.
- “(3) This section is subject to **section 41**.
- “(4) **Subsection (2)** is subject to **section 12 of the Student Loan Scheme Amendment Act 2000**.
- “41 **Conditions for base interest write-off**
- The base interest write-off in **section 39** and the interest reduction in **section 40** applies only in respect of—
- “(a) a period for which the borrower is or was a resident; and
 - “(b) an income year in respect of which the borrower has given to the Commissioner a return of taxable income, or has responded to an income statement or other return prescribed by the Commissioner for the purpose of this section.”

- 7 New section 50 substituted**
 The principal Act is amended by repealing section 50, and substituting the following section:
- “50 Priority of payments**
- “(1) Fifty percent of any payment in respect of a repayment obligation must be off-set— 5
- “(a) first, against any interest adjustment interest charged; and
- “(b) secondly, against any principal outstanding.
- “(2) The other 50% of the payment must be off-set— 10
- “(a) first, against any base interest charged; and
- “(b) secondly, against any interest adjustment interest charged; and
- “(c) thirdly, against any principal outstanding.”
- 8 New section 55 substituted** 15
- The principal Act is amended by repealing section 55, and substituting the following section:
- “55 Power of Commissioner to write off base interest payable by non-resident**
- “(1) The Commissioner may write off, in whole or in part, the interest chargeable on a borrower’s IRD loan balance at the base interest rate if, for an income year, the Commissioner— 20
- “(a) has, in accordance with section 54, refrained from collecting all or part of the borrower’s repayment obligation; and 25
- “(b) is satisfied that—
- “(i) the borrower is a non-resident who, in that income year, is or has been engaged in full-time study outside New Zealand; and
- “(ii) payment of the base interest chargeable for any period during which the borrower was, in the income year, engaged in full-time study outside New Zealand has caused or would cause serious hardship to the borrower. 30
- “(2) This section applies— 35
- “(a) despite **section 41**; but
- “(b) only for an income year in which the borrower has not, under section 4, had a loan balance transferred to the Commissioner for collection.”

- 9 New section 59 substituted**
The principal Act is amended by repealing section 59, and substituting the following section:
- “59 Appropriation of refunds**
A refund of repayment obligation or interest that has been paid in excess of the amount required under this Act may be made without further appropriation than this section.” 5
- 10 Changes in balance dates producing income year other than 12 months**
Section 61 of the principal Act is amended by inserting, after the formula in paragraph (b), the expression “; and” and the following paragraph:
“(c) for the purpose of calculating an interest write-off under **section 38B**, the reference in **section 38B(1)(b)** to \$24,596 must be read as a reference to the following amount: 15
- $$\$24,596 \times \frac{b}{365}.$$
- 11 Regulations**
- (1) Section 87(1) of the principal Act is amended by inserting, after paragraph (b), the following paragraph: 20
“(ba) Amending the income amount used in **sections 35(2), 38B(1)(b), and 61(c)** for calculating the full interest write-off:”.
- (2) Section 87(4) of the principal Act is amended by inserting, after the words “or subsection (1)(b)”, the words “or **subsection (1)(ba)**”. 25
- 12 Transitional provision relating to interest write-offs for 2000/01 income year**
Sections 38A to 41 of the principal Act (as substituted by **section 6** of this Act) apply only to interest chargeable on or after— 30
- (a) 1 January 2000 on money advanced to a borrower under a student loan contract entered into on or after that date; and
(b) 1 April 2000 on money advanced to a borrower under a student loan contract entered into before 1 January 2000. 35